



2017 Policy Agenda

Investing in a Just Economy

About NCRC

NCRC and its grassroots member organizations create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fairness in banking, housing and business development.

Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, and social service providers from across the nation.

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Who We Are

The Conscience of American Capitalism

NCRC and its grassroots member organizations help create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fair access to credit, capital, banking and housing.

We represent Main Street—the hundreds of millions of hardworking men and women across the country who are striving to make better lives for themselves and their families. Our goal is to promote fair and equal access to financial services to ensure that every person living in this country, regardless of their ZIP code, race, ethnicity, gender, age, or socio-economic status, has the opportunity to build wealth and realize the American dream.

Since its founding in 1990, NCRC has grown to a coalition of nearly 600 organizations committed to bringing responsible investment back to communities and helping individuals and communities build wealth and opportunity. We work in communities in every state in America.

Our coalition includes:

- Community Development Financial Institutions
- State and Local Governments
- Community Organizers
- Small Business Associations
- Academics
- Housing Counseling Organizations
- Civil Rights Groups
- Community Development Corporations
- Women- and Minority-Owned Business Development Groups
- Faith-Based Institutions

Investing in a Just Economy

For over 25 years, NCRC has worked to create a just economy. We believe private capital of various forms – including a wide variety of financial institutions – must be engaged in building an equitable and fair economy. There is both a legal and moral obligation for banks and other institutions to invest and lend in low- and moderate-income communities. This is particularly true in the wake of the last financial crisis, as the homeownership rate continues to decline¹ and as the nation continues to rebound from a 40-year decline in business startup activity.² Homeownership remains the best vehicle for low- and moderate-income families and people of color to build wealth and enter the middle class. And small businesses and start-ups are an essential source of the new job creation. To ensure the widest and most equitable access to credit across the country, the affirmative obligations, or Duties to Serve, on the nation’s financial institutions must be defended and expanded.

“Fair lending concerns the obligation not to discriminate on unlawful grounds in the actual granting of credit and its terms. But, the Duties to Serve concept is broader and it recognizes that merely prohibiting discriminatory lending is insufficient to address the disparity of financial opportunity.”³

CRA: 40 Years of Fighting Redlining and Defeating Capital Export

2017 marks the 40th anniversary of the Community Reinvestment Act (CRA). CRA is an affirmative obligation in the primary lending market. Under CRA, depository institutions “have a continuing and affirmative obligation to help meet the credit needs of their local communities in which they are chartered.”⁴ Those obligations are to be met “consistent with the safe and sound operations of such institutions.” The law was enacted to end redlining (the practice of banks refusing to consider mortgage applications from minorities based on the neighborhood they lived in rather than their personal credit and financial situation) and to defeat capital export (banks using the deposits made by persons from low-income neighborhoods to lend to persons in more affluent neighborhoods).⁵

CRA is implemented by the three federal bank regulators (the Officer of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve System) through periodic lender examinations of all federally insured depository institutions. These CRA examinations vary in occurrence and detail based on lender asset size, with small lenders under \$250 million in assets being

1 HUD Cabinet Exit Memo, *Housing as a Platform for Opportunity*, January 5, 2017. The African-American homeownership rate has fallen 6.7 percentage points to 43 percent. The Hispanic homeownership rate has fallen 2.5 percentage points to 45.6 percent. The white homeownership rate has fallen 4.0 percentage points to 71.9 percent.

2 SBA Cabinet Exit Memo, *SBA: Smart, Bold, Accessible* (January 5, 2017).

3 Levitin, Adam, J., Ratcliffe, Janneke H. (2013). *Rethinking the Duties to Serve in Housing Finance*, Joint Center for Housing Studies, Harvard University.

4 The Community Reinvestment Act, 12 U.S.C. § 2901

5 Littrell, J., & Brooks, F. (2010). *In Defense of the Community Reinvestment Act*, Georgia State University

evaluated less frequently (usually once every four or five years) and less thoroughly (one test area instead of the three applied to large banks). Upon completion of the examination, regulators award banks ratings based on their compliance with the CRA. Regulators can then use a poor rating to deny lender applications for such things as opening a new office or acquiring another bank.

In 1989, during the congressional debate to make a bank’s CRA rating public, former U.S. Representative Bob Walker (R-PA) repudiated redlining as “an abominable practice” and defended the law as “about opportunity and access.”⁶ Rep. Walker’s defense of CRA continues to ring true today. Redlining is not an issue of the past. The Consumer Financial Protection Bureau (CFPB) alone has brought nearly \$40 million dollars in enforcement actions against institutions for redlining in the past two years.⁷

Together with anti-discrimination, consumer protection, and disclosure laws, CRA remains a key element of the regulatory framework for the nation’s banks, encouraging the provision of mortgage loans, small business loans, investments and other financial services in their local communities and for low- and moderate-income neighborhoods. According to data from the Federal Financial Institutions Examination Council (FFIEC), since 1996, CRA-covered banks issued approximately 24 million small business loans in low- and moderate-income census tracts, totaling more than \$973 billion (see Figure 1), and made more than 577,000 community development loans worth \$883 billion (see Figure 2).⁸ Community development loans support affordable housing and economic development projects benefiting low- and moderate-income communities.

Dollar Amount of Small Business Loans in Low- and Moderate-Income Tracts (in Billions)

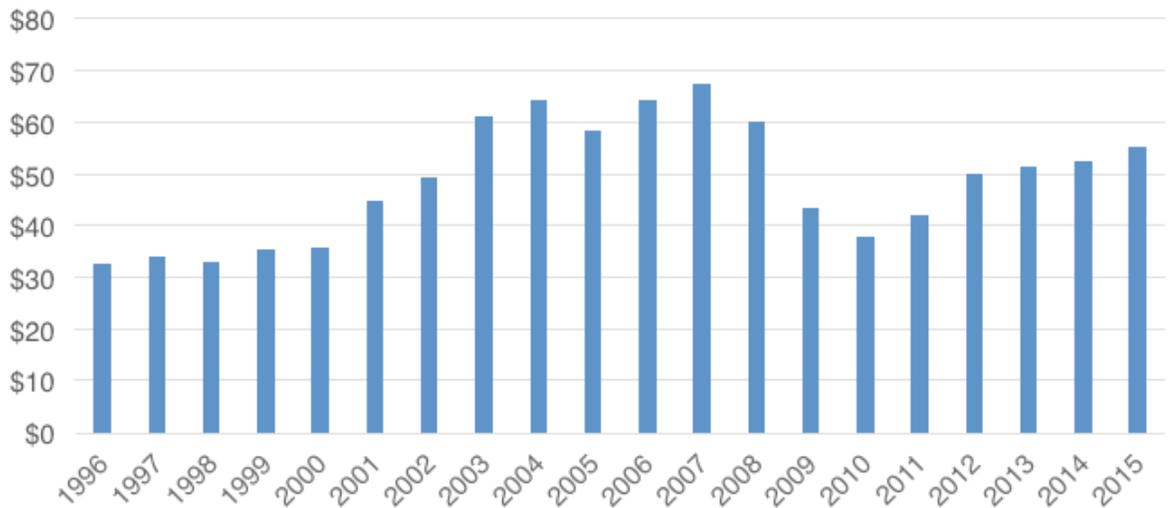


FIGURE 1: NCRC Analysis of FFIEC data (not adjusted for inflation)

6 135 Cong. Rec. S6681-S6775 (daily ed. June 15, 1989) (statement of U.S. Representative Bob Walker).

7 Enforcement Actions [Redlining]. Retrieved from https://www.consumerfinance.gov/policy-compliance/enforcement/actions/?form-id=0&filter0_title=&filter0_topics=redlining&filter0_from_date=&filter0_to_date=

8 Ibid

CRA Community Development Loans

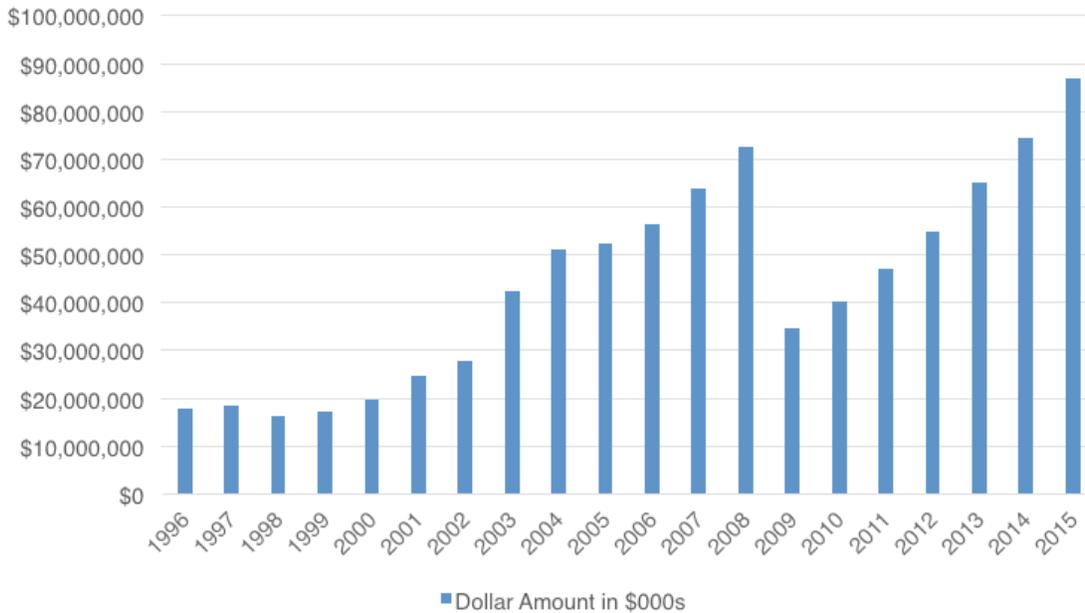


FIGURE 2: NCRC Analysis of FFIEC data (not adjusted for inflation)

Depository institutions are compelled to meet their affirmative obligation under CRA in exchange for taxpayer support, such as bank charter status and federal deposit insurance.⁹ As the financial marketplace evolves, however, it is critical that the playing field be level for all financial institutions. Financial technology companies (fintech) and other nonbanks have continued to gain significant market share since the financial crisis, doing more and more mortgage and small business lending. These institutions also have a responsibility “to provide fair access to financial services by helping to meet the credit needs of [their] entire community” and “promot[e] fair treatment of customers including efficiency and better service.”¹⁰

The Affordable Housing Goals

In the secondary mortgage market, Fannie Mae and Freddie Mac (the Enterprises) also have “an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families...while maintaining a strong financial condition and a reasonable economic return.”¹¹ The Enterprises also have annual affordable housing goals, which require the Enterprises to purchase a set percentage of mortgages to finance single family and multifamily housing for low- and moderate-income borrowers.¹²

9 Rosengren, E., Yellen, J., Olson, J., Chakrabarti, P., Essene, R., & Kroszner, R. (2009). Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act (Rep.). Retrieved from http://www.frbsf.org/community-development/files/revisiting_cra.pdf

10 Office of the Comptroller of the Currency, Exploring Special Purpose National Bank Charters for Fintech Companies (December (citing bank regulatory policy at: 12 CFR 5.20(f)(1)(ii) and (iv))

11 12 U.S.C 4501(7).

12 12 U.S.C. 4562 and 4563.

For decades, the Enterprises have provided leadership in developing loan products and flexible underwriting guidelines and have taken other steps to increase the flow of responsible mortgage credit to low- and moderate-income borrowers and communities. For example, the willingness of the Enterprises to purchase three-percent down payment mortgage loans from financial institutions in the primary market over the years has provided homeownership opportunities to millions of working families across the country.

The Duty to Serve Rule, Housing Trust Fund and Capital Magnet Fund

Fannie Mae and Freddie Mac also have other responsibilities as a result of the law's affirmative obligations on the Enterprises to facilitate affordable housing. In 2016, the Federal Housing Finance Agency (FHFA) finalized a rule requiring the Enterprises to encourage mortgage financing in three underserved markets: manufactured housing, affordable housing preservation and rural housing.¹³ Both Enterprises are expected to develop mortgage products, purchase mortgage loans, do outreach and/or make investments in these three markets. The Enterprises also dedicate a portion of their revenues to the Housing Trust Fund (HTF) and the Capital Magnet Fund (CMF). The HTF and CMF provide grants to states and state housing agencies and competitive grants to Community Development Financial Institutions and nonprofit housing organizations to increase affordable housing for low-income families and areas.

The Challenge Post-Crisis and in the Current Political Climate

NCRC and consumer advocates are facing enormous challenges in ensuring that low- and moderate-income borrowers and underserved communities have access to affordable and sustainable credit and that homeownership remains accessible.

In response to the financial crisis of 2007-2009, many traditional banks have restricted credit to small businesses and homebuyers. Homebuyers, consumers and businesses, for example, have trouble accessing safe and sustainable small dollar loans. Credit score standards remain extraordinarily high by historical standards, placing homeownership out of reach for many potential buyers. Challenges with access to credit also help explain a 40-year decline in business start-up activity.

In addition, critical trends in the financial marketplace have escalated in the primary lending market. The rising market share of fintech, including online lending platforms, as well as other nonbanks, have meant that there is a rising segment of the primary market that have no affirmative obligations – no duty to serve low- and moderate-income borrowers in the way that CRA requires of banks. They also have varying levels of legal and regulatory requirements that create competitive advantages in the financial marketplace.

