Housing Advisory Group

The Housing Advisory Group (HAG) Executive Committee Statement on Proposed Community Reinvestment Act (CRA) Reform

The Housing Advisory Group (HAG) appreciates the efforts of the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation's (FDIC) to make appropriate changes to the Community Reinvestment Act (CRA) that will expand the programs mission to serve communities and citizens at risk of being left behind. That being the objective of the proposed rule changes, the HAG Executive Committee is concerned about some of the proposed changes, specifically in regard to the **Low Income Housing Tax Credit (Housing Credit**). Created in 1986 and made permanent in 1993, the Housing Credit is a proven solution to help address the affordable housing crisis, and is the country's primary tool for developing and preserving affordable housing. Since its inception, the Housing Credit has financed more than three million affordable homes through public-private partnerships. **The CRA has played a critical role in driving private investment in affordable housing, with roughly three-fourths of all Housing Credit investment originating from CRA-motivated financial institutions.**

To protect the Housing Credit program during our country's growing economic crisis, the HAG Executive Committee asks that the OCC and the FDIC consider the impact that changes to CRA regulations will have on this critical housing program. 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.

The HAG Executive Committee understands the need to modernize CRA to reflect the changes that have taken place in the banking industry. However, our members believe that certain changes proposed by the OCC and FDIC would reduce banks' demand for Housing Credit investments. **This could decrease our ability to provide homes to low-income families and individuals who need them at a time when the demand for affordable housing is growing exponentially.**

The HAG Executive Committee has the following 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.

Housing Advisory Group

The HAG Executive Committee's recommendations listed below would help to better ensure that the CRA is driving the most impactful community development loans and investments, including Housing Credit investments, especially when communities across the country need access to safe and affordable housing.

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, 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. **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.

Again, 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.

About the Housing Advisory Group:

The Housing Advisory Group (HAG) is dedicated to protecting and improving affordable housing programs. Our national membership largely consists of non-profit and for-profit affordable housing developers, but also includes members of state affordable housing associations as well as accountants, attorneys, institutional investors, and other professionals involved in the industry. For more than 27 years, the HAG has worked in a non-partisan fashion to educate Administrations and Members of Congress on the benefits of the LIHTC.

Housing Advisory Group Executive Committee Members

Bob Moss, Chairman, CohnReznick, New York, NY
David Gasson, Executive Director, Boston Capital, Boston, MA
Laura Burns, Eagle Point Companies, Portland, ME
Diana McIver, DMA Companies, Austin, TX
Michael Novogradac, Novogradac & Company, LLP, San Francisco, CA
Ray Pearl, California Housing Consortium, Agoura Hills, CA
Caleb Roope, The Pacific Companies, Eagle, ID
Deb VanAmerongen, Nixon Peabody, New York, NY