What Proposed CRA Rules Could Mean for Community Development

On May 5, the three regulatory agencies that oversee the Community Reinvestment Act (CRA) proposed the first significant, interagency overhaul of CRA rules since 1995. Michael Novogradac, CPA, and Novogradac's director of public policy and government relations, Peter Lawrence, discuss in this week's Tax Credit Tuesday podcast what the proposed rules are, how they could affect community development investment and lending, and what stakeholders can do to help influence the rulemaking.

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Transcript

[00:00:34] **Michael Novogradac, CPA:** Hello, I'm Michael Novogradac. And this is Tax Credit Tuesday. This is the July 26th, 2022, podcast. Today's podcast is a must-listen for anyone who works with community development tax incentives. That includes the low-income housing tax credit, the new markets tax credit, the historic tax credit and the renewable energy investment tax credit, renewable energy production tax credit and the opportunity zones incentive.

Today, we're talking about proposed significant changes for the Community Reinvestment Act or CRA, but first, let me share some background. The Community Reinvestment Act was enacted in 1977 to encourage financial institutions to help meet the credit needs of the communities in which they do business, including low- and moderate-income neighborhoods. Now you may be wondering which financial institutions are subject to the CRA. Generally they are FDIC-insured depository institutions, which would include national banks, savings associations, as well as state chartered commercial and savings banks. In fact, most of the institutional investors in tax incentives are subject to the CRA. Hence, that's why this topic is so important to the tax incentive community.

Favorable CRA consideration helps drive a significant amount of tax credit equity investment, and lending. Hot CRA markets are often much more competitive. So investments in these areas can often command a higher equity price for credit than non-CRA areas.

About 85%, in fact, of low-income housing tax credit equity investment comes from CRA-motivated banks. Much of the lending used to help finance low-income housing tax credit properties is also motivated by CRA. Similarly, virtually all investment and lending activity in new markets tax credit-financed properties and businesses are driven by CRA.

Furthermore, significant portions of historic tax credit equity and renewable energy tax credit equity investments are from CRA-motivated financial institutions. As for opportunity zones investments, well, banks generally do not have programmatic capital gains, so they generally are not consistent equity investors in opportunity funds. That said CRA, can be a potent incentive to lend to businesses in opportunity zones.

In short, if banks were not motivated by CRA to invest in and lend to businesses serving low- and moderate-income families and communities, we'd see much less bank participation in community development tax incentives. Now there are three federal banking agencies that oversee implementation of the CRA. They are the Office of the Comptroller of the Currency, the Federal Reserve Board of Governors and the Federal Deposit Insurance Corporation.

These three agencies evaluate the compliance of member banks with CRA regulations. These agencies consider the performance evaluations when approving bank applications for charters, bank, mergers, acquisitions and branch openings.

Now under existing or current rules, large banks are evaluated for purposes under three performance tests. The first is the lending. This accounts for 50% of the bank's CRA score. The second is the investment test, which accounts for 25% of the score. And the third is the services test, which makes up the remaining 25% of the score. Once again, that's the lending test, 50% investment test, 25% services test 25%.

Now each test has its nuances, but at a high level, the lending test considers the number and amount of loans in the institution's assessment area, the geographic distribution of loans and the number and amount of loans for community development among other factors. Now the investment test considers the dollar amount of qualified community development, equity investments, innovation, and complexity of those investments and the responsiveness of investments to credit and community development needs. And then the services test looks at the geographic distribution of retail bank branches, the extent of community development services provided as well as other factors.

Now, in those definitions, I did mention a key term that's important to understand as part of our discussion today, I mentioned assessment areas. An assessment area is the geographic area or areas used to evaluate a bank's record of meeting its community credit needs. Assessment areas can include a bank's main office branches, loan offices, and deposit taking ATMs. And we'll talk more today about how the definition of assessment areas could be changing.

So now I've talked about what the CRA is. I've talked about which institutions are subject to CRA and how CRA performance is evaluated. That background sets the foundation for the reason we're talking about CRA today. There are currently proposed changes to CRA rules that would greatly alter the lending and investing landscape for tax incentives.

