

# 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.<sup>14</sup> 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).<sup>15</sup>

Financial institutions are also advocating other changes to CRA, including a reduction in data reporting requirements.<sup>16</sup> 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.<sup>17</sup> 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](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).<sup>18</sup> Wide swaths of communities in the U.S. lack adequate small business lending.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> 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](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](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

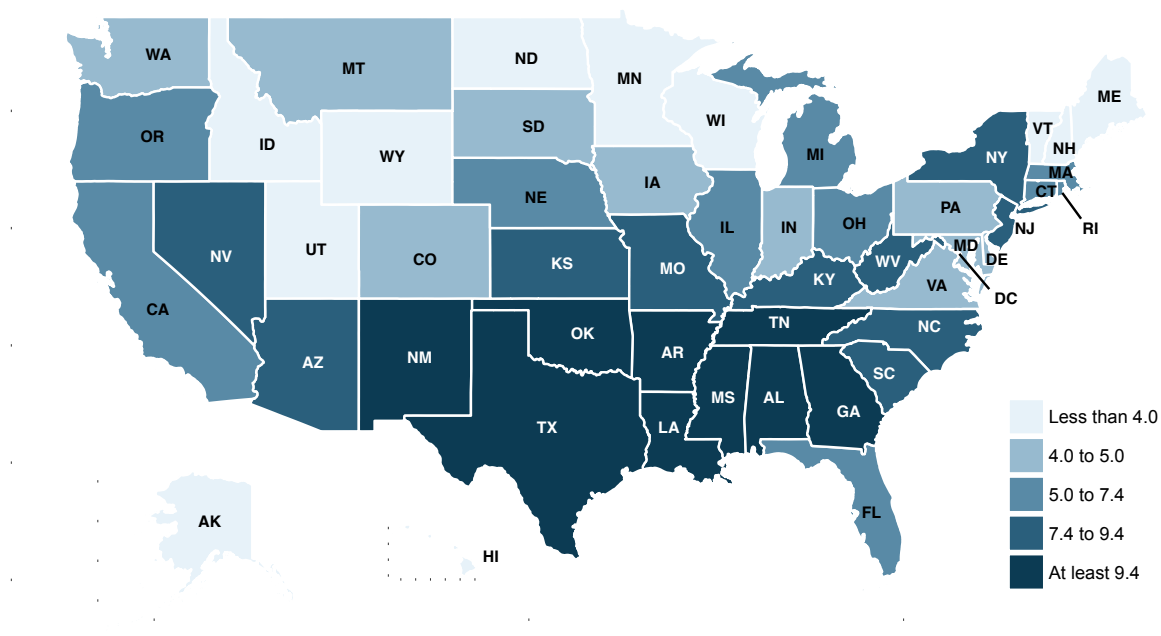


FIGURE 4. Source: FDIC (2016)

