NEW BANKING REGULATIONS TO BOOST RENEWABLE ENERGY INVESTMENT IN LOW- AND MODERATE-INCOME AREAS

What if a change in Community Reinvestment Act (CRA) rules could simultaneously address two important renewable sector concerns, providing greater access to renewable power for those in low- and moderate-income (LMI) communities and attract new interest from tax equity investors? And what if the change has already been made, and the new rules take effect on April 1?

This is no April Fool's joke. Last fall, the nation’s top banking regulator revised CRA regulations to create new regulatory incentives for renewable energy investment in LMI communities. Starting April 1, 2021, the Office of the Comptroller of the Currency (OCC) will allow banks to prove compliance with the CRA by financing renewable projects in LMI communities. Undertaken as part of an effort to modernize the administration of the CRA, a 1977 law, this change should make renewable development in LMI communities more attractive to investors.

HOW DOES THIS WORK?
The CRA encourages banks to meet the credit needs of LMI communities. Historically, investor desire to comply with the CRA has driven interest in financing projects like low-income housing because the Low-Income Housing Tax Credit makes such investment attractive from both financial and regulatory perspectives. Now, investors can also comply with the CRA through investment in renewable energy projects, which have their own federal income tax credits. Such interest by regulated financial institutions has historically increased the tax equity portion of a project’s “capital stack,” thereby attracting more equity capital to the sector and leading to more renewable energy deployment.

WHAT IS TAX EQUITY?
The federal government currently incentivizes the construction of renewable energy projects through tax credits, but renewable developers can only use those credits if they happen to owe millions in taxes, which most do not. Tax equity is the process by which a third party that is a large taxpayer, such as a bank, invests in a renewable energy project and can claim the tax credits when the project's developer cannot efficiently do so. The bank makes a substantial investment with the project, which in turn helps finance the cost of construction. Known as “tax-equity monetization,” this process allows the construction of renewable projects that would have otherwise been less profitable due to financing costs.

WHAT PROJECTS QUALIFY?
For the first time, the OCC makes it clear that OCC-regulated banks can comply with the CRA by investing in renewable energy, absent pairing with any other type of investment, meaning on a stand-alone basis. This includes utility, commercial and industrial (C&I) and residential projects. The new rule provides financial institutions with clear examples of the kind of clean energy projects that qualify for CRA compliance. By clearly using the words “solar,” “energy,” “power,” etc., the rules bless the renewable energy sector by making it obvious that such projects meet CRA criteria. The guidance is generally agnostic as to tax structure.

More information:
Final Regulations
CRA Illustrative List of Qualifying Activities (see the examples highlighted in yellow)
CohnReznick: Federal banking regulator blesses renewable energy tax equity in CRA updates