Now on May 5th of this year, the three regulatory agencies that I mentioned earlier jointly released a notice of proposed rulemaking to strengthen and modernize CRA regulations. The proposal marks the first significant proposed interagency rule change since 1995. If these proposed changes are finalized and implemented, we would see a wide range of effects on community development financing.

The effect of each particular change in isolation will have directionally a marginally beneficial, detrimental, or no effect on the motivation of banks to finance community development. The bigger question or questions that I, and many of my colleagues have, is trying to assess the overall cumulative net effects of all these changes considered together. In short, will in the aggregate, any ultimately adopted changes positively or negatively affect investment in community development tax incentives? Now we'll dive into the potential scenarios in today's podcast.

Joining me in our discussion is Novogradac's director of public policy and government relations, Peter Lawrence. Peter is a returning guest on Tax Credit Tuesday and a frequent speaker at Novogradac conferences. Peter has been leading stakeholder discussions about these proposed changes for Novogradac's various working groups. So he'll be able to share their concerns, insights, and proposed solutions. By the way, if you're interested in joining one or more of our working groups, please reach out to Peter. As you can tell, we have a lot of ground to cover today.

So if you're ready, let's get started.

[00:07:34] **Michael Novogradac, CPA:** Peter, welcome back to Tax Credit Tuesday.

[00:07:39] **Peter Lawrence:** Hi, Mike. Thanks. I'm always happy to come back. Really appreciate the opportunity.

Context and Goals of the Proposed CRA Rules

[00:07:44] **Michael Novogradac, CPA:** So Peter, as you know, this is the first proposed significant interagency revision to CRA regulations in more than 25 years. If you could, for the benefit of our listeners, share some context as to what prompted this proposed rule change and what the overall goals of the proposal are.

[00:08:06] **Peter Lawrence:** Thank you, Mike. I think it is worth providing an appropriate context here. These changes did not come out of nowhere. There's been a longstanding concern that these regulations, which were largely written back in 1995, well before many banks operated across state lines, you know, well before, the Gramm-Leach-Bliley Act, the Dodd Frank Act and many significant changes to federal banking regulations.

Huge changes in the banking industry in general, you never had Internet banking. And, there's been all these changes to banking regulations. And yet this really important piece of legislation and the regulations associated hasn't really been significantly changed since 1995. And we really need to update it to make sure that it is appropriately taking into effect all these changes in the banking industry and how community involvement is financed these days.

Plus I would argue that given that, the regulators don't change these rules very often, we've got to look forward, too. There's lots of ideas that Congress is considered on community development and these regulations should be flexible enough to accommodate and address these potential ideas that may come into the future too. So this is a really, I think, significant development for community development, finance, and we're very much looking forward to improving it so that we can continue to do all we want to do in community development.

Proposed CRA Changes

[00:09:40] **Michael Novogradac, CPA:** Great. Thank you for that overview, Peter. And as I mentioned in my introduction, under current rules, a large bank's CRA examination score has three parts. As you know, the lending test, 50% of the score, an investment test, 25% of the score and a services test, the balance of the 25% of the score. If you could share with our listeners how the examination process and scoring would change or is being proposed to be changed under the new rules and moving away from this 50%, 25%, 25% test to a different paradigm.

[00:10:20] **Peter Lawrence:** So, the proposal would change that three-part large bank test you described, Mike, to a retail test of 60% weight and a community development test of 40% weight. And inside that 60% for retail, 45% would be for retail lending. That's for a wide variety of community development related lending.

Sorry, not just community, but a variety of lending period to low- and moderate-income households and communities. There also would be a 15% retail products and services test for that, too, making up that whole 60% side of the equation. On the 40% side for community development, that would include a 30% test for community development financing, which would include investments and lending together for the first time and then similarly there would be a 10% set aside for community development services.

When you look at this overall weighting, you could conceive of the changes of how it was from the current regs, in that, you know, given the retail lending that 45% I told you about earlier, you are taking away some of the lending that would normally be capturing the current law 50% lending test and putting it into the community involvement test.

It makes sense that is lowered somewhat. And when you think of the 25% for services, they split that up, you know, 15% for retail and 10% for community development. But what the real change I see in this is that if instead of that 25% exclusively focused on investments, you now have a 30% test that brings in both community development lending, as well as community development investments.

