The Real Estate Roundtable

Real Estate Roundtable Policy Priorities April 2025

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Policy Priorities – April 2025

This document provides relevant information on The Real Estate Roundtable (RER)'s key policy issues, including fact sheets and detailed issue briefs. The majority of the document consists of brief 1-2-page summaries of national policy issues currently facing the industry, RER's position on the issue and helpful links for where to find additional information and details regarding RER's advocacy efforts. The document also includes multiple RER-produced fact sheets distilling key legislation or regulations.

Table of Contents

Tax Policy

Preserving Business Property Tax Deductions

Issue

Congressional Republicans are working to identify additional revenue offsets to finance a growing list of tax priorities. Tax-writers are considering limitations on the federal tax deduction for state and local taxes paid by businesses as a source of new revenue. These restrictions could take several forms. A cap on the deductibility of business-related property taxes would have devastating consequences for commercial real estate values, rents and the entire economy and financial system.

The 2017 Tax Cuts and Jobs Act (TCJA) imposed a $10,000 cap on the deductibility of state and local income and property taxes paid by individuals. The bill retained the deductibility of state and local business taxes ("Business SALT"), including: property taxes on business property (property used in a trade or business, or property held for investment), state corporate income taxes and state income taxes paid at the entity-level (state pass-through "work around" regimes). Business SALT restrictions are considered a potential offset for individual SALT relief, an extension of already-expired business provisions (e.g., bonus depreciation) or a further reduction of the corporate rate.

Advocates of limiting the deductibility of Business SALT offer two policy arguments. Some suggest, as a matter of tax parity, that businesses should be treated the same as individuals. Second, some argue that restricting the Business SALT deduction would put pressure on states to further lower their tax burden on job creators. Most importantly, according to modeling by Penn-Wharton and the Tax Foundation, repealing the deductibility of Business SALT could raise over $1 trillion over 10 years:

- Repeal deductibility of corporate income taxes: $290B/10 years
- Repeal deductibility of business property taxes: $503B/10 years
- Disallow state pass-through workarounds: $210B/10 years

The Roundtable's Position

Repealing the deductibility of state and local business property taxes would cause unimaginable damage to U.S. commercial real estate, local communities and the broader economy and must be avoided.

- State and local property taxes represent 40 percent of the operating costs of U.S. commercial real estate. Property taxes are a greater expense than utilities, maintenance and insurance costs combined.
- Business-related property taxes are different from state and local income taxes. Property taxes are an unavoidable expense, an inescapable cost of operating any business. They are a cash outlay that is owed regardless of whether the business has any income at all.
- Eliminating or capping this deduction could:
    - **Raise effective tax rates to 1970s-era levels near 50 percent**, discouraging investment in housing, infrastructure and economic development projects nationwide. This would reverse the benefits of the TCJA and Section 199A.

Preserving Business Property Tax Deductions

- **Raise business owners' property tax bills in effect by roughly 40 percent**, causing employers to owe federal tax on money that they do not have. Real estate values will fall as investors rush to exit the market. Foreclosures, insolvencies and massive layoffs will result. New investment will dry up and badly needed housing will not be built.
- **Hit lower-rent housing the hardest**, drive up operating costs and deter construction at a time when housing affordability is already at a crisis point. The cost will be passed through to tenants as landlords are forced to raise rents. Lower-income renters will be the hardest hit because property taxes are a larger percentage of the total cost for these properties.
- **Stall housing development**, erode property values and undercut local tax bases that fund schools, fire departments and more. Schools, police and other services will suffer as local tax revenue declines.
- Analysis by the Tax Foundation indicates that disallowing corporate SALT deductions for corporate income and property taxes would reduce GDP and American incomes by 0.6 percent and reduce hours worked by 147,000 full-time equivalent jobs.

Additional Resources

- Roundtable Weekly, "Real Estate Industry Fights to Preserve Business Property Tax Deductions Amid GOP Tax Negotiations" (March 17, 2025)
- Roundtable Weekly, "Real Estate Industry Urges Congress to Preserve Deductibility of Business Property Taxes" (March 7, 2025)
- RER letter, "Preserve the Full Deductibility of Business-Related Property Taxes" (March 7, 2025)

Tax Policy

Pass-Through Business Income

Issue

Real estate generally is owned and operated through "pass-through" entities. In 2017, Congress reduced the corporate tax rate by 40 percent and created a new 20 percent deduction (section 199A) for pass-through business income to avoid putting partnerships, S corporations and REITs at a competitive advantage relative to large C corporations.

Section 199A expires at the end of 2025. At that time, the effective marginal rate on pass-through business income would rise by over one-third, from 29.6 percent to 39.6 percent.

Tax legislation considered in 2021 would have raised the top marginal income tax rate on many small and pass-through business owners from 29.6 percent today to 46.4 percent.

The Trump administration supports extending all of the expiring 2017 tax cuts, including section 199A.

The Roundtable's Position

Congress should continue to support closely-held, entrepreneurial businesses that create jobs and spur growth, and reject tax changes that discriminate against pass-through entities.

- Our pass-through regime is a competitive strength of the U.S. tax system. Most countries rely on inflexible corporate regimes that provide little ability for an entrepreneur to tailor the capital and ownership structure to meet the needs of the business and its investors.
- Small and closely-held businesses drive job growth and entrepreneurial activity in the United States. Entity choice is a differentiator that contributes to our entrepreneurial culture.
- Half of the 4 million partnerships in the U.S. are real estate partnerships, and real estate activity constitutes a large share of pass-through business activity.
- Listed REITs allow small investors to invest in diversified, commercial real estate using the same single tax system available to partners and partnerships.
- Partnerships, Limited Liability Companies (LLCs), S corps and REITs are ideal for real estate because they give investors flexibility in how they structure the risks and rewards of these capital-intensive and relatively illiquid businesses.
- Any new tax legislation should avoid the unintended consequences and potential harm caused by the stacking of tax increases on pass-through entities.
- Section 199A is appropriately targeted at businesses that hire workers and invest in capital equipment and property.
- Section 199A also helps preserve tax fairness vis-à-vis large corporations.

Tax Policy

Carried Interest

Issue

A “carried” interest is the interest in partnership profits that a general partner receives from the investing partners for managing the investment and taking on the entrepreneurial risk of the venture. Carried interest may be taxed as ordinary income or capital gain depending on the character of the income generated by the partnership. Lawmakers have introduced various proposals to increase the tax burden on carried interest since 2007. In 2017, Congress created a three-year holding period requirement for the reduced long-term capital gains rate.

In February, President Trump informed Republican congressional leaders that one of his main tax priorities this year is “closing the carried interest tax deduction loophole.” Shortly thereafter, a group of 13 Senate Democrats reintroduced the Carried Interest Fairness Act (S. 445). The bill would convert virtually all real estate-related carried interest income to ordinary income subject to the top tax rates and self-employment taxes.

During his first term in office, President Trump reportedly pushed Republican lawmakers to include much stricter restrictions on carried interest than the three-year holding period that was included in the final 2017 tax bill.

In 2021, House Ways and Means Democrats passed legislation to extend the carried interest holding period from three to five years, and other changes, while adding a new exception for a real property trade or business (e.g., real estate). The proposals were not enacted.

Former Senate Finance Chairman Ron Wyden (D-OR) has proposed treating carried interest as an interest-free loan from the limited partners to the general partner that is taxable upon grant, regardless of whether the partnership ever generates any profits.

The Roundtable’s Position

- The tax code should reward risk-taking; the capital gains rate should apply to more than just invested cash.
- Carried interest changes would harm small businesses, stifle entrepreneurs and sweat equity and threaten future improvements and infrastructure in neglected areas. They would increase the cost of building or improving infrastructure, workforce housing and assisted living, and deter risky projects, such as sites with potential environmental contamination.
- Carried interest is not compensation for services. General partners receive fees for routine services (leasing, property management). Those fees are taxed at ordinary tax rates.
- Carried interest is granted for the value the general partner adds beyond routine services, such as business acumen, experience and relationships. It is also a recognition of the risks the general partner takes with respect to the general partnership’s liabilities (funding pre-development costs, guaranteeing construction budgets, potential litigation).
- Carried interest proposals apply retroactively to prior transactions and partnership agreements executed years earlier. The agreements were based on tax law as it existed at the time. By changing the results years later, they would undermine the predictability of the tax system and discourage long-term, patient investment.

