AFFORDABLE RENTAL HOUSING A.C.T.I.O.N.
A Call To Invest in Our Neighborhoods

April 8, 2020

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

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429

RE: Community Reinvestment Act Regulations
OCC: Docket ID# OCC-2018-0008
FDIC: RIN 3064-AF22

To Whom It May Concern:

The A Call To Invest in Our Neighborhoods (ACTION) Campaign is a national coalition representing over 2,300 national, state, and local organizations and businesses advocating to expand and strengthen the Low-Income Housing Tax Credit (Housing Credit). The Housing Credit, our nation's primary tool for developing and preserving virtually all affordable housing, has financed more than three million affordable homes through public-private partnerships. The Community Reinvestment Act (CRA) has played a critical role in driving private investment in affordable housing, with roughly three-fourths of all Housing Credit investment deriving from CRA-motivated financial institutions.

The signed members of the ACTION Campaign Steering Committee urge the OCC and the FDIC to consider the impact that changes to CRA regulations will have on the Housing Credit, and to ensure the strength and soundness of our nation's primary affordable housing delivery system at a time when it is so critically needed.

According to Harvard University's Joint Center for Housing Studies, 10.7 million renter households – or one in four renter households – faced severe housing cost burdens in 2017, paying more than 50 percent of their income on rent and leaving too little for other necessities.[1] The affordable housing crisis impacts families across the nation, in urban, rural, and suburban communities. At a time when our nation faces a severe affordability crisis and a growing shortage of affordable housing, which we expect will be exacerbated by the current economic crisis, we urge the OCC and FDIC to ensure that the changes they make to CRA do not have negative implications for the Housing Credit.

[1] *The State of the Nation's Housing 2019*. Joint Center for Housing Studies of Harvard University. https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2019.pdf

Though we understand the need to modernize CRA to reflect the changes that have taken place in the banking industry, we believe certain changes the OCC and FDIC are proposing would reduce banks' demand for Housing Credit investments, thus significantly decreasing our ability to provide homes to low-income households who need them.

The OCC and FDIC's Proposed Rule:

Under the OCC and FDIC's proposed rule, in order to achieve a "satisfactory" or "outstanding" CRA rating, banks would be subject to a presumptive requirement to invest at least 6 percent or 11 percent of their deposits in CRA "qualifying activities," respectively, inclusive of at least 2 percent of their deposits invested in qualifying community development loans and investments (CDLIs). CDLIs would consist of a wider range of products and asset classes, including affordable housing, community facilities (e.g., hospitals, municipal buildings), essential infrastructure (e.g., roads, sewers), CDFIs, mortgage-backed securities (MBS), and municipal bonds. In order to favor certain types of CDLI activities, the regulations provide that three types of financing would receive double weighting (i.e., $2 of CRA credit for each $1 held): investments (not including MBS and municipal bonds), loans to CDFIs, and loans for affordable housing. The analysis would consider banks' balance sheets, not originations.

ACTION Campaign Steering Committee Concerns:

- **There is no longer a separate investment test for large banks.** Under the current CRA scoring regime, 25% of the CRA score is derived from bank investments. This provided a strong incentive for banks to invest in the Housing Credit, and contributed to the role financial institutions have played in financing roughly three-fourths of all Housing Credit investments. If the new regulations diminish the incentive for financial institutions to invest in the Housing Credit, we could see a major disruption to affordable housing investment at a time when our nation is recovering from an economic crisis – while also still grappling with an existing affordable housing crisis.

- **There is not currently data that supports the presumptive ratios.** Given the lack of published data, we do not know with any level of certainty whether the proposed metrics (6% and 11% total, 2% community development) are appropriate metrics to judge whether a bank is undertaking sufficient activities to support LMI individuals and neighborhoods. To adequately determine the impact of the proposed metrics, the OCC and FDIC should develop and share the data requested after the proposed rule was released, and then re-publish a proposed rule that gives stakeholders a better understanding of the full impact of the proposed presumptive ratios.

- **The range of activities that qualify as CDLIs is overly broad.** Of most concern, investments in community facilities, municipal bonds and MBS not issued by state and local housing finance agencies, and essential infrastructure – which each may only partially benefit low- and moderate-income communities or low- and moderate-income persons – could represent a very sizeable portion, if not the entirety, of banks' CDLI activity. These types of activities may be much more attractive from a business management standpoint than affordable housing, without providing commensurate community impacts.

- **Double weighting for the Housing Credit and other activities will not likely provide sufficient motivation for banks to seek out these investments.** We appreciate that the proposed regulations single out certain types of loans and investments (including the Housing Credit) for favorable treatment. However, in comparison to many of the other activities and investment types in the CDLI category, Housing Credit investments are considerably more complex and less liquid. The double weighting of these investments in and of itself will not likely cause banks to seek out these activities.

- **Reviewing only the banks' balance sheets (as opposed to originations) during the assessment period may penalize Housing Credit investments.** Housing Credit investments remain on balance sheets for a long time (generally 15 years) and are not very liquid. If at the time of review a bank meets all of its presumptive ratios based on its current book of business, there will be little incentive for banks to make additional Housing Credit investments until the current ones burn off the balance sheets – and even then the bank may decide to replace these with other more profitable and less complex asset classes eligible under the broadened CDLI category.

ACTION Campaign Steering Committee Recommendations:

1. **Limit the activities eligible for community development credit.** Circumscribe the basket of qualifying activities that fit within the CD test, in particular to remove essential infrastructure and community facilities that only "partially," rather than "primarily," benefit LMI individuals and census tracts.

2. **Create a minimum threshold for activities with greater impact.** Replace the "multiplier" for favored activities with a requirement that, in order to receive an outstanding or satisfactory rating, the bank must invest a certain portion of its CDLI activities in these favored activities, so that a minimum percentage of the deposits at the bank level must be provided as investments (excluding MBS and bonds not issued by state and local housing finance agencies), loans to CDFIs, or loans for affordable housing.

3. **Require that banks maintain a certain minimum level of new lending and investment in affordable housing.** We recommend that the OCC and FDIC factor into ratings whether banks have increased, maintained or decreased originations of affordable housing loans and investments significantly at the bank level relative to the prior assessment period.

The following members of the ACTION Campaign Steering Committee believe that these recommendations would help to better ensure that the CRA is driving the most impactful community development loans and investments, including Housing Credit investments, especially in this time when communities nationwide are sorely in need of safe, quality, affordable housing.

Thank you for considering these comments. If you have any questions regarding these comments, please do not hesitate to reach out to Sarah Brundage at sbrundage@enterprisecommunity.org.

Sincerely,

Affordable Housing Tax Credit Coalition
Council for Affordable and Rural Housing
Council of Large Public Housing Authorities
Corporation for Supportive Housing (CSH)
Enterprise Community Partners
Housing Advisory Group

Housing Partnership Network
LeadingAge
Local Initiatives Support Corporation
National Association of Affordable Housing Lenders
National Association of Housing & Redevelopment Officials
National Assoc. of Local Housing Finance Agencies (NALHFA)
National Association of State & Local Equity Funds
National Council of State Housing Agencies
National Equity Fund
National Housing and Rehabilitation Association (NH&RA)
National Housing Conference
National Housing Law Project
National Housing Trust
National Low Income Housing Coalition
National Multifamily Housing Council
Smart Growth America
Stewards of Affordable Housing for the Future
Volunteers of America