

FEDERAL RESERVE BANK OF SAN FRANCISCO  
101 MARKET STREET, SAN FRANCISCO, CALIFORNIA

March 31, 2004

**BANKING SUPERVISION AND REGULATION:  
REGULATION H COMPLIANCE  
COMMUNITY DEVELOPMENT AND  
PUBLIC WELFARE INVESTMENTS**

To State Member Banks  
And Others Concerned  
In the Twelfth Federal Reserve District

**Compliance with Section 208.22 of Regulation H**

As public welfare investments become increasingly more common in banks' CRA investment test compliance strategy, we want to remind institutions that Section 208.22 of Regulation H provides limits to public welfare investments as well as notification and prior approval requirements.

**Limits**

The aggregate of all of a bank's public welfare investments cannot exceed the sum of five percent of capital stock and surplus. If a state member bank wishes to make investments exceeding these limits, it must submit an application to its Federal Reserve Bank. In no case, however, may a state member bank's aggregate public welfare investments exceed 10 percent of capital stock and surplus.

**Notification**

Not more than 30 days after entering into a binding legal commitment to fund a public welfare investment, a member bank shall advise its Federal Reserve Bank of the investment, including the amount of the investment and the identity of the entity in which the investment is made.

**Prior Approval Requirements**

Prior approval is required unless all of the following conditions are met:

1. The investment is in a qualified entity. A qualified entity is a corporation, limited partnership, or other entity that engages solely in qualified community development activities. These include entities that:
  - Invest in, develop, rehabilitate, manage, sell, or rent residential property where the majority of the units will be occupied by low- and moderate-income persons; or
  - Invest in, develop, rehabilitate, manage, sell, or rent nonresidential property located in a low- or moderate-income area that is targeted toward low- and moderate-income persons; or
  - Invest in one or more small businesses located in a low- or moderate-income area to stimulate economic development; or
  - Invest in, develop, or otherwise assist job training or placement facilities or programs that will be targeted towards low- and moderate-income persons; or
  - Invest in an entity located in a low- or moderate-income area if the entity creates long-term employment opportunities, a majority of which will be held by low- and moderate-income persons; or
  - Provide technical assistance, credit counseling, research, and program development assistance to low- and moderate-income persons, small businesses, or nonprofit corporations to help achieve community development.

Qualified entities also include both a particular Community Development Corporation (CDC), Community Development Financial Institution (CDFI) or limited partnership, or a class of CDCs, CDFIs or limited partnerships, for which the Board has previously approved state member bank or bank holding company public welfare investments. Additionally, a state member bank may invest in any specific CDC, CDFI, limited partnership, or other entity that the Comptroller of the Currency (OCC) has previously approved as a qualified community development investment.

2. The investment is permitted by state law.
3. The investment will not expose the member bank to liability beyond the amount of the investments.
4. The aggregate of all such investments of the member bank does not exceed the sum of five percent of its capital stock and surplus.
5. The member bank is well capitalized or adequately capitalized.
6. The member bank received a composite CAMELS rating of 1 or 2 as of its most recent examination and an overall rating of 1 or 2 as of its most recent consumer compliance examination.
7. The member bank is not subject to any written agreement, cease-and-desist order, capital directive, prompt-corrective-action directive, or memorandum of understanding issued by the Board or a Federal Reserve Bank.

### **Additional Information**

#### *Community Development Investment*

The Board of Governors' guidance for community development and public welfare investments is available on the Internet and provides detailed information that can assist banks in complying with Regulation H. *Community Development Investment* is located at the following page: <http://www.federalreserve.gov/CommunityAffairs/cdi/default.htm>

#### *Community Development Investment Guide*

The FDIC has published a guide on how to structure other investments to achieve a community development purpose, which you can view at the following page: <http://www.fdic.gov/consumers/community/investmentguide.html>

#### *Notice of Public Welfare Investments by State Member Banks to the Federal Reserve System*

You may access and download the Notice of Public Welfare Investments required by Regulation H online on the following Board's Web site page: [http://www.federalreserve.gov/boarddocs/reportforms/ReportDetail.cfm?WhichFormId=FR\\_H-6&WhichCategory=9](http://www.federalreserve.gov/boarddocs/reportforms/ReportDetail.cfm?WhichFormId=FR_H-6&WhichCategory=9)

#### *2002 DIRECTORY Community Development Investments Bank Holding Companies State Member Banks and 2002 Directory of National Bank Community Development Investments*

Both the Board and the OCC have published directories of community development investments that you can use to determine if an organization is a qualified entity. The Board's directory is located at <http://www.federalreserve.gov/dcca/directory/cdi02.pdf>, and the OCC's *2002 Directory of National Bank Community Development Investments* is located at the following page: <http://www.occ.treas.gov/cdd/2002Part24Dir.pdf>

For additional information about compliance with Section 208.22 of Regulation H, please contact our Banking Supervision and Regulation Department at (415) 974-3028.