Additional Resources

- RER letter, “Avoid New Tax Hikes on America’s Real Estate” (March 26, 2025)
- Roundtable Weekly, “Real Estate Challenges: Business SALT, Carried Interest Emerge as Focal Points of Tax and Budget Discussions” (February 21, 2025)
- Roundtable Weekly, “Tax Policy This Week in Washington: Carried Interest and Budget Talks” (February 7, 2025)

Opportunity Zones

Issue

Created in 2017, Opportunity Zones (OZs) are designated, low-income census tracts where qualifying investments are eligible for reduced capital gains taxes. By channeling investment where it is needed, OZs help stimulate jobs and growth in low-income communities.

The three main OZ tax benefits were a deferral of prior capital gain rolled into an OZ fund, an increase (partial "step-up") in the basis of the prior investment after a five or seven-year holding period and the exclusion of gain on the OZ investment after 10 years.

The final OZ regulations were issued four months before the COVID-19 lockdown. The tax benefits are gradually phasing down (the deferral of prior gain ends in 2026) and the partial basis step-up has expired for new OZ fund contributions.

In the last Congress, bipartisan House legislation (Reps. Mike Kelly, R-PA and Dan Kildee, D-MI; H.R. 5761) would extend OZ deadlines for two years, allow helpful "fund of funds" OZ tax structures, sunset certain high-income OZ census tracts and create new OZ information reporting and transparency rules.

The renewal and reform of the OZ tax incentives is expected to be a major topic of discussion as Congress considers extension of the 2017 tax bill in 2025.

The Roundtable's Position

- In their short tenure, OZs have created jobs and spurred billions of dollars in new investment in economically struggling communities across the country.
- Opportunity Funds finance affordable, workforce and senior housing; grocery-anchored retail centers; and commercial buildings that create spaces for new businesses and jobs.
- In 2020, the White House Council of Economic Advisors estimated that the Opportunity Funds had raised $75 billion in private capital in the first two years following the incentives' enactment, including $52 billion that otherwise would not have been raised. The council projected this capital could lift one million people out of poverty in OZs by 11 percent.
- The decentralized design of OZs allows more investors and stakeholders to participate in the market and invest in qualifying projects that generate economic opportunity and improve the built environment in high-need communities.
- Congress should ensure that OZs continue to act as a catalyst for economic development in struggling communities by passing legislation that extends OZ deadlines.
- Congress should also continue working on improvements to the OZ tax incentives, such as enhanced information reporting, data collection and transparency, as well as lowering the substantial improvement threshold to cover a broad range of real estate rehabilitation and redevelopment projects.

Preferential Rate and Realization Requirement

Issue

Traditionally, the United States has taxed long-term capital gain at a lower rate than ordinary income. The only exception was a brief three-year period after the Tax Reform Act of 1986 when Congress lowered the top ordinary tax rate from 50 percent to 28 percent and created temporary tax parity between ordinary and capital income. Long-term capital gain is currently taxed at a top rate of 20 percent. However, the rate increases to 23.8 percent if the income is subject to the 3.8 percent tax on net investment income. The net investment income tax applies to real estate gains earned by passive investors and not income earned from the active conduct of professionals in real estate.

The prior Biden administration proposed raising the capital gains rate to 39.6 percent, which would bring it to parity with its proposed top rate on ordinary income. In addition, former President Biden had proposed to increase the 3.8 percent tax on net investment income to 5 percent and extend it to the income of active business owners, including real estate professionals; the net investment income tax applies to both capital gains and rental income.

Former President Biden and several key Democratic lawmakers have also previously proposed a mark-to-market regime in which built-in, unrealized gain is taxed on an annual basis, regardless of whether the asset is sold.

The Roundtable's Position

Congress should continue to encourage investment and job creation with a meaningful capital gains incentive.

- Maintaining a reduced tax rate on capital gain decreases the cost of capital, drives long-term investment, encourages productive entrepreneurial activity, draws investment from around the world, and increases U.S. workforce productivity and competitiveness.
- Policymakers should reward risk-taking and investment in communities where it is needed, not punish it.
- High taxes on capital income make it harder to attract the investment needed to rebuild our urban centers. Opportunity Zone capital gains incentives facilitated $75 billion in new investment in low-income communities in the first two years after enactment.
- Risk capital differs from wage compensation. The entrepreneur who foregoes a traditional job in favor of starting a business forfeits many protections and benefits offered to employees, such as a pre-negotiated salary. The capital gains preference compensates entrepreneurs for this risk, including the potential complete loss of their time and capital.
- The reduced capital gains rate partially offsets the higher risk with illiquid, capital-intensive real estate projects, as well as the economic effects of inflation.
- Unlike other tax policies, such as immediate expensing, the capital gains preference only rewards smart, productive investments that generate profits.
- A tax on unrealized gains would require the IRS to police households as they identify, tabulate and value all their worldly possessions. The tax would thrust the IRS into a new and unwelcome role. The agency would become a permanent, live-in accountant and watchdog over every aspect of household's finances, consumer activity and economic life.

Preferential Rate and Realization Requirement

- In addition, taxing unrealized gains would trigger wasteful disputes and litigation, detracting from productive economic activity. Annual valuation requirements will require costly appraisals. Valuation disagreements will be a constant source of audits and administrative appeals.
- Current law encourages taxpayers to put capital to work on projects that won't pay off for many years. By taxing business assets and investments annually, a tax on unrealized gains would remove one of the major incentives for patient, productive capital investment. The differential tax treatment of liquid and illiquid investments will distort markets and give rise to wasteful new tax shelters and taxpayer games.
- A proposed tax on unrealized gains is quite possibly unconstitutional. Supreme Court jurisprudence has applied a realization requirement to determine whether gains or profits constitute income taxable under the 16th Amendment. Since the proposed tax applies to both realized and unrealized gains, it may go beyond the boundaries of Congress's taxing power.

Tax Policy

Real Estate Like-Kind Exchanges

Issue

Since 1921, the tax code has allowed taxpayers to defer capital gain when exchanging real property used in a trade or business for a property of a like-kind (section 1031). In 2017, Congress narrowed section 1031 by disallowing its use for personal property (art, collectibles, etc.).

The prior Biden administration would have restricted gains deferred through like-kind exchanges to no more than $500K per year ($1M/couple). A similar proposal has appeared in the last six budgets submitted by Democratic administrations.

The Roundtable's Position

Congress should support healthy real estate markets and property values by preserving the current tax treatment of like-kind exchanges.

- 15-20 percent of commercial transactions involve a like-kind exchange. Exchanges get languishing properties into the hands of new owners who improve them and put them to their best use.
- Like-kind exchanges helped stabilize property markets at the height of the COVID-19 lockdown. Exchanges are even more important during periods of market stress when external financing is harder to obtain. Section 1031 is facilitating a smoother transition as real estate assets are re-purposed in the post-COVID economy.
- Like-kind exchanges allow businesses to grow organically with less unsustainable debt, creating a ladder of economic opportunity for minority-, veteran- and women-owned businesses and cash-poor entrepreneurs that lack access to traditional financing.
- Academic and outside research has found that exchanges spur capital expenditures, increase investment, create jobs for skilled tradesmen and others, reduce unnecessary economic risk, lower rents and support property values.
- Roughly 40 percent of like-kind exchanges involve rental housing. Section 1031 helps fill gaps in the financing of affordable housing. Unlike the low-income housing tax credit, developers can use section 1031 to finance land acquisition costs for new affordable housing projects.
- Exchanges help low-income, hard-hit and distressed communities where outside sources of capital are less available. Section 1031 also supports public services (police, education) by boosting transfer/recording/property taxes (nearly 3/4 of all local tax revenue).
- Land conservation organizations rely on exchanges to preserve open spaces for public use or environmental protection.
- Section 1031 is consistent with corporate and partnership tax rules that defer gains when the proceeds are retained and reinvested in businesses (sections 721, 731, 351, and 368).

Business Interest Deductibility

Issue

The 2017 tax bill included strict new limits on the deductibility of business interest but also included a key provision that allows commercial real estate (a real property trade or business) to opt out of the interest limitation. The original House Republican tax plan—the House blueprint for tax reform—would have eliminated the deductibility of all business interest (including commercial real estate debt) while replacing depreciation rules with the immediate expensing of all future capital investment, including real property.

The final legislation included a revised section 163(j) in which the deductibility of business interest is generally limited to 30 percent of the taxpayer's EBITDA (earnings before interest, tax, depreciation and amortization). It also included 100 percent expensing of equipment and machinery (not real estate) for five years, phasing down thereafter. The 30 percent interest limit does not apply to an electing real estate business. However, an electing real estate business is required to use the alternative depreciation system, which includes slightly longer cost recovery periods for real property and cannot immediately expense leasehold and other interior improvements.

Since 2022, the general 30 percent business interest limitation has applied a less favorable rule that uses the taxpayer's EBIT (earnings before interest and tax) rather than EBITDA as the base for measuring the amount of deductible interest.

