

VIA ELECTRONIC DELIVERY

August 5, 2022

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th ST SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th ST & Constitution AVE NW
Washington, DC 20429F

James P. Sheesley, Assistant Executive Secretary
Attention: Comments RIN 3064-AF81
Federal Deposit Insurance Corporation
550 17th ST NW
Washington, DC 20429

**Re: Proposed Rule: Community Reinvestment Act (OCC, Federal Reserve System and FDIC)
Docket ID Nos. OCC-2022-0002; R-1769 — RIN 1557-AF15; 7100-AG29; 3064-AF81**

Dear Acting Comptroller Hsu, Chair Powell and Acting Chair Gruenberg:

The Pennsylvania Housing Finance Agency ("PHFA") respectfully submits this letter to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (together, the "Agencies") in response to the request for comments in the recently published joint notice of proposed rulemaking, Community Reinvestment Act, 87 Fed. Reg. 33884 (June 3, 2022) (the "Proposal").

PHFA is a public corporation and instrumentality of government created by the Commonwealth of Pennsylvania to provide Pennsylvanians of modest means or specialized needs with access to safe, affordable housing opportunities. As a state Housing Finance Agency ("HFA"), we are accountable to our constituents, to elected officials and to an uncompensated board.

PHFA provides funding for and services single-family mortgage loans with a combined principal balance of over \$5 billion funded through its mortgage revenue bond ("MRB") program and Fannie Mae and Ginnie Mae securitizations. PHFA also funds multifamily rental housing developments by allocating federal low income housing tax credits ("LIHTC"), issuing its tax exempt bonds and extending loans through its many different multifamily programs. As a mission-driven organization, PHFA specifically tailors its programs to address the needs of low- and moderate-income people throughout Pennsylvania.

Our programs benefit households in underserved rural communities. We also assist with the remediation of code violations in urban centers. We offer many programs, including: energy efficiency and repair loans; rehabilitation loans for manufactured housing; closing cost assistance and down payment programs for first time homebuyers; closing cost assistance, down payment assistance and home accessibility modification loans to homebuyers with disabilities; and the Homeowner's Emergency Mortgage Assistance Program ("HEMAP"). We offer no-cost housing counseling to consumers through a network of nonprofit counseling agencies, funded through a variety of state and federal grants, as well as private sources. We administer many sources of state and federal housing and community development subsidies. We have been the administrator of several federal emergency housing assistance programs, including most recently the CARES Act Rent Relief Program and the American Rescue Plan Act Homeowner Assistance Fund.

As a state HFA and a mission-driven organization, PHFA respectfully submits the following comments to the Agencies' Proposal to promulgate revised rules under the Community Reinvestment Act ("CRA"), 12 U.S.C. §§ 2901-2908. These comments are provided in addition to those provided by our trade association, the National Council of State Housing Agencies, which we endorse in full.

Affordable Housing (Questions 3 through 10)

PHFA supports the full consideration of activities involving LIHTC as well as the partial consideration of other affordable housing activities. Affordable housing remains in critically short supply, and PHFA welcomes any incentives to build and preserve additional units of housing.

With regard to the standard used to determine whether a government program should qualify as an affordable housing activity, PHFA requests that a balance be struck between administrative simplicity and verification. Programs with a federal component, such as MRBs, LIHTC and project-based vouchers, already require verification that a significant amount or all of the people housed are LMI households. As such these programs should be categorically eligible for full CRA consideration. At the same time, there is a great deal of variation within federal, state and local programs intended to create affordable housing. Because of this variation, PHFA respectfully requests that the regulation itself recognize specific programs such as MRBs, LIHTC and project-based vouchers as programs that are qualifying activities. Programs of government agencies with an express purpose of creating affordable housing, such as the Department of Housing and Urban Development, state HFAs and local housing authorities should also be categorically recognized as being qualifying activities.

For programs not specifically named in the regulation, PHFA would suggest a similar approach as being proposed for naturally occurring housing, with consideration of several factors, including the affordability of monthly rents and household incomes in rental housing and the income of households for owner-occupied housing. The census tract of the activity may also be considered, with LMI census tracts and high opportunity areas indicating an eligible activity. Programs that include affordability restrictions would also be a reliable indicator to be incorporated into a standard. Although the variability of programs means that not every indicator will be present in most programs, the proposed process for confirming and listing illustrative activities should provide the certainty necessary for banks to be confident an activity will qualify for CRA credit.

Concerning naturally occurring affordable housing, PHFA respectfully requests that the acceptance of housing choice vouchers be included as a way of demonstrating that rents will be affordable for LMI individuals. Although many people will benefit from housing that is underwritten to support rents not exceeding 30 percent of 60 percent of area median income, properties that accept housing vouchers will permit people with lower incomes and vouchers to access more units of housing. While vouchers remain in high demand, a significant number are returned to housing authorities due to the recipient being unable to find a landlord willing to accept vouchers. If a commitment to accept housing choice vouchers (or similar rental assistance) is included as a fifth way of demonstrating qualification as an affordable housing activity, then it is likely that voucher recipients will have more options, and fewer vouchers will go unfunded. A commitment to accept vouchers may also be less of a compliance burden for both banks and landlords than collecting tenant income information to document that a majority of units in a development are occupied by LMI individuals.

