



August 18, 2025

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

Ann E. Misback  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

Jennifer M. Jones  
Deputy Assistant Secretary  
Attention: Comments RIN 3064-AG13  
Federal Deposit Insurance Corporation  
550 17th Street, NW, Washington, DC 20429

RE: Community Reinvestment Act Regulations (2025-13559)

To Whom it May Concern,

The National Council of State Housing Agencies (NCSHA)<sup>1</sup> appreciates the opportunity to comment on the July 18 joint notice of proposed rulemaking recently issued by the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) to rescind the October 2023 final rule revamping the Community Reinvestment Act (CRA) regulations and restore the previous CRA regulatory framework finalized in 1995.

NCSHA thanks the Board, FDIC, and OCC ("the agencies") for advancing this proposal. The 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. The legal and regulatory uncertainty regarding the October 2023 rule has potentially jeopardized these activities. Restoring the 1995 CRA framework will provide banks with the certainty they need to continue fulfilling their CRA obligations. NCSHA urges the agencies to quickly finalize the proposed rule.

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<sup>1</sup>NCSHA 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.

Returning to the 1995 framework will also reestablish the investment test for large banks, incentivizing such banks to make critically needed equity investments in important community development activities, including two effective affordable housing finance tools: Low-Income Housing Tax Credits (Housing Credits) and tax-exempt private activity multifamily residential bonds and mortgage revenue bonds (Housing Bonds).

While we strongly support reestablishing the 1995 CRA framework, we ask the agencies to consider including in the final rule language from the 2023 CRA rule that provides more details on which affordable housing activities would be eligible for CRA credit. This language gives clarity to banks without adding to their regulatory burden and offers a strong incentive for banks to engage in affordable housing financing and investments at a time when the nation faces an affordable housing crisis.

### **Act Quickly to Restore Known Regulatory Framework**

As the agencies note in the proposed rule, a federal judge in March 2024 enjoined the agencies from enforcing the 2023 CRA rule and suspended its implementation by one day for every day the injunction remains in place. The court further suggested that it was likely to find that the agencies overstepped their authority and to nullify the 2023 Rule. This has caused increased confusion among banks and other stakeholders regarding when and how the 2023 rule would be implemented, diverting resources that could be dedicated toward carrying out the CRA's mission.

Given these circumstances, rescinding the 2023 Rule and returning to the 1995 framework appears prudent. While the 1995 framework is not perfect, it has helped facilitate millions of dollars in lending and investment supporting economic development, affordable housing, and community development over the past 30 years. Banks and their partners are well acquainted with it and know how to work within it to get important work done. We ask that the 1995 framework be reinstated quickly to avoid any additional delays and disruptions in CRA activities.

### **Housing Credits, Housing Bonds, and CRA: A Common Mission**

HFAs are state-chartered housing agencies that operate in every state, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. They are primary providers of affordable home mortgage loans and down payment assistance, financing for affordable rental apartment development, and direct rental assistance, and many other affordable housing and community development programs.

State HFAs collectively provide \$45 billion in financing to assist more than 300,000 households every year. The overwhelming majority of people state HFAs serve are considered "low-income," and a significant share are "very low-income," based on federal definitions. Housing Credits and Housing Bonds are two of their most important tools.

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 4 million apartments for low-income households, adding between 100,000 to 150,000 units to the inventory each year.

President Trump and Congress have recognized the importance of the Housing Credit. The One Big Beautiful Bill Act, which the president signed into law July 4, increases each state's annual allocation of 9 percent Housing Credit authority by 12 percent and reduces the bond-financing threshold for 4 percent Housing Credit deals to allow more such deals to move forward. These changes are expected to finance the development of 1.22 million additional rental units over the next ten years.<sup>2</sup>

In addition to the potential tax savings, banks are attracted to Housing Credit investments because they often earn CRA credit. 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."<sup>3</sup>

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 assist. HFAs utilize single-family Mortgage Revenue Bonds (MRBs) to help working families purchase their first homes. Through 2024, state HFAs have used MRBs to finance loans to help more than 3.5 million working families purchase a home. The MRB program is well-targeted to assist those borrowers most in need. Seventy percent of MRB borrowers in 2024 earned at or below area median income (AMI), including nearly half who earned at or below 80 percent AMI.

