MBA supports regulatory changes to CRA regulations that are more objective, transparent, and consistent in application.

BACKGROUND

The Community Reinvestment Act (CRA) was enacted into law by Congress in 1977 to encourage banks to invest in underserved or low-income communities and lend to lower-income individuals and is enforced jointly by the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC) and the Federal Reserve (collectively, the “Agencies”).

Banks achieve CRA credit through lending to individuals, businesses, and through community development activities which include affordable multifamily lending. Affordable multifamily lending currently represents a significant portion of how banks achieve CRA credit.

In 2022, the Agencies issued a Notice of Proposed Rulemaking (NPR), making the first major regulatory changes to the CRA since 2007.

The NPR makes significant changes to how banks achieve CRA credit, and the amount of credit banks achieve for certain lending and community development activities. These changes place a greater emphasis on lending to small businesses and low-to-moderate income (LMI) individuals under the retail lending test and place a lesser emphasis on community development activities under the community development test (such as multifamily lending). The NPR, if adopted as written, may cause a reduction in the amount of LIHTC and affordable multifamily lending banks engage in.

The banking agencies are working to issue a Final Rule this year.

ADVOCACY AND RECOMMENDATIONS

Product Line Threshold for Multifamily Lending

MBA supports the concept of designating a major product line threshold under the retail lending test, however, the Agencies should consider carefully the threshold for multifamily lending activities. Due to the specialized and unique nature of multifamily lending, it will be extremely difficult for any bank to meet a 15 percent major product line test for any one geographic area for their multifamily lending activities.

For more information, visit mba.org or call (202) 557-2700.
Expanded CRA Eligibility for Subsidized and Unsubsidized Multifamily Housing

MBA believes that it is important to encourage the financing of unsubsidized or workforce housing that is affordable to LMI households and recommends that CRA consideration be provided for financing that is targeted toward the construction and renovation of such unsubsidized affordable units. An expansion of CRA recognition of multifamily lending would appropriately incentivize institutions to, for example, finance workforce housing that would allow public employees, such as teachers, police officers, and firefighters, to live close to the communities they serve. Making such loans that finance unsubsidized affordable housing results in a substantial benefit to the development of those communities and so is deserving of CRA recognition.

Definition of Naturally Occurring Affordable Multifamily Housing

To better serve a greater number of LMI renters and conform with current industry definitions, MBA supports a definition of naturally occurring affordable multifamily housing to be housing where 50 percent of renters are paying rents targeted at 30 percent or below monthly incomes of 80 percent or lower of area medium income (AMI). A significant part of the industry has accepted the 80 percent AMI threshold as a definition for low-income tenants.

Evaluation of Multifamily Primarily Only Under the Community Development Financing Test

MBA supports the continued evaluation of multifamily lending under both the retail lending test and the community development financing test. Evaluation under only the community development financing test could cause banks to limit their multifamily lending activity as banks can achieve high CRA ratings by focusing all of their efforts on individual retail lending that is evaluated under the retail lending test, such as auto loans, home mortgages and credit card loans. This result would be an undesired outcome for many LMI communities that need significantly more affordable rental housing.

Low-Income Housing Tax Credits (LIHTC) and CRA

Low-Income Housing Tax Credits (LIHTC) represent a significant portion of how banks achieve CRA credit and how banks preserve and create affordable multifamily housing and serve LMI individuals and communities. MBA supports the current treatment of the LIHTC, which allows banks to receive consideration for the full amount of the loan for or investment in a LIHTC-financed project, regardless of the share of units that are considered affordable.

Disaster Preparedness, Recovery, and Climate Resiliency and Green Bonds

MBA supports the expansion of CRA-eligible activities that assist LMI individuals and communities in the preparedness for, and ability to withstand natural disasters, weather-related disasters, or climate risks. Banks can play an important role in financing the retrofitting of commercial and multifamily properties where LMI individuals live and work to make them more
climate resilient and to assist LMI individuals and communities in disaster preparedness and recovery.

**Treatment of Purchased Loans**

MBA encourages the Agencies to preserve the provisions of the current CRA rules that provide banks with full CRA credit for the purchase of Mortgage-Backed Securities (MBS). MBS provides needed liquidity for lenders of single-family and multifamily residential mortgages.

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