



October 13, 2026

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW, Suite 1E-216
Washington, DC 20219

Jennifer M. Jones
Deputy Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Community Reinvestment Act Regulations

Office of the Comptroller of the Currency — Docket ID OCC-2026-0694; RIN 1557-AF57
Federal Deposit Insurance Corporation — RIN 3064-AG31

I. Introduction and Summary of Comments

The CRE Finance Council (“CREFC”) appreciates the opportunity to comment on the proposal by the Office of the Comptroller of the Currency (the “OCC”) and the Federal Deposit Insurance Corporation (the “FDIC,” and together with the OCC, the “Agencies”) to amend their regulations implementing the Community Reinvestment Act (“CRA”), (the “Proposal”).

CREFC comprises over 400 institutional members representing U.S. commercial and multifamily real estate investors, lenders, and service providers, a market with over \$6 trillion of commercial real estate (“CRE”) debt outstanding. CRE debt enables the development and operation of the properties where Americans live, work, shop, and spend their free time. Our principal functions include setting market standards, facilitating transparent market information, and providing educational programming for participants in the CRE lending community.

We work closely with policymakers to optimize market standards and regulations and ensure that CRE debt liquidity remains available to this important component of the U.S. economy. Many of our members are banks subject to the Agencies’ CRA rules, and many others transact with those banks in multi-party financings, including affordable and workforce housing developments and commercial mortgage-backed securities (“CMBS”).

Consistent with the comment letter CREFC submitted on August 4, 2022 in response to the interagency CRA modernization proposal (the “2022 Letter”), our comments focus on the community development (“CD”) financing provisions of the Proposal. Given our membership’s focus on commercial and multifamily real estate finance, we will not be commenting on other

major aspects of the Proposal, including the assessment areas and the product line framework, which are addressed extensively in other trade association letters.

We are pleased that the Proposal carries forward and, in several respects, clarifies much of the framework CREFC supported in 2022. We write both to commend those provisions and to offer targeted recommendations that would clarify the final rule and enhance capital and liquidity availability for affordable housing and other CD activities.

II. CREFC Commends Several Aspects of the Proposal

- **Illustrative list, advance confirmation, and reliance protection.** CREFC strongly supports the Agencies' decision to publish illustrative lists of activities that may qualify as community development, to formalize a process by which a bank may obtain the appropriate Agency's advance confirmation that a specific activity will receive CRA consideration, and to protect a bank that relied on an activity qualifying at the time it was conducted.

CREFC advocated for each of these mechanisms in the 2022 Letter. Together, they provide the ex-ante certainty that is essential to deploying capital into communities.

- **Revitalization and stabilization.** CREFC welcomes the broadened set of targeted geographies eligible for revitalization and stabilization credit, including areas that a government entity has targeted for redevelopment and that qualify for significant economic incentives such as tax credits, tax abatements, or grants. This is consistent with CREFC's 2022 recommendation that real estate tax abatements be recognized in the community development analysis.

We also support the Proposal's recognition of essential community infrastructure that benefits or serves a targeted area. As the Agencies observe, such projects are "often community-wide projects for which it is not feasible to allocate the benefit to specific populations or areas." That reasoning tracks CREFC's 2022 position that infrastructure sited outside a low- or moderate-income tract but serving residents within it should receive CRA credit.

Finally, we commend the express treatment of disaster preparedness and resilience, which covers activities that help communities prepare for, adapt to, or withstand natural disasters and does not require that those activities proceed under a government plan. We likewise support crediting recovery activity in a Federal Emergency Management Agency-designated disaster area regardless of the income level of the affected census tracts. Both positions are consistent with the 2022 Letter.

- **Affordable housing.** We commend the Agencies for permitting unsubsidized housing, also referred to as naturally occurring affordable housing ("NOAH"), to qualify based on rents

and benefit to low- and moderate-income (“LMI”) individuals, without any required tie to a government subsidy program, as CREFC recommended in 2022.

We also support the adoption of pro rata credit for subsidized housing, i.e., credit based on the pro rata dollar amount corresponding to the percentage of units set aside for affordable housing to LMI individuals, which benefits mixed-income subsidized properties proportionally rather than on an all-or-nothing basis, again consistent with our 2022 Letter.

And, finally, we commend the Agencies for continuing to capture mortgage-backed securities (“MBS”) backed by loans to LMI borrowers or loans that finance affordable housing expressly within the affordable-housing criterion.

III. The Agencies Should Work with the Board to Avoid a Bifurcated CRA Framework

The Proposal has been issued by the OCC and FDIC alone. When the three banking agencies, including the Federal Reserve Board (“Board”), last proposed revisions to the CRA framework in 2022, CREFC filed its comments assuming they would inform a single, interagency rule. Without the Board’s participation now, the CRA could be administered under separate rulebooks, with applicable standards determined by an institution’s charter rather than by the nature of the activity under review.

A multifamily loan or a community development investment should not earn CRA consideration at one bank and be denied it at another simply because the two institutions answer to different supervisors. Divergence of this kind would distort the relative incentives banks face to deploy capital in LMI communities and make community development financing less predictable for the borrowers and communities that depend on it.