In 2025, extension of EBITDA rule, which was in effect from 2018-2021, is under review as Congress considers extension of the 2017 tax bill.

The Roundtable's Position

- Debt is a fundamental part of a real estate entity's capital structure and, in addition to property acquisition costs, is used to finance day-to-day operations like meeting payroll, buying raw materials, making capital expenditures and building new facilities.
- New restrictions on interest deductibility would cause enormous damage to U.S. commercial real estate by dragging down property values and discouraging new investment. Fewer loans could be refinanced, fewer projects could be developed, and fewer jobs would be created. Congress should extend the EBITDA rule that was in effect from 2018-2021.
- The ability to finance investment and entrepreneurial activity with borrowed capital has driven jobs and growth in the United States for generations. America's capital markets are the deepest in the world and provide our economy with a valuable competitive advantage.
- Business interest expense is appropriately deducted under the basic principle that interest is an ordinary and necessary business expense. Interest income is taxable to the recipient.
- Commercial banks are the dominant source of financing for commercial real estate investment. Like other entrepreneurs, small and medium-sized real estate developers and investors lack access to equity markets and rely on traditional lending to grow and expand.

Protecting Access to Foreign Investment in U.S. Real Estate

Issue

In April 2024, the Treasury Department issued final regulations under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) that introduced a sweeping new "look-through" rule to determine whether a real estate investment trust (REIT) or regulated investment company (RIC) qualifies as a "domestically controlled qualified investment entity" (DCQIE) under Section 897(h)(4)(B) of the Internal Revenue Code.

Under FIRPTA, foreign investors are generally subject to U.S. capital gains tax on sales of U.S. real estate and most REIT shares—unlike gains on other U.S. investments. However, an exemption exists for domestically controlled REITs, where less than 50 percent of the shares are held "directly or indirectly" by foreign persons.

For decades, Treasury regulations interpreted the phrase "directly or indirectly" to refer to actual ownership and not constructive ownership through unrelated entities. Domestic C corporations—including those with significant foreign ownership—were treated as U.S. persons for purposes of determining whether a REIT was domestically controlled.

The 2024 final regulation reverses this position. It requires "look-through" treatment of any non-public domestic C corporation if 50 percent or more of its stock is held (directly or indirectly) by foreign persons. In such cases, the REIT shares held by the domestic C corporation are attributed up to its shareholders and counted as foreign-owned. The rule applies retroactively, including to long-established structures created under the prior legal regime.

At the state level, 20 states have enacted restrictions on foreign investors in real estate and agricultural land and eight states have considered similar measures.

- The Florida legislature enacted Senate Bill 264 in 2023, which aims to limit and regulate the sale and purchase of certain Florida real property by "Foreign Principals" from "Foreign Countries of Concern."
- The state-level restrictions have national implications and seem to fly in the face of the commerce clause of the Constitution in that they interfere with the free flow of interstate and foreign commerce.
- These foreign investment restrictions aim to safeguard national security but risk discouraging essential foreign capital crucial for refinancing and sustaining U.S. commercial real estate markets, particularly given upcoming debt maturities.
- RER urges careful implementation of these rules to prevent unintended consequences that could hinder economic growth and capital formation.

The Roundtable's Position

The FIRPTA look-through rule is legally unsound, economically harmful and inconsistent with congressional intent. Treasury should withdraw the rule and restore a stable, predictable framework for foreign investment in U.S. real estate.

Protecting Access to Foreign Investment in U.S. Real Estate

- **The rule exceeds Treasury's authority.** Congress explicitly authorized look-through rules for REITs and RICs in Section 897(h)(4)(E) but deliberately excluded domestic C corporations. Treasury's new interpretation reads into the statute a rule Congress rejected.
- **It reverses decades of well-settled law.** Treasury's interpretation of the statute is contradicted by the structure and legislative history of Section 897, the only IRS ruling on the topic and judicial opinions concerning the application of constructive ownership rules generally.
- **The look-through rule is retroactive and disruptive.** It imposes the regulations on investment structures in place for years and creates significant uncertainty for foreign investors in REITs and infrastructure.
- **It impedes investment in the U.S. economy.** Foreign capital as a share of total U.S. CRE investment has already fallen from over 16 percent in 2018 to less than 6 percent in 2024. The rule risks further reducing capital formation for job-creating U.S. real estate and infrastructure projects.
- **The legal case against the look-through rule is even stronger today** in the wake of the Supreme Court's *Loper Bright* decision, in which the Court significantly narrowed the deference to which regulatory agencies are entitled when rulemaking.
- **Treasury should formally withdraw the rule and issue sub-regulatory guidance** allowing taxpayers to rely on the forthcoming withdrawal. Restoring certainty in FIRPTA policy is essential to re-attracting global capital to U.S. real estate.

The federal government should reform FIRPTA and work to remove tax barriers that deter capital formation and investment in U.S. real estate and infrastructure.

- Foreign investment is a major source of capital for U.S. commercial real estate, leading to job creation and economic growth for communities throughout our nation.
- While RER supports efforts to protect national security as well as the integrity of commercial real estate investments, we have concerns about rules that may hinder foreign investment in U.S. real estate by legitimate enterprises and capital formation by law-abiding entities.
- Many investment funds that are controlled or advised by regulated U.S. asset managers source investment capital in global capital markets.
- With approximately $1.5 trillion of U.S. commercial real estate debt coming due in the next three years, foreign equity investments in U.S. assets are often an important source of capital as commercial real estate owners seek to restructure, refinance or sell their properties.
- Discouraging foreign investment weakens U.S. competitiveness, raises the cost of capital for U.S. developers and undermines efforts to revitalize urban cores, modernize infrastructure and expand the housing supply.

Additional Resources

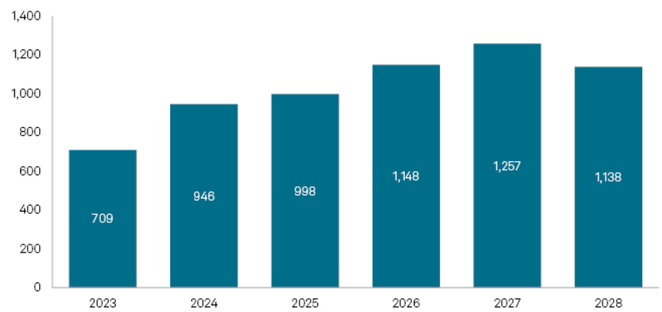
- Roundtable Weekly, "Coalition Urges Treasury to Withdraw FIRPTA Look-Through Rule" (March 21, 2025)
- RER letter, "Re: Request for Expedited Withdrawal of Final Regulations on 'Domestically Controlled Qualified Investment Entities'" (March 20, 2025)
- RER letter, Background and Analysis (March 20, 2025)

Capital and Credit

Addressing the Wave of Maturing CRE Debt and Pro-cyclical Regulatory Policy

Issue

Roughly $950B of US commercial real estate mortgages are estimated to mature in 2024 ($B)



Data compiled Aug. 19, 2024.

Data represents the aggregation of 3.6 million commercial real estate property mortgages, sourced from various tax filings from approximately 75% of US counties. While roughly 60% of the loans were originally missing a maturity date, analysis uses a random forest model to impute the missing values. Since the random forest model varies each time it is run, the values shown represent averages across five runs.

The raw data does not include roughly 25% of counties, so we created another model using gross county product and the number of properties in the county to estimate the total mortgage amounts in the missing counties. Ultimately, these were relatively minimal amounts compared to the overall market.

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To help rebalance the wave of maturing loans, it is important to advance measures that will encourage additional capital formation and loan restructuring and avoid pro-cyclical regulatory actions such as the *Basel III Endgame*.

As urged by RER, a policy statement—*Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts*—issued by regulatory agencies encouraging financial institutions to work constructively with creditworthy borrowers on CRE loan workouts is helping to see loans through the current environment.

Many of these loans require additional equity, and borrowers still need time to restructure this debt. Capital formation is vital to help restructure maturing debt and fill the equity gap.

It is also important to bring more foreign capital into U.S. real estate by lifting legal barriers to investment, as well as repealing or reforming the archaic Foreign Investment in Real Property Tax Act (FIRPTA).

The original *Basel III Endgame* proposal would have increased capital requirements for the largest banks by as much as 20 percent. Based on the resounding opposition to the proposal from the industry participants, a revised proposal was announced in September by Michael Barr, the outgoing Fed Vice Chair for Supervision, that would increase Tier 1 capital requirements for global systemically important banks by roughly 9 percent—less than half of what would have been required in the original proposal. Nonetheless, concerns remain that any increase in capital requirements will have a pro-cyclical impact on credit capacity and carry a cost to commercial real estate and the overall economy, increasing the cost of credit and constraining capacity. Former Fed Vice Chair Randy Quarles warned it is a "mistake," saying, "It will restrict the ability of the financial system to provide support for the real economy."