### Underbanked Rates by State, 2015

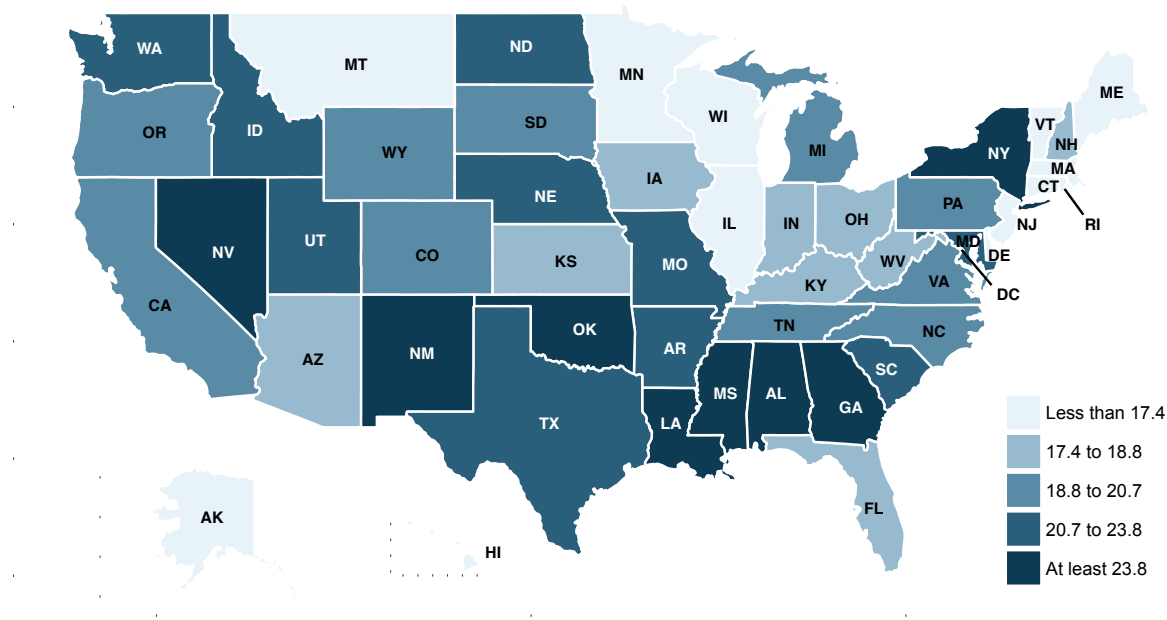


FIGURE 5. Source: FDIC (2016)

## 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.”<sup>22</sup> 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.

<sup>22</sup> “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.<sup>23</sup> 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).<sup>24</sup>

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](https://issuu.com/hofstra/docs/effects_210a?e=1304995/45041594)

annual savings of \$900 for nearly two million FHA homeowners.<sup>25</sup> 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.<sup>26</sup>

## 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.<sup>27</sup> The improvement represents a 12 percent increase in the program's capital reserves, from 2.07 to 2.32 percent.<sup>28</sup>

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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

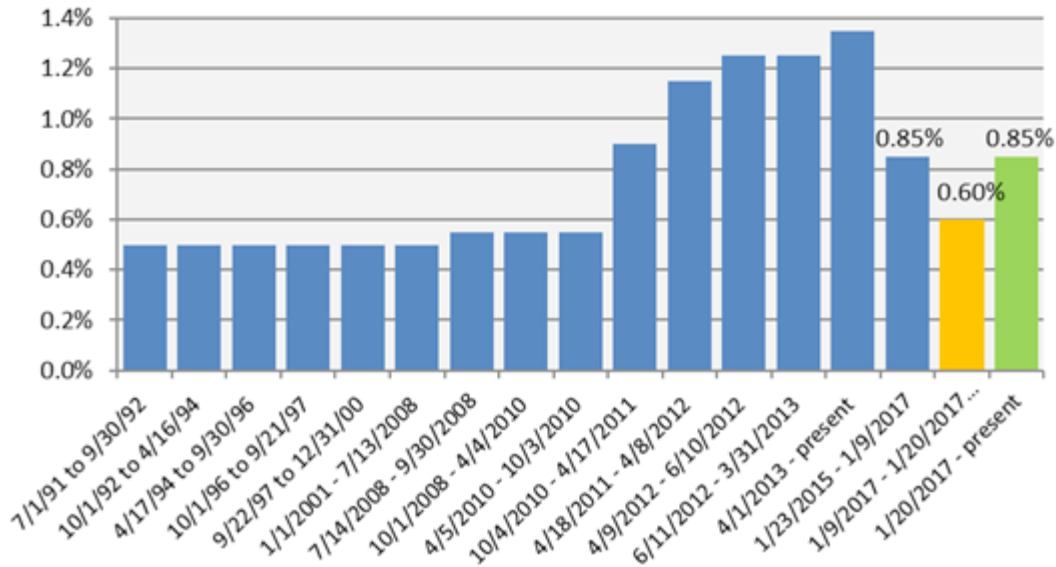


FIGURE 6. Source: FHA, NAR

## 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.<sup>29</sup>

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,<sup>30</sup> 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.<sup>31</sup>