¹³ Federal Housing Finance Agency. (2016, December 13). FHFA Issues Final Rule on Fannie Mae and Freddie Mac Duty to Serve Underserved Markets [Press release]. Retrieved from <https://www.fhfa.gov/PolicyProgramsResearch/PROGRAMS/Pages/Duty-to-Serve.aspx>

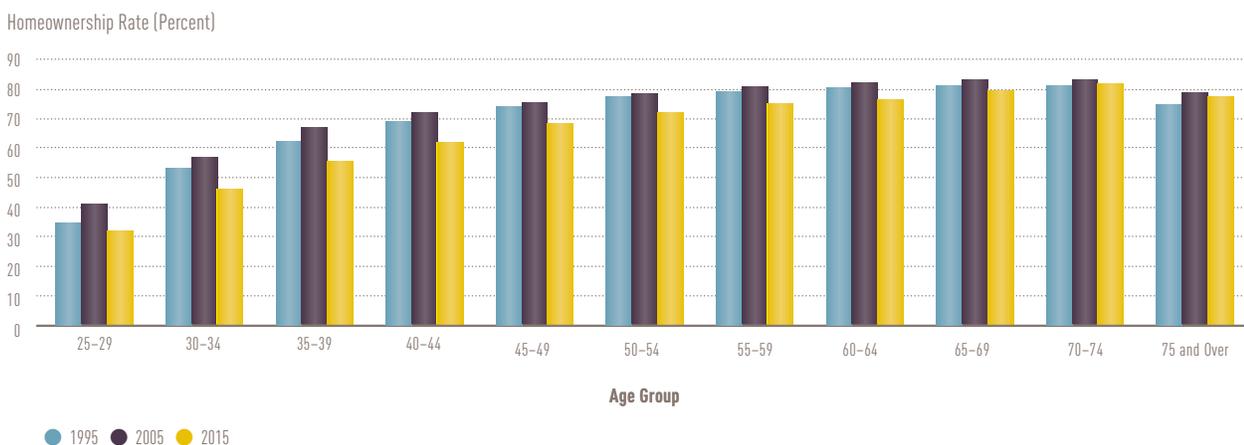
In the secondary mortgage market, the U.S. Congress has considered several proposals in recent years to replace Fannie Mae and Freddie Mac with a reformed housing finance system without affordable housing goals.

The Trump Administration and the 115th Congress

The opening days of the Trump Administration are also presenting some challenges. Upon taking office, the president halted a number of the Obama Administration’s actions, including a planned reduction in the Federal Housing Administration’s (FHA) Mortgage Interest Premium. He has also directed the secretary of the Department of the Treasury to do a top-down review of the nation’s financial regulations – a step widely expected to result in a regulatory repeal of many provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, a law passed in response to the financial crisis. Some in Congress are also seeking to repeal and limit key provisions of the Dodd-Frank Act and restructure the CFPB. There is also a major push by the financial services industry and many in Congress to remove the director of the CFPB and to limit fair housing and fair lending enforcement. The Fiscal Year 2018 budget includes severe cuts in funding to affordable housing, community development and key social safety net programs.

With the changing financial marketplace and the new political landscape, NCRC’s advocacy challenge has gained a new urgency: to protect and strengthen the CRA; to preserve the affordable housing goals and the broader affirmative obligations on financial institutions to serve low- and moderate-income borrowers and underserved communities; to ensure enforcement of the nation’s fair housing and fair lending laws; and to protect federal funding for key affordable housing, community development, small business and social safety net programs.

Homeownership Rates for Most Age Groups Have Fallen Well Below Pre-Boom Levels



Source: US Census Bureau, Housing Vacancy Surveys.

FIGURE 3: Source: Harvard Joint Center for Housing Studies, *The State of the Nation’s Housing 2016*, www.jchs.harvard.edu. All rights reserved

Invest Local

The duty that financial institutions have to invest in their communities must be expanded and enforced. The more all financial institutions invest in and serve the local economies where they sell their products and services, the more those communities can keep financial resources circulating through their businesses and neighborhoods, building wealth and prosperity for years to come.

Invest Forward

Building community prosperity requires a long-term plan to expand and preserve access to credit and capital. We must commit to thoughtful legislative and regulatory reforms and promote policies that not only stabilize our communities, but also position them for future growth. As more lending shifts to online platforms, nonbanks, credit unions and others, the challenge is to ensure that all new forms of lending have the same affirmative obligations to serve their communities.

Invest Fair

Every person in a community, regardless of their race, age, or socioeconomic status, should have the opportunity to build wealth. Equal access to financial products and services is critical.

Invest Period

Funding plays a critical role in building community prosperity. The President, the U.S. Congress, regulators, and the financial services industry must continue the nation's economic recovery by investing in communities.

Invest Local

ISSUE: Defend CRA From Efforts to Weaken it

Critics of CRA are once again proposing to raise the “small” and “intermediate small” bank asset thresholds in order to limit the extent and frequency of CRA examinations.¹⁴ Under the Bush Administration in 2004-2005, the federal regulatory agencies amended the CRA regulations to replace comprehensive CRA exams with streamlined exams that focus on the lending and community development activities of intermediate small banks with assets between \$250 million and \$1 billion (these thresholds adjust annually for inflation).¹⁵

Financial institutions are also advocating other changes to CRA, including a reduction in data reporting requirements.¹⁶ The 2004-2005 amendments to the CRA exams exempted small business from lending reporting requirements for intermediate small banks.

Who Can Act:

The Office of the Comptroller of the Currency (OCC), the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the U.S. Congress

NCRC's Position:

NCRC opposes any efforts to make exams easier for subcategories of banks as well as any further efforts to lessen data reporting requirements. NCRC has found that when exams are made easier, bank activity in underserved communities is reduced, including a decline in the dollar amount of community development lending and investing.¹⁷ Financial institutions of all sizes, including small and intermediate small banks, are also important small business lenders in smaller cities and rural areas.

NCRC also opposes any further efforts to lessen data reporting requirements. Without regular access to their small business lending data, CRA examiners, community groups, and interested members of the public cannot hold these lenders accountable for lending to small businesses.

14 Independent Community Bankers of America (ICBA), 2017 Plan for Prosperity (p. 15).

15 Federal Deposit Insurance Corporation. Banking Agencies Issue Final Community Reinvestment Act Rules [Press release]. Retrieved from <https://www.fdic.gov/news/news/press/2005/pr6605.html>
Marsico, R., & Silver, J. (n.d.). An Analysis of the Implementation and Impact of the 2004-2005 Amendments to the Community Reinvestment Act Regulations: The Continuing Importance of the CRA Examination Process (2008/2009 ed., Vol. 53, Research Paper Series #29, pp. 271-297, Rep.). New York, NY: New York Law School

16 American Bankers Association (ABA). on CRA. Website. http://www.aba.com/Issues/Index/Pages/Issues_CommunityReinvestment.aspx

17 Marsico, R., & Silver, J. (n.d.). *An Analysis of the Implementation and Impact of the 2004-2005 Amendments to the Community Reinvestment Act Regulations: The Continuing Importance of the CRA Examination Process* (2008/2009 ed., Vol. 53, Research Paper Series #29, pp. 271-297, Rep.). New York, NY: New York Law School.

ISSUE: Improve Accountability for CRA Activities With Tougher Bank Examinations and Timely Release of CRA Ratings

CRA is key to driving better basic banking services, increased mortgage and business lending and improving community development in low- and moderate-income communities nationwide. Across the country, numerous examples of financial disinvestment and malpractice highlight the need for strong enforcement of CRA and improvement in the CRA ratings for banks. There is a sizable segment of U.S. households going unbanked and under-banked and relying on alternative financial services (e.g. money orders, check cashing services, pawn shop loans, auto title loans, paycheck advance/deposit advances, or payday loans).¹⁸ Wide swaths of communities in the U.S. lack adequate small business lending.¹⁹ And recent investigations and enforcement actions by the CFPB and the Department of Justice (DOJ) have exposed ongoing redlining. However, over 98 percent of banks examined by federal regulators from 2012 to 2014 received a passing grade on their CRA exams.²⁰ In comparison, in the 1990s – a period of significant investment in low- and moderate-income communities – many more banks failed. When ratings first became public in 1990, around 10 percent of banks failed their CRA exams.²¹ During the first five years of the public availability of CRA ratings, more than five percent of banks failed their CRA exams every year. That number has steadily trended downward, but the higher ratings are not reflected by the experiences of low- and moderate-income, economically distressed, and rural communities.

Who Can Act:

The Office of the Comptroller of the Currency (OCC), the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC)

NCRC's Position:

CRA examinations should provide a more accurate measure of lending, investment and the provisions of basic banking services in low- and moderate-income communities by ensuring bank examiners:

- Weight loans originated by a bank more heavily than purchased loans;
- Conduct more rigorous fair lending reviews, and better coordinate with other federal banking regulators and the CFPB;
- Provide easier ways for the public to provide input;

¹⁸ FDIC National Survey of Unbanked and Underbanked Households (Rep.). (2016, October 20). Retrieved <https://www.fdic.gov/householdsurvey/2015/2015report.pdf>

¹⁹ NCRC, *Home Mortgage and Small Business Lending in Baltimore and Surrounding Areas*, (November 2015) http://www.ncrc.org/images/ncrc_baltimore_lending_analysis_web.pdf. *Small Business Lending Deserts and Oases*, NCRC (September 2014), <http://www.ncrc.org/images/PDFs/ncrc-analysis-small-business-lending-deserts.pdf>.

²⁰ *How Well Are Regulators Evaluating Banks Under the Community Reinvestment Act* (Rep.). (2015, May). Retrieved <http://www.ncrc.org/images/ncrc%20-%20bank%20evaluations%20full.pdf>

²¹ *The Community Reinvestment Act: 30 Years of Wealth Building and What We Must Do to Finish the Job*, NCRC (2009), http://www.frbsf.org/community-development/files/cra_30_years_wealth_building.pdf

- In addition to analyzing lending in areas with bank branches, examine lending in areas where banks are making significant amounts of loans but do not have bank branches;
- Maintain an emphasis on branches and collect more data on provision of bank accounts to low- and moderate-income customers;
- Collect better data on the number and percent of deposit accounts and basic banking services that are offered to low- and moderate-income customers;
- Better review for harmful practices (e.g. excessive overdraft fees); Examine for loss mitigation practices, particularly with the expiration of the federal Home Affordable Modification Program (HAMP) and Home Affordable Refinance Program (HARP);
- Ensure examination are conducted regularly and released timely. Of the top 100 banks by asset size, 35 have not had a CRA exam since 2012. Of these, nine have not had an exam since 2010 and seven since 2011. Out-of-date CRA exams contribute significantly to lenient oversight of banks and diminish expectations of continued and affirmative responses to credit needs.

Unbanked Rates by State, 2015

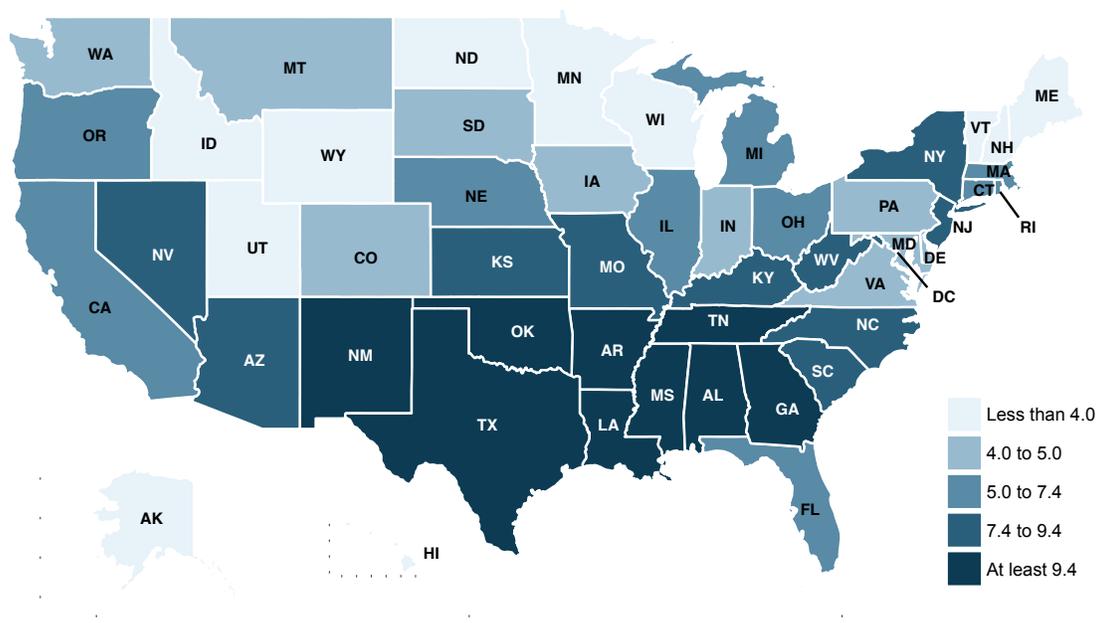


FIGURE 4. Source: FDIC (2016)

Underbanked Rates by State, 2015

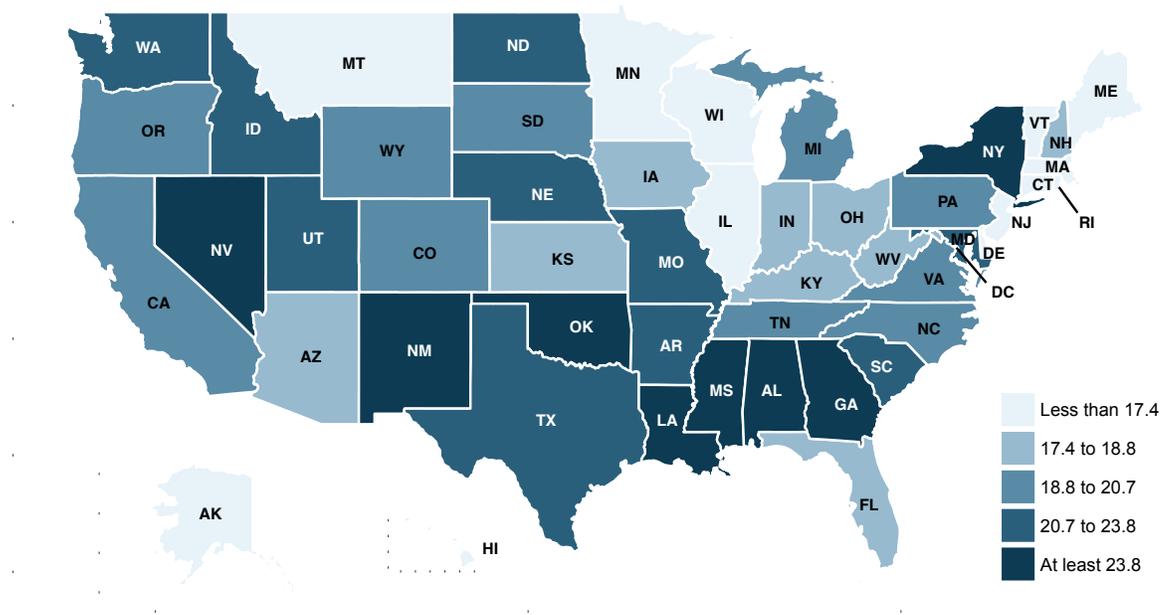


FIGURE 5. Source: FDIC (2016)

ISSUE: Identify and Enforce Public Benefits Claimed by Banks in Mergers and Acquisitions and Require Specific Description of Public Benefits of Mergers

For 50 years, the law has required federal regulators to consider the public’s interest when approving bank mergers and acquisitions. Both the Bank Holding Company Act and the Bank Merger Act require regulators to consider the “the convenience and needs of the community to be served.”²² Regulators must assess if mergers provide benefits to the public beyond the gains for financial institutions through increased profits and market power.