Capital and Credit

Addressing the Wave of Maturing CRE Debt and Pro-cyclical Regulatory Policy

The proposed regulations come at a significant economic cost without clear benefits to economy.

In a January 12 letter, RER raised industry concerns about the negative impact of the *Basel III Endgame* proposal, including the increased cost of credit and diminished lending capacity, and requested that the proposal be withdrawn.

The revised proposal reduces risk weights for certain residential mortgages and retail exposures, extending this reduction to low-risk corporate debt. However, commercial real estate risk weights remain unclear. Yet, the Fed and other regulators remain deadlocked on advancing the revised proposal. With the appointment of Michelle Bowman to the post of Vice Chair for Supervision, there is speculation that the proposal could ultimately be withdrawn or end up being capital neutral.

The Roundtable's Position

- Providing banks with the flexibility to work constructively with their borrowers during times of economic stress has led to billions of dollars of loan restructurings and reduced undue stress in bank loan portfolios.
- While this policy statement is helpful, additional steps are called for to help restructure and transition the ownership and financing of commercial real estate from a period of low rates and robust markets to a time of higher rates. Additional capital is an essential element to this restructuring, and enacting policies that will encourage robust capital formation is imperative.
- In a January 12 comment letter, RER raised concerns about the proposed *Basel III Endgame* measure. The potential significant increase in capital requirements for large banks' capital market activities due to the proposal could materially reduce the depth of banks' products and services offerings to the real estate sector, which will in turn lead to an increase in hedging risk and the cost of raising capital in the industry.
- The largest U.S. banks' capital and liquidity levels have grown dramatically since the original *Basel III* standards were implemented in 2013 in response to the 2008 Global Financial Crisis. Since 2009, Tier 1 capital has increased by 56 percent and Common Equity Tier 1 capital has tripled. Today, as the Federal Reserve recently observed, the U.S. "banking system is sound and resilient, with strong capital and liquidity."[1]
- While well-intentioned, we are concerned that the proposals could increase the cost of credit, diminish lending capacity, and undermine the essential role banks play in lending and financial intermediation for real estate. With new supervisory leadership at the Fed, the *Endgame* proposal could be scrapped.
- Policymakers should consider additional measures to encourage constructive restructuring and new lending on solidly underwritten assets.

[1] https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf

Commercial Insurance Coverage in an Evolving Threat Environment

Issue

The proliferation of natural catastrophe threats has raised concerns about commercial insurance coverage for real estate. As economic losses caused by disasters increase, changing exposures around the world must be addressed in order to effectively manage natural catastrophe risk. These concerns have highlighted the lack of—and need for—insurance capacity and various lines of commercial insurance. Expanding coverage gaps and increased costs present challenges for businesses across many industries, including real estate. A lack of adequate coverage will lead to economic uncertainty, harm stakeholders and undermine the growth of communities.

- Real estate insurance rates have spiked, with consecutive quarterly increases in overall premiums.
- The nation has seen years of atypical weather patterns and historic losses from natural catastrophes attributed to climate change—economic damages have tripled in cost from just 10 years ago.
- High reinsurance costs and a lack of reinsurance capacity also contribute to higher premiums.
- The U.S. insurance industry is regulated at state-level, with no central federal regulation.

Risks from natural disasters like floods, hurricanes, wildfires, hail, tornadoes and drought cost the U.S. billions of dollars each year. Even if policyholders are able to find coverage for these various lines, prices are increasing dramatically, raising economic concerns.

Without adequate coverage, the vast majority of these natural catastrophe losses are likely to be absorbed by policyholders. These widening coverage gaps and price hikes raise serious economic concerns about protection gaps, coverage capacity and increased costs from natural catastrophes and business interruption losses.

The budget debate in Congress has raised concerns about the future of the National Flood Insurance Program (NFIP), which is subject to temporary funding extensions and now must be reauthorized by September 30, 2025.

It is important to find solutions—either market-based or with the partnership of the federal government—to fill these commercial insurance gaps across changing threat patterns, and provide the economy with the coverage it needs to address catastrophic events.

RER, along with its industry partners, continues to work constructively with policymakers and stakeholders to address this market failure and enact a long-term reauthorization of an **improved National Flood Insurance Program (NFIP)**.

A long-term reauthorization of the **National Flood Insurance Program (NFIP)** is essential for residential markets, overall natural catastrophe insurance market capacity and the broader economy. The NFIP's commercial property flood insurance limits are low—$500,000 per building and $500,000 for its contents—so it is important to exempt larger commercial loans from the mandatory NFIP purchase requirements.

Commercial Insurance Coverage in an Evolving Threat Environment

The **NFIP** is currently operating under a continuing resolution. Since 2017, Congress has extended the NFIP's authorization 33 times, though the program has lapsed briefly three times.

As policymakers continue to debate potential changes and improvements to the program, their challenge is to find a balance between improving the financial solvency of the program, reducing taxpayer exposure and addressing affordability concerns.

The Roundtable's Position

- Floods are the most common, costliest natural peril in the U.S. The NFIP was enacted in 1968 due to a lack of private insurance and increases in federal disaster aid.
- The Program is administered by the Federal Emergency Management Agency (FEMA) and is essential for homeowners, renters and small businesses in affected areas.
- The level of flood damage from recent storms makes it clear that FEMA needs a holistic plan to prepare the nation for managing the cost of catastrophic flooding under the NFIP.
- The NFIP is important for residential markets, overall natural catastrophe insurance market capacity and the broader economy. However, under the NFIP, commercial property flood insurance limits are low—$500,000 per building and $500,000 for its contents. NFIP has approximately 5 million total properties, only 6.7 percent are commercial. Nearly 70 percent of NFIP is devoted to single-family homes and 20 percent to condominiums. In the total program, 80 percent pay actuarial sound rates; however, in the commercial space, only 60 percent pay actuarial sound rates.
- Congressional hearings have illuminated numerous acute problems surrounding the NFIP, such as insolvency, increased risk of flooding across the country and insufficient and inaccurate flood mapping. The unintended negative outcomes generated by the NFIP continue to grow and are now spreading to GSEs (government-sponsored enterprises) Fannie Mae and Freddie Mac.
- Lenders typically require base NFIP coverage, and commercial owners must purchase Supplemental Excess Flood Insurance for coverage above the NFIP limits. The NFIP's low commercial limits make it problematic for most commercial owners. As a result, RER has been seeking a voluntary exemption for mandatory NFIP coverage if property owners have flood coverage from commercial insurers.
- RER supports increased private market participation. By permitting certain private issue insurance policies to satisfy the NFIP's "mandatory purchase requirement" for properties in flood plains financed by loans from federally guaranteed institutions, commercial property owners would have the ability to "opt out" of mandatory NFIP commercial coverage if they have adequate private coverage outside the NFIP to cover financed assets.
- RER and its partner associations support a long-term reauthorization of an improved NFIP that helps property owners and renters prepare for and recover from future flood losses. Given the low coverage amounts provided to commercial properties, it is important to permit larger commercial loans to be exempt from the mandatory NFIP purchase requirements.
- Going forward, it is important to protect American jobs and to ensure a sustainable and speedy economic recovery from future natural catastrophe events. If not remedied, these insurance gaps could hinder economic growth.

Beneficial Ownership & Corporate Transparency Act

Issue

Under the Corporate Transparency Act (CTA), many U.S. businesses are required to disclose information on their “beneficial owners” under regulations issued (and to be issued) by the Treasury Department’s Financial Crimes Enforcement Network (FinCEN).

The stated goal of the CTA is to prevent and combat money laundering, terrorist financing, corruption, tax fraud and other illicit activity by requiring companies to disclose beneficial ownership information, or BOI, to FinCEN, a bureau of the U.S. Department of the Treasury.

The Rule imposes heavier compliance burdens on real estate businesses with numerous legal entities that own and operate real property across all asset classes. While the CTA and its implementing regulations are not specifically targeted to real estate businesses, it will have a direct impact on the industry. As discussed below, certain types of entities will be exempt from the reporting requirements; however, these exemptions will not apply to many typical real estate limited liability companies and partnerships formed to own and operate commercial properties.

The CTA requires reporting companies to supply three categories of information: information about the entity, BOI and information about the company applicant. Each reporting company will have to provide information on its “beneficial owners” as well as the “company applicants” involved in forming the entity. A beneficial owner refers to an individual who owns at least 25 percent of an entity or indirectly exercises “substantial control” over it.