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](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.<sup>32</sup>

## 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.

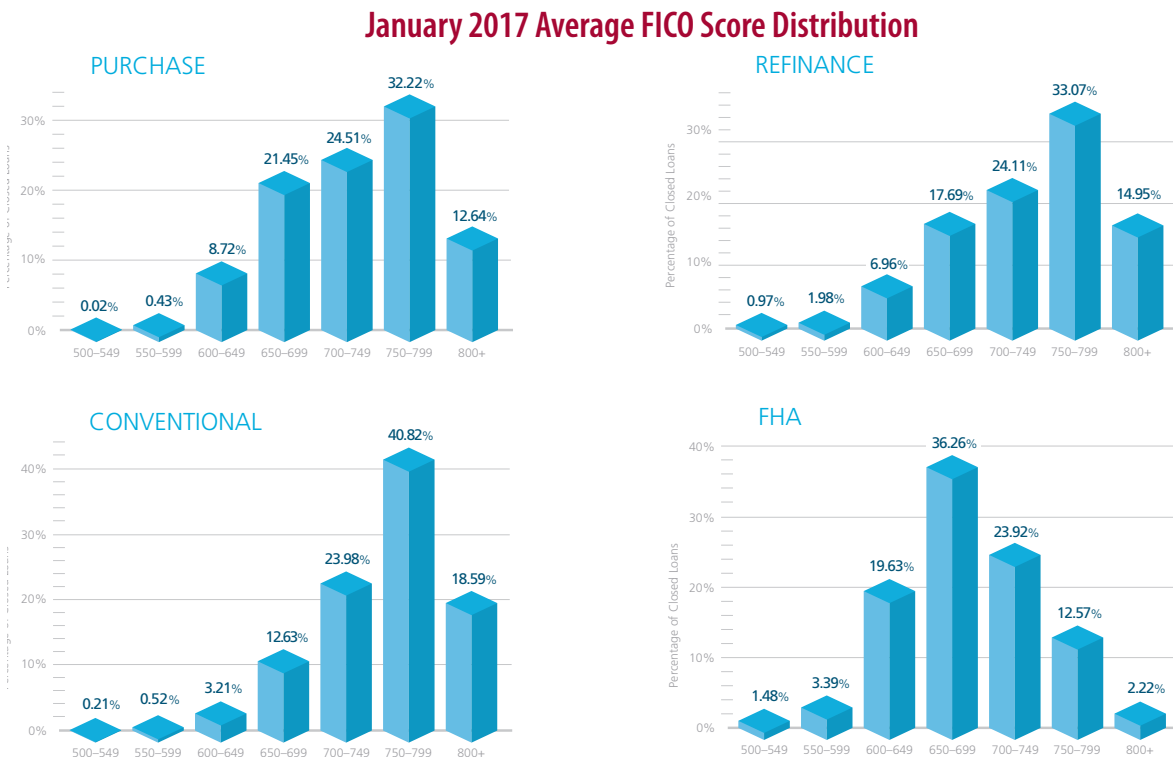


FIGURE 7: 69 percent of all closed loans had FICO scores over 700. 68 percent of all closed refis had FICO scores over 700.  
 Source: Ellie Mae

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.<sup>33</sup> 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.<sup>34</sup> 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.<sup>35</sup> 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, 95<sup>th</sup> 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.<sup>36</sup> 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.<sup>37</sup> 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.<sup>38</sup>

**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).<sup>39</sup> 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.<sup>40</sup> 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).<sup>41</sup> 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%
<b>Loan Purpose</b>						
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%
<b>LTV Ratio</b>						
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%
<b>Credit Score</b>						
>= 720	85%	87%	82%	74%	77%	2%
660 - 719	13%	12%	16%	21%	20%	-2%
< 660	2%	1%	2%	4%	4%	0%
<b>Risk Layering</b>						
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.<sup>42</sup>

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%		
<b>Total</b>	<b>4,651,549</b>	<b>3,512,903</b>	<b>32.41%</b>		<b>1,074,099</b>

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.<sup>43</sup> In May 2016, HUD allocated \$174 million through the NHTF<sup>44</sup> and in September the CDFI Fund awarded \$91.5 million in CMF grants.<sup>45</sup>

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.<sup>46</sup> 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.<sup>47</sup>

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.<sup>48</sup> 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.