If mergers only benefit financial companies while communities suffer through plummeting loan levels, branch closures and increased prices, then society has been made worse off, since inequality will increase, employment will decrease, and economic activity in communities will be depressed.

The only way to assess the potential public benefits of a merger is through a specific and concrete plan described in the bank’s application regarding future levels of lending, investments, and services in low- and moderate-income communities. But the regulatory agencies do not regularly require submission of these plans.

²² “In every case, the responsible agency shall take into consideration...the convenience and needs of the community to be served.” (12 U.S.C. § 1283(c)(5)(B)); Anti-competitive effects must be “clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.” (12 U.S.C. § 1842(c)(2)). See more at: Wilson, Mitria. *Protecting the Public’s Interests: A Consumer-Focused Reassessment of the Standard for Bank Mergers and Acquisitions*, Banking Law Journal, Vol. 130, No. 4, April 2013.

Who Can Act:

The Office of the Comptroller of the Currency (OCC), the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC)

NCRC's Position:

To benefit communities, federal agencies must clarify the public benefit standard so that both the public and financial institutions can better understand this factor's importance and its requirements. After mergers, regulators must also consistently monitor and enforce banks' claimed public benefits to ensure that institutions fulfill their promises. The regulatory agencies could:

- Offer a template for banks to outline the public benefits of a proposed merger;
- Require specific descriptions with verifiable performance measures of how future CRA and fair lending performance will improve. The public must have an opportunity to comment on these public benefit plans during the merger application process.

ISSUE: Reduce FHA's Mortgage Insurance Premium to Make Homeownership More Accessible

Following the financial crisis, the Federal Housing Administration (FHA) served as the key stabilizing force in the mortgage market that it is intended to be. As financial institutions restricted lending and made it extraordinarily difficult to obtain a home mortgage, FHA stepped in so that many responsible, hard-working, creditworthy Americans had a path to homeownership. Among homebuyers, FHA increased its market share from 4.5 percent of purchase loans in 2006 to 33 percent in 2009.²³ This dramatic increase following the crisis, combined with an economic recession, placed extraordinary pressure on the FHA Mutual Mortgage Insurance Fund (MMI) Fund. In 2010, FHA made the first of several increases to FHA's Mortgage Insurance Premium (MIP) to shore up the program's reserves – raising premiums 145 percent (see Figure 1).²⁴

As the economy improved, foreclosures declined, and the health of the MMI Fund rebuilt capital reserves, FHA began to reduce their historically high premiums that were limiting affordability for borrowers and almost certainly discouraged some first-time homebuyers from entering the market. In early 2015, FHA reduced the premium that borrowers pay for mortgage insurance, providing an

23 HUD Cabinet Exit Memo, *Housing as a Platform for Opportunity*, January 5, 2017.

24 National Association of Realtors (NAR), *FHA's Reduces Fee to Pre-Crisis Level* (January 9, 2017). Secretary Julian Castro's Address to NAHREP (March 15, 2016). See also Niedt, Christopher, *The Effects of the Suspended FHA Premium Cut on Long Island*, New York Working Paper 2017-01, Hofstra University (January 2017) accessed here: https://issuu.com/hofstra/docs/effects_210a?e=1304995/45041594

annual savings of \$900 for nearly two million FHA homeowners.²⁵ The National Association of Realtors (NAR) estimated that in 2014, between 234,000 and 255,000 creditworthy borrowers were priced out of the market because of high premiums.

On January 27, 2017, FHA was to reduce the premium that borrowers pay for mortgage insurance closer to historical norms, as the MMI Fund met the congressionally mandated capital reserves needed to pay claims on defaulted mortgages. Upon taking office, the Trump Administration halted the planned MIP reduction.

Homeownership remains the best vehicle for low- and moderate-income families and people of color to build wealth and enter the middle class. Not only is FHA essential for first-time homebuyers, but it is also central for minority borrowers – both of which are experiencing historic declines in homeownership. FHA has supported more than half of all first-time homebuyers and half of all African American and Latino homebuyers in recent years.²⁶

Who Can Act:

The U.S. Department of Housing and Urban Development (HUD), the U.S. Congress

NCRC's Position:

NCRC urges HUD Secretary Ben Carson to reinstate FHA's MIP reduction so that homeownership will be within reach of more first-time and underserved borrowers. FHA's MMI Fund is well-funded and actuarially sound and can support a rate cut.

NCRC also urges Congress to resist efforts to change the accounting treatment or capital ratio of the FHA MMI Fund – either step would further restrict access to homeownership for the borrowers that rely on the program. Congress mandates that the MMI Fund capital reserves must be above two percent. The MMI Fund now stands at \$27.6 billion, an increase of \$3.8 billion in the last year.²⁷ The improvement represents a 12 percent increase in the program's capital reserves, from 2.07 to 2.32 percent.²⁸

²⁵ Secretary Julian Castro, Testimony before the House Financial Services Committee (February 11, 2015)

²⁶ Secretary Julián Castro, Remarks to NYC Stern School of Business (November 16, 2015)

²⁷ HUD Cabinet Exit Memo, *Housing as a Platform for Opportunity* (January 5, 2017)

²⁸ Ibid.

Annual Insurance Rate for FHA Borrowers

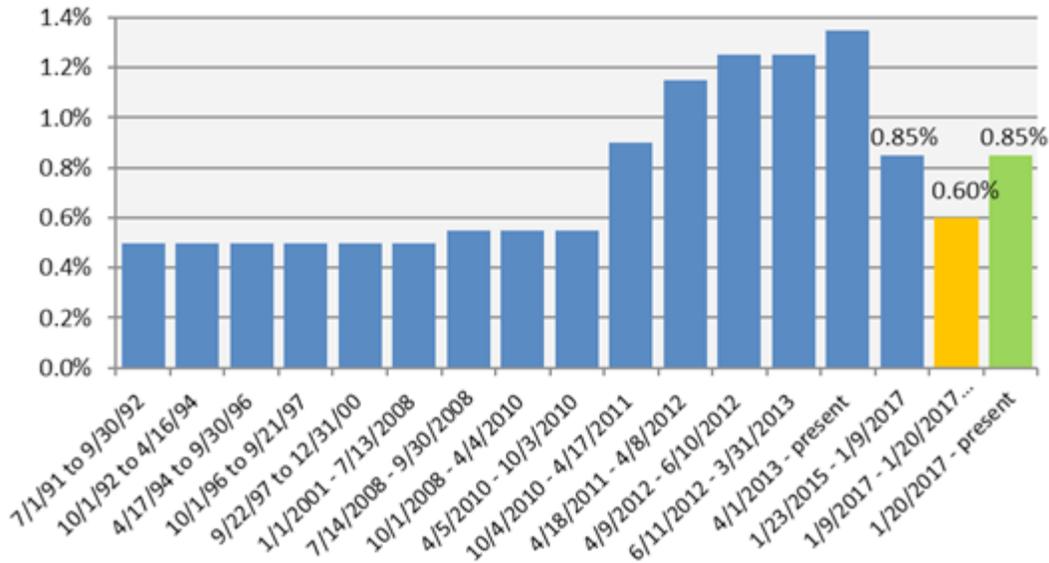


FIGURE 6. Source: FHA, NAR

ISSUE: Continue to Improve the FHA Quality Assurance Framework to Ensure Greater Lender Participation and Better Access to Homeownership

With its low down payment requirement, the Federal Housing Administration (FHA) mortgage insurance has served as an important pathway to homeownership for first-time homebuyers, as well as many low-income, rural and minority homebuyers. In Fiscal Year 2015, 82 percent of all FHA purchase originations were to first-time homebuyers and a third of FHA mortgages went to minority buyers.²⁹

Nonetheless, several large banks around the country have been decreasing their participation in the FHA program and raising their borrower credit score requirements and pricing above the requirements to obtain FHA insurance. In January 2017, the average FHA purchase FICO score was 686,³⁰ well above the 580 FICO score generally considered the minimum credit score allowed to qualify for FHA insurance (see Figure 7). Nonbanks now dominate the market for home purchase loans insured by FHA. In September 2012, banks originated 65 percent of the purchase-mortgage loans insured by FHA; today, however, that number has more than flipped: nonbanks originate 73 percent of the loans, with banks' share dropping to 18 percent. The figures are more spectacular for refinanced mortgages, where nonbanks now make up 93 percent of loans.³¹

Lenders have cited three reasons for pulling back from the FHA lending: the risk that they will be required to indemnify or pay back FHA if a loan defaults; the high costs of servicing delinquent loans;

29 Written Testimony of Edward L. Golding, Principal Deputy Assistant Secretary for the Office of Housing U.S. Department of Housing and Urban Development (HUD), U.S. House Committee on Financial Services (February 11, 2016).

30 Ellie Mae: January 2017 Origination Insight Report. (January 2017). Retrieved from https://cdn.elliemae.com/origination-insight-reports/Ellie_Mae_OIR_JANUARY2017.pdf

31 Creswell, J. (January 21, 2017). Quicken Loans, the New Mortgage Machine. Retrieved February, from <https://www.nytimes.com/2017/01/21/business/dealbook/quicken-loans-dan-gilbert-mortgage-lender.html>

and the risk of lawsuits due to recent enforcement actions by both the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice (DOJ) under the False Claims Act and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) that have resulted in large settlements and damages awards.³²

Who Can Act:

The U.S. Department of Housing and Urban Development (HUD)

NCRC's Position:

FHA should clarify the types of loan defects that will trigger the agency taking enforcement actions against lenders by improving the loan-level certifications and annual certifications that they require lenders to sign. Currently, they contain very broad language, which doesn't inform those lenders of the type of defects that will trigger liability and enforcement action. FHA has the ability to expand credit access to traditionally underserved borrowers by providing greater certainty for lenders as to which defects will lead to lender buybacks and enforcement action by HUD and/or DOJ.

Improved transparency in loan-level certifications could facilitate strong lender participation in the FHA insurance program and greater access to mortgage credit for borrowers.

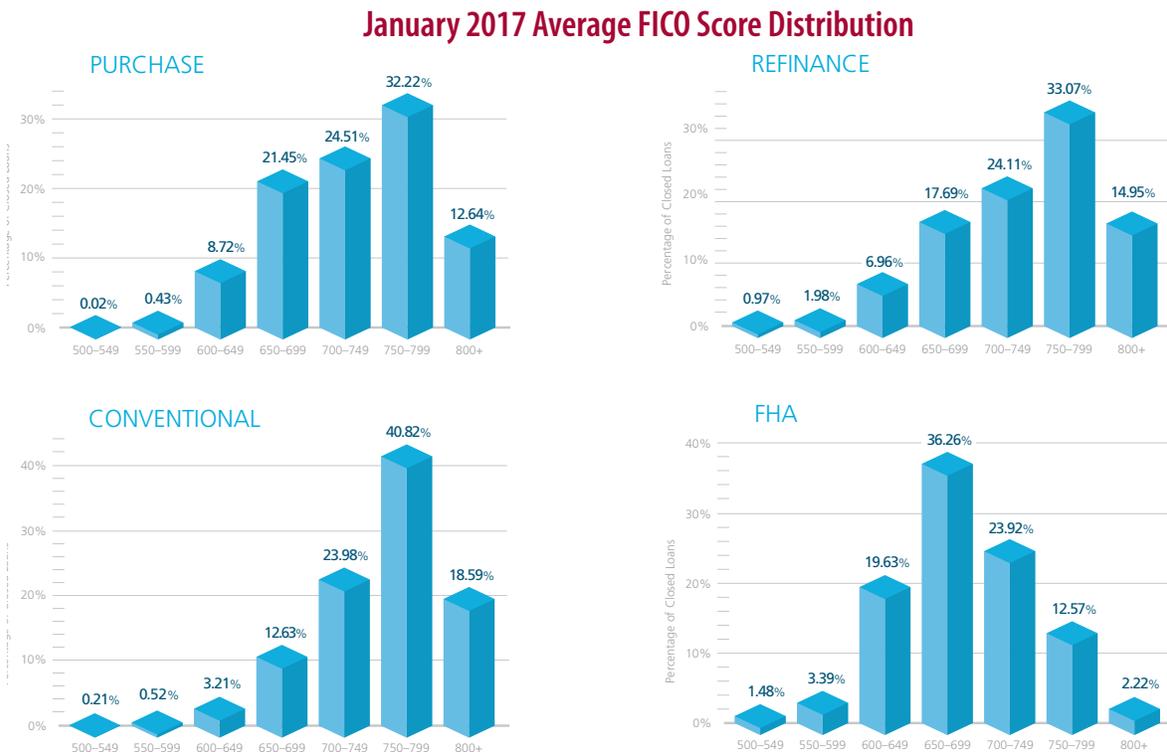


FIGURE 7: 69 percent of all closed loans had FICO scores over 700. 68 percent of all closed refis had FICO scores over 700.
 Source: Ellie Mae

32 Goodman, L. (May 2015). *Wielding a Heavy Enforcement Hammer Has Unintended Consequences for the FHA Mortgage Market*. Retrieved from <http://www.urban.org/sites/default/files/publication/52171/2000220-Wielding-a-Heavy-Enforcement-Hammer-Has-Unintended-Consequences-for-the-FHA-Mortgage-Market.pdf>. Urban Institute

ISSUE: Protect Fannie Mae and Freddie Mac's Affordable Housing Mission and Affordable Housing Goals in Any Reform of the Enterprises

Both Sen. Mike Crapo, Chairman of the U.S. Senate Banking Committee, and U.S. Rep. Jeb Hensarling, Chairman of the U.S. House of Representatives Financial Services Committee have indicated that their committees will once again consider housing finance reform – plans to reform Fannie Mae and Freddie Mac (the Enterprises) and the way the secondary mortgage market functions. The Housing and Economic Recovery Act of 2008 (HERA) enacted the first set of reforms to the Enterprises following the financial crisis, and was the culmination of almost a decade of work by Congress, the Federal Reserve Board and other stakeholders.³³ The law significantly reformed their supervisory and regulatory framework, creating the Federal Housing Finance Agency (FHFA) as their new regulator. FHFA was given broad new authority over their prudential management and operations, including to set and adjust their capital reserves and to regulate their loan portfolio and the credit risk they take on and hold.

