

November 24, 2021

Chairman Gary Gensler  
Securities and Exchange Commission  
100 F Street NE  
Washington, D.C. 20549

Re: Need for Exception from SEC Rule 15c2-11 for Nonprofit Community Development Financial Institution Debt Securities

Dear Chairman Gensler:

The undersigned nonprofit community development financial institutions (CDFIs) write to urge your support for relief from the U.S. Securities and Exchange Commission's (SEC) new interpretation regarding the application of Rule 15c2-11 of the Securities Exchange Act of 1934 (Exchange Act) to fixed income securities. Fixed income securities are debt securities, such as bonds, issued by the U.S. Department of the Treasury; states, cities, counties and other governmental entities; and private and public companies. ***It is critical for the SEC to provide an exception from Rule 15c2-11 for the fixed income securities of nonprofit CDFIs (nonprofit debt securities) that are exempt from registration under section 3(a)(4) of the Securities Act of 1933.*** We are concerned that the rule's application to nonprofit CFI debt securities significantly impedes our ability to raise capital, which in turn would harm the distressed communities and underserved populations we are certified by the U.S. Department of Treasury to serve.

#### Background

Rule 15c2-11 governs disclosures in the over-the-counter (OTC) market and establishes requirements for broker-dealers regarding their publication of quotations in such markets. Since the rule's initial adoption in 1971, financial industry participants have understood the rule to be designed to protect retail investors from fraudulent practices in the OTC equity market, such as pump-and-dump schemes. Rule 15c2-11 has not been applied to nonprofit debt securities before.

In October 2020, the Commission adopted amendments to Rule 15c2-11 to modernize the rule since its last substantive update in 1991. As amended last year, the rule provides greater transparency to the investing public by requiring information about an issuer and its security to be current and publicly available before a broker-dealer can begin quoting that security. Following last year's amendments, it was reported that the SEC now views Rule 15c2-11 as applicable to both equity and fixed income securities. The rule does not expressly carve out fixed income securities, except for municipal securities.

On September 24, 2021, the SEC published a no-action letter regarding the application of Rule 15c2-11 to fixed income securities. Staff stated in the letter that it will not recommend enforcement action under the amended rule until January 3, 2022 for quotations published by broker-dealers for fixed income securities. During this period of temporary relief, broker-dealers must implement changes to achieve compliance with Rule 15c2-11's requirements in relation to fixed income securities. While this relief was welcome, we believe it's insufficient to address nonprofit CFI debt securities concerns regarding the potentially negative effects that the application of Rule 15c-11 to fixed income securities could have on our mission-based lending.

#### Exception for Nonprofit CDFI Debt Securities

In our view, the application of Rule 15c2-11 to fixed income securities would impose unintended consequences on nonprofit CDFI debt issuers. Specifically, we are concerned about the potential unwillingness of broker-dealers to publish quotations relating to nonprofit debt securities due to perceived challenges in obtaining publicly available information about these issuers and their securities. In addition, the application of the rule is expected to result in increased costs of issuing debt, including for nonprofit CDFI issuers. As a result, the application of Rule 15c2-11 may work to severely limit nonprofit CDFI issuers' ability to raise money through the issuance of debt securities despite the fact that outstanding CDFI public debt securities have investment grade ratings.

As nonprofits, our organizations must already adhere to public information disclosure obligations as mandated by the Internal Revenue Code's Form 990 requirements. In light of these circumstances and the disclosures that we are required to provide, an exception from Rule 15c2-11 for nonprofit debt securities is warranted and entirely reasonable given the scope of our current disclosure obligations.

Our organizations also note that Rule 15c2-11 already does not apply to all type of fixed income securities. As confirmed in the SEC's recent no-action letter, Rule 15c2-11 does not apply to exempted securities under Section 3(a)(12) of the Exchange Act, such as government securities including U.S. Treasuries. Rule 15c2-11 contains an explicit exception for municipal securities. Additionally, the Commission has authority under Section 3(a)(12)(A)(vii) of the Exchange Act and Rule 15c2-11(g) to carve out additional fixed income securities from the rule.

As organizations committed to and certified by the federal government to serve low-income communities and people, we believe that any adverse impact to our ability to raise capital through the issuance of debt securities will have significant negative effects on the nation's most vulnerable people and places. Issuing debt securities typically offers CDFIs lower interest rates and provides for longer terms than other financing alternatives, such as traditional bank loans, which helps to foster economic growth and job creation in the communities that need it most. An inability to publish quotations for our securities would impede the issuances of nonprofit debt securities and our mission based lending. We also believe it runs contrary to recent SEC and Administration actions to expand financing opportunities that further environmental, social, and governance issues.

***We urge the SEC to use its existing authorities to exempt nonprofit CDFI debt securities from the scope of Rule 15c2-11.***

Thank you for your consideration of our request and we welcome the opportunity to work with you on this important issue.

Sincerely,

Capital Impact Partners  
Century Housing Corporation  
Enterprise Community Partners  
Local Initiatives Support Corporation  
Low Income Investment Fund  
Opportunity Finance Network