COMMENTS OF THE NATIONAL HOUSING TRUST
REGARDING COMMUNITY REINVESTMENT ACT REGULATIONS

PREPARED FOR
OFFICE OF THE COMPTROLLER OF THE CURRENCY
FEDERAL RESERVE SYSTEM
FEDERAL DEPOSIT INSURANCE CORPORATION
DEPARTMENT OF TREASURY, OFFICE OF THRIFT SUPERVISION

The National Housing Trust is a national nonprofit organization created in 1986 dedicated exclusively to the preservation and improvement of existing affordable housing. Our Board of Directors includes representatives of all aspects of the preservation field, including tenant advocates, owners and managers, state housing agencies, national and regional nonprofit intermediaries, housing scholars and other housing professionals who care deeply about protecting this irreplaceable resource.

We believe that preserving existing affordable rental housing is the essential first step in solving our nation's housing dilemma. Our public policy advocacy is informed by our direct experiences preserving and improving affordable housing. The Trust's loan fund, National Housing Trust Community Development Fund, provides loans to other nonprofits to finance affordable housing preservation. The NHT/Enterprise Preservation Corporation, an affiliated organization formed as a joint venture with Enterprise Community Partners, redevelops and owns many federally subsidized properties. The Trust has helped save and improve more than 20,000 apartments in over 40 states. Most of these apartments have HUD subsidized mortgages or project-based rental assistance contracts.

The National Housing Trust thanks the nation's financial regulatory institutions for inviting these comments and urges you to strengthen efforts to enforce the Community Reinvestment Act (CRA). Meaningful reforms to CRA will help promote responsible lending that complements a balanced national housing policy and encourages reinvestment in a way that benefits all members of a bank's community. As beneficial as CRA has been, NHT urges the following reforms to allow CRA to realize its full potential.

Community Development Investments Deserve Equal Weight

Bank investments in multifamily properties aren't recognized on the same basis as investment in lower-income single family homes, yet renters are almost twice as likely to be below national median income (American Housing Survey 2007, Table 2-12). Since low-income renters don't have the benefits of home appreciation or mortgage interest deductions enjoyed by their home-owning counterparts, they have an even greater need for community reinvestment practices that support their housing needs.

NHT supports the notion that community development activities should be an integral, separate and measurable part of the CRA examination and reporting structure. This evaluation category should include loans, investments, and services by financial institutions inside and outside of their assessment areas. The model in the June 2010 Notice of Proposed Rulemaking that provides CRA credit to financial institutions engaged in NSP activities is an excellent example of a high priority national need. Other eligible activities should include debt and equity investments in financial intermediaries that are certified by the US Treasury's CDFI Fund, especially at below-market rates; investments in LIHTC multi-regional investment pools; credit enhancement of housing, community and economic development investments serving low- and moderate-income people and communities; and multifamily affordable rental projects (i.e. LIHTC-eligible projects).

Examinations should also revisit the emphasis on "complex and innovative" activities to focus on the community development impact of the effort, rather than the complexity. Recent experience has amply demonstrated that increased complexity is not necessarily associated with increased community benefit.

In order to have maximum impact, evaluations should encourage community building activities that feature partnerships with organization that have strong capacity and financial strength or a demonstrated track record of success in order to improve the likelihood of successful impact.

The community development test should reflect qualitative judgment of how much value community development investments, services, and loans add to communities. For example, the dollar value of one loan to assist a local development team to preserve and improve an affordable housing property might be much smaller than a bank's volume of conventional home mortgage lending in low-and moderate income neighborhoods, yet that community development loan can have a larger impact on the neighborhood. The time and complexity required by community development projects needs to be recognized by the new test.

Energy efficiency and smart growth are growing concerns as our nation confronts global warming and energy dependence. NHT's experience in "greening" demonstrates that we can provide affordable rental housing that is environmentally sustainable for only marginally higher development costs. Research conducted by the National Housing Trust and Reconnecting America on behalf of AARP indicates that hundreds of thousands of HUD assisted rental units, sheltering renters who earn, on average, less than $12,000 annually, are located within ½ mile of mass transit. Whenever possible, regulated institutions should receive incentives to provide debt or equity investments to the preservation of affordable rental housing by:

- Investing in preserving existing properties rather than developing new properties in more remote areas;
- Encouraging higher levels of energy and water efficiency, as appropriate for existing buildings;
- Encouraging the preservation and creation of long-term affordability for housing near current or planned transit nodes and job centers.

Geographic Coverage Should Reflect Market Realities

The banking market is increasingly a national market. In many ways the behavior of banks, borrowers, and depositors bears little resemblance to the industry of 1977, and measures of community reinvestment should reflect these changes. While banks should continue to be held to the highest standards in communities where they maintain retail offices that collect deposits, they should also have both greater accountability and greater freedom to more broadly meet community development needs in underserved locations. Banks should be reviewed for their activities nationwide, and not just within narrowly defined assessment areas. Likewise, all of the operations of banks and their affiliates should be subject to the scrutiny of CRA, so that banks are not driven by competitive pressure to move risky or discriminatory activities outside of the purview of CRA examiners.

Banks should receive favorable CRA consideration for equity and loan investments in multi-regional funds for Low Income Housing Tax Credits and other CRA-related investments as a mechanism to support strong projects in underserved markets, rather than being encouraged to concentrate these investments in markets that are relatively well served. Competition for good partners and good projects will then help to drive investment to areas where they are needed, including rural areas.

CRA Exam Ratings and Weights Need Revision

The scale of four possible CRA ratings does not provide meaningful distinctions in performance and has resulted in a 98 to 99 percent pass rate over the last several years. The agencies should introduce Low and High Satisfactory as possible ratings in addition to the four existing ratings. In addition, the agencies should develop better weighting systems so that routine investments like purchasing loans on the secondary market do not receive as much weight as more difficult investments.

Historically the results of CRA evaluations have been of greatest concern to banks considering mergers and acquisitions, but these activities have declined. Poor performance on CRA exams should have real enforcement consequences for ***all*** banks, regardless of their merger intentions. Banks must be required to submit public remediation plans (subject to later evaluation) when they receive a low rating.

Conclusion

The severity of the foreclosure crisis would have been substantially lessened if the entire financial industry had an obligation to serve all communities consistent with safety and soundness. We believe that the regulatory agencies can contribute significantly to ensuring sustainable economic recovery by updating the CRA regulation. In addition, we believe that Congress must do its part and apply CRA to non-bank institutions including mainstream credit unions, independent mortgage companies, insurance firms, and investment banks.

Thank you for your consideration of our comments.

Toby Halliday
Vice President, Federal Policy
National Housing Trust