The Enterprises and Affordable Housing: the Enterprises play a critical role in housing finance, supporting over \$5 trillion in mortgage loans and guarantees.³⁴ The Enterprises have an affirmative obligation in their charter to facilitate affordable housing that has been essential to ensuring access to affordable conventional mortgage credit for traditionally underserved borrowers and markets, including those in low-income, rural and minority communities.³⁵ The Enterprises' affordable housing goals require that the Enterprises guarantee a set percentage of single-family and multifamily mortgages in low- and moderate-income communities every year. Right now, they are not being utilized to their full potential. Since 2010, one or both Enterprises have failed to purchase enough loans from lenders to meet one of more of their "benchmark" single-family housing goals on several occasions. The benchmark goal is set in advance by FHFA. Even where they have meet their benchmark housing goals, on several occasions they have lagged "market" performance on their goals. The market goal is the actual number of loans that were originated in the market and eligible for the Enterprises to purchase (see Figure 8).

33 The Federal Reserve Board, 95th Annual Report 2008. <https://www.federalreserve.gov/boarddocs/rptcongress/annual08/sec2/c5.htm>

34 Watt, M. (2016, February 18). Prepared Remarks of Melvin L. Watt Director of FHFA at the Bipartisan Policy Center. Retrieved from <https://www.fhfa.gov/Media/PublicAffairs/Pages/Prepared-Remarks-Melvin-Watt-at-BPC.aspx>

35 NCRC, *Protecting Duties to Serve and Responsible Next Steps for Reforming the Secondary Mortgage Market*. (November 2015).

The Enterprises' 2015 Housing Goals

AFFORDABLE HOUSING GOALS	2015			
	Single Family Housing Goals		Housing Goal Performance	
	Market	Benchmark	Fannie Mac	Freddie Mac
Low-Income Home Purchase Goal	23.6%	24%	23.5%	22.3%
Very Low-Income Home Purchase Goal	5.8%	6%	5.6%	5.4%
Low Income Areas Home Purchase Goal	19.8%	19%	20.4%	19.0%
Low Income Areas Home Purchase Subgoal	15.2%	14%	15.6%	14.5%
Low-Income Refinance Goal	22.5%	21%	22.1%	22.8%
	Multifamily Housing Goals		Housing Goal Performance	
Low-Income Multifamily Goal (Units)	300,000		307,510	379,042
Very Low-Income Multifamily Goal (Units)	60,000		69,078	76,935
Small Property: Low-Income (Units)	6,000		\$6,731.00	12,801

FIGURE 8: The Enterprises' 2015 Housing Goals (pink is where an Enterprise failed to meet the benchmark goal; gold is where an Enterprise lagged market performance) Source: NCRC.

The Enterprises and Blame for the Financial Crisis: For years, opponents in Congress and some of the largest financial players in the private market, who view them as government-sponsored competitors, have blamed the Enterprises as well as their affordable housing goals for the financial crisis. Opponents have advocated for diminishing their role in the secondary mortgage market or scrapping them entirely, including their affordable housing goals.³⁶ The *U.S. Financial Crisis Inquiry Report* found, however, that although the Enterprises participated in the expansion of subprime and other risky mortgages, they followed rather than led Wall Street and other lenders – they were not the primary cause.³⁷ In the midst of an overall housing bubble and housing market meltdown, the loans purchased or guaranteed by the Enterprises generated substantial losses, but delinquency rates for the Enterprises' loans were substantially lower than loans securitized by other financial firms.³⁸

Tight Credit Access and the Enterprises in Conservatorship: In 2008, former FHFA Director Ed Demarco placed the Enterprises in conservatorship, and both were put on a path to wind down their operations – their capital reserves, their loan portfolios and to shrink their role in holding credit risk in the secondary mortgage market. Since that time, both Enterprises have implemented risk-based pricing and increased their guarantee fees by 250 percent – fees that are passed on to homebuyers.

36 For example, see Senator Johnny Isakson (R-GA) Q & A with Nominee Steve Mnuchin, *Nomination hearing of Steven Mnuchin to be Secretary of the Treasury* (January 19, 2017).

37 *U.S. Financial Crisis Inquiry Report*, National Commission on the Causes of the Financial and Economic Crisis in the United States, pursuant to Public Law 111-21 (February 25, 2011). <http://fcic.law.stanford.edu/report>

38 Ibid.

Also, their credit score requirements have risen substantially – 77 percent of their mortgage guarantees are for borrowers with an average credit score at or above 720 (see Table 9).³⁹ However, 40 percent of all FICO scores nationally fall below 700 and a relatively small share of new mortgages are being originated to that share of creditworthy borrowers.⁴⁰ Across the mortgage market, tight credit standards are estimated to have prevented 6.3 million mortgages between 2009 and 2015 if compared with standards during historical periods of safe lending (see Figure 8).⁴¹ As a result, the wealth-building tool of homeownership is now out of reach for too many borrowers.

Acquisition Share by Risk Profile

Product Type	2011	2012	2013	2014	2015	Change 2014 to 2015
Fixed 30-Year	58%	63%	68%	75%	76%	1%
Fixed 15-Year	27%	26%	23%	16%	17%	1%
Fixed Other Terms	7%	6%	5%	4%	5%	1%
ARM	8%	4%	3%	6%	3%	-3%
Loan Purpose						
Purchase	26%	24%	35%	57%	47%	-10%
Rate-Term Refinance	55%	58%	48%	26%	34%	8%
Cash-Out Refinance	19%	18%	17%	17%	20%	3%
LTV Ratio						
0 - 70 Percent	50%	48%	42%	29%	33%	4%
70.1 - 80 Percent	41%	40%	41%	44%	42%	-2%
80.1 - 90 Percent	5%	6%	8%	12%	12%	0%
> 90 Percent	4%	6%	9%	16%	14%	-2%
Credit Score						
>= 720	85%	87%	82%	74%	77%	2%
660 - 719	13%	12%	16%	21%	20%	-2%
< 660	2%	1%	2%	4%	4%	0%
Risk Layering						
Jumbo Conforming	12%	9%	9%	8%	9%	1%
Condo/Cooperative	9%	10%	11%	10%	10%	-1%
Investment Properties	6%	8%	11%	9%	8%	-1%

FIGURE 9. Source: Federal Housing Finance Agency (FHFA)

Who Can Act:

The U.S. Congress, the Federal Housing Finance Agency (FHFA), the U.S. Department of the Treasury

NCRC's Position:

NCRC urges Congress to protect, defend and strengthen the affordable housing goals and the affordable housing mission at the Enterprises. The Enterprises' goals and mission are critical incentives in the law that facilitate conventional mortgage credit to underserved communities. The *U.S. Financial Crisis Inquiry*

39 FHFA, *Fannie Mae and Freddie Mac Single Family Guarantee Fees In 2015* (August 2016). Table 3.

40 *Housing Finance Reform: Access and Affordability in Focus*, Counselor Antonio Weiss and Assistant Secretary for Economic Policy Karen Dynan, Medium (October 26, 2016).

41 Bai, B., Goodman, L., & Zhu, J. *Overly tight credit killed 1.1 million mortgages in 2015*. (November 21, 2016)

Report, research from the Federal Reserve Board of Governors, several Federal Reserve Banks and academics have all found that the housing goals should not be blamed for the financial crisis.⁴²

Regardless of how the Congress proposes to reform the secondary mortgage – with Fannie Mae and Freddie Mac or without – any new government-sponsored entities as well as any publicly financed securitization infrastructure must be subject to the affordable housing mandates and goals that the Enterprises have.

After eight years, it is time for FHFA and the U.S. Treasury to end the conservatorships of Fannie Mae and Freddie Mac. FHFA should also allow the Enterprises to increase their affordable loan product offerings, improve their pricing for low- and moderate-income borrowers, and improve marketing and outreach to African-American borrowers and other underserved communities and markets that are suffering specific setbacks in access to homeownership.

How Many Purchase Loans are Missing Because of Credit Availability

Loan category	2001, scaled to HMDA	2015, scaled to HMDA	Actual Percent decline	2015, assuming no constraint >700	Difference between >700 unconstrained and actual
FICO below 660	1,433,986	503,013	65%	1,414,087	911,074
FICO 660-700	861,047	686,073	20%	849,099	163,026
FICO above 700	2,356,516	2,323,816	1%		
Total	4,651,549	3,512,903	32.41%		1,074,099

Source: Urban Institute calculations based on Home Mortgage Disclosure Act, CoreLogic and eMBS data.
 Note: FICO = Fair Isaac Corporation.

FIGURE 10. Source: Urban Institute

ISSUE: Protect Funding of the National Housing Trust Fund and Capital Magnet Fund Even as the Enterprises Remain in Conservatorship

After the Enterprises were placed in conservatorship in 2008, former Federal Housing Finance Agency (FHFA) Director Edward DeMarco suspended the allocation of funds to the National Housing Trust Fund (NHTF) and the Capital Magnet Fund (CMF). On December 11, 2014, current FHFA Director Melvin L. Watt lifted the suspension, and directed the Enterprises to begin setting aside and allocating funds to the NHTF and the CMF.⁴³ In May 2016, HUD allocated \$174 million through the NHTF⁴⁴ and in September the CDFI Fund awarded \$91.5 million in CMF grants.⁴⁵

42 Ibid at note 45. See also: Federal Reserve Bank of St. Louis, “Did Affordable Housing Legislation Contribute to the Subprime Securities Boom?” (December 2014).

43 “FHFA Statement on the Housing Trust Fund and Capital Magnet Fund.” December 11, 2014. Retrieved from <https://www.fhfa.gov/Media/PublicAffairs/pages/fhfa-statement-on-the-housing-trust-fund-and-capital-magnet-fund.aspx>.

44 HUD, *HUD Allocates \$174 million through new housing trust fund*. [Press release] (May 4, 2016).

45 HousingWire, *CDFI Fund Awards \$91.5 Million in Capital Magnet Funds* (September 22, 2016).

The NHTF and the CMF were both created by Housing and Economic Recovery Act of 2008 (HERA) to increase affordable housing opportunities and promote community development investments for underserved and distressed communities, consistent with safety and soundness.⁴⁶ The law requires the Enterprises to set aside 4.2 basis points for each dollar of unpaid principal balance on total new loan purchases, which are then allocated to the two funds.⁴⁷

Following Director Watt's decision to fund the NHTF and the CMF in 2014, critics in Congress attempted to block funding for the NHTF.

FHFA's Duty to Serve Rule: Under the 2008 HERA law, the Enterprises also have a Duty to Serve three underserved markets: manufactured housing, affordable housing preservation and rural housing. Unlike the affordable housing goals, the law prohibits the Enterprises from setting loan purchase goals or designating a specific percentage of their business to comply with their Duty to Serve.⁴⁸ However, the rule requires them to purchase loans, develop loan products, conduct outreach and/or make investments in the three markets to receive Duty to Serve credit. In December 2016, FHFA finalized its Duty to Serve rule and in April 2017 each of the Enterprises will submit Underserved Market Plans that propose activities they will undertake to receive Duty to Serve credit in each of the three markets. Those plans will be available for public comment. In addition, public comments on FHFA's Duty to Serve *Evaluation Guide* are due in May of 2017. The guide will determine how the Enterprises are scored on their performance under their Underserved Market Plans.

Who Can Act:

The U.S. Congress, the Federal Housing Finance Agency (FHFA) and the U.S. Department of the Treasury

NCRC's Position:

NCRC continues to oppose any efforts in Congress to defund the NHTF or the CMF through the annual appropriations process. Both Enterprises should also continue to set aside and allocate funds to the NHTF and CMF even as they remain in conservatorship.

FHFA's Duty to Serve in the three underserved markets is an important complement to the Affordable Housing Goals. However, the affordable housing goals are a broader and stronger mandate that ensure low- and moderate-income borrowers and underserved communities have access to conventional mortgage credit. Both the affordable housing goals and the duty to serve must be defended and protected.

FHFA should also take the occasion of the Duty to Serve rule to allow the Enterprises to increase their affordable loan product offerings, improve their pricing for low- and moderate-income borrowers, and improve marketing and outreach to African-American borrowers and other underserved borrowers and markets that are suffering specific setbacks in access to homeownership.

⁴⁶ Housing and Economic Recovery Act of 2008. July 30, 2008. Retrieved from <https://www.gpo.gov/fdsys/pkg/PLAW-110publ289/pdf/PLAW-110publ289.pdf>

⁴⁷ Ibid.