Through Multifamily Bonds, HFAs finance the development of affordable rental housing that would otherwise not have been built in the private market. In total, state HFAs have financed more than 14,700 properties across the country using Multifamily Bonds, providing affordable rental housing to nearly 1.5 million families. Multifamily Bonds also help to support the construction of properties financed by Housing Credits, many of which would not be built without the bonds.

As with their Housing Credit investments, banks' CRA obligations play an important role in incentivizing them to purchase Housing Bonds. Some banks find that HFAs' public missions, strong track records, income-targeted programs, and superior loan performance make Housing Bond investments an effective and responsible means for serving the low-income housing needs of the communities they serve. Bank investment in Housing Bonds lowers tax-exempt all-in borrowing rates, enabling the production of more affordable housing.

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<sup>2</sup> Wallace, Dirk, and Lawrence, Peter, "Senate Finance Committee Releases FY 2025 Budget Reconciliation Bill that Includes Permanent LIHTC Expansion, Novogradac Estimates 1.22 Million Additional Affordable Rental Homes over 2026-2035," *Novogradac Blog*, June 26, 2025.

<sup>3</sup> 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>

## **Restoring Investment Test Will Spur Equity Investments**

Under the 1995 CRA regulations, large banks had to meet three tests to comply with CRA guidelines: the lending, service, and investment tests. The 2023 rule replaced this system with four new tests: the Retail Lending Test, which would account for 45 percent of a bank's evaluation; the Retail Services and Products Test, which would account for 15 percent; the Community Development Financing Test, which would account for 30 percent; and the Community Development Services Test, which would account for 10 percent.

The Community Development Financing Test includes activities, both lending and investment, that support affordable housing. All bank assistance for affordable housing and other community development financing activities, whether in the form of loans or equity investments, count equally toward a bank's CRA score.

NCSHA has long been greatly concerned that eliminating the separate investment test and replacing it with a comprehensive Community Development Financing Test that encompasses both loans and investments will, over time, substantially reduce banks' incentives to purchase Housing Credits, Housing Bonds, mortgage-backed securities (MBS), and other affordable housing and community development equity investments.

Generally, in a CRA context, banks find equity investments to be more costly and complicated, and less liquid, than lending activities. Further, under the Basel III regulatory framework, banks are required to hold more Tier 1 capital reserves for equity investments than most community development loans. For example, seasoned multifamily housing loans, one of the banks' more common community development financing activities, are assigned a risk-weighting of 50 percent, as opposed to the 100 percent for equity investments.

Returning to the 1995 CRA framework will continue the separate investment test. In general, affordable housing and community development equity is more difficult to attract and often more impactful in communities than debt. Maintaining the investment test will ensure that banks continue to participate in the Housing Credit, Bond, and HFA MBS markets, leading to healthy competition and better pricing, thus increasing the amount of resources that can be devoted to developing and/or rehabilitating affordable housing. This change is particularly vital following passage of the One Big Beautiful Bill Act, which, as mentioned above, will lead to an increase in the number of Housing Credit investments available for sale.

## **Retain Expanded Definition of Affordable Housing**

The 2023 CRA rule includes useful language clearly delineating that affordable housing is one of the activities for which banks could receive CRA credit for supporting community development. The rule further expands on the definition of "affordable housing" to list some of the activities that would be eligible for credit. Such activities include participation in federal, state, and local government programs, with the Housing Credit and HOME Investment Partnerships program explicitly cited as examples, as well as support for naturally occurring affordable housing, support for affordable single-family housing (except for

individual mortgage loans, which would count under the retail lending test), and purchases of mortgage-backed securities that contain loans for affordable housing.

NCSHA suggests the agencies consider incorporating this language into the final rule. This will provide banks and other stakeholders a better understanding of what kinds of affordable housing activities will be eligible for CRA credit. This will help to spur additional bank investments and financing for affordable housing activities because banks can engage in them certain that they will receive credit. Rather than adding to banks' regulatory burden, this language provides helpful clarity.

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

Sincerely,

A solid black rectangular box used to redact the signature of Garth Rieman.

Garth Rieman

Director, Housing Advocacy and Strategic Initiatives