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FDIC
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With housing in the United States at a crisis point for millions, CISHA, the Council of Independent State Housing Associations, urges thoughtful but cautious modernization for the Community Reinvestment Act (CRA). CISHA understands the need to modernize CRA to reflect the changes that have taken place in the banking industry, but has concerns with any changes in the CRA that might weaken, eliminate or reduce banking requirements for investment in low-income housing, specifically low income housing developed using the Low-Income Housing Tax Credit (LIHTC).

The LIHTC program, a public-private partnership administered by each state to meet its specific needs and priorities, finances virtually all affordable housing development and preservation in the United States, combining the market expertise and discipline of private sector professionals with the strong oversight of the public sector. Under the LIHTC program, the government provides credits against income tax liability to investors in exchange for capital funds to be contributed toward the construction cost of the project. This contribution of capital, or equity, allows for the project to be built utilizing significantly less debt. Less debt means that lower rents can be achieved, thus providing much needed quality affordable housing to working families, veterans and seniors. Since 1986, when the LIHTC program was signed into law, over 3.2 million affordable rental units across the country have been financed with LIHTC equity, generating more than $13 billion in tax revenue.

There is a strong connection between the CRA and the success of the LIHTC program. Studies have shown that the vast majority of investors in the LIHTC program are motivated by the CRA; that demand for the credits is driven by the role LIHTC's play in helping banks meet CRA obligations.

Families across the nation, in urban, rural, and suburban communities, are already being impacted by a severe shortage of affordable housing. **Given this shortage, combined with a growing economic crisis due to COVID-19, it's critical that the OCC and FDIC's proposed changes to CRA do not have negative implications for the Housing Credit and thus affordable housing production.**

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.

CISHA's 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.

CISHA Recommends:

1. **Limiting 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. **Creating a minimum threshold for activities with greater impact.** Replace the "multiplier" for favored activities with a requirement that, 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. **Requiring 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.

We thank you for your efforts to modernize and create efficiencies within the CRA but implore you to not adversely harm the communities and individuals for which the program was developed to serve.

The Executive Board of CISHA

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