The risk is particularly pronounced in commercial real estate finance. A single affordable housing or community development transaction commonly involves multiple regulated institutions in distinct roles: one bank may originate or provide construction financing, another may supply warehouse or permanent financing, a third may invest in the associated tax credits, and still others may acquire the resulting loans or securities. When each participant’s CRA treatment is governed by a different framework, the parties must reconcile inconsistent standards within one capital stack, adding cost and delay to exactly the transactions the statute is meant to encourage. CREFC accordingly encourages the Agencies to work with the Board toward a common rule wherever possible.

IV. The Agencies Should Strengthen the Affordable Housing and CD Services Provisions

- **Pro rata credit for NOAH.** The Agencies adopted pro rata credit for subsidized housing in nearly the terms CREFC proposed, tying consideration to the percentage of units set aside for LMI individuals. That mechanism, however, is connected to a “units set aside” construct that unsubsidized housing lacks, and the Proposal therefore qualifies NOAH by testing whether a property’s rent is affordable at a flat percentage of area median income

(“AMI”), rather than proportionally. The practical effect is to reintroduce, for NOAH, the very majority-of-units, all-or-nothing dynamic that pro rata was adopted to cure for subsidized housing.

Recommendation: The Agencies should extend a pro rata approach to unsubsidized mixed-income properties, e.g., by crediting the portion of a property with rents affordable to LMI individuals. Doing so would carry a principle the Agencies have already accepted for one category consistently across the affordable-housing definition.

- **CD services.** CREFC welcomes the proposed widened nexus for CD services, which now credits a bank employee’s service that is related either to the provision of financial services or to the employee’s area of expertise at the bank, e.g., capturing donated legal, information-technology, and human-resources work that the current rule excludes. However, communities also benefit from volunteer service that meets an identified community development need but bears no nexus to financial services or to an employee’s professional expertise. The Proposal does not accommodate that activity.

Recommendation: The Agencies should also credit CD service that responds to a documented community development need, whether or not it draws on an employee’s financial or professional expertise.

V. The Agencies Should Ensure the Effectiveness of the Low-Income Housing Tax Credit

Congress has recently acted to increase the flow of private capital into affordable housing. The One Big Beautiful Bill Act of 2025 expanded the low-income housing tax credit (“LIHTC”), increasing the supply of credits available to finance new and preserved affordable units. In July 2026, the 21st Century ROAD to Housing Act raised the public welfare investment cap for national banks and state member banks from 15 percent to 20 percent of capital and surplus, the first increase since 2006. Together these measures reflect a clear congressional judgment: more tax credits should be available, and banks should have more room to invest in them.

Those measures expand the supply of credits and banks’ capacity to invest, but whether that capacity is used depends on demand, and for bank investors the CRA has long been the principal driver of that demand. The Proposal would weaken it. Raising the large-bank threshold to \$10 billion would move roughly 636 banks out of the stand-alone investment test and into the intermediate bank community development test, where investments are one option among several rather than a separate requirement. Banks between \$412 million and \$1 billion would no longer be subject to the community development test. Many of the affected institutions are banks that Congress has just given room to invest more; the Proposal would reduce their incentive to do so.

Developers sell tax credits to investors for equity, and CRA-motivated bank demand has historically supported the price investors pay. If that demand weakens, each dollar of credits will raise less equity, leaving projects with larger funding gaps and allowing a given allocation of credits to finance fewer affordable units. The Proposal would therefore partly offset the benefits

Congress intended to deliver, not because the Agencies disagree with those objectives, but because the threshold changes were calibrated without reference to them. Housing finance policy is most effective when the tax, statutory, and supervisory levers point in the same direction; the Proposal risks having them work against each other at the moment Congress has acted to align them.

Recommendation: The Agencies should (i) analyze, and publish with the final rule, the estimated effect of the revised thresholds on bank demand for community development investments, including LIHTC equity, taking into account the ROAD to Housing Act and the expanded supply of credits; and (ii) at a minimum, ensure that qualified investments by banks newly classified as intermediate continue to receive meaningful and transparent weight in the community development test, so that the capacity Congress has created is matched by a supervisory framework that values its use.

VI. The Agencies Should Allow for a Sufficient Transition Period

CREFC supports a transition period of at least 24 months between publication of any final rule and its applicability date. The Agencies should make clear that the final rule will apply beginning on January 1 of the first calendar year after that 24-month period ends. Moreover, for any given bank, the final rule should apply beginning with its first evaluation period that starts on or after the applicability date, to avoid different rules applying to different portions of a given bank's evaluation. A period of that length is warranted to allow banks and their commercial real estate finance counterparties to adjust underwriting criteria, data systems, documentation, and confirmation-process practices to conform to the final rule, and to do so in a manner that preserves rather than disrupts community development financing in progress.

VII. Conclusion

CREFC appreciates the Agencies' consideration of these comments and commends the Agencies for a proposal that preserves much of the community development framework CREFC supported in 2022. We would welcome the opportunity to serve as a resource to the Agencies as they develop a final rule, and we are available to discuss any of the matters raised in this letter.

Sincerely,

A handwritten signature in black ink that reads "Paul J. Vanderslice". The signature is written in a cursive, slightly slanted style.

Paul Vanderslice
President & CEO
CRE Finance Council