⁴⁸ 12 U.S.C. 4565(d)(2)(C). See more about FHFA's Duty to Serve Program at: <https://www.fhfa.gov/duty-to-serve>

What are Fannie Mae and Freddie Mac?

HISTORY OF THE ENTERPRISES

1938: Fannie Mae is established:

- By amendments to the National Housing Act after the Great Depression as part of Franklin D. Roosevelt's New Deal.
- To provide local banks with liquidity backed by federal funding to finance home mortgages in an attempt to raise homeownership rates and the availability of affordable housing.
- To create a liquid secondary mortgage market and make it possible for banks and loan originators to issue more housing loans.

1970: Freddie Mac is established:

- To provide competition for Fannie Mae.
- To increase the availability of funds to finance mortgages and homeownership.

Fannie Mae and Freddie Mac

- The Enterprises' function is to provide liquidity to the nation's mortgage finance system by:
 - Purchasing home loans made by private lenders (provided the loans meet strict size, credit, and underwriting standards).
 - Packaging loans into mortgage-backed securities.
 - Guaranteeing the timely payment of principal and interest on those securities to Wall Street investors.

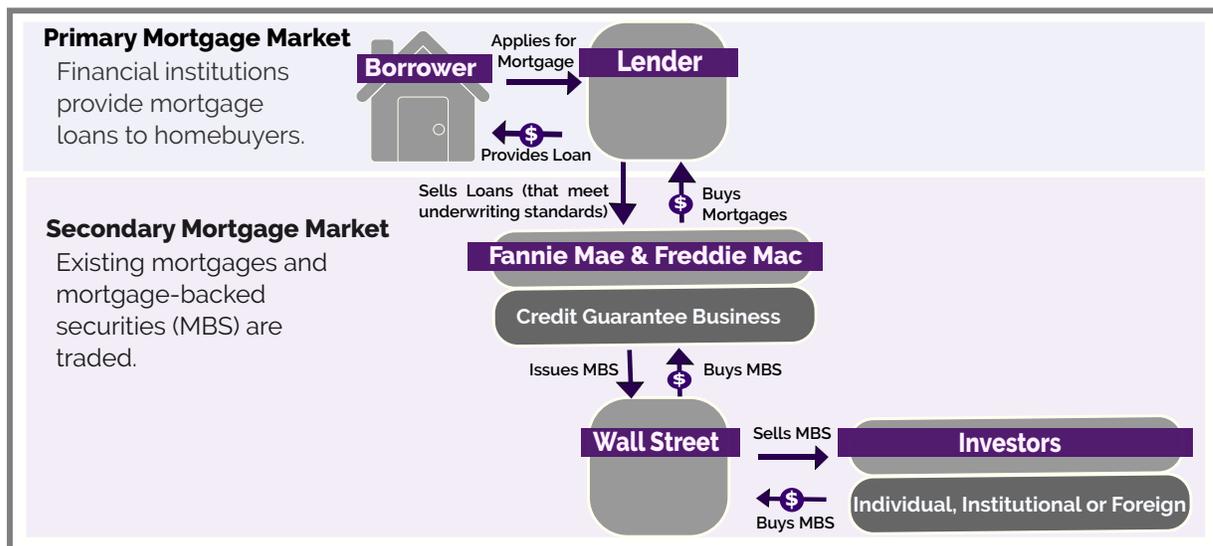
1992:

- Federal law is amended to require the establishment of broad affordable housing goals for each of the Enterprises.

2008:

- The Enterprises are reformed by the Housing and Economic Recovery Act (HERA).
- The newly created Federal Housing Finance Agency (FHFA) used its authority under HERA to place the Enterprises into conservatorship.

MORTGAGE MARKET ORIGATION MECHANICS



The Enterprises are critical players in the housing finance system. Approximately 80% of new mortgages are backed by some form of government guarantee.

ISSUE: Rethink Fannie Mae and Freddie Mac's Backing of Private Equity Investors in the Single Family Rental Market

In January, Fannie Mae agreed to back a 10-year, \$1 billion loan to Invitation Homes (IH), the country's largest owner of single-family rental homes and a division of the private equity firm The Blackstone Group L.P. This marks the first time that either Fannie Mae or Freddie Mac has guaranteed the debt of an institutional owner of single-family rental housing.⁴⁹ The number of single-family rental units increased 35 percent from 2006 to 2016,⁵⁰ as Blackstone and other large institutional investors bought up hundreds of thousands of foreclosed single-family properties at rock-bottom prices and converted them to rentals.

U.S. homeownership has also fallen to a 50-year low since the housing crisis amid strict lending standards, mounting student debt, and would-be buyers' savings and credit diminishing during the recession. Even as millennials and first-time homebuyers now enter the market, they are having difficulty finding affordable houses to buy.⁵¹ IH homes are in the segment of single-family market suffering some of the tightest housing supply. The share of new homes 1,800 square feet or less (the typical size of entry-level homes) has fallen from an average of 34 percent of new single-family housing supply in 1999-2004 (prior to the housing downturn) to 21 percent in 2015, a nearly 40 percent decline (see Figure 8).⁵² IH single-family rentals average approximately 1,850 square feet and their portfolio of homes are in 13 desirable markets concentrated in the Western U.S and Florida.⁵³ IH and other institutional buyers of single-family homes compete with homebuyers seeking affordable homes to purchase.

Who Can Act:

The Federal Housing Finance Agency (FHFA), Fannie Mae and Freddie Mac

NCRC's Position:

Fannie Mae should improve access to affordable homeownership in traditionally underserved communities instead of backing private-equity giants on Wall Street that are converting single family properties into rentals. Among other steps, the Enterprises should improve their pricing for low- and moderate-income borrowers, increase their affordable loan product offerings, and improve marketing and outreach to African-American borrowers and other underserved borrowers and markets that are suffering specific setbacks in access to homeownership.

⁴⁹ December, R. (2017, January 24). Blackstone wins Fannie's backing for rental homes. Retrieved from <http://www.marketwatch.com/story/blackstone-wins-fannies-backing-for-rental-homes-2017-01-24>. MarketWatch

⁵⁰ Invitation Homes SEC Filing, *Amendment No. 1 to Form S-11 Registration*, Preliminary Prospectus dated January 23, 2017.

⁵¹ CNBC, *Why the supply of homes for sale is the lowest since 1999* (January 24, 2017).

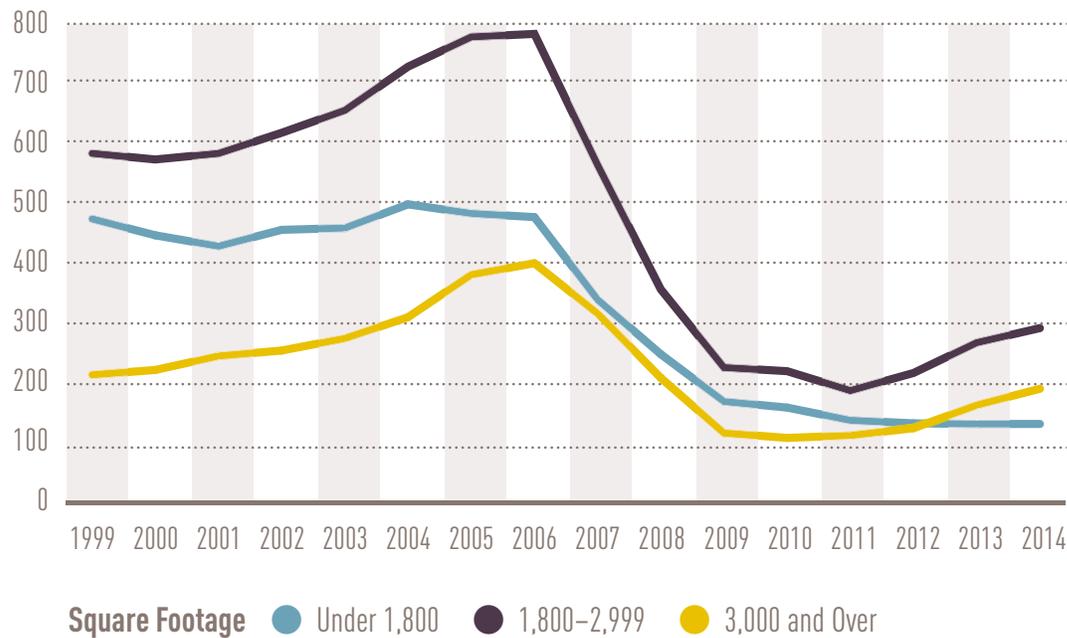
⁵² *Ibid* at 51. Also see: Joint Center for Housing Studies of Harvard University, *State of Housing* (2016).

⁵³ *Id.*

With regard to the Blackstone deal, Fannie Mae must attach affordability and tenant protections to these rentals.

Construction of Smaller Single-Family Homes Has Yet to Rebound

New Single-Family Homes Completed (Thousands)



Source: JCHS tabulations of US Census Bureau, New Residential Construction data.

FIGURE 11. Source: Harvard Joint Center for Housing Studies, *The State of the Nation's Housing 2016*, www.jchs.harvard.edu. All rights reserved

ISSUE: Prioritize the Affordable Housing Needs of Rural Americans

More than 59 million Americans live in rural America, where getting access to credit and capital for affordable housing is especially difficult (see Figure 12). The U.S. Department of Agriculture's (USDA) Section 502 Single Family Direct Loan Program, the Section 515 Rural Rental Housing Direct Loan Program, and the Section 521 Rural Rental Assistance Program are all critical to homeownership and rental housing in rural communities.

The Section 502 Program Direct Loan program offers mortgages for low-income homebuyers in rural areas.⁵⁴ At least 40 percent of the funds appropriated each year must be used to assist families with incomes less than 50 percent of area median income (AMI).⁵⁵ In the past 60 years, Section 502 Direct

⁵⁴ USDA, Rural Home Loans (Direct Program). (2015, September). Retrieved from <https://www.rd.usda.gov/files/fact-sheet/RD-FactSheet-RHS-SFH502Direct.pdf>, U.S. Department of Agriculture.

⁵⁵ USDA Homeownership Direct Loan Program (Section 502). (January 2014). Retrieved from <http://www.ruralhome.org/>

Loans have helped more than 2.1 million rural families buy homes and build their wealth by more than \$40 billion.⁵⁶ The Section 515 Program has financed more than 550,000 decent, safe, sanitary and affordable homes, often the only such housing in rural communities.⁵⁷ USDA's Section 521 Rental Assistance (RA) program helps tenants whose incomes are so low they cannot afford the rent in certain USDA-financed properties.⁵⁸

Who Can Act:

The U.S. Congress House and Senate Budget and Appropriations Committees, the U.S. Department of Agriculture (USDA), the Federal Housing Finance Agency (FHFA)

NCRC's Position:

Congress and the Trump Administration should prioritize and support capacity building for Section 502 Direct Loans so that more rural Americans can access and use the program. Although the program has recently been automated, it still takes far too long to process loan applications.

The House and Senate Appropriations Committees should also maintain funding for all USDA rural housing programs, including Section 502, 514, 515, 516 and 521. Congressional appropriators should also provide enough funding to renew all Section 521 rental assistance contracts, oppose implementing minimum rents in Section 521-assisted units or other USDA rentals, and work with USDA Rural Development to find positive ways to reduce Section 521 costs through energy efficiency measures, refinancing USDA mortgages, and reducing administrative costs.

FHFA's Duty to Serve Rule: The *Underserved Market Plans* developed by Fannie Mae and Freddie Mac as part of their Duty to Serve obligations for the manufactured housing market should promote strong homeowner and tenant protections in the market, including long-term leasing, investments in mission-owned communities, safe and sound financing as part of the chattel loan pilot program, and no restrictions on the right to sell.

Fannie and Freddie should be able allowed to reenter the low-income housing tax credit (LIHTC) market in rural areas, and receive credit for partnering on the USDA's Section 515 and 538 multifamily housing programs.

The Enterprises should also support and finance more housing counseling as part of their *Underserved Market Plans*.

storage/documents/rd502direct.pdf. Housing Assistance Council.

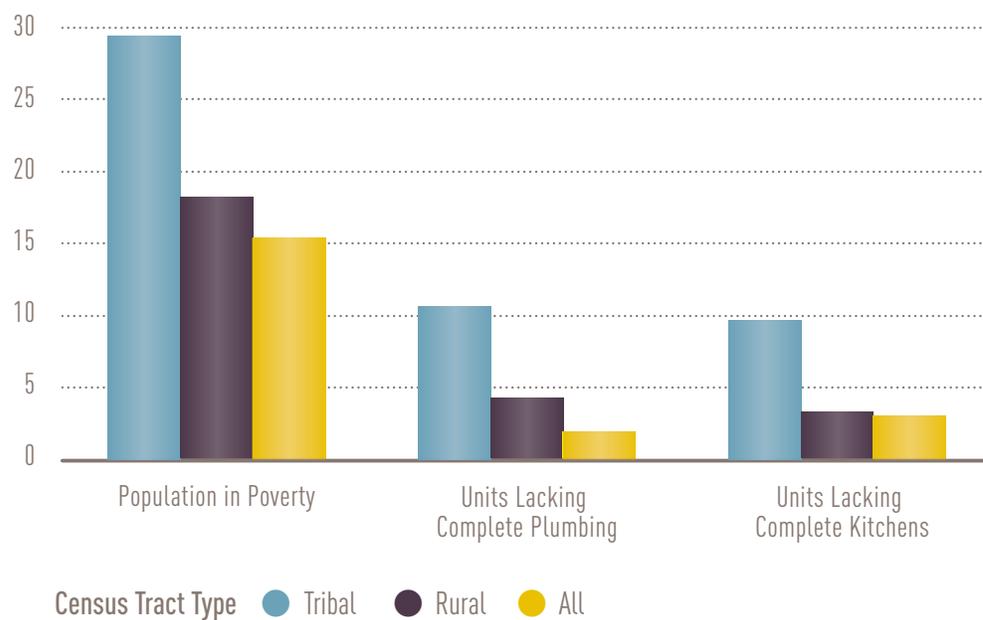
56 The National Rural Housing Coalition, Section 502 Direct Loan Program. (July 30, 2014). Retrieved from <http://ruralhousingcoalition.org/section-502-direct-loan-program>

57 USDA Rural Rental Housing Loans (Section 515), The Housing Assistance Council (April 2011). Retrieved from <http://ruralhome.org/storage/documents/rd515rental.pdf>.

