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February 16, 2021
Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Community Reinvestment Act Advance Notice of Proposed Rulemaking
Docket No. R-1723 and RIN 7100-AF94

National Housing & Rehabilitation Association (NH&RA) appreciates the opportunity to comment on the Community Reinvestment Act (CRA) Advance Notice of Proposed Rulemaking (ANPR) issued by the Board of Governors of the Federal Reserve System (Board) in October 2020. NH&RA is a national trade association of affordable housing development and finance professionals. Our members span the gamut of affordable housing professionals including developers, owners and operators, third-party compliance contractors, tax credit (Low Income Housing Tax Credit (LIHTC), Historic Tax Credit, New Markets Tax Credit) investors and syndicators, lenders, lawyers, accountants, market analysts, appraisers, housing finance agencies and public housing authorities, among others.

CRA motivated LIHTC investments finance the vast majority of all new affordable housing, meaning our n tion’s bility to develop new and preserve existing affordable housing is closely tied to and impacted by CRA. Total LIHTC investment reached $18.3 billion in 2019,[1] an estimated 73 percent of which came from banks motivated by CRA requirements.[2] According to CohnReznick, a national accounting firm, “the largest single determinant of Housing Credit pricing is based on the CRA investment test value of a given property’s location,” with pricing differentials of 10 to 15 percent between LIHTC developments in CRA “hot spots” and “deserts.” Any changes to CRA could significantly affect the motivation to invest in LIHTC, the amount of equity invested, and the distribution of investments – and ultimately on our ability to build and preserve affordable housing.

NH&RA appreciates the Board’s goal to more effectively meet the needs of low- and moderate-income (LMI) communities, and we have provided recommendations that we believe will help the Board ensure the CRA continues to incentivize robust investment in affordable housing. Furthermore, we strongly encourage the Board to work with its counterparts at Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) to work toward a single rule that expands and strengthens CRA and enables our nation’s financial services institutions to better respond to community needs.

Impact of the Low-Income Housing Tax Credit

The LIHTC is our nation’s primary tool to finance the development and preservation of rental housing that is affordable to low-income households, including essential workers, veterans, seniors, working families, people with special needs and people who were formerly homeless. A highly efficient public-

[1] CohnReznick, “Housing Tax Credit Monitor, (2020). *Retrieved from: https://www.cohnreznick.com/insights/housing-tax-credit-monitor*
[2] CohnReznick, “Housing tax credit investments: Investment and operational performance, (2019). *Retrieved from: https://www.cohnreznick.com/insights/2019-housing-tax-credit-investment-operational-performance*

private partnership, the credit has financed nearly 3.5 million affordable homes since its inception in 1986,[3] serving a total of eight million households.[4] The households served by the program have a median annual income of less than $18,000,[5] and if forced to pay market-rate rent, many would be just one unforeseen expense or missed paycheck from a global pandemic away from being unable to pay rent and facing eviction.

With housing stability, residents of affordable housing experience improved well-being and economic benefits, according to numerous studies. Affordable housing helps low-income individuals gain employment and keep their jobs while also leading to better health outcomes and reductions in domestic violence and substance abuse.[6] LIHTC properties are associated with educational success; for each additional year a child lives in a LIHTC property, his or her chance of attending college for four years or more increases by 3.5 percent, and future earnings increase by 3.2 percent.[7]

The LIHTC is also transformative for the broader communities in which properties are located. Since its inception, LIHTC development has supported 5.2 million jobs, and generated $206 billion in tax revenue and $593 billion in wages and business income.[8] By devoting less income to rent, residents have more to spend in support of the local economy – one study shows LIHTC properties boost local purchasing power by one-third, contributing to the retail vitality of the neighborhood and the availability of goods and services to residents.[9] The introduction of affordable housing into a low-income neighborhood is also associated with lower crime rates, decreased segregation, and a 6.5 percent increase in property values.[10]