While this disclosure obligation began on January 1, 2024, the U.S. Court of Appeals for the Fifth Circuit on December 26, 2024, vacated the stay and reinstated the nationwide preliminary injunction enjoining enforcement of the Corporate Transparency Act (CTA) and the Reporting Rule, including the impending reporting deadlines. The appellate court said it was taking such action in order to preserve the constitutional status quo while that court considers the parties' weighty substantive arguments in an expedited appeal.

On March 2, 2025, the Treasury Department announced it would suspend enforcement of the Corporate Transparency Act (CTA) against U.S. citizens and domestic reporting companies, including beneficial ownership information reporting requirements, citing a move to reduce regulatory burden and focus on foreign entities. The Treasury Department will further be issuing a proposed rulemaking that will narrow the scope of the rule to foreign reporting companies only.

RER continues to track this important issue and plans to comment on the proposed rulemaking after it is released.

The Roundtable’s Position

- RER has repeatedly raised concerns, along with its coalition partners, about the regulatory burden posed by the CTA and has supported the court challenges to the law.
- There is significant concern about the CTA’s far-reaching scope and its impact on many commercial and residential real estate businesses that use the LLC structure for conducting business.

Beneficial Ownership & Corporate Transparency Act

- The CTA amended the Bank Secrecy Act to require corporations, limited liability companies and similar entities to report certain information about "beneficial owners" who own at least 25 percent of an entity or indirectly exercise "substantial control" over it. The CTA authorizes FinCEN to collect and disclose beneficial ownership information to authorized government authorities and financial institutions, subject to effective safeguards and controls. The statute requires the submission of regular reports to the federal government that include a litany of sensitive personal identifiers of the owners, senior employees and/or advisors of covered entities.
- Although the measure is intended to provide support for law enforcement investigations into shell companies engaged in money laundering, tax evasion and terrorism financing, it places many costs and legal burdens on small businesses, especially those in the real estate industry. In 2021, RER and its coalition partners submitted detailed comments to FinCEN regarding the development, disclosure and maintenance of a new federal registry that will contain beneficial ownership information.
- The real estate coalition's extensive comments emphasize the "scope of the CTA is far-reaching and will impact many commercial residential real estate businesses who are frequent users of the LLC structure for conducting business. If not implemented with a clear set of rules and regulations, the CTA could result in an outcome of confusion, missteps and ultimately fines on law-abiding businesses."
- In 2022, RER and its coalition partners submitted comments to the U.S. Department of the Treasury (DOT) and FinCEN that support efforts to thwart illegal money laundering in real estate, while encouraging policymakers to find a balanced approach that does not unfairly burden law-abiding businesses.
- RER continues to work with industry partners to address the implications of FinCEN's proposed rules and the impact they could have on capital formation and the commercial real estate industry.

Capital and Credit

Real Estate Capital Formation

Issue

On February 15, 2023, the Securities and Exchange Commission (SEC) proposed changes to require SEC-registered investment advisers to put all their clients' assets, including all digital assets like Bitcoin, with "qualified custodians".

- *Safeguarding Advisory Client Assets*—would significantly expand requirements of Custody Rule to maintain client assets with a qualified custodian for certain physical assets such as real estate.

The proposal would also require a written agreement between custodians and advisers, expand the "surprise examination" requirements, and enhance recordkeeping rules. These rules were originally designed for digital assets. "Reasonable" safeguarding requirements is ambiguous as applied to real estate. The SEC's release indicates that deeds evidencing ownership of real estate can be held at a qualified custodian—this is not accurate. Deeds are recorded with a government authority. Land and buildings cannot be physically absconded. Lenders and other interested parties have an interest in ensuring no misappropriation of real estate.

The Roundtable's Position

- RER sees no policy reason to impose the proposed rule on real estate—real estate cannot readily be stolen. Lenders and others have an interest in ensuring no misappropriation of real estate. Title insurance protects real estate investors against covered title defects, such as a previous owner's debt, liens and other claims of ownership. It's an insurance policy that protects against past problems, whereas other insurances usually deal with future risks. Titles are recorded in the name of the acquiring entity by a government entity.
- Different jurisdictions present even more challenges. Different laws for titles exist between not only states but also countries. The rule applies to registered investment advisors regardless of where the asset is located.
- For these reasons, we believe that the SEC's policy reasons for imposing the rule on real estate seem irrelevant. RER has submitted a comment letter to SEC and met with senior staff from the investment management division, requesting an exception for real estate.
- In addition to the proposed Custody Rule, the SEC has a number of proposed rulemaking measures that could have a chilling effect on real estate capital markets, further impair liquidity and be a "death by a thousand cuts" for commercial real estate. Capital formation is vital when credit markets tighten to restructure maturing debt.
- Fortunately, on June 5, 2024, the U.S. Fifth Circuit Court of Appeals issued an opinion that vacated the SEC Private Fund Adviser Rules, holding that the SEC exceeded its statutory authority in adopting the Rule. Specifically, the court held that the "promulgation of the [Rule] was unauthorized … no part of it can stand."
- With the change of administrations, SEC Chair Gary Gensler will be replaced by SEC veteran Paul Atkins, subject to Senate confirmation. Under Atkin's leadership, it is likely that the Commission may either withdraw the proposed rule altogether or grant an exception for real estate.

Expanding on the EB-5 Visa with the "Gold Card" Concept

Issue

The U.S. faces a strategic imperative to modernize its immigration system in a way that strengthens the domestic labor force and unleashes private capital for economic growth. The push for immigration reforms has prompted renewed interest in investor programs like the EB-5 Visa and the proposed "Gold Card" concept. Both programs can attract high net-worth individuals who can contribute to America's economy.

- The Gold Card ideas sketched by the Trump administration would help reduce the national deficit. Individuals would pay $5 million to receive legal residency status with a path to citizenship.
- The EB-5 Visa is a job creation program that has existed for decades. It attracts overseas investors to provide capital for economic development projects in the U.S.
- The EB-5 program has delivered $350 billion in economic impact and created over 1.5 million American jobs—at no cost to taxpayers.
- EB-5 investment can help finance housing, grid modernization and manufacturing plants to further recent executive orders and national priorities.
- Combined, both EB-5 and the Gold Card offer mechanisms to attract global capital and top-tier talent.

In 2022, Congress modernized the investor visa through the EB-5 Reform and Integrity Act. These reforms have helped improve the program's transparency and accountability and spur investments particulalrly in infrastructure, rural areas and high unemployment census tracts.

The Roundtable's Position

- The Gold Card program, along with an improved EB-5 visa program, can leverage private investment to stimulate job creation, reduce the national deficit, finance infrastructure, increase housing supplies and support energy grid expansion—at no cost to U.S. taxpayers.
- Reforms enacted in 2022 to the EB-5 Visa introduced new integrity measures and expanded rural access, making the program more transparent, secure and effective.
- Further agency guidance should clarify that EB-5 investments should be "sustained" as tied to a visa applicant's period of conditional residency, so capital is at work in the marketplace for a sufficient period to finance larger, complex projects that create the most jobs.

Additional Resources

- RER letter to Commerce Secretary Lutnick, regarding dual EB-5/Gold Card regime (March 11, 2025)

Expanding on the EB-5 Visa with the "Gold Card" Concept

- Roundtable Weekly, "Lawmakers Navigate Action-Packed Week on Capitol Hill" (March 17, 2025)
- RER letter to Congress, regarding EB-5 "sustainment" period (February 28, 2024)
- RER fact sheet, "EB-5 Reform and Integrity Act of 2022" (April 11, 2022)

Property Conversions and Housing Tax Incentives

Issue

The U.S. faces a severe shortage of affordable housing. Current production has just not kept up with demand. At the same time, certain other commercial real estate assets like office buildings are under significant stress due to pandemic-related issues, including employers' greater reliance on remote work arrangements. RER is encouraging lawmakers to help revitalize cities, boost local tax bases and address housing challenges by enacting a tax incentive and federal loan support for converting older, under-utilized buildings to housing. RER also supports a meaningful expansion of the low-income housing tax credit (LIHTC).

Bipartisan legislation introduced by Representatives Mike Carey (R-OH) and Jimmy Gomez (D-CA), the *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410), would create a new tax credit to reduce the costs associated with converting older office buildings to housing or other uses. The legislation is supported by a broad coalition of pro-housing and real estate-related organizations.

Since its inception in 1986, the LIHTC has financed the development of nearly 3.5 million affordable rental homes that house over 8 million low-income households. Proposed legislation would make major new investments ($29-32 billion) in expanding and improving the LIHTC.