58 USDA Rural Housing Programs for Seniors, The Housing Assistance Council (September 2011) Retrieved from <http://ruralhome.org/component/content/article/45-announcements/437-seniorhousing>. Housing Assistance Council.

Residents of Rural Areas and Tribal Lands Are Especially Likely to Live in Poverty and Have Substandard Housing

Share of Population and Housing Units (Percent)



Notes: Tribal census tracts are as defined by the US Census Bureau for 2010. Rural census tracts are in non-metro areas.
Source: JCHS tabulations of US Census Bureau, 2010–2014 American Community Survey 5-Year Estimates.

FIGURE 12: Source: Harvard Joint Center for Housing Studies, *The State of the Nation's Housing 2016*, www.jchs.harvard.edu. All rights reserved

Invest Forward

Issue: Ensure that Innovative Fintech Companies Have Requirements Around Consumer Protections, Transparency and Affirmative Obligations That Mirror Those For Banks

Financial technology companies (fintechs) are non-depository institutions such as online marketplace lenders, payment processors and others nonbank providers that are growing at a rapid pace. Thirteen of the online lending sector's largest firms made \$15.91 billion in U.S. loans in 2014, up 700 percent from 2010, and in the first six months of 2015 the same firms extended \$12.47 billion in credit nationwide.⁵⁹ Online lending has been growing as a credit source for small and microbusinesses (see Figures 13 and 14).

The growth of the industry has ignited the interest of several federal regulators. In December 2016, the OCC announced an intention to explore a national bank charter for fintech companies and sought public comments. Among other issues, the OCC sought feedback on issues around financial inclusion for underserved borrowers and how obligations similar to those under CRA, that apply to the nation's traditional banks, might be extended to fintech and online marketplace lenders.⁶⁰

Online marketplace lending involves the facilitation of loan originations outside of the traditional consumer banking system by collecting information from a borrower and underwriting a loan with a lender entirely over an internet platform, a process designed to be efficient and cost-effective for lenders and user-friendly for borrowers. Lending platforms typically issue loans in amounts ranging from \$1,000 to \$35,000 with maturities of three to five years, and may include fixed or variable interest rates, origination fees and/or other charges that may not all be apparent to the borrowers.⁶¹ They may set minimum FICO credit scores or use other proprietary data-driven underwriting methods particular to the platform. The lending platform that makes the loan may receive origination fees (usually one percent to two percent of the loan balance) and/or servicing fees (typically one percent of the outstanding loan balance).

59 California Department of Business Oversight, *Survey of Online Consumer And Small Business Financing Companies* (April 8, 2016). Retrieved from http://www.dbo.ca.gov/Press/press_releases/2016/Survey%20Response%20Summary%20Report%2004-08-16.pdf.

60 Office of the Comptroller of the Currency, *Exploring Special Purpose National Bank Charters for Fintech Companies* (December 2016).

61 Department of the Treasury, *Opportunities and Challenges in Online Marketplace Lending*. (Retrieved from <https://www.treasury.gov/connect/blog/Documents/Opportunities%20and%20Challenges%20in%20Online%20Marketplace%20Lending%20vRevised.pdf>.) Also, Price Waterhouse Coopers Research Report, *Peer Pressure: How peer-to-peer lending platforms are transforming the consumer lending industry*, February 2015.

While online lending platforms have the potential to expand access to credit for the underserved, several concerns have arisen around fintech companies⁶² and the prospects of the OCC extending a national bank charter to them, including:

- Whether fintechs will be subject to requirements similar to those that banks must meet under CRA;
- Whether a national bank charter for fintech companies will undermine or preempt stronger consumer protections in state law as well as state interest rate caps;
- Whether “rent-a-charter” schemes, in which fintech companies lend and operate in partnership with a nationally chartered or state-chartered bank, allow fintechs to get around state interest caps and other consumer protections;
- While innovative data-driven underwriting methods may expedite credit assessments for borrowers and reduce costs for lenders, they also carry the risk of disparate impact in credit outcomes and could hide the potential for fair lending violations;
- Many consumer protections that apply to consumers when borrowing through online lending platforms do not extend to small business borrowers;
- The lack of more transparent pricing terms for borrowers and standardized loan-level data for investors; and
- Fintechs remain untested through a complete credit cycle and higher charge-off and delinquency rates for recent vintages of consumer loans may be an early indication of larger risks should credit and economic conditions deteriorate.

Who Can Act:

The U.S. Congress, the Comptroller of the Currency (the OCC), the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System, the U.S. Department of the Treasury, the U.S. Securities and Exchange Commission (SEC), the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission, and others

NCRC’s Position:

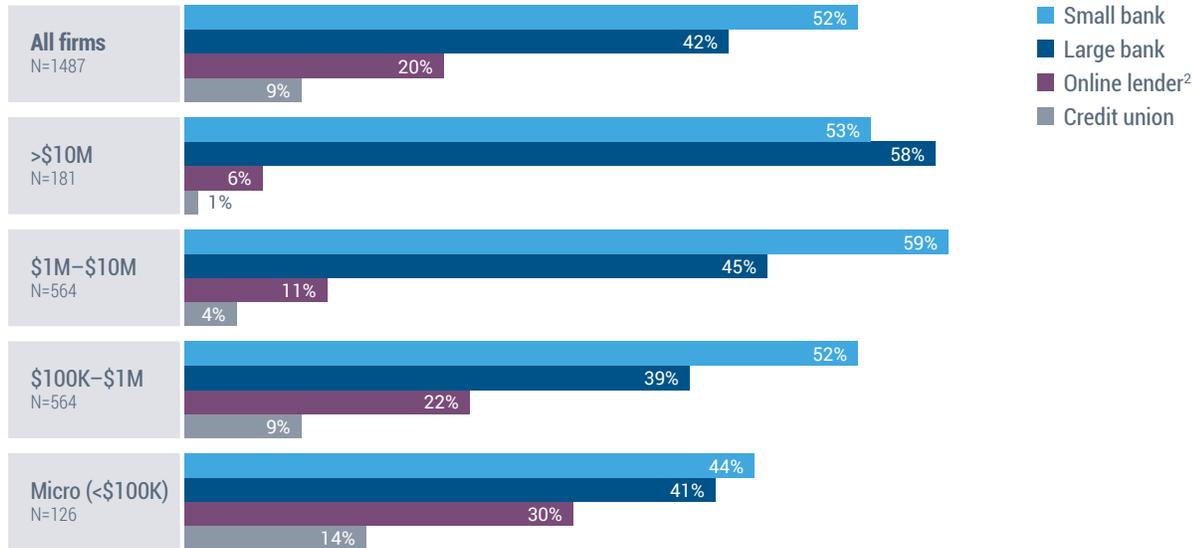
If the OCC develops a national bank charter for fintech companies, the OCC must extend to them similar requirements around CRA that banks comply with today. It should not preempt stronger state law protections and interest rate caps. It must also establish stringent safety and soundness, and rigorous supervision and examination of compliance with fair lending and consumer protection laws for newly chartered institutions.

A national bank charter is a tremendous benefit for fintechs since, among numerous other features, it allows them to lend nationwide without having to seek permission state by state. It has the potential to benefit consumers and communities only if it is accompanied by rigorous CRA-like obligations in addition to rigorous supervision and oversight. Safety and soundness reviews must also be stringent.

⁶² Ibid.

Banks are the dominant credit source overall but online lending is a noteworthy source for employer firms with less than \$1 million in revenues.

CREDIT SOURCES¹ APPLIED TO BY REVENUE SIZE OF FIRM (% of loan/line of credit applicants)

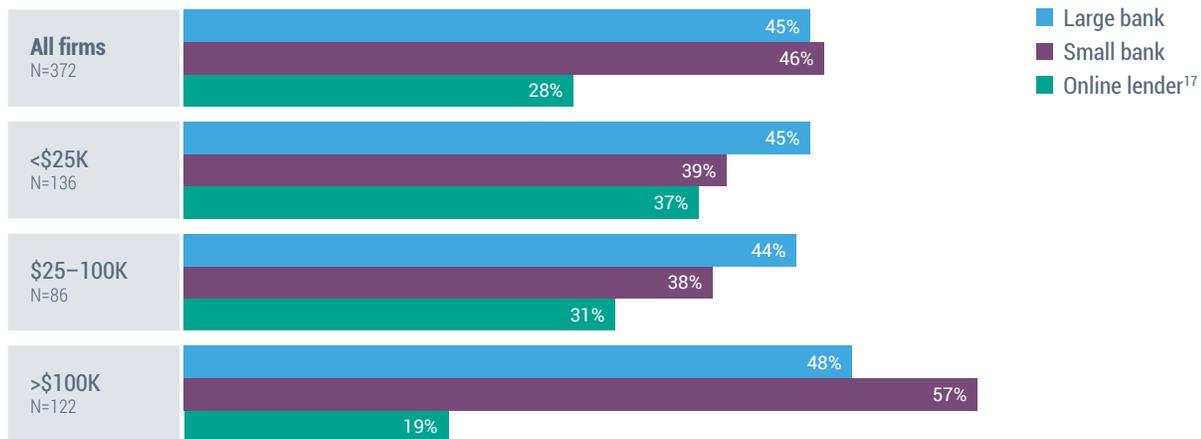


¹ Select answer choices shown. See appendix for more detail. Respondents could select multiple options.
² "Online lenders" are defined as nonbank alternative and marketplace lenders, including Lending Club, OnDeck, CAN Capital, and PayPal Working Capital.

FIGURE 13. Source: Federal Reserve Banks of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, 2015 Small Business Credit Survey

The smallest nonemployer firms turned to online lenders for funding almost as frequently as they turned to small banks.

CREDIT SOURCES¹⁶ APPLIED TO BY REVENUE SIZE OF FIRM (% of loan/line of credit applicants)



Total N does not always equal the sum of sub-categories because firms are not required to answer all of the survey questions.

FIGURE 14. Source: Federal Reserve Banks of New York, Atlanta, Boston, Cleveland, Philadelphia, Richmond, St. Louis, 2015 Small Business Credit Survey

ISSUE: Improve Federal Funding for HUD-Approved Housing Counseling Agencies to Build and Maintain Strong Homeownership

More than 1.4 million households are expected to receive assistance from HUD-approved housing counseling agencies due, in part, to HUD's \$42 million investment last year.⁶³ Whether preparing first-time homebuyers for the financial commitment of homeownership, helping homeowners to resolve mortgage delinquencies and avoid foreclosure, helping renters find affordable rental options, or working with older adults to help them stay in their homes, the services HUD-approved housing counseling agencies provide are essential to meeting the housing needs of families in communities all around the country. The federal funding provided for housing counseling is critical to ensuring that HUD-approved housing counseling agencies can continue to serve families in need.

Pre-purchase housing counselors work to prepare families for responsible homeownership, and research consistently demonstrates that pre-purchase counseling works. Analysis by the Federal Reserve Bank of Philadelphia in 2014 found that a two-hour pre-purchase homeownership workshop and one-on-one pre-purchase counseling improved the participants' financial creditworthiness as they prepared to qualify for a home mortgage.⁶⁴ Homeowners and prospective homeowners who receive counseling have higher credit scores, less overall debt, and lower delinquency rates. A 2013 study that looked at 75,000 mortgages found that borrowers who received pre-purchase counseling and education were one-third less likely to become seriously delinquent than similar borrowers who did not receive pre-purchase counseling and education.⁶⁵

Federal support for housing counseling has declined significantly in recent years. The National Foreclosure Mitigation Counseling program (NFMC), which was the only dedicated source of federal support for foreclosure prevention counseling, was eliminated in Fiscal Year 2017, resulting in a 46 percent reduction in total federal funding. Yet, demand for default and delinquency counseling remains high. Through the third quarter of 2016, for example, 38 percent of all housing counseling clients received foreclosure prevention counseling.⁶⁶

Who Can Act:

The U.S. Congress, the U.S. Department of Housing and Urban Development (HUD)

63 Sullivan, B. (June 21, 2016). HUD Awards \$42 Million in Housing Counseling Grants. Retrieved from https://portal.hud.gov/hudportal/HUD?src=%2Fpress%2Fpress_releases_media_advisories%2F2016%2FHUDNo_16-094

64 The Effectiveness of Pre-Purchase Homeownership Counseling and Financial Management Skills, Federal Reserve Bank of Philadelphia (April 2014)

65 Mayer, N. S. (March 7, 2013). *Pre-Purchase Counseling Impacts on Mortgage Performance: Empirical Analysis of NeighborWorks® America's Experience*. (March 7, 2013).

66 HUD, FY 2016 9902 3rd Quarter Report.

NCRC's Position:

NCRC urges the House of Representatives and Senate appropriations committees to include \$60 million for the HUD Housing Counseling Assistance (HCA) program, particularly with the elimination of the NFMC program. Congress should also restore funding for the NFMC program. The HCA program funds critical services, especially for homebuyers, homeowners at risk of foreclosure, and seniors trying to stay in their homes. According to HOPE NOW, NFMC awarded almost \$40 million to 21 state housing agencies, 19 HUD intermediaries and 60 community nonprofits in 2016 – providing services to an estimated 122,000 families facing foreclosure.

Invest Fair

ISSUE: Oppose Efforts to Undermine Fair Housing Enforcement, Including HUD's Affirmatively Furthering Fair Housing (AFFH) and Disparate Impact Rules

In 2015, HUD released its Affirmatively Furthering Fair Housing (AFFH) rule, which implements two of the primary goals in the Fair Housing Act of 1968. The first goal is to end housing discrimination and promote diverse, inclusive communities. A second, less well-known goal is meant to affirmatively further fair housing – to actively dismantle segregation and foster integration in its place. Until 2015, the second goal had been largely forgotten, neglected and unenforced for decades.