And it's not 100% clear how that will shake out in terms of the amount of activity given this new weighting.

[00:12:26] **Michael Novogradac, CPA:** So thank you for that. And I'll just mention for our listeners, when we reference investment here, we're referring to equity investment in an entity, an ownership interest in an entity, as opposed to making a loan or lending. And I only emphasize that, because there are some who will think of lending as a type of investment and, conceptually, we can get into Black's Law and dictionary terms and all the rest, but for purposes of this podcast, we're talking about equity investments as investments, and obviously lending as debt or loans.

So with that said, what are some of the overarching concerns about the proposed changes that you just highlighted, the overarching concerns with this movement into the 60%-40%, you know, retail banking/community development breakout.

[00:13:22] **Peter Lawrence:** So I think there's a tremendous concern amongst many in the community development community on how this is really a biasing towards the retail side of the equation. And I'll get into talking a little bit about the, you know, moving away from the investment test in a moment. But in general, you could see under this new proposed rule, you could see a bank entirely really turn their focus to the retail test. You could have a situation where it doesn't really matter how much you do on the community development side. You can still get a satisfactory or you can still get an outstanding rate purely based on what you're doing on the retail side and that really is concerning. There was more of a balance under the current ranks and I think many in the community development finance industry want to make sure that there's a more balanced approach and that there's an incentive for banks to go more. You want to be in a situation where, say, even if you score a satisfactory on the retail test and you score outstanding on the community development side, you can still get an overall outstanding, which I think many banks strive to do.

And then similarly, you know, even if you had a low satisfactory in retail and a high satisfactory, you'd still get a high satisfactory on this CD test, you could still get an overall high satisfactory. So there's at least there's always the incentive to do more, as much as possible on the CD side, of the CRA exam. Cause right now, the way we see this current weighting, there isn't that incentive. That is, I think, a big concern.

[00:15:09] **Michael Novogradac, CPA:** So thank you for that. I did want to dig down into this definition of assessment areas. In my introduction, I mentioned how the definition of assessment areas could be changing. So if you could explain how that could be changing under the proposed rule and the implications of that change.

[00:15:32] **Peter Lawrence:** So this has been a longstanding concern. You know, I just again harken back how much the industry has changed since 1995. You have a lot more activity happening outside of the deposit-taking networks. Banks often lend nationally. They lend outside of where they take deposits. And so it really is a non-accurate sort of snapshot of what a bank's activity should be, given the real huge changes that have happened in the more than 25 years since the regulations have changed.

One aspect of the proposal I think was generally viewed as favorable is that the bank regulators have essentially made clear that any community development can get positive CRA consideration, regardless of whether it's in an institution's assessment area. And, you know, there still is a focus on your deposit-taking assessment area for the retail lending tests. But, for community development, especially given the nature of the activity, it's good to see that the regulators are prepared to give positive consideration for activity regardless of that deposit-taking network.

And that could help really address a lot of the equity pricing disparities we see in the low-income housing tax credit between areas where there's a lot of CRA-motivated demand versus CRA deserts in much of rural America, where there isn’t the same run of deposits. This change in the proposed rule could cool things a little bit with a few select markets like Salt Lake City, Wilmington, Delaware, and South Dakota, but I don’t think it would have a huge impact in some of the biggest markets that will probably still continue to be highly favored under CRA, and I do think that this will help improve equity pricing in the CRA deserts, under the proposed regs.

[00:17:46] **Michael Novogradac, CPA:** Now, thank you for that. Cause that's, as you mentioned, it's been a lot of concern over the years about the fact that the CRA hot areas generally get better equity pricing and the CRA-not areas can see pretty, you know, stark distinctions and reduced equity pricing. So closing that gap is obviously really good for the CRA-not areas. And obviously the CRA hot areas might see a slight decline, but as you've noted, it shouldn't be that significant.

So switching topics a little bit, and I do apologize to our listeners, we're kind of gott – we'll be jumping around these different areas and there is so much in this, rule. How many pages is the proposed rule, Peter?

[00:18:31] **Peter Lawrence:** Almost 680 pages.