The *Tax Relief for American Families and Workers Act* (H.R. 7024), passed by the House in early 2024 and supported by RER, would expand LIHTC. The bill would temporarily increase credit allocations to States and lower the amount of private activity bond financing that an affordable housing project must receive in order to receive credits outside of the capped state allocation process.

Furthermore, at RER's urging, the prior administration surveyed existing agency programs that might offer low-interest loans to help support housing conversion projects. The "Guidebook to Available Federal Resources" curates programs from the Departments of Transportation, Housing, Energy and the EPA that can be used to assist adaptive reuse projects—but agency rules and guidelines are necessary to streamline underwriting procedures so proceeds can be issued to borrowers in about six months after an application for financing is submitted.

The Trump administration's position on the expansion and improvement of the LIHTC is not yet clear.

The Roundtable's Position

- Congress should help expand and grow the supply of affordable and workforce housing by investing greater resources in time-tested tax incentives like the LIHTC and adopting creative new approaches that support the conversion of under-utilized, existing buildings to housing.
- A quarter of American renter households spend more than 50 percent of their income on housing expenses. More than 10 million low-income households spend more than half of their monthly income on rent, according to Harvard's Joint Center for Housing Studies.
- The conversion of underutilized and often vacant buildings offers a tremendous opportunity to improve the built environment and lift a surrounding locality. Property conversions are a cost-effective means to develop new housing supply, create jobs, and generate critical sources of local property tax revenue.

Property Conversions and Housing Tax Incentives

- Conversion projects can occur in a variety of settings, from central business districts and suburban office parks to rural communities and industrial facilities. The repurposing of existing structures can save energy while reinvigorating communities and reigniting economic growth where it is most needed.
- The inherent risks and elevated costs associated with property conversions, combined with the numerous social and economic benefits of conversions that flow to the broader community, justify proactive government policies that incentivize owners to adapt existing properties to new uses.
- LIHTC is an efficient, market-based housing solution that relies on the private sector to finance, build and operate affordable housing by creating a federal incentive for new construction and redevelopment.
- Under the successful LIHTC program, states can award housing credits based on their own affordable housing priorities. They can target credits to housing units dedicated to certain populations such as seniors or veterans, or to specific regions most in need of affordable housing.
- The Tax Cuts and Jobs Act of 2017 (TCJA) indirectly diminished the value of low-income housing credits because the corporate tax cut reduced the underlying tax liability of many tax credit purchasers, thereby decreasing demand for the credits in the marketplace.
- Congress should significantly expand LIHTC, along the lines of the *Affordable Housing Credit Improvements Act* (S.1136, H.R. 2573 in the last Congress). The bill would create and preserve more than 2 million affordable homes, support three million jobs, and generate $119 billion in sustainable tax revenue.
- Congress should also enact a meaningful tax incentive for commercial-to-resident property conversions along the lines of the *Revitalizing Downtowns and Main Streets Act of 2025*. The bill would create a 20 percent tax credit for the costs associated with converting older commercial buildings to housing, provided the housing includes a significant set-aside for affordable rental units.
- Aside from legislative strategy, the new administration should build on the progress made in the last administration, based on RER input and listening sessions, **to streamline federal agency loan programs to provide financial support** for CRE conversions. In particular, the administration should gear Department of Transportation loans for transit-oriented development (RRIF and TIFIA) to better enable commercial-to-residential building conversions.
- The single-family rental (SFR) market also holds great promise to increase the nation's housing supplies. Studies show that SFRs provide opportunities for upward social and economic mobility to households that are unable to buy homes but can rent in neighborhoods with better school districts.
- On March 24, 2025, RER responded to the FTC's request for public comment regarding the impact that large-scale SFR operators and institutional investors are having on home prices and rents in single-family housing. Institutional capital is essential to expanding housing supply and addressing the chronic housing shortage affecting affordability nationwide.

Additional Resources

- Roundtable Weekly, "Ways and Means Members Reintroduce Bipartisan Property Conversions Legislation" (March 28, 2025)
- RER letter to FTC on Single-Family Rental Housing (March 24, 2025)

Property Conversions and Housing Tax Incentives

- RER letter supporting the *Renewing Opportunity in the American Dream to Housing Act* ("ROAD to Housing Act," S. 5027/H.R. 990) (December 10, 2024)
- RER letter in support of the *Revitalizing Downtowns and Main Streets Act* (June 28, 2024)
- RER letter to White House Council of Economic Advisers, providing recommendations to improve low-interest federal loan programs (RRIF and TIFIA) to assist property conversions (April 15, 2024)
- Roundtable Weekly, "Reports Show Single-Family Rentals Increase Housing Availability, Drive Educational Advancement" (June 7, 2024)

Expanding America's Housing Infrastructure and GSE Reform

Issue

There is a chronic shortage of housing in the U.S. that is driving up housing prices and making it more difficult for lower-income individuals to find safe, affordable housing. Housing production in the U.S. is not keeping pace with expanding housing needs. The underbuilding gap in the U.S. now totals more than 5.5 million housing units. The impact of this growing problem of an under-supply of affordable housing is far-reaching and undermines economic growth—particularly in urban areas.

In addition, the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac—the primary funding sources for housing in the U.S.—have been in conservatorship for 17 years. Debate over reforms continues, but no active legislative proposals are currently under consideration. The first Trump administration pushed hard for reform and, in the end, never got anywhere. The Biden team never tried. A second Trump administration and a new Congress in 2025 once again raise the prospect of renewed efforts to remove Fannie Mae and Freddie Mac (the GSEs) from their federal government conservatorship.

Most of the new housing units in recent years have been single-family homes. Through the end of 2023, production of new single-family homes reached more than 1 million annually in 2022 and 2023 for the first time since the housing bubble burst in 2007. Apartment construction is also at historic levels, with 438,500 units built last year, the highest level since 1987. The number of apartments under construction at the end of the year, about 981,000, was an all-time high since the survey began in 1969.

So, with no change in current housing policy, we can expect annual production of approximately 1,515,000 units, including an estimated 1 million single-family units, some 440,000 multifamily units, and approximately 75,000 manufactured homes. Yet, even at the current pace, this level of production remains inadequate. How do we bridge the gap?

The Roundtable's Position

- Safe, decent and affordable housing is critical to the well-being of America's families, communities and businesses. The COVID-19 pandemic has intensified the nation's persistent housing crisis, prompting RER to mobilize with our national real estate organization partners and jointly advocate for policies that will help to increase housing supplies, grow jobs and modernize our nation's critical infrastructure.
- Having a robust housing finance system is critical to expanding America's housing infrastructure to help meet the nation's longstanding goal of ensuring decent and affordable housing for all. Current efforts have failed to keep pace with the growing need for affordable housing.
- GSE reform must appropriately balance taxpayer protections and establish an efficient marketplace with a strong, efficient and sustained financing environment for homeownership, rental housing and sustained mortgage liquidity.
- As the gap between the number of lower-income renters and the supply of affordable units continues to grow, it is critical for the GSEs to provide support for mortgages to aid low- and moderate-income families—for homeownership and rental housing—as well as underserved areas.

Expanding America's Housing Infrastructure and GSE Reform

- As American households increasingly turn to the rental market for their housing, a strong housing finance system should support not only homeowners but also aid the expansion of affordable rental housing.
- Finally, and most importantly, it is important for the industry to focus on sparking a national transformation in housing policy, from the ground up. Through the development of a "battle plan" to unleash a wave of new housing construction, the industry can position itself as the solution to the housing crisis, rather than the problem.
- As efforts to reform the GSEs or privatize these entities are being considered, RER will be engaged, as we have in every prior effort. Sensible GSE reform still makes a lot of sense, but the devil is in the details.

Energy

Real Estate's Role in Unleashing America's Energy Dominance

Issue

President Trump's executive order on "Unleashing American Energy," and priorities announced by US-EPA Administrator Lee Zeldin and US-DOE Secretary Chris Wright, emphasize the same principles: cutting energy costs, pursuing an "all of the above" strategy for American energy abundance, strengthening the nation's electric grid, streamlining federal permitting processes and fostering innovation in artificial intelligence (AI).

The House Bipartisan Task Force on AI recently underscored that America's economic and national security depend heavily on a robust and modernized power grid. Our nation needs enough energy to meet growing electricity demands driven by AI, advanced manufacturing, electric vehicle adoption—and to power our buildings. US-DOE projects that data centers will consume up to 12 percent of U.S. electricity by 2028, primarily to meet AI and cloud computing needs.