The AFFH rule is a locally driven evaluation and goal-setting process that requires cities and towns across America to analyze and publicly report racial bias in their housing patterns every three to five years, and to set goals to reduce segregation. The rule is a tool provided to the local communities for them to implement in the best way possible for their communities. HUD's strong AFFH rule provides clarity and teeth to the law's long-standing obligations while also providing a number of tools communities can leverage to implement strong local fair housing programs.⁶⁷

Disparate Impact: In 2013, HUD also finalized a Disparate Effects rule – a uniform standard for analyzing evidence of disparate impact in cases brought under the Fair Housing Act. In 2015, the U.S. Supreme Court upheld the disparate impact doctrine under the Fair Housing Act in *Texas Department of Housing and Community Affairs vs. Inclusive Communities Project*. The disparate impact doctrine bars policies that have a discriminatory impact even if there is no intention to discriminate. This tool is very important to fair housing and fair lending advocates combating modern-day redlining where an intention to discriminate can be nearly impossible to prove.

Congressional opponents of HUD's AFFH rule and disparate impact rules have repeatedly sought to undermine them through "riders" or amendments in the annual appropriations process by barring HUD from spending any money to enforce them. More broadly, Congress has sought undermine fair housing enforcement by not funding or underfunding it.

⁶⁷ "Affirmatively Furthering Fair Housing." Affirmatively Furthering Fair Housing Final Rule. Retrieved from https://www.huduser.gov/portal/affht_pt.html#final-rule.

Who Can Act:

The U.S. Congress, the House of Representatives and Senate Appropriations and Budget Committees, the U.S. Department of Housing and Urban Development (HUD)

NCRC's Position:

NCRC opposes H.R. 482 (Rep. Paul Gosar (R-AZ-4)) and the companion S. 103 (Sen. Mike Lee (R-UT)), the Local Zoning Decision Protection Act and any similar bills that would block HUD from implementing and enforcing its AFFH rule.

NCRC also urges Congress to oppose all amendments in the FY 2018 budget and appropriations process to defund HUD's AFFH or disparate impact rules, and also to defund or underfund the Fair Housing Initiatives Program (FHIP) and broader fair housing enforcement.

NCRC urges HUD Secretary Ben Carson to continue to implement the Assessment of Fair Housing process under the AFFH rule. HUD must finalize the assessment and geospatial tools immediately, including the assessment tools for states and Public Housing Agencies (PHAs).

ISSUE: Protect the CFPB and its Director From Attacks That Limit Their Ability to Ensure a Fair and Transparent Financial System

The Consumer Financial Protection Bureau (CFPB) has been under fire from Wall Street and some members of Congress since its very inception. The agency was created by the Dodd-Frank Act in 2010 and aims to ensure that financial markets work for consumers, responsible providers, and the economy as a whole. It protects consumers from unfair, deceptive, or abusive practices and takes action against companies that break the law. The CFPB's jurisdiction includes traditional lenders such as banks and credit unions, but extends also to securities firms, payday lenders, mortgage servicing operations, foreclosure relief services, debt collectors, and other financial companies operating in the United States.⁶⁸

CFPB Director Richard Cordray: Currently, there are calls from across the financial services sector and by some in Congress to fire the agency's inaugural director, Richard Cordray. Congress supported the CFPB's independence by enacting protections against the removal of its director. The Dodd-Frank Act permits the president to remove the director only "for inefficiency, neglect of duty, or malfeasance in office."⁶⁹ CFPB Director Richard Cordray has not met that definition, and has been a tireless and effective leader of the CFPB.

⁶⁸ CFPB, *Institutions Subject to CFPB Supervisory Authority*, CFPB Website.

⁶⁹ 12 U.S.C. § 5491

CFPB's Funding and Structure: While no other bank regulator is subject to the annual appropriations process in Congress, opponents of the CFPB have suggested making the CFPB subject to annual appropriations, thereby tying its funding to the political winds of Congress instead of letting it operate as the independent agency it was designed to be. Along with the CFPB, the Federal Reserve System, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) are funded independent of Congress' annual appropriations process through bank fees, in order to insulate them from political pressure and manipulation by big-bank political donors.

Another proposal would replace the single, accountable director with a board of directors or make it a commission. There is nothing unprecedented about the current structure of the CFPB. In fact, the much larger OCC has been led this way since it was established in 1863.⁷⁰ In addition to the OCC, single directors head both the Federal Housing Finance Agency (FHFA) and the U.S. Social Security Administration.

Other congressional proposals designed to undermine the CFPB's effectiveness include efforts to strip the agency of supervisory authority, remove its enforcement authority over unfair and deceptive acts and practices, and limit its rulemaking power, among others.

There are multiple mechanisms already in existence to ensure the CFPB's accountability and transparency. The CFPB must report twice a year to Congress⁷¹ – an obligation shared only with the Federal Reserve System. The Financial Stability Oversight Council (FSOC) has the authority to veto the CFPB's (and no other financial regulator's) rules.⁷² The CFPB is also accountable to the independent Inspector General for the Federal Reserve System's Board of Governors and to the Government Accountability Office (GAO). The GAO, both on its own behalf and in response to congressional requests, has conducted oversight and audits of the CFPB on repeated occasions. Also, CFPB rules and enforcement actions can be and have been challenged in federal court.

CFPB's Payday Lending Rule: Among the rules that the CFPB is working to finalize is its proposed rule to better regulate high-cost consumer lending, including payday loans. The agency's payday lending rule is critical to addressing the rise in predatory lending seen following the financial crisis.

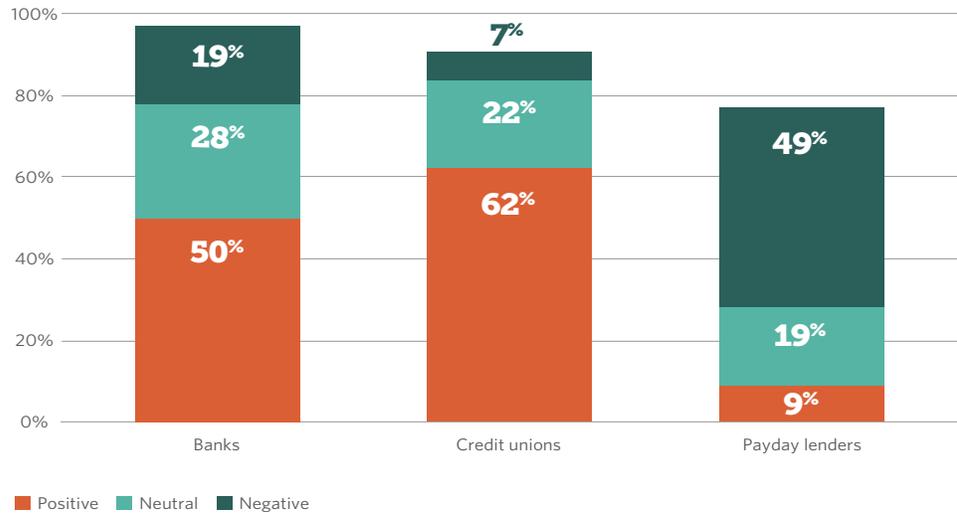
⁷⁰ OCC: *About the OCC*, OCC Website.

⁷¹ Cutter, Stephanie. "Fact Check: The Real Reasons Republicans in Congress are Blocking Richard Cordray at CFPB." The White House. October 6, 2011.

⁷² Financial Stability Oversight Council, *About FSOC*, FSOC Website, see <https://www.treasury.gov/initiatives/fsoc/about/Pages/default.aspx>; Board of Governors of the Federal Reserve., *Is the Federal Reserve accountable to anyone?* see https://www.federalreserve.gov/faqs/about_12798.htm (June 17, 2011).

Only 1 in 10 Americans View Payday Lenders Positively

Attitudes toward financial institutions, by type



Note: Respondents were read the following statement: "I'm going to read you the names of some types of financial institutions. For each, please just tell me if your opinion of that institution is very positive, somewhat positive, neutral, somewhat negative, or very negative." Results are based on 1,018 interviews. Data do not add to 100 percent because "don't know" and "refused" were omitted from this chart.

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FIGURE 15. Source: The Pew Charitable Trust

Who Can Act:

The U.S. Congress, the U.S. House of Representatives and U.S. Senate Appropriations and Budget Committees

NCRC's Position:

Congress should not attempt to weaken the power of this critical agency that has already done a great deal to protect consumers and create a safer financial system free from fraud and abuse.

NCRC opposes the Financial CHOICE Act 2.0, to be sponsored by Representative Jeb Hensarling (R-TX-4), Chairman of the House Financial Services Committee, and any similar proposal by Senator Mike Crapo (R-ID), Chairman of the Committee on Banking, Housing and Urban Affairs. The Financial CHOICE Act proposes a rollback of numerous critical provisions of the Dodd-Frank Act, including those related to the CFPB. NCRC also opposes various stand-alone bills seeking to undermine the agency, including: S. 370 (Sen. Ted Cruz (R-TX)); S. 387 (Sen. David Purdue (R-GA)); H.R. 1031 (Rep. John Ratcliffe (R-TX-4)); and H.R. 1018 (Rep. Scott DesJarlais (R-TN-4)).



FACTSHEET

Consumer Financial Protection Bureau: By the numbers

- **\$11.8 billion:** Approximate amount of relief to consumers from CFPB supervisory and enforcement work, including:
 - \$3.7 billion in monetary compensation to consumers as a result of enforcement activity
 - \$7.7 billion in principal reductions, cancelled debts, and other consumer relief as a result of enforcement activity
 - \$371 million in consumer relief as a result of supervisory activity
- **29 million:** Consumers who will receive relief as a result of CFPB supervisory and enforcement work
- **\$589 million:** Money ordered to be paid in civil penalties as a result of CFPB enforcement work
- **1,080,000+:** Complaints CFPB has handled as of January 1, 2017
- **13 million:** Unique visitors to [Ask CFPB](#)
- **4.4 million:** Mortgages consumers closed on after consumers received the CFPB's [Know Before You Owe](#) disclosures
- **135:** Banks and credit unions under the CFPB's supervisory authority as of September 2016
- **12 million:** Consumers who take out payday loans each year; the CFPB has proposed rules to put an end to payday debt traps
- **70 million:** Consumers who have debts in collection on their credit record; the CFPB is developing proposed rules to protect consumers from harmful collection practices
- **3,244** Colleges voluntarily adopting the CFPB and Dept. of Ed [Financial Aid Shopping Sheet](#)
- **145:** Visits to military installations by the Office of Servicemember Affairs since 2011
- **62:** Times senior CFPB officials have testified before Congress
- **38:** Cities where CFPB has held public town halls or field hearings

FIGURE 16. Source: Consumer Financial Protection Bureau

ISSUE: Protect Section 1071 of the Dodd-Frank Act to Ensure Better Access to Credit for Small Businesses

Section 1071 of the Dodd-Frank Act requires that the Consumer Financial Protection Bureau (CFPB) centralize the collection of small business lending data and to make that data public. It also requires new data including the race and gender of the small business owner to be reported.

The purpose of this section is to “facilitate the enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.” Currently, the collection of small businesses lending data is spread across a number of federal agencies, is not comprehensive, and is not readily available to the public.

Small, women-owned, and minority-owned businesses (SBEs, WBEs and MBEs) drive economic and job growth. Small businesses accounted for approximately 60 percent of net new jobs created from mid-2009 to mid-2013.⁷³ Women, African-American, and Hispanic entrepreneurs represent a larger share of small businesses than ever. By one estimate, women entrepreneurs are adding more than 1,000 new businesses in this country every day, and women of color account for roughly 80 percent of those.⁷⁴ Nonetheless, the country continues to rebound from a 40-year decline in startup activity.⁷⁵

Despite their significant role, small, women-owned, and minority-owned businesses struggle the most with access to safe and sustainable credit. Bank balance sheets showed a 20 percent decline in small business lending by 2014, while loans to larger businesses had risen by about four percent over the same period.⁷⁶ Also, small businesses, women-owned, and minority-owned businesses face lower approval rates on loans than male-owned and non-minority-owned businesses. For example, available research on minority business lending generally indicates that African-American business owners are denied loans more often or pay significantly higher interest rates than white-owned businesses with similar risk characteristics.⁷⁷

Despite disparities in lending, a 2008 GAO report found that the lack of data frustrates regulators ability to address it. Better data on lending markets improves access to credit.

Who Can Act:

The U.S. Congress

73 SBA, Frequently Asked Questions about Small Business (March 2014).

74 SBA Cabinet Exit Memo, SBA: Smart , Bold, Accessible (January 5, 2017)

75 Ibid.

76 Mills, Karen Gordon and McCarthy, Brayden, Harvard Business School, *The State of Small Business Lending: Credit Access During the Recovery and How Technology May Change The Game*, p. 4, (July 2014)

77 GAO, *Fair Lending: Race and Gender Data Are Limited for Nonmortgage Lending*. (June 2008)

NCRC's Position:

NCRC opposes the Financial CHOICE Act 2.0, to be sponsored by Representative Jeb Hensarling (R-TX-4), Chairman of the House Financial Services Committee, and any similar proposal by Senator Mike Crapo (R-ID), Chairman of the Committee on Banking, Housing and Urban Affairs. The Financial CHOICE Act proposes a rollback of numerous critical provisions of the Dodd-Frank Act, including a repeal of Section 1071. NCRC opposes any repeal of Section 1071. Better small business lending data must be defended.

SBE, MBE and WBE Procurement: Additionally, to ensure that small, women-owned, and minority-owned businesses can continue to grow, the federal government should increase their contracting and procurement goal with small business from 23 percent to 25 percent and actually adhere to that standard. For years, the government has failed to meet its goals of awarding a mere 23 percent of federal contracts to these businesses, depriving them of at least \$25.7 billion. In addition, many federal programs aimed at providing technical assistance have arbitrary and unnecessarily limiting constraints.

