CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: May 3, 2018

TO: Tax Credit Stakeholders

FROM: Mark Stivers, Executive Director

SUBJECT: March 2018 Proposed Emergency Regulation Changes and Responses to Comments

On March 26, 2018, the California Tax Credit Allocation Committee (TCAC or the Committee) released proposed emergency regulation changes relating to the new federal law allowing income averaging. TCAC accepted written comments on the proposed regulation changes through Friday, April 20, 2018. Numerous individuals, organizations, and groups formally commented on the proposed regulation changes. TCAC staff carefully considered all comments received and has finalized the recommendations to the Committee for consideration and adoption on Wednesday, May 16, 2018.

Two documents accompany this memo: 1) a matrix with the comments received and staff's responses to those comments, including an explanation of the proposed revisions; and 2) the final proposed regulation changes, in which revisions to the initially proposed changes are highlighted in yellow.

Please note that the IRS has not yet revised the 8609 forms to account for the income averaging option. TCAC will not be able to issue the 8609 forms for any project choosing income averaging under the proposed emergency regulations until the new IRS form is available.

Final Proposed Emergency Regulation Changes
May 3, 2018
[Note: See Comment Matrix for Responses to Comments]

1. Section 10325(f)(13)

10325(f)(13) A project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 50% AMI.

A project with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018 may, with the discretionary approval of the Executive Director, revise its targeting prior to the recordation of the regulatory agreeement to include Low-Income Units targeted at greater than 60% AMI only ~~if the project initially had an applicable fraction of less than 100% and the units targeted at greater than 60% AMI were not initially Low-Income Units~~to accommodate existing over-income tenants, provided that the average targeting does not exceed 50% AMI. All other projects with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018, may not alter the AMI targeting committed to in the application in order to include Low-Income Units targeted at greater than 60% AMI.

2. Section 10326(g)(9)

10326(g)(9) For all applications received on or after March 26, 2018, a non-competitive project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 59% AMI. For all applications received on or after March 26, 2018, a competitive project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 50% AMI.

A project with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018 may, with the discretionary approval of the Executive Director, revise its targeting prior to the recordation of the regulatory agreeement to include Low-Income Units targeted at greater than 60% AMI only ~~if the project initially had an applicable fraction of less than 100% and the units targeted at greater than 60% AMI were not initially Low-Income Units~~to increase the number of Low-Income Units or to accommodate existing over-income tenants, provided that the average targeting does not exceed 59% AMI for non-competitive projects or 50% AMI for competitive projects. All other projects with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018, may not alter the AMI targeting committed to in the application in order to include Low-Income Units targeted at greater than 60% AMI.