The Roundtable's Position

- Prioritize Energy Savings in Buildings: The "nega-watt"—or avoiding energy use—is the lowest cost strategy to achieve U.S. energy dominance. Policies encouraging building efficiency will save families and businesses money on utility bills, create jobs and attract investors seeking to park capital in well-managed and profitable real estate assets.
- "All of the Above" Energy Creation: We need as much energy from all sources. Robust federal R&D efforts must encourage innovation that deliver affordable, reliable, and secure power from natural gas, renewables, nuclear, geothermal, hydropower, battery storage and sequestration. The U.S. cannot afford to cede leadership in developing any of these technologies to China or other competitors.
- Strengthen Grid Reliability and Expansion: Electricity demand is surging. Lawmakers must encourage investments to support quick, cost-effective and reliable power. The real estate industry—with appropriate policy support—can help bring stability to the grid by investing in power purchase agreements and market-based measures like renewable energy certificates (RECs) that help finance energy infrastructure.
- Streamline Permitting Reform: Federal laws like the National Environmental Policy Act (NEPA), and orders from the Federal Energy Regulatory Commission (FERC), must emphasize streamlined approvals for energy generation projects. Policies must also support creation of long-distance, high-speed transmission lines to carry electricity over long distances and across state lines to our nation's population centers.

Additional Resources

- Roundtable Weekly: March 7; January 17; January 10; November 2024
- Comment Letter: RER Urges Congress to Investigate Federal Grants for State, Local Climate Laws Regulating Buildings (February 26, 2025)

Corporate Sustainability Disclosures

Issue

Regulations in the U.S. and abroad seek to require companies to publicly disclose climate-related risks on their finances, operations and assets. Some of these rules are proving more durable than others.

- **Federal Rules:** The Trump administration has vowed to roll back Biden-era rules from the U.S. Securities and Exchange Commission ("SEC") that would have required registered companies to disclose "material" climate-related financial risks in 10-K filings. The agency itself moved in court proceedings last year to place the rule on hold. The climate risk disclosure rules are not expected to take effect while Trump is in office.
- **State Rules:** A vacuum of federal climate reporting rules means "progressive" states are taking up the issue.

  California enacted S.B. 253 and S.B. 261 in 2023. S.B. 253 requires companies doing business in California, with annual revenues greater that $1B, to report global Scope 1, 2 and 3 emissions, with disclosures ramped up over time. S.B 261 requires California businesses, with annual revenues greater than $500M, to more generally disclose climate-related financial risks and measures to mitigate them. A February 3, 2025 court decision indicates these laws are likely to survive litigation. The California Air Resources Board (CARB) is now developing rules to implement both laws, with filings scheduled to start in 2026. CARB has vowed to relax enforcement regarding the first Scope 1 and 2 reports under S.B. 253 only, currently due in 2026.

  Similar bills have been introduced—though not enacted, and not in effect—in Colorado, Illinois, New Jersey, New York and Washington state. Please do not consider this an exhaustive list.
- **International Rules:** The European Commission recently announced simplified requirements under its Corporate Reporting Sustainability Directive (CRSD). The latest announcement reportedly remove 80 percent of companies from the CRSD's regulatory scope, and also limits the types of information large companies and banks must request from smaller companies in their supply chains regarding Scope 3 emissions.

  In its original form, CRSD would apply broadly to U.S. companies with EU subsidiaries and U.S. companies with listed securities on EU exchanges. The European Parliament has delayed CRSD implementation by two years (until June 2026) to give companies more time to prepare.

The Roundtable's Position

- Real estate companies do not own or control sources in their supply chains. Thus, they should not be **mandated** to publicly report Scope 3 emissions and they should be **voluntary** if a company chooses to make them.
- For example, real estate owners and developers do not control operations in tenant spaces. Nor do they control manufacturing processes for construction materials. Accordingly, owners and developers should be under no **mandate** to quantify and report Scope 3 tenant-based emissions, or embodied emissions that occur in factories during product manufacturing.
- Policymakers can encourage **voluntary** Scope 3 reporting by helping building owners and developers capture valid and reliable data from supply chain sources. For example, governments should develop policies for utilities to provide building owners with tenant space energy data. Similarly, government agencies should create a uniform system of "product declarations" for manufacturers to disclose embodied carbon in materials purchased by developers and owners.

Corporate Sustainability Disclosures

- Any reporting cycles should be consistent across varying disclosure regimes, based on when companies collect and verify valid climate-related data within a fiscal year. No framework should require companies to issue a first report based largely on estimates, and then another report later based on collected and verified data, within the same fiscal year.

Additional Resources

RER fact sheet

- California's Climate Disclosure Package: Summary of SB 253 and SB 261 (Sept. 2023)

RER comment letters

- Comments to SEC on proposed climate risk disclosure rule (June 2022)
- Real estate coalition "joint trades" letter to SEC on climate disclosure (June 2022)
- Initial comments to SEC on climate reporting (June 2021)

Energy

Energy Tax Incentives

Issue

President Biden signed the *Inflation Reduction Act of 2022* (IRA) into law on August 16, 2022. If fully implemented, the legislation will invest almost $370 billion over 10 years to tackle the climate crisis.

The new GOP-controlled Congress, however, has vowed to eliminate IRA incentives to "pay for" tax cuts promised by President Trump on the campaign trail, and to extend tax cuts set to expire under Trump 1.0's major code overhaul passed in 2017. Many states with Republican Congress members benefit from clean energy projects supported by the IRA, and some House GOP members defend the incentives. It thus remains to be seen whether Congress may significantly dismantle the IRA with a sledgehammer, or excise specific provisions with a scalpel.

A number of the IRA's changes to the federal tax code may help the U.S. real estate sector reduce energy usage and emissions, particularly:

- A deduction to help make commercial and multifamily buildings more energy efficient (Section 179D);
- A credit to encourage investments in renewable energy generation, storage, grid interconnection and other "clean energy" technologies sited at buildings and other facilities (Section 48);
- A credit to incentivize EV charging stations (Section 30C); and
- A credit to incentivize energy-efficient new residential construction and major rehabs, including multifamily (Section 45L).

RER has encouraged Congress for years to make energy tax incentives more usable for building owners, managers and financiers—and more impactful to help meet energy efficiency goals.

The Roundtable's Position

- Reports show that repealing the IRA will create significant economic damage in terms of lost jobs, lost GDP and higher consumer costs. Tax incentives that are most used and best promote an "all of the above" energy strategy should be preserved.
- "Rules of the game" should not be changed mid-stream. If a business is relying on an IRA incentive to help finance a project that has already started construction, and the credit is part of the deal's capital stack, the incentive must remain available at least until the project is completed.
- Davis-Bacon prevailing wage and registered apprenticeship (PW/RA) requirements are a major barrier for real estate companies to access the IRA's clean energy "bonus" tax credits. These labor standards should be relaxed to encourage projects that make buildings more resilient and efficient.
- IRA provisions allow taxpayers to "transfer" certain credits to unrelated third parties. This policy enables more energy project deployment by REITs and other real estate owners who generally have no appetite to benefit from tax incentives. Congress should keep the "transfer" provisions, and Treasury/IRS should enact rules to optimize credit "transfer" benefits for mixed partnerships with for-profit and not-for-profit owners.

Additional Resources

RER fact sheets

- Clean Energy Tax Incentives Relevant to U.S. Real Estate (July 2023)
- Section 48 Investment Tax Credit: "Base" and "Bonus" Rate Amounts (May 2023)
- *Inflation Reduction Act* Revenue Provisions (Aug. 2022)

RER comment letters on Treasury/IRS notices and proposed rules:

- Prevailing Wage and Apprenticeship Requirements Under the *IRA* (Oct. 2023)
- Monetizing Energy Credits: Transfer and Direct Pay (July 2023)
- Clean Energy Tax Credits for Low-Income Communities, Housing (June 2023)
- Comments on Notice for Section 30C Tax Credits for EV Charging Stations (Dec. 2022)
- Comments on Notices for 179D Deduction for Energy Efficient Buildings, Section 48 Investment Tax Credit, and Section 45L Tax Credit for Residential Construction (Nov. 4, 2022)

Building Performance Standards: Federal, Local and NGO-Driven

Issue

Federal Government: No federal agency has authority from Congress to ***regulate*** private sector buildings through a national building performance standard ("BPS"). However, US-EPA and US-DOE have developed the best ***voluntary*** system in the world to recognize high-performance buildings. In particular US-EPA's ENERGY STAR "taxonomy" provides proven strategies for quantifying, measuring, and improving commercial building efficiency. For decades, ENERGY STAR has provided the real estate industry with tools to save energy costs, reduce energy use and cut emissions.