ISSUE: Make Public Better Data About the Mortgage Market and Loan Products

Prior to the 2007-2009 financial crisis, it became evident to the U.S. Government Accountability Office (GAO) and others that the current data collected under the (Home Mortgage Disclosure Act) HMDA data was insufficient for use in monitoring predatory lending practices. Primarily, a lack of information on the various types of loan products being offered and the credit history of applicants left regulators and advocates without the tools needed to discourage lenders from offering high-cost mortgage loans with abusive terms and conditions to vulnerable consumers.⁷⁸ As a result, the Dodd-Frank Act of 2010 made a number of improvements to mortgage market data collection under HMDA.

In October 2015, the CFPB issued its final rule improving the quality and the type of HMDA data it collects. This new information includes the property value, the term of the loan, and the duration of any teaser or introductory interest rates to help identify emerging risks and discriminatory lending practices.⁷⁹ Fair lending screenings could also be enhanced because financial institutions will be required to provide more information about mortgage loan underwriting and pricing, such as an applicant's debt-to-income ratio, the interest rate of the loan, and the discount points charged for the loan.

Opponents of the new and better HMDA data are seeking to repeal the Dodd-Frank authority for expanded HMDA reporting, to exempt more financial institutions from having to report at all under

⁷⁸ See GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts*, GAO-09-704 (Washington, D.C.: July 15, 2009); and *Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending*, GAO-04-280 (Washington, D.C.: Jan. 30, 2004). See also Adam J. Levitin, *The Consumer Financial Protection Agency*, Pew Financial Reform Project Briefing Paper #2 (Georgetown Law Center: 2009).

⁷⁹ CFPB HMDA Final Rule, <https://www.consumerfinance.gov/data-research/hmda/>

the law, and to delay the public release of the new HMDA data that the CFPB is now collecting for further study on protecting borrower privacy.⁸⁰

Making Better HMDA Data Public: The effectiveness of the new rule will be contingent on how the CFPB chooses to disclose data to the public. This year, the CFPB will determine how and what data to release to the public. HMDA data is a powerful tool in fighting for a more just economy. In 2016, 6,913 financial institutions reported information about approximately 14.3 million mortgage applications, pre-approvals, and loans.⁸¹

The CFPB is taking key steps to protect borrower privacy. The agency interprets HMDA to call for the use of a balancing test to determine whether and how HMDA data should be modified prior to public release in order to protect privacy while also fulfilling the public disclosure requirements of the statute.⁸² The CFPB uses anonymizing techniques and other steps to protect data from being reverse-engineered to identify consumers.⁸³

Who Can Act:

The U.S. Congress, the Consumer Financial Protection Bureau (CFPB)

NCRC's Position:

NCRC opposes congressional efforts to repeal, delay or block the release of the new and better HMDA data or to exempt more financial institutions from having to report under the law.

The CFPB has issued a strong final HMDA rule, which could do much to shed light on lending activities. HMDA is a public disclosure statute, and the CFPB should lean towards full public disclosure while taking steps to ensure that the privacy interests of borrowers are protected.

ISSUE: Provide Incentives for Financial Institutions to Adopt Age-Friendly Banking

With an expected 72 million older adults living in the United States by 2030,⁸⁴ the “Silver Tsunami” of American seniors will need age-sensitive financial products and services in order to continue living healthy and independent lives.

80 Independent Community Bankers of America (ICBA), *2017 Plan for Prosperity* (p. 15). See also American Bankers Association, *Bank Regulatory Evaluation Tool*. <http://www.aba.com/Compliance/Pages/BkRegBurden.aspx>.

81 Background and Purpose of HMDA. (September 29, 2016). Retrieved from <https://www.ffiec.gov/hmda/history.htm>. Federal Financial Institutions Examination Council

82 CFPB Final Rule on Home Mortgage Disclosure. <https://www.consumerfinance.gov/data-research/hmda/>

83 GAO 14-758 Consumer Financial Protection Bureau Report. <http://www.gao.gov/assets/670/666000.pdf>

84 *The State of Aging and Health in America* (2013)

Who Can Act:

The Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System, the Office of the Comptroller of the Currency (OCC), the U.S. Congress in its oversight role

NCRC's Position:

The financial industry must do more to ensure that they are equipped to meet the unique banking needs of older adults. In its report *Staying at Home: The Role of Financial Services in Promoting Aging in Community*, NCRC defines six core Age-Friendly Banking principles to effectively serve the older adult population:⁸⁵

- Make financial management affordable;
- Ensure older adults' access to critical income supports;
- Implement financial abuse protections and training;
- Facilitate aging in the community;
- Support aging services and advocacy; and
- Increase the accessibility of locations and services.

⁸⁵ Kali, K., & Zdenek, R. (2016, August). *Staying at Home: The Role of Financial Services in Promoting Aging in Community*. Retrieved from http://www.ncrc.org/fleeced/wp-content/uploads/2016/09/NCRC_Aging_in_Community.pdf National Community Reinvestment Coalition

Invest Period

ISSUE: Ensure a Fair Federal Tax Code That Continues to Support Homeownership, Affordable Housing and Investment in Small, Midsize and Rural Communities

The nation's tax code must remain fair to the nation's working families, and it is key that it preserve and strengthen features in tax law that support homeownership for low- and moderate-income households, and that help finance community development and affordable housing projects.

The Trump Administration and Congress have indicated that they intend to enact major tax reform in 2016. Last year, Speaker of the House of Representatives Paul Ryan (R-WI-1), released a tax overhaul blueprint that proposed to simplify the federal tax code by raising the standard deduction for individuals and joint filers and eliminating or modifying a number of popular deductions, such as: the mortgage interest deduction, the deductibility of state and local real property taxes, and tax credits that support community development and affordable housing projects.⁸⁶

Tax Code on Homeowners: The federal tax code currently supports homeownership in a number of ways, and particularly for the higher-income households that itemize their deductions.⁸⁷ With some restrictions, homeowners receive a federal tax deduction for mortgage interest payments as well as for the state or local property taxes they pay. They can exclude some capital gains on the sale of their principal residence from federal taxes. Depending on income, homeowners can deduct mortgage insurance premiums from federal taxes. Residential rental property owners can also deduct depreciation on their rental property from their federal taxes.

The Historic Tax Credit and the New Market Tax Credit: Historic rehabilitation projects frequently have higher costs, greater design challenges and weaker market locations – all of which result in lender and investor bias against investment in rehabilitation, making the Historic Tax Credit (HTC) key. The HTC benefits local communities, especially in the nation's urban core and rural areas. Over 40 percent of projects financed in the last fifteen years are located in communities with populations of less than 25,000.⁸⁸ In addition to revitalizing communities and spurring economic growth, a study commissioned by the National Park Service found that \$23.1 billion in federal tax credits have generated more than \$28.1 billion in federal tax revenue from historic rehabilitation projects since the inception of the HTC.

⁸⁶ Paul Ryan, Speaker of the U.S. House of Representatives, *A Better Way: Our Vision*

⁸⁷ Congressional Budget Office, *Federal Housing Assistance for Low-Income Households* (September 2015)

⁸⁸ Historic Tax Credit Coalition, *Prosperity Through Preservation* Fact Sheet.

Similarly, the **New Market Tax Credit (NMTC)** is designed to encourage investments in low-income communities that traditionally have had poor access to debt and equity capital. Individual and corporate investors receive a tax credit against their federal income tax in exchange for making equity investments in Community Development Entities (CDEs). The credit totals 39 percent of the original investment amount and is claimed over a seven year period. As of the end of Fiscal Year 2015, the NMTC program had generated \$8 of private investment for every \$1 of federal funding and created 164 million square feet of manufacturing, office, and retail space and financed over 4,800 businesses.⁸⁹

Low Income Housing Tax Credit: The Low Income Housing Tax Credit (LIHTC) remains the principal federal resource for both expanding and preserving affordable housing. Still, the LIHTC program has supported only 76,000 additional affordable units annually on average in recent years, with about half of its funding going to acquisition and rehabilitation of existing subsidized developments and half to new construction.⁹⁰ Created by the Tax Reform Act of 1986, the LIHTC program gives state and local LIHTC-allocating agencies the equivalent of nearly \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.⁹¹ This allows individual and corporate investors to claim tax credits on their federal income tax returns. The LIHTC database, created by HUD, contains information on 40,502 projects and 2.6 million affordable housing units placed in service between 1987 and 2013.⁹²

Importantly, in December 2015, Congress enacted a permanent minimum nine percent LIHTC rate for new construction and substantial rehabilitation and extended the NMTC through 2019 at its current annual funding level of \$3.5 billion.⁹³ However, the shortage of affordable housing units demands a greater federal response.

Who Can Act:

The U.S. Congress

NCRC's Position:

Congress should continue to provide tax support for homeownership for low- and moderate-income households. Homeownership is the best vehicle for these families and people of color to build wealth and enter the middle class.

⁸⁹ CDFI Fund, *New Market Tax Credit Program*, website homepage.

⁹⁰ *America's Rental Housing: Expanding Options for Diverse and Growing Demand*, Joint Center for Housing Studies of Harvard University (December 9, 2105).

⁹¹ *About the LIHTC Database*, HUD Website (2016).

⁹² *Ibid.*

⁹³ HousingWire, *Congress Approves Permanent Minimum Rate for LIHTCs*, December 18, 2015.

We support the *United for Homes Campaign*⁹⁴ in reforming the mortgage interest deduction to:

- **Lower the Cap:** Reduce the amount of a mortgage eligible for a tax break from \$1 million to \$500,000. Homeowners would continue to get tax relief on the first \$500,000 of their mortgage.
- **Convert it to a Tax Credit:** Convert the mortgage interest deduction to a tax credit, which would allow an additional 15 million low- and moderate-income homeowners to get a tax break.⁹⁵
- **Invest the Savings:** Invest the estimated \$241 billion in savings in affordable housing programs, such as the National Housing Trust Fund.

NCRC supports the bipartisan Historic Tax Credit Improvement Act (H.R. 1158/S. 425). The bill makes long overdue changes to the federal Historic Tax Credit to further encourage reuse and redevelopment in small, midsize and rural communities. We also support the bipartisan New Market Tax Credit Extension Act (H.R. 1098/S. 384). Forty percent of all U.S. and most central business district census tracts qualify for the NMTCs.⁹⁶

To make a meaningful dent in the affordable housing supply gap, we urge Congress to increase the cap on LIHTC authority by at least 50 percent. Such an expansion would support the preservation and construction of 350,000 to 400,000 additional affordable apartments over a ten-year period.⁹⁷

ISSUE: Continue to Invest in the Critical Infrastructure of the Country

There is bipartisan agreement among Democrats and Republicans at the federal, state and local level that there must be a major commitment to the nation's infrastructure. From public housing to public schools, from roads, bridges and transit to waterways, the energy smart grid to airports and other public infrastructure, lawmakers must prioritize investments in the nation's infrastructure and the need is great (see Figure 17). Communities around the country needs strong infrastructure to grow, thrive and prosper.

Who Can Act:

The U.S. Congress, state and local governments

⁹⁴ *United for Homes*: National Low Income Housing Coalition.

⁹⁵ Diane Yentel and Mark Calabria, *Time to reform the mortgage interest deduction*, The Hill (February 6, 2017).

⁹⁶ National Trust Community Investment Corporation: <http://ntcic.webfactual.com/tax-credit-basics/new-markets-tax-credits/>

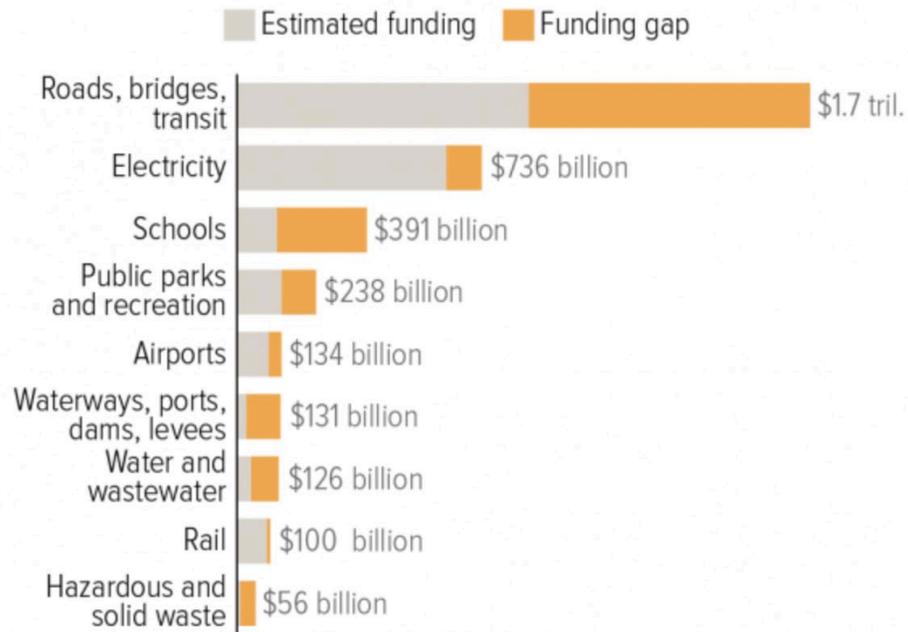
⁹⁷ Affordable Housing Resource Center (March 2016).

NCRC's Position:

NCRC supports a strong bipartisan plan that invests in and rebuilds the nation's crumbling infrastructure and that are built with community benefits agreements.

Public Infrastructure Has Been Neglected

Infrastructure needs, funded and unfunded, 2013-2020



Source: American Society of Civil Engineers 2013 Report Card for American Infrastructure and Failure to Act series, published 2011-2013

CENTER ON BUDGET AND POLICY PRIORITIES | CBPP.ORG

FIGURE 17. Source: Center on Budget and Policy Priorities (<http://www.cbpp.org>).



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