Concerning mortgage-backed securities ("MBS"), PHFA respectfully requests that the regulation include a direct reference to the purchase of MRBs as a qualifying activity. Unlike many MBS pools, borrowers with loans funded from the proceeds of tax-exempt MRBs must meet the income and other

requirements of Internal Revenue Code Section 143. This ensures that the loans made through MRBs benefit primarily LMI owner-occupants. With the proposed expansion of assessment areas to include areas outside of facility-based assessment areas that have significant retail lending activity, MRBs of statewide issuers like state HFAs should be identified as a form of MBS that meet the requirements for full CRA consideration for a lender with an assessment area including all or a portion of a state in which the MRB is issued. For MBS that is not similarly restricted by the Internal Revenue Code, PHFA respectfully requests the Agencies provide partial consideration based on the principal amount dedicated to LMI borrowers.

Finally, PHFA believes it is important for the regulation to identify manufactured housing as a form of housing that is often affordable, and encourages the Agencies to explore ways to incentivize more production of new manufactured housing. Although mortgage loans made to individual LMI borrowers may be considered under the retail lending test, perhaps the Agencies could consider lending to manufactured home dealers that commit to providing more favorable financing terms to LMI buyers as an affordable housing activity. Similarly, partnerships with land banks and similar organizations committed to serving LMI individuals should also be expressly encouraged under the regulation.

Persistent Poverty & High Opportunity Areas (Questions 34 and 37)

Concerning the Agencies' definitions of persistent poverty and high opportunity areas, PHFA encourages the definitions to incorporate a reduction in the size of areas considered within densely developed urban areas. In cities like Philadelphia and Pittsburgh, natural and manmade barriers such as rivers, hills, highways and railroads create areas in which impoverished and well-off populations can live in close proximity while remaining separate. In addition, as the administrator of a Qualified Allocation Plan, PHFA respectfully requests that the definition of "High Opportunity Area" be revised to allow for the variation in terminology used from state to state. As an example, PHFA's plan does not use the phrase High Opportunity Area, but instead defines "Areas of Opportunity" (see section 4.2.2.8 of the PHFA 2022 Allocation Plan for Program Year 2022 Low Income Housing Tax Credit Program, available at: https://www.phfa.org/forms/multifamily_news/news/2022/2022-lihtc-allocation-plan.pdf).

Mortgage Loans under Retail Lending Test (Questions 56 through 58)

PHFA encourages the Agencies to evaluate mortgage loans with different purposes separately. The home purchase and refinance category should be separate from home improvement and other purpose closed-end loans. We recommend that home improvement loans remain within the retail lending test, as maintaining access to these closed-end products remains important for ensuring that necessary capital improvements, including more energy efficient heating and cooling systems and other necessary replacements, can be completed to keep homes safe, habitable and affordable.

The Agencies should also consider separately tracking loans secured by manufactured housing, as it is often priced to be more accessible to LMI individuals. While these loans are often closed-end mortgage loans, the Agencies could also track the chattel loans made to purchase manufactured housing that is located on leased land or not permanently affixed to the land. By including manufactured housing as a separate category under the retail lending test, the Agencies can incentivize banks to extend credit for a more affordable form of housing.

PHFA respectfully requests that the Agencies not include non-owner-occupied lending with home mortgage lending. Non-owner-occupant borrowers are often not in the disadvantaged populations that Congress intended the CRA to benefit, and any consideration of lending for second homes and investment properties should be separate from loans made to owner-occupants.

Retail Loan Purchases (Questions 64 and 65)

The Agencies' goal of preventing the "churning" of CRA eligible loans is important. Limiting the amount of churning that occurs should result in additional liquidity to fund the origination of new CRA eligible loans, a result which PHFA encourages. At the same time, we would request that the Agencies make an express declaration that a loan originated and then subsequently sold to an HFA or similar organization in connection with its affordable housing programs would not negatively impact a loan churning analysis. Many HFAs do not originate their own loans, instead depending on correspondent lenders, including banks. By referencing the programs of HFAs, the Agencies would remove a potential disincentive that may contribute to a bank choosing to not participate in an HFA's programs.

Limited Branch Access (Questions 92 through 94)

The Agencies currently propose to determine low and very low branch access census tracts using a radius of two miles within an MSA. This approach would likely mean that populous but compact cities, such as Philadelphia, will have few, if any, areas of limited branch access. Within cities like Philadelphia, manmade barriers including highways and railroads often separate neighborhoods and can result in residents of an impoverished neighborhood having limited access to banks that may be only a few blocks away on a map. PHFA therefore respectfully requests that the Agencies consider using a much smaller distance for considering branch access in densely developed areas, perhaps a quarter mile.

Responsive Credit Programs (Questions 104 through 106)

As described in its introduction to this letter, PHFA operates many programs targeted to serve many of the same populations the CRA is intended to benefit. For some of these programs targeted to LMI borrowers, PHFA relies on lenders to act as third party originators, permitting PHFA loans to be made in local branches and offices statewide. We encourage the Agencies to consider loans originated by a bank in the name of an HFA in connection with its programs to be eligible for qualitative consideration as a responsive credit product. We also recommend including special purpose credit programs as an example of a product facilitating lending to LMI individuals. The intended beneficiaries of HFAs and of remedial statutes like the Equal Credit Opportunity Act have a high degree of overlap with the populations intended to be served by the CRA.

HMDA Data (Question 173)

In response to whether the Agencies should disclose HMDA data by race and ethnicity for its large bank evaluations, PHFA answers emphatically yes. The more data made available, the better to ensure large banks are serving the remedial purpose of the CRA.

Thank you for your time and your consideration of these comments. Please feel free to contact Leonidas Pandeladis at lpandeladis@phfa.org if you have any questions or if you wish for PHFA to provide any additional clarifications regarding our comments on the Proposal.

Sincerely,



Robin L. Wiessmann
Executive Director & CEO