[00:18:35] **Michael Novogradac, CPA:** So needless to say, we're not going into all the particular areas of that, but once again, I do encourage our listeners to participate in the working group discussions so you can get a more detailed understanding of the variety of ways in which the rule could affect your activities and, more importantly, so you can be weighing in, and helping influence the ultimate rule that is adopted.

So the proposed rule would also change the definition of affordable housing for CRA community development purposes. So maybe you could describe what the proposed change is and why it matters.

[00:19:14] **Peter Lawrence:** So there's a lot involved in some of the changes I'm going to highlight. Of them, Mike, one being, I think a beneficial change that many in the low-income housing tax credit stakeholder community were looking for. Under the proposed rule, there would be greater clarity on properties where you have a mixed-income approach where only a portion of the units are subsidized. The proposed rule says banks could get full credit for the full amount of the equity investment, even if it's a mixed income property where only a portion of the units are subsidized. And I think that really does help you know, I think all things being concerned, under current regs, banks tend to like a 100% subsidized unit properties, which, you know, are important, but having a mixed-income provide a lot of benefits as well. So getting that better clarity is a beneficial change. There are also many, in the affordable housing community in general, not just the low-income housing tax credit community, are looking to provide more incentives for banks to lend and invest in unsubsidized affordable housing, sometimes referred to as naturally occurring affordable housing. I have to say, I tend, like you and Blair Kincer, I don't like that term because I think of, you know, caverns in New Mexico as being solely naturally occurring. But rather I prefer the term filtered housing, but it seems like this is one of these terms of caught on with enough with folks.

[00:20:56] **Michael Novogradac, CPA:** Let me just interject there. I, as you know, that is something that I also, am not a fan of, because naturally occurring affordable housing, that term is really filtered housing and not all housing makes its way through filtered housing. And there's nothing about affordable housing that's naturally occurring other than the New Mexico, as you mentioned.

[00:21:17] **Peter Lawrence:** Right. Exactly. Absolutely. I entirely agree with you. Market forces can have a huge impact on whether the subsidized housing is affordable or not and those changes don't happen in a vacuum, but, given the term and given what the changes are in the proposed rule here, there's a lot more clarity to be very difficult for banks to get any CRA credit for lending investments to this type of housing.

And they've now created a clear standard if you're lending to housing that is, you know, set with rents or housing costs that are 30% of 60% of AMI, sorry of area median income, then that would be considered for positive CRA consideration. That standard, by the way, is a little bit lower than I think many people anticipated.

I think many had thought that the bank regulators would have set it at 30% of 80% of area median income, which is the standard that defines lower- and moderate-income households and lower-, moderate-income communities. But the bank regulators in the proposal will say that a fair amount of households reside in housing. Households earning more than 80% of the area income reside in housing that's affordable between 60% and 80% of the area median income. And so given they're very, you know, focused, they really want only to assist, you know, low- and moderate-income households. They decide to lower the standard to 60% of AMI. So that's another significant change in the definition of affordable housing.

Effects of Proposed CRA Rules on Tax Incentives

[00:23:04] **Michael Novogradac, CPA:** So thank you for that. There's obviously a lot more we could talk about in these various definitional changes. But I now wanted to get a little bit more direct in terms of the impacts on the various tax incentives. And let's start with the low-income housing tax credit. As you see it, if the changes were implemented as proposed, what are some of the main concerns about the effect of the proposed rule on the low-income housing tax credit?

[00:23:35] **Peter Lawrence:** So when I talked about the overarching concerns, you know, about the over-emphasis on retail, that of course we are worried about the impact on low-income housing tax credit, but in particular also, you know, the getting rid of that singular focus on the investment test where banks had a sort of dedicated channel where they were focused.

Making sure that equity investments are part of their overall CRA activity, we are concerned that there are some banks who may lower or even potentially eliminate their equity investments in favor of lending. And I think, you know, the variety of reasons why we have that fear, you know, in general, banks are required to retain more of their tier one capital for equity investments, as opposed to loans, especially seasoned loans.

Given that reality, if you have one score for both loans and equity investments, that may lead towards a bias towards lending. And I also would just point out that equity investments are less liquid than loans. And they often require a specialized capacity among the banks.

