LIIF Monthly Policy Update
January 31, 2020

LIIF Announces 2020 Federal Policy Priorities

LIIF has updated its Federal Policy Priorities to reflect a 2020 advocacy agenda. This year LIIF will advocate to:

- Ensure that the Community Reinvestment Act continues to support robust and innovative investment in affordable housing and community development nationwide
- Make the New Markets Tax Credit a permanent part of the tax code
- Support robust funding for the Department of Treasury’s CDFI Fund, including Financial Assistance Grants (Healthy Foods Financing Initiative and Disability Grants) and the Bond Guarantee Program
- Expand resources for affordable housing and community development programs, including the Low Income Housing Tax Credit, Capital Magnet Fund, and key HUD Programs
- Improve our nation’s early childhood, elementary and secondary education system by establishing a new source of federal funding for high-quality child care facilities and fully funding the Department of Education’s Credit Enhancement Program

Proposed Changes to the Community Reinvestment Act Threaten the Industry

The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) have proposed regulatory changes to the Community Reinvestment Act (CRA) that could fundamentally shift the community development finance ecosystem that LIIF and our partners rely on. LIIF has serious concerns with the proposed approach, which LIIF CEO Dan Nissenbaum highlighted in a statement when the proposed rule was issued last month.

A main component of the agencies’ proposal is evaluating a bank based on the total dollar volume of the bank’s CRA investments. This approach is fraught because it assumes that dollar outputs equate to impact on the ground. In addition to threatening the existing community development finance ecosystem, the proposal has serious social justice and equity implications given CRA’s origins as an anti-redlining law.

Notably, the third federal banking regulator – the Federal Reserve – did not join the OCC and FDIC in issuing the proposed rule last month, although Federal Reserve Board Governor Lael Brainard laid out her own approach to CRA modernization at a January 8 event. This includes the
creation of a separate community development test that would evaluate qualitative factors alongside the dollar volume of a bank's activities.

LIIF posted a blog this week highlighting some of our general concerns with the proposed rule. LIIF CEO Dan Nissenbaum also joined the CEOs of Capital Impact Partners, IFF, and Reinvestment Fund to issue a joint statement in response to Comptroller Joseph Otting’s testimony before the House Financial Services Committee on January 29. It is important that as many stakeholders as possible submit comment letters in response to the proposed CRA rule. Please reach out to Olivia Barrow (obarrow@liifund.org) if you have questions about the comment letter process.

Administration Proposes Harmful Changes to Fair Housing Rule

This month the Department of Housing and Urban Development (HUD) released a proposed Affirmatively Furthering Fair Housing (AFFH) rule that would significantly limit local jurisdictions' ability to implement the Fair Housing Act. HUD finalized the AFFH rule in 2015 to ensure communities proactively implement the Fair Housing Act of 1968. Prior to the AFFH rule, HUD and its grantees had to demonstrate that they were not engaging in housing discrimination; the 2015 AFFH rule went further by requiring jurisdictions to show that they are actively working to desegregate communities.

A notable component of the AFFH rule was the creation of the Assessment of Fair Housing (AFH) process, a tool that communities could use to analyze local barriers to fair housing and approaches to foster more inclusivity. The AFH tool replaced the Analysis of Impediments (AI) tool, which had been found to be ineffective.

In 2018 HUD suspended implementation of the AFFH rule and redirected grantees to use the AI tool. HUD Secretary Ben Carson suggested the AFH process created unnecessary burdens for local jurisdictions. Earlier this month HUD proposed changes to the AFFH rule that would measure whether a jurisdiction:

- Is free of adjudicated fair housing claims;
- Has an adequate supply of affordable housing throughout the jurisdiction; and
- Has an adequate supply of quality affordable housing.

The proposed rule would also remove references to desegregation and creating areas of opportunity in the agency’s definition of AFFH.

LIIF plans to submit a comment letter to HUD outlining LIIF’s commitment to creating areas of opportunity and opposition to any changes that dilute the federal government's obligation to desegregate communities.

NMTC and Housing Credit Included in House Democrats’ Infrastructure Plan

This week House Democrats released a $760 billion, five-year plan to invest in the nation’s infrastructure that includes a climate agenda and a “special focus” on housing and school construction. It is notable that the proposal names the New Markets Tax Credit (NMTC) and Low
Income Housing Tax Credit (Housing Credit) as examples of existing infrastructure tax credits that should be expanded.

The path forward for an infrastructure package is unclear. The White House previously proposed a $1.5 trillion, ten-year infrastructure investment plan that never gained traction. It is possible that there will be opportunities for bipartisan agreement on pieces of an infrastructure proposal, although movement on any legislation in an election year will be difficult. LIIF will continue to work with our partners to ensure that affordable housing and community development programs remain a priority in any infrastructure conversations that advance.

For questions or comments, please contact:

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