Despite the LIHTC s success, the need for affordable housing continues to outpace supply. The cost of labor, land and materials continues to rise, making the development of only high-end properties without public subsidy financially feasible in many parts of the country. Meanwhile, real estate trends show a rapid decline in the number of low-cost rentals.[11] Between 2000 and 2018, the proportion of low-cost rentals declined from 36 percent of the total rental stock to just 23 percent.[12] As a result, since 2009, over 10 million renter households (nearly one in four) paid more than 50 percent of their income on rent.[13] This figure was projected to rise to more than 14.8 million households by 2025,[14] and with

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[3] National Council of State Housing Agencies, “State HFA Factbook: 2019 NCSHA Annual Survey Results,” (2020). *Retrieved from:* *https://www.ncsha.org/resource/state-hfa-factbook/*
[4] ACTION Coalition, “The Low-income Housing Tax Credit’s Impact in the United States,” (2020). *Retrieved from:* *https://static1.squarespace.com/static/566ee654bfe8736211c559eb/t/5f49371ab849107398486479/1598633756198/ACTION-NATIONAL-2020.pdf*
[5] U.S. Department of Housing and Urban Development, “Understanding Whom the LIHTC Serves: Data on Tenants in LIHTC Units as of December 31, 2017,” (2029). *Retrieved from:* *https://www.huduser.gov/portal/sites/default/files/pdf/LIHTC-TenantReport-2017.pdf*
[6] Center on Budget and Policy Priorities, “Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children,” (2015). *Retrieved from:* *https://www.cbpp.org/sites/default/files/atoms/files/3-10-14hous.pdf*
[7] Elena Derby, “Does Growing Up in Tax-Subsidized Housing Lead to Higher Earnings and Educational Attainment?,” (2020). *Retrieved from:* *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3491787*
[8] ACTION Coalition, “The Low-income Housing Tax Credit’s Impact in the United States,” (2020). *Retrieved from:* *https://static1.squarespace.com/static/566ee654bfe8736211c559eb/t/5f49371ab849107398486479/1598633756198/ACTION-NATIONAL-2020.pdf*
[9] Enterprise and Local Initiatives Support Corporation (LISC), “Affordable Housing for Families and Neighborhoods: The Value of Low-Income Housing Tax Credits in New York City,” (2010). *Retrieved from:* *https://www.enterprisecommunity.org/download?fid=8099&nid=3831*
[10] Rebecca Diamond and Tim Mc uade, “Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low Income Property Development,” (2015). *Retrieved from:* *https://www.gsb.stanford.edu/gsb-cmis/gsb-cmis-download-auth/405056*
[11] Joint Center for Housing Studies of Harvard University, “America’s Rental Housing 2020,” (2020). *Retrieved from:* *https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf*
[12] Hermann, Alexander, “The Continuing Decline of Low-Cost Rentals,” (2020). *Retrieved from:* *https://www.jchs.harvard.edu/blog/the-continuing-decline-of-low-cost-rentals*
[13] Joint Center for Housing Studies of Harvard University, “The State of the Nation’s Housing 2020,” (2020). *Retrieved from:* *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf*
[14] Enterprise Community Partners (Enterprise) and JCHS, “Projecting Trends in Severely Cost-Burdened Renters: 2015-2025,” (2015). *Retrieved from:* *http://www.jchs.harvard.edu/sites/default/files/projecting_trends_in_severely_cost-burdened_renters_final.pdf*

millions now out of work and feeling the strain of economic uncertainty due to the COVID-19 crisis, those numbers are likely to grow even more rapidly.

Summary of Recommendations

The LIHTC i integral to the nation’ affordable hou ing delivery y tem and provides far-reaching impact for LMI hou ehold and communitie . A the nation’ affordable hou ing cri i continue to grow, it is increasingly essential that any changes to CRA *do not decrease the incentive to invest in the LIHTC*. As such, our recommendations below focus first and foremost on ensuring robust investment in the LIHTC.

