



October 29, 2021

The Honorable Michael J. Hsu
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219

RE: Docket ID OCC-2021-0014-0001, Community Reinvestment Act Regulations

Dear Comptroller Hsu:

The National Council of State Housing Agencies (NCSHA)¹, on behalf of the nation's state housing finance agencies (HFAs), appreciates the opportunity to respond to the Office of the Comptroller of the Currency's (OCC) September 17 proposed rule on the agency's Community Reinvestment Act (CRA) regulations.

We commend OCC for proposing to rescind its current CRA regulations, finalized in June 2020, and replace them with the previous CRA rules. The current CRA regulations, while well-intentioned, do not adequately incentivize banks to make impactful equity investments supporting affordable housing and other vital community and economic development activities. We urge OCC to quickly finalize new rules so CRA can more effectively drive these critical investments.

We also support OCC's efforts to work with the other CRA regulatory agencies – the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve – to draft common CRA rules applicable to all federally insured banks. NCSHA looks forward to working with the banking regulators to develop rules that modernize the CRA regulations to better suit today's market while also supporting critically needed housing and community development activities.

Housing Credits and Bonds and CRA: A Common Mission

CRA has been one of our nation's most vital tools in catalyzing financing and investments for affordable housing and other crucial community development needs. It has encouraged banks to invest in two effective affordable housing finance tools: Low Income Housing Tax Credits

¹NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

(Housing Credits) and tax-exempt private activity Housing Bonds. At a time when our nation faces a severe affordable housing crisis, it is vital that the CRA regulations continue to promote further bank investments in both programs.

The Housing Credit is our nation's most effective tool for financing the development of rental housing affordable to low-income Americans. By providing an incentive for private sector investment, the Housing Credit has financed more than three million apartments for low-income households, adding approximately 100,000 units to the inventory each year. In addition to the tax savings, banks are attracted to Housing Credit investments because they often receive CRA credit for them. A 2014 publication from accounting firm Cohn Reznick reported that, "Roughly 85 percent of the equity for all LIHTC investments comes from banks subject to the CRA."²

Housing Bonds have historically served as HFAs' primary means of financing their affordable housing lending, and HFAs have utilized them to serve many of the borrowers and markets the CRA is intended to help. HFAs use single-family Mortgage Revenue Bonds (MRBs) to help working families purchase their first homes. Through 2020, state HFAs have utilized MRB-funded loans to help more than 3.3 million working families purchase their homes. These loans are highly targeted to persons with lower incomes – the average income for state HFA borrowers obtaining an MRB loan in 2020 was \$52,493, two-thirds of the national median family income of \$78,500.

Through Multifamily Housing Bonds, HFAs finance the development of affordable rental housing that would not otherwise be built. In total, state HFAs have financed nearly 1.285 million affordable housing properties across the country using Multifamily Bonds. Multifamily Bonds also help support the construction of properties financed by Housing Credit investments, many of which would not be built without the bonds.

Reverse CRA Changes to Catalyze Housing Investments

Unfortunately, the June 2020 CRA rule contained several amendments that could reduce bank investments in both Housing Credits and Housing Bonds. One of the most notable and problematic changes was the elimination of the three separate tests for measuring large banks' CRA compliance – the "investment test," "lending test," and "service test" – which OCC replaced with a single numerical ratio test that quantifies the sum of a bank's CRA-eligible activity under one amount and measures it against total deposits.

Implementing a single ratio test would diminish banks' incentives to purchase Housing Credits and Housing Bonds, as well as to make other critical community investments, because making such investments would no longer be an explicit requirement. Specifically, the "single-ratio" approach would likely result in deemphasizing Housing Credit, Bond, and MBS

² Copeman, Fred, "What Do Higher LIHTC Prices Mean for Syndicators?" Affordable Housing News & Views, June 1, 2014. <https://www.cohnreznick.com/insights-and-events/insights/what-do-higher-lihtc-prices-mean-syndicators>

investment as compared to lending, because it is much easier for banks to make loans, especially in high-cost areas, than it is to underwrite equity investments. This is especially concerning because such equity investments, while complex and lengthy, are often the most impactful CRA activities.

OCC's proposed rule would roll back these changes and restore the "investment test" and the other separate tests for assessing banks' CRA activities, restoring the incentives for banks to invest in Housing Credits, Housing Bonds, and other vital equity needs. For this reason, we urge OCC to finalize the proposed rule as quickly as possible.

Further, we ask that any future changes to the CRA regulations maintain the "investment test" or a similar mechanism for encouraging banks to provide the critical equity needed for affordable housing and other critical economic and community development activities. We also ask that any amendments to OCC's CRA regulations:

- Allow banks to receive CRA credit for activities outside their assessment areas if, in their most recent examination, they received a rating of "Satisfactory" or better for serving the needs of their prescribed assessment areas;
- Provide banks credit for investing in mortgage-backed securities (MBS) comprised of HFA-program loans and for letters of credit extended to HFA-issued Housing Bonds; and
- Further incentivize banks to support naturally occurring affordable housing that does not receive government subsidies, as the June 2020 rule does.

Thank you for your consideration. We would be happy to discuss these issues with you at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director, Housing Advocacy and Strategic Initiatives