

NAR Committee:

Commercial Federal Policy Committee

What is the fundamental issue?

Between 2023 and 2025 it is estimated that \$1.4 trillion in commercial real estate loans will mature. Higher interest rates and inflation along with higher vacancy rates in offices and other impacts of the COVID-19 pandemic will present challenges to borrowers and lenders alike as they renegotiate those loans. Property values may lower while interest rates are higher, and lenders may need to increase capital and liquidity levels to reflect that. Several factors have contributed to a tightening of credit availability for commercial real estate loans, including increased underwriting standards, increased regulation of banks by multiple federal government agencies, and higher compliance costs for lenders.

I am a real estate professional. What does this mean for my business?

Increased banking regulations, particularly on community and regional banks, mean that banks are spending more of their capital on regulatory compliance, which impacts their ability to finance commercial real estate development. In that atmosphere, new sources of lending, such as online banks and crowdfunding, have emerged and gained popularity in the market as an alternative to traditional sources. In addition, higher interest rates, inflation, and negative trends exacerbated by the COVID-19 pandemic (such as higher office vacancy rates due to the rise of remote work) have had a large impact on commercial loans.

NAR Policy:

NAR supports protecting and enhancing the flow of capital to commercial real estate. NAR believes Congress and the federal government should consider legislation and regulation aimed at improving commercial real estate markets including: (1) the creation of a U.S. covered bond market, (2) increasing the cap on credit union member business lending (MBL), (3) additional banking agency guidance related to term extensions and (4) improving credit availability for small businesses. Additionally, NAR supports the federal financial regulators giving lenders flexibility to work prudently with borrowers on commercial real estate troubled debt restructurings (TDRs) in order to give more time for stability to return to the CRE market, common-sense capital requirements for lenders, and tax policies which support the commercial real estate industry and market.

Opposition Arguments:

Opponents are concerned that the creation of a covered bond market in the U.S. would give big banks an advantage, and could hamper the FDIC's resolution process if a bank fails. There is also concern that increasing the cap on credit union member business lending will harm community banks and reduce federal revenue by taking business loans from tax-paying banks.

Legislative/Regulatory Status/Outlook

Regulatory Burdens for Small and Community Banks

A proposed set of rules to align U.S. bank capital requirements with the Basel III "Endgame" rules were released in 2023 which would greatly increase the amount of capital lenders are required to hold and reduce their flexibility in determining capital requirements for loans. This proposal has been greatly critiqued by banking industry groups and policymakers in Congress and in the financial regulatory agencies, and a new proposal is expected by the end of 2024.

Covered Bond Market

Covered bonds are debt securities backed by cash flows from mortgages or public sector loans. They are similar in many ways to asset-backed securities created in securitization, but remain on the issuers consolidated balance sheet (usually with an appropriate capital charge). Already in use in Europe and Canada, covered bonds represent a potential complementary funding source in the U.S. housing financial system as well as an alternative to securitization that could help address ongoing refinancing challenges in the commercial real estate sector. A covered bond market would provide additional finance options to borrowers in commercial real estate markets where it might otherwise be limited.

Alternative Lending

Lending by non-bank entities has grown. Some members of Congress have stated an interest in increasing access to some alternative sources of lending, such as crowdfunding, by lowering burdens to entry for both crowdfunding platforms (by lowering compliance and registration requirements) and investors (by increasing the amount unaccredited and accredited investors can invest in a project).

Current Legislation/Regulation (bill number or regulation)

[Proposed Basel III Endgame Rule](#)

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