Every bank lends. That's the nature of them. Equity investments really are a special category. And without that singular focus that you had for a standalone investment test, we are concerned about that. And we, I think it's going to be important for the low-income housing tax credit community to say, if we don't have an investment test, there needs to be some sort of compensating change to the proposed rule to make sure there's a level playing field between equity investments and loans.

[00:25:25] **Michael Novogradac, CPA:** So thank you for that. and I will just note for our listeners, a lot of what we, as we go through the various tax credits, there's a lot of overlap in terms of the effects. But I do think it's useful to mention each specific tax credit and get Peter's thoughts on the effects. So let's turn to new markets tax credits. What are some of the concerns about the effects on the new markets investing environment?

[00:25:50] **Peter Lawrence:** Yeah, like, the low-income housing tax credit, there's a similar concern on having that overall bias towards the retail test and lack of a compensating judgment between, you know, loans and investments would certainly, I think, impact new markets credit as well. I will acknowledge as you do, Mike, that some banks do get credit for their new markets activity via the lending test.

And there's, you know, certainly those banks may have under this new regime a portion of their CRA motivation coming from retail lending and community development loans, as a result. But I still do think on balance that you have a similar concern that we have for the low-income housing tax credit.

And so then we need also to see the same sort of geographic dispersion of equity pricing. There's still potentially, you know, a positive benefit there as well, given the changes in how equity investments in CRA deserts are changed. The greater certainty of getting positive CRA consideration in those markets.

[00:27:08] **Michael Novogradac, CPA:** So as I understand it from many of the bank investors in new market tax credit transactions is one of the reasons why, you know, it can be particularly attractive is the innovative nature of such financing under the current rules. How would that innovation credit, if you will, or getting credit for more innovative financing change under the current rules?

[00:27:35] **Peter Lawrence:** So there is, actually, a discussion about an impact evaluation in the proposed rule. And we certainly, I think, are going to be focused on making sure that impact evaluation takes into consideration the innovations of that new markets financing has and you know, low-income housing tax credits, for that matter.

I think that is one way we can help level the field between equity investment and loans, but it’s not 100% clear from at least my reading of the proposed rule how that would specifically change the new markets investment.

[00:28:13] **Michael Novogradac, CPA:** Thank you for that. So let's turn now to opportunity zones. What's your thought in terms of the impact of the changes to investing in and lending to businesses operating in opportunity zones?

[00:28:28] **Peter Lawrence:** I'm going to take this opportunity, Mike, to also just note that we didn't discuss this in the introduction, but you know, before this joint proposed rule came there was an effort by one of the three, the Office of the Comptroller of the Currency, to change the regulations in 2019 and 2020 that eventually that sort of effort did not go forward. It was rescinded late last year, but there was one element of that we actually thought was, I think on the whole, this joint proposed rule had overarching, you know, I think a better impact on community development financing than that abandoned OCC rule. But we do want to pull out this one piece where they specifically said that opportunity zone activity should be considered.

Under CRA, I think there's plenty of great examples that we believe opportunity zone investments are very much in line with the mission goals of CRA and we hope the bank regulators will consider make giving some clarity to opportunity zone investments, just as the OCC did in the previous rulemaking activity.

And, you know, the current proposal rule says nothing about opportunity zones and, while you could certainly see a pathway there, having some greater clarity is important, knowing banks tend to be pretty conservative in their approach. They want to make sure that you know, what they're doing will get credit.

To the extent that there’s uncertainty there, I think is not beneficial. So, I think that's something that we're going to be, the opportunity zone working group is certainly going to be focused on making sure we have that greater clarity.

[00:30:18] **Michael Novogradac, CPA:** Yes, greater clarity is better. And I would note for opportunity zones participants, as I noted in the introduction, one of the central benefits of getting greater clarity would be on the debt side in terms of lending to opportunity zone development businesses and the like, so that's a pretty significant omission from the proposal for those that are focused on the opportunity zones tax incentive.

Now let's turn to renewable energy tax credits. What’s you're thinking with renewable energy investment tax credits and production tax credits and just how they would be affected by the post rule as compared to the current rule.

[00:31:03] **Peter Lawrence:** So, you know, there's a fair amount of mention in the proposed rule about activity investment and lending and equity investments for climate resilience and I do believe that their bank regulators are recognizing the value of renewable energy as an eligible activity in CRA. I will just say, though, to remind folks, we still have these concerns about equity investments versus loans.