The LIHTC is also relatively unique within the framework of CRA-eligible community development investments. The vast majority of the LIHTC investor market is driven by banks seeking CRA credit, which directly impacts how much equity is provided to finance developments. There are pricing differentials of 10 to 15 percent between LIHTC developments in CRA “hot spots” and “deserts,” and at some points in the program’s history, the pricing differential was as high as 35 percent.[15] As explained in Freddie Mac’s Duty to Serve Plan, a typical rural “CRA desert” LIHTC transaction may have a $540,000 funding gap compared to a transaction in a nearby city, rendering the rural property financially infeasible.[16]

The LIHTC is also unique in its responsiveness to specific to state and local needs, as determined by state housing credit allocating agencies. LIHTCs are a limited resource and are competitively allocated to developers by state or local housing agencies in accordance with Qualified Allocation Plans, which are intended to address the areas of the state that are most in need of affordable housing. LIHTCs are also a limited resource set by Congress, with much higher demand than supply; only properties that best serve state and local needs will receive credits.

The suggestions we make below are centered on protecting this vital resource in any new regulatory proposal and ensuring that LIHTC investment remains robust in all parts of the country, including underserved rural communities.

Community Development Financing Subtest Recommendations:

- Eliminating the separate investment test and instead combining loans and investment under one community development financing subtest could have the effect of reducing LIHTC investment unless mitigating strategies are put in place. We urge the Board to retain the separate investment test, and if it is not retained, we suggest the following mitigating strategies:

    - Strongly **encourage community development investment** by rewarding large banks that meet a benchmark level of community development investments as a portion of their total community development activities.

    - Allow examiners to **request an explanation if institution-level community development investment decreases significantly** compared to the previous assessment period. Explanations could include safety and soundness, Part 24 or other regulatory constraints, or lack of available investments.

[15] CohnReznick, “Housing tax credit invest ents: Invest ent and operational perfor ance,” (2020). *Retrieved from: https://www.cohnreznick.com/insights/2019-housing-tax-credit-investment-operational-performance*

[16] Freddie Mac, “Freddie Mac Duty to Serve Underserved Markets Plan For 2018 –2021,” (2020). Retrieved fro : *https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/FreddieMacDTSPlan_2018-2021.pdf*

- Expand the Impact Score assessments to a five-point scale, **giving LIHTC investment and other community development investments the highest impact score**.

- More fully integrate Impact Scores into the assessment methodology by setting a **high-impact community development benchmark at the state or institution level**.

<u>Assessment Area Recommendations</u>

We appreciate that the ANPR proposes that a bank will receive credit at the state level for any community development activities outside of assessment areas. However, to adequately incentivize activity outside of assessment areas and due to the unique aspects of the LIHTC detailed above, we believe banks should **receive credit at the assessment area level for statewide LIHTC investments made outside of an assessment area**.

- To the extent the Board permits nationwide assessment areas for certain banks, we suggest pairing national assessment areas with **incentives for serving traditionally underbanked communities.** This would help ensure banks with national assessment areas are furthering the goals of CRA, rather than focusing activities on only the easiest-to-serve communities.

In addition to our recommendations above, we strongly suggest that any final CRA regulations are first closely analyzed to **ensure they will not have a negative impact on LIHTC investment**.

<u>Conclusion</u>

CRA has played a profound role in supporting robust affordable housing investment and contributing to the LIHTC's three decades of success in providing affordable housing for millions of households in need. We urge the Board to ensure that any changes to CRA will support at least as much community benefit, affordable housing, and LIHTC investment as the CRA currently provides. As the affordable housing crisis continues to worsen, strong CRA incentives are needed now more than ever.

If you have any questions regarding these comments, please contact Kaitlyn Snyder, policy director, at ksnyder@housingonline.com or 202-939-1787.

Sincerely,

Thom Amdur
President