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

<sup>47</sup> Ibid.

<sup>48</sup> 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.

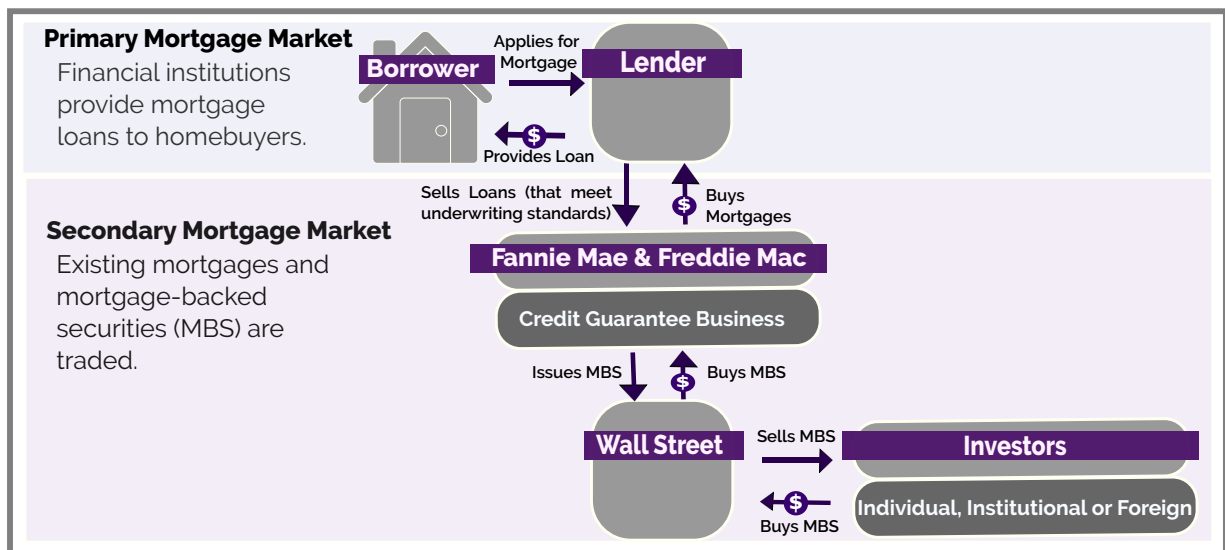
### 1992:

- 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 ORIGINATION 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.<sup>49</sup> The number of single-family rental units increased 35 percent from 2006 to 2016,<sup>50</sup> 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.<sup>51</sup> 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).<sup>52</sup> 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.<sup>53</sup> 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).

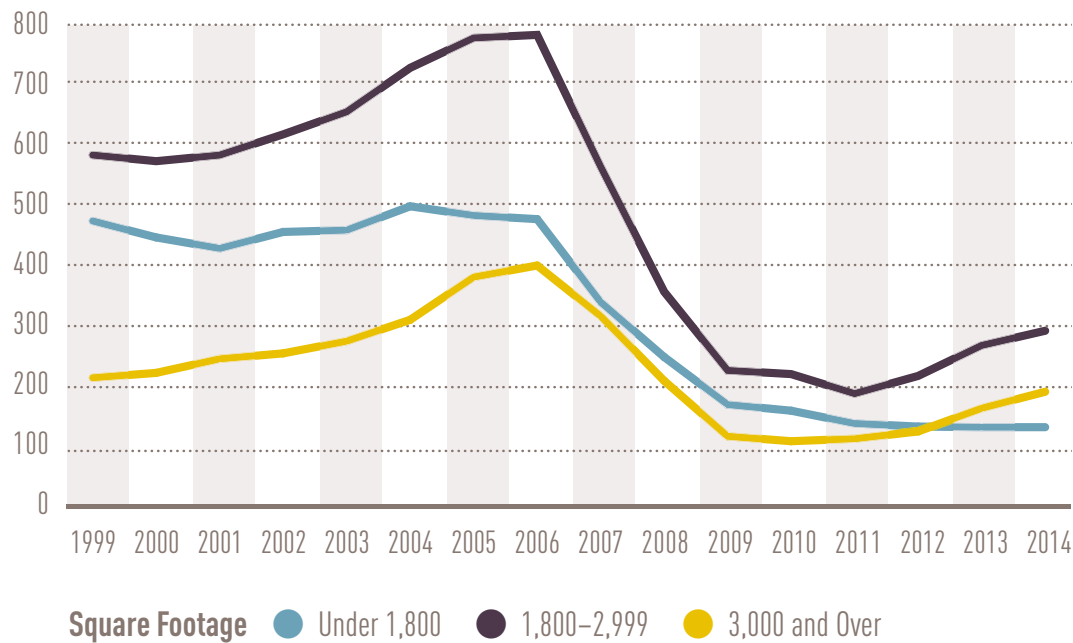
52 Ibid at 51. Also see: Joint Center for Housing Studies of Harvard University, *State of Housing* (2016).

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.<sup>54</sup> 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).<sup>55</sup> In the past 60 years, Section 502 Direct

<sup>54</sup> 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.

<sup>55</sup> 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.<sup>56</sup> The Section 515 Program has financed more than 550,000 decent, safe, sanitary and affordable homes, often the only such housing in rural communities.<sup>57</sup> 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.<sup>58</sup>

## 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*.

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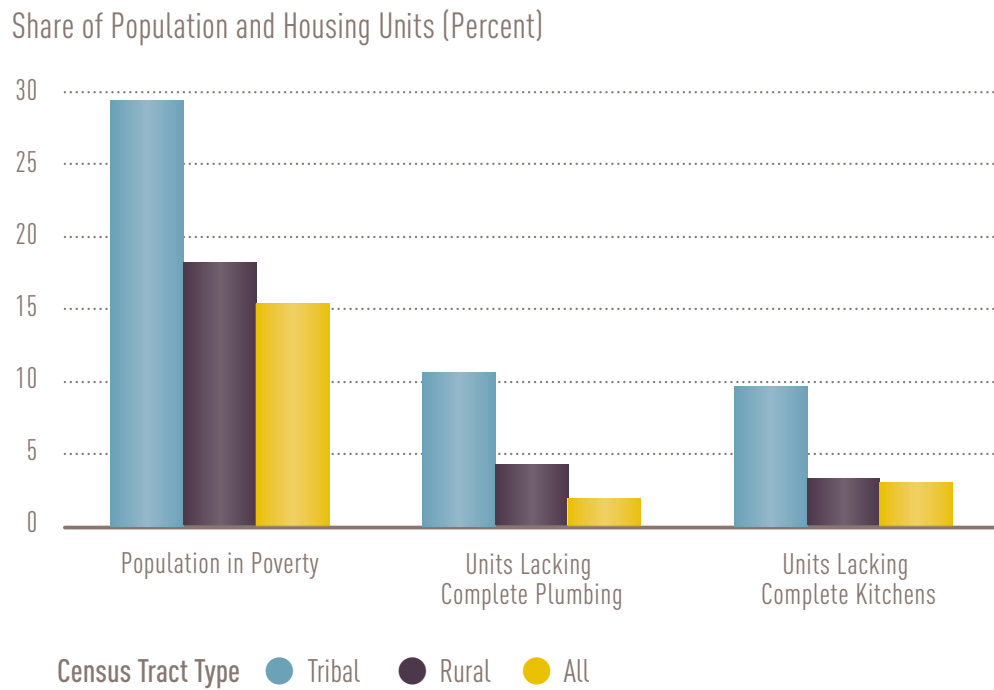
storage/documents/rd502direct.pdf. Housing Assistance Council.

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



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](http://www.jchs.harvard.edu). All rights reserved