And so it's unclear how we consider both of these positive elements versus the concerns we have, what the ultimate impact will be for global energy. I know we are working, the various lobbies focused on the need to make sure they comment on these issues to give that same sort of message about how the importance of bank equity investments and normal energy towards getting these climate resilience goals that the proposal rule talks about. I'll just also quickly mention, Mike, that we are also following the issue on historic tax credits as well. We collaborate with the Historic Tax Credit Coalition and other stakeholders about the importance of CRA for historic tax credit investments.

You know, the National Park Service found that 51% of historic tax credit properties are in low- and moderate-income census tracts and 75% are in economically distressed census tracts. So there's a decent nexus there. We are concerned that, you know, that potentially the focus on low- and moderate-income households.

It's hard. Not all historic tax credit properties can be clearly, directly demonstrated to benefit low- and moderate-income households. They clearly help the communities there and so we're going to be working with the Historic Tax Credit Coalition and others to try to get some more clarity there as well.

I think that CRA can be a potent incentive for historic tax credit properties, as well.

[00:33:19] **Michael Novogradac, CPA:** Great. Thank you for that. So you did write a Notes from Novogradac blog post on the proposed changes last June or last month, I should say. In your blog post, you discussed potential implications for the Neighborhood Homes Tax Credit, and that's a tax incentive that's proposed, but hasn't been enacted yet. So what are some of the potential implications of these changes for the Neighborhood Homes Tax Credit?

[00:33:49] **Peter Lawrence:** So, you know, it's not surprising given that it's not enacted that the proposed rule doesn't explicitly note something like the Neighborhood Homes Tax Credit proposal. And when there are, you know, certainly, elements that you would think may help given the discussions on what is affordable housing and what the activity associated in low- and moderate-income communities, which clearly have a tremendous overlap with the geography that would be eligible for the Neighborhood Homes Tax Credit.

But we do still, just like the same concerns we have around equity here, is the similar concern. And that would also add one other. And that is under the current regulations, there's a fair amount of discussion about, you know, revitalization activities that are eligible for CRA and a focus on, you know, non-metro and middle income distressed communities.

And we are a little bit concerned that in their zeal to protect low- and moderate-income households from displacement or exclusion, which I don't think anyone who is an advocate of the Neighborhood Homes Tax Credit would be wanting to promote displacement and exclusion, inadvertently, though, may create problems for banks who are trying to invest in Neighborhood Homes Tax Credits, of course, if it's an enacted. You know, given that the eligibility for Neighborhood Homes could be as high as 140% of area income, when you consider that we're talking about distressed geographies, so 140%, of a very low median income community is not very high. It's still not in line with the focus of the CRA regulations of 80% and below. So that portion that's between 80% and 140% may be difficult and that banks may shy away from investments there. So I think, you know, as I said earlier, we're trying to make sure the rewrite of these CRA regulations is forward looking to anticipate things like Neighborhood Homes Tax Credit.

And, you know, like community development incentives that Congress could enact in the future, we consider 1995. There was no new markets tax credit as well. We want to be able to anticipate these sort of changes and so there should be changes to accommodate tools like the Neighborhood Homes Tax Credit.

Next Steps

[00:36:28] **Michael Novogradac, CPA:** So let's now just turn to the process of implementing any proposed change or adopting them. What are the next steps? Maybe walk through the timeline in terms of when might these rules might ultimately get enacted.

[00:36:47] **Peter Lawrence:** One core key deadline that's coming up is there is a deadline to comment on this proposed rule, Aug. 5. Friday, Aug. 5. That's coming up soon. And as you mentioned in the beginning, Mike, the Novogradac working groups will be submitting comments in response to this proposed rule. We expect a pretty robust response.

There has been a decent amount of response to previous rulemaking activities on CRA, but this, I think many in the community development finance industry believe that this is going to be a change that lasts, given it’s joint, given all of the previous activities happened in the past. I won't go into all of the to’s and fro’s over the past 25-plus years, that have led to this point, but we do think that this is likely whenever they, however they finalized, this proposed rule is likely to last. And, if that, I think there's the goal is to try to get something by the end of the year, it may not make that given the extent of the comments and trying to make the changes to the proposal to accommodate them.