States and Localities: A number of progressive cities and states (map) have enacted BPS ***mandates***. Generally, state/local BPS laws impose onerous "net zero" emissions and or "electrification" targets. Failing to meet local BPS requirements can result in fines and penalties on buildings. The regulatory specifics, however, vary from jurisdiction to jurisdiction, making compliance exceedingly complex and expensive. To help bring some consistency to the nationwide "patchwork" of building performance regulations, RER has developed a peer reviewed policy guide outlining key issues and talking points that should be considered whenever a state or locality adopts a BPS law.

Non-Governmental Organizations: NGOs have developed their own BPS-type standards and climate accounting frameworks. Some have international influence across global markets. Chief among these are the Science Based Targets Initiative (SBTi) and World Resources Institute's Greenhouse Gas (GHG) Protocol. Government bodies increasingly incorporate GHG Protocol and SBTi standards in their policies. Likewise, major real estate lending and equity institutions have also adopted these NGO frameworks to align with their ESG investment principles.

The Roundtable's Position

- ***Voluntary, non-regulatory federal guidelines signifying "high performance" real estate are critical to unleash America's energy dominance.***
  - These include recognition from US-EPA (e.g., ENERGY STAR and "NextGen" certified buildings) and US-DOE Better Buildings initiatives.
  - US-EPA and US-DOE public-private partnership programs serve important business purposes. They provide standardized, government-backed tools and criteria for the real estate industry to:
    - Quantify energy savings, so families and businesses can save money on utility bills;
    - Place less strain on the electric grid so increasing demands for power can accommodate critical areas of U.S. economic growth like artificial intelligence;
    - Attract investors by showing U.S. buildings are highly profitable and efficiently managed; and
    - Advance technological innovations in America's buildings to enhance our global competitiveness.
  - Ample resources from Congress and the administration should be devoted to maintain and evolve US-EPA and US-DOE public-private partnerships with the real estate industry.

- ***States and localities should ensure their building performance mandates reflect the 20-points raised in RER's peer reviewed policy guide for fair and reasonable BPS laws.***

Building Performance Standards: Federal, Local and NGO-Driven

- Chief among these points: US-EPA and US-DOE guidelines should offer compliance pathways with state/local BPS laws. Uniform federal criteria can bring rationality and consistency to the chaotic "patchwork" of BPS regulatory mandates across the country.
- No city or state BPS law should fine or penalize a "high performance" building recognized by US-EPA or US-DOE partnerships.
- Policymakers must also must also consider how BPS regulations impact key points such as:
  - Affordability and supply of housing for low-income and working class families;
  - Availability of debt, equity and incentives to pay for all of the retrofit projects induced by BPS laws;
  - Reliability of local grids to provide electricity, if power infrastructure is strained by all of the extra loads caused by building electrification;
  - Achievability of goals to reduce overall emissions, if the community's electric grid relies heavily on fossil fuels; and
  - Accessibility of market-based programs (e.g., RECs) to purchase clean power to help achieve an "all of the above" energy strategy.

- ***The U.S. government should not award federal grants to induce states and localities to enforce BPS regulations on the real estate industry.***
  - Our system of federalism gives states and localities the right to develop BPS laws. If a jurisdiction chooses to do so, its laws should not be supported by U.S. taxpayer-funded grants resulting in costly, burdensome regulations.
  - The U.S. government should not award BPS grants for local laws levying fines on buildings that the U.S. government ***itself*** lauds as "high performers"—such as through the US-EPA ENERGY STAR program
  - Congress should oversee federal BPS grant awards and examine how states and localities are spending this money supported by U.S. taxpayers.

Additional Resources

RER policy guide:

- Lessons Learned to Shape Fair and Reasonable Building Performance Standards (BPS) 20-Point Guide (Oct. 2024)

RER fact sheets and newsletter articles:

- Roundtable Weekly: "EPA Releases 'Next Gen' Criteria for Low-Carbon Buildings" (March 22, 2024)
- Roundtable Weekly: "CRE Coalition Asks EPA to Help Standardize Conflicting State, Local Building Emission Laws" (Sept. 15, 2023)
- Fact sheet: Science-based Targets Initiative ("SBTi") (Aug. 9, 2023)

RER comment letters:

- RER letter to Congress requesting oversight of DOE grants to states/localities for BPS mandates (Feb. 2025)
- RER letter to US-DOE regarding Inflation Reduction Act grants supporting state/local BPS mandates (Oct. 2024)

Energy

Building Performance Standards: Federal, Local and NGO-Driven

- RER and Nareit joint letter and technical comments on US-DOE's ZEB definition (Feb. 2024)
- Real estate coalition "joint trades" letter to EPA supporting Portfolio Manager (Sept. 2023)
- RER/Nareit supplemental letter to SBTi (Aug. 2023)
- RER/Nareit comments to SBTi on building sector guidance (July 2023)
- RER comments to EPA on proposed "Next Gen" criteria (March 2023)
- RER comments to Institute for Market Transformation (IMT) on "model" BPS law (April 2021)

Cyber and Physical Threats

Issue

The rising incidence of violent crime, organized retail crime, civil unrest, cyber-attacks, artificial intelligence (AI) and the renewed threat of terrorism have prompted increased vigilance, information sharing and legislative efforts to improve our nation's resilience. The proliferation of these threats has raised concerns in the commercial facilities sector about how to protect commercial properties and the people who occupy them from such threats. In addition to the challenges posed by these threats, the Russian invasion of Ukraine, conflict in the Middle East and rising tensions in Asia have raised security concerns about the increased incidence of cyber-attacks from the Russian Federation, the People's Republic of China (PRC), Iran, North Korea and other state actors.

In May 2024, the U.S. government announced that several aspects of the U.S. National Cybersecurity Strategy were advanced or had gone into force this year. This includes progress on scores of objectives including developing cybersecurity scenario exercises to help critical infrastructure owners prepare for attacks from nation states and malicious cyber actors and proposing changes to the way the government maintains security. The strategy also aims to ensure that the U.S. stays at the forefront of developing cybersecurity standards and establishes a State Department Bureau of Cyberspace and Digital Policy to build international partnerships to counter malicious cyber actors.

First released in early 2023, the US National Cybersecurity Strategy was designed to "secure the full benefits of a safe and secure digital ecosystem for all Americans" and bolster collaboration between the public and private sectors to ensure a secure cyber ecosystem, according to a White House statement.

The Roundtable's Position

- Recent high-profile hacking attacks have brought to the fore the necessity of fortifying the nation's IT infrastructure against cyber-attacks. Additionally, there are growing concerns about AI having the potential to create new risks. Key concerns include the risk of cyberattacks exploiting AI vulnerabilities, leading to unauthorized access to facilities or sensitive data.
- The Office of the National Cyber Director (ONCD) issued a report that discusses its efforts to develop "a comprehensive policy framework for regulatory harmonization" that aims to "strengthen" cybersecurity resilience across critical infrastructure sectors, "simplify" the work of sector-specific regulators while taking advantage of their unique expertise, and "substantially reduce the administrative burden and cost on regulated entities." Comments indicate frustration with a disjointed regulatory environment that increased compliance costs without a commensurate enhancement in cybersecurity.
- The ONCD plans to use the report to inform its pilot effort to develop a reciprocity framework for a designated critical infrastructure sector. A companion blog post from the head of ONCD describes the pilot as seeking to "design a cybersecurity regulatory approach from the ground up." The blog calls on Congress for help to bring relevant agencies together "to develop a cross-sector framework for harmonization and reciprocity for baseline cybersecurity requirements."

Cyber and Physical Threats

- RER has raised concerns that duplicative and inconsistent regulations create additional challenges for those tasked with defending the nation's critical infrastructure, including the CF sector, and undermine cyber preparedness. Policymakers must work together to identify and address this overlap. We look forward to working with policymakers toward a more effective framework and welcome input from our members.
- Through our Homeland Security Task Force and Real Estate Information Sharing and Analysis Center (RE-ISAC), RER remains focused on measures that businesses can take—such as creating resilient infrastructure that is resistant to physical damage and cyber breaches—through increased cross-agency information sharing and cooperation with key law enforcement and intelligence agencies.
- Through a Cybersecurity Information Sharing and Collaboration Agreement with DHS's CISA, the RE-ISAC engages in operational efforts to better coordinate activities supporting the detection, prevention and mitigation of cybersecurity, communications reliability and related data threats to critical infrastructure.
- In addition to civil unrest, organized retail crime and violent attacks on properties across the U.S., real estate continues to face a variety of cyber and physical threats, such as:
    - Disruptive and destructive cyber operations against strategic targets, including an increased interest in control systems and operational technology;
    - Cyber-enