MidPen HOUSING
Building Communities. Changing Lives.

October 13, 2026

The Honorable Jonathan V. Gould
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

The Honorable Travis Hill
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

RE: Community Reinvestment Act Regulations; Notice of Proposed Rulemaking (Docket ID OCC-2026-0694; RIN 1557-AF57; RIN 3064-AG31)

Dear Comptroller Gould and Chairman Hill:

We appreciate the opportunity to comment on the proposed rulemaking related to the Community Reinvestment Act (CRA) regulations.

MidPen Housing is one of the nation's leading nonprofit developers, owners, and managers of high-quality, affordable housing and onsite resident services. Since MidPen was founded in 1970, we have developed 140 communities and over 10,400 homes for low-income families, seniors and those with supportive housing needs throughout Northern California. In the last five years, we have raised approximately $940M in equity investments and leveraged over $2B in private debt for our new construction and rehab projects. **Our development pipeline includes approximately 3,600 homes that will need financing to begin construction and that may be affected by the proposed CRA rulemaking.**

Thanks to the passage of the One Big Beautiful Bill (H.R. 1) in July 2025, California has doubled production of affordable rental homes in the past year. Private bank participation has been critical to this progress, and the proposed rule change to exempt many banks from CRA tests would be devastating and undermine the success of H.R. 1 in advancing our pipeline by reducing the number of banks incentivized to make CRA loans and investments in California. Commercial banks account for an estimated 85 percent of LIHTC investors nationally, making this test a critical driver of affordable housing capital.

Our primary concern with the proposed rulemaking is the reclassification of banks with $1.649B to $10B in assets as intermediate banks that would no longer be subject to the investment test. This is the single most consequential negative change in the proposed rule

for California's affordable housing supply. In California specifically, analysis by the National Community Reinvestment Coalition (NCRC) finds that 45 California banks would no longer be subject to the investment test. The impact on rural areas would be outsized, as one-third of Low-Income Housing Tax Credit (LIHTC) investment comes from banks under $10B in assets investing in rural areas. As a developer operating in Northern California rural communities, we are concerned about the potential impacts.

This proposal runs directly counter to H.R. 1's effective expansion of tax-exempt bonds along with 9% Housing Credits that are projected to finance 1.22 million additional affordable homes over the next decade. The proposed rule also undermines Section 311 of the 21st Century ROAD to Housing Act which raised the cap on banks' public welfare investments from 15 percent to 20 percent specifically to unlock additional Housing Credit capacity. Many of the banks positioned to use that expanded capacity are the same community and regional banks this proposal would reclassify. In short, finalizing this rule as proposed would undercut the very investment capacity Congress worked to expand.

We ask the agencies to:

1. Retain the current $1.649 billion large bank threshold, consistent with the 1995 CRA framework and the direction the Federal Reserve, the third federal bank regulator, appears to be taking.
2. If the agencies proceed with raising the large bank threshold, instead adopt the $3.252 billion alternative rather than the proposed $10 billion threshold.
3. Reject the $30 billion alternative threshold discussed in the proposal outright.
4. Require intermediate banks to receive a passing rating on both the lending test and the community development test independently, rather than allowing strong lending performance to compensate for weak community development investment in a blended overall score.
5. Publish a quantitative analysis of the threshold change's likely effect on LIHTC equity pricing and production, including California-specific effects, before adopting a final rule.
6. Phase in any threshold increase rather than implementing it as a single cutover, to avoid a sudden, market-wide repricing shock.

We are also concerned about the proposed expansion of "Affordable Housing" to include Naturally Occurring Affordable Housing (NOAH). Under the proposal, NOAH properties would qualify for CRA credit if the market rents they charge at the time of the bank's assessment do not exceed 30 percent of 80 percent of area median income (AMI). Given that current market asking rents in 46 of California's 58 counties are already below this threshold, this means that agencies would be giving CRA credit for loans and investments in what are essentially market rate properties. Increasing the rent threshold in "high-cost areas" to 30 percent of 120 percent of AMI would mean middle-income individuals, who can currently afford market rents in all 58 California counties, would also qualify as CRA

beneficiaries, giving banks huge incentives to shift investments from serving lower income households to moderate income households without any meaningful benefit to the communities the statute is intended to serve.

According to data from the California Housing Partnership (CHP), California has an estimated 1,076,484 unsubsidized/NOAH affordable homes, compared with only 594,055 government-regulated (subsidized) affordable rental homes, meaning NOAH already outnumbers the state's entire deed-restricted affordable housing stock by roughly 80 percent. If financing this existing stock becomes CRA-creditable under a "clear benefit or likely benefit" standard, a bank could satisfy a large share of its affordable-housing consideration through ordinary-course lending on buildings it would have already financed.

Since mid-2020, an estimated 268,113 formerly unsubsidized affordable homes (19.9 percent of the 2020 stock) have already lost their affordability, and as of 2025 an additional 78,133 homes are at very high risk of imminent loss, with 354,332 to 433,166 more at high or moderate risk within five years, a pattern present in 43 of California's 58 counties. Crediting banks today for financing volatile NOAH housing would inevitably mean granting CRA credit for outcomes that evaporate before the next CRA exam cycle. Therefore we ask:

1. Not adopt the proposed NOAH standard as drafted, or, at minimum,
2. Require a recorded affordability covenant or regulatory agreement with a duration comparable to a Housing Credit extended-use period of at least 30 years so that credit is tied to a lasting public commitment rather than a moment in time market snapshot; and
3. Reject the addition of a "high-cost area" definition up to 120% AMI housing, which not only would extend CRA "affordable housing" credit well beyond the LMI populations the statute is intended to serve, but also provide no meaningful or lasting community benefit.

We appreciate your consideration of our comments. Please feel free to contact Nevada V. Merriman, Vice President of Policy & Advocacy, at 650-477-6195 or nmerriman@midpen-housing.org.

Best Regards,

Matthew O. Franklin
President and CEO

CC: Nevada V. Merriman, Vice President of Policy & Advocacy, MidPen Housing