But I think that is the goal to do that because the sooner they can finalize it, the more likely it will be sustained and not reversed by a future administration. And I think it's worth sort of walking through some of the key points here. The proposal suggests that, once a final rule is published, 60 days at that point, the implementation will start.

And in fact, they say also that two years after that, those 60 days that the, – asyou stop being in your three-year series examined cycle, you would start adopting this new regime at that point. And so I'm anticipating, you know, the implementation period would be somewhere between two and five years from that point, and banks would already start making changes, I think as soon as the final rule of published in anticipation of this, but it would take that amount of time to see the full effects.

[00:39:02] **Michael Novogradac, CPA:** When I was thinking about the rule when the proposal came out, as you know, we had discussions about it. And I remember asking you, so what do you think the first thing I'm going to look at is with respect to the rule and it was of course the implementation, the effective date guidance because I instantly wanted to know what potential impact this rule could have on the behavior of banks.

Because as we know investors will react to what's coming, not just what is in effect, but what they anticipate being in effect. So it, it was good to see that the, there was this two-year-plus kind of rule, this two-to-five-year effect within the bank's investment horizon and their investment interest. So it's not something that we would expect to have and whatever the rule, ultimately, the revised rule ultimately says, and when it's adopted, we wouldn't expect the impact to be immediate and to be kind of phased in over that longer period of time. And that's obviously important for those listeners who are in the midst of transactions and their planning transactions to have a sense as to how quickly they could see the effects of the rule making its way into the lending and equity investment markets.

So you also noted that the proposed rules are due next Friday, Aug. 5. So our, as we've also known many times, over the course of this podcast, our Low-Income Housing Tax Credit and New Markets Tax Credit and Neighborhood Homes Tax Credit and Opportunity Zones Working Groups will be submitting comments. And I'm thinking, Peter, I will invite you back, after Aug. 5, where we can discuss the comments that were submitted in a little bit of detail and I would invite our listeners, once again, to participate in those working group calls. If you're not already a member, please reach out to Peter to become a member so you can be participating in the comment making process, as well as learning a little bit more about the comments that we are making.

And with that, Peter, I think I'll say thank you for participating. If you had any last words, feel free to share any last words or else we can continue, you know, sometime after Aug. 5th.

[00:41:18] **Peter Lawrence:** Fair enough, looking forward to it.

Conclusion

[00:41:21] **Michael Novogradac, CPA:** So this is obviously a very important topic for the tax credit community. And there's so much more, I wish we could discuss in the course of this podcast. For listeners who do want to reach out to Peter, I will include his email in today's show notes, but also if you just search Peter Lawrence Novogradac, you'll find him, just search that on Google.

So Peter, please do stick around for our Off-Mike segment of the podcast, where I'm going to ask you some fun questions that aren't directly related to tax incentive. To our listeners, please be sure to tune into next week's podcast. I'll have my partner, Christina Apostolidis, back on the podcast to discuss a timely topic: The intense competition in many states for tax-exempt private-activity bonds, which can be paired with 4% low-income housing tax credits to fund affordable rental housing.

In 2016, the amount of private-activity bonds allocated nationally for affordable multifamily housing was $6.6 billion. That annual amount grew nearly 200% to $17 billion in 2020. That’s the last year for which we have data. In next week’s podcast, we'll talk about how high inflation and interest rates are affecting bond-financed housing. And just as importantly, maybe more importantly, what affordable housing builders can do to more effectively compete for bonds as well as approaches to making bond finance developments more financially feasible.

If you work in affordable housing, you won't want to miss next week's podcast. You can make sure you're notified of that episode in each week's episode by following and subscribing to the Tax Credit Tuesday podcast, go to www.novoco.com/podcast to subscribe to and stream the show on our website.

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Off-Mike

So now I'm pleased to reach our Off-Mike section where listeners can get some off-topic advice, words of wisdom from our podcast guests. Peter, I wanted to start with you sharing a work or life hack that you found to be useful.

[00:43:31] **Peter Lawrence:** So, as I imagine a lot of podcast listeners feel we are, I feel overwhelmed by the amount of email I get. And so I've tried to, given that sort of avalanche, I've been trying to find ways to make sure I focus on what's most important. And not get too off track with the volume of emails.

And so I always keep a list of the key sort of tasks I want to focus on for the particular day and if email doesn't sort of fit in those daily focuses, I put it off on the side because you know, you just don't have, or maybe even, you know, delete them because if I don't have the time to focus on them, it ends up just sort of wasting productivity that I could better focus on things that really matter.

So, that's I think it's actually, I used not to do that. I used to try to. I had this, I think, unrealistic expectation of having a zero inbox, and I can't quite get there yet. Maybe if I get better tips from you, Mike, I can get there, but I at least try to keep it to a much smaller extents and focus on the ones that matter.

[00:44:51] **Michael Novogradac, CPA:** No, thank you for that. I am a zero inbox guy.

[00:44:55] **Peter Lawrence:** I wish I could get there.

[00:44:57] **Michael Novogradac, CPA:** And I also use rules. There's certain emails that come in regularly that fill up my inbox that I know I don't need to deal with on a current basis. So I'll use Outlook and I'll have rules to automatically put those in a low priority folder. And I've been a pretty extensive user of the rules to build to be a zero inbox Outlook user.

So the next question I wanted to ask you about is what's on your summer reading list. The one thing that the whole COVID experience did for me, personally, is get me to be reading a lot more. So I'm now a big Kindle fan. I always was, but I've been revisiting

Kindle, as well as Audible. This is not just, I have to read. I can also listen to somebody between Kindle and Audible. There are a lot of books on my Goodreads reading list I want to read versus reading. And a lot more books that I have read over the last couple of years. So what book is on your summer or books are on your summer reading list and why?

[00:46:05] **Peter Lawrence:** It's a great question. I personally think reading is something I wish I did more of. And, you know, I try to keep, you know, reading for pleasure separate from, I mean, not that I, there are plenty of books on you know, community development that I've read that I've enjoyed for non-work purposes as well.

My wife's a great, avid reader and I get a lot of recommendations from her. She's my sort of Goodreads list. But I actually do have one currently that I think does meld both. it's called "Deacon King Kong." It's about, you know, it's a fiction story based on a collection of characters in the Bronx living in public housing, but you get a sense of both the challenges and the issues around public housing finance as well, or public housing in general, as well as a great story. It's been lauded by many folks. I've got recommendations from a wide variety amongst the housers I talk with, as well as people who love fiction. That's one sort of book I've been enjoying this summer.

[00:47:11] **Michael Novogradac, CPA:** So share the title again.

[00:47:12] **Peter Lawrence:** "Deacon King Kong." James McBride is the author, and he's actually a well-renowned author. He's had a number of books that he's written, but this one is, I think, caught my attention in particular, because it had that great sort of mix between great fiction with a housing involved.

[00:47:32] **Michael Novogradac, CPA:** Excellent. So the third question I'll have for you, then I'll let you go: What is a talent, skill or hobby that few people know you have and how did you acquire that talent, skill or hobby?

[00:47:43] **Peter Lawrence:** So Mike, I, I don't know if this is, necessarily, a skill or hobby that you would normally think about, but I will say I used to live in the Bay Area and when I lived there, one of the things that I thought was great was being able to go to wine country. And, I think it's one of the things that I enjoy, not just having great wine. You know, having wine is something that helps make a lot of social gatherings a little better and it doesn't have to be expensive. It's finding actually the really good wine, it's good value is a particular, I think, you know, thing I try to focus on. So, it's not something I advertise a lot. But it's one of the sort of secret hobbies I have that I enjoy.

[00:48:50] **Michael Novogradac, CPA:** Well, great. I'll look forward to the next time we have dinner together. I'll give you the wine list.

[00:48:57] **Peter Lawrence:** Happy to share that knowledge.

[00:48:59] **Michael Novogradac, CPA:** Great. Well, thank you for, joining us again, Peter, and to our listeners, I'm Mike Novogradac. Thanks for listening

Additional Resources

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New Proposed CRA Rules a Marked Improvement, But Concerns Still Remain for Community Development Tax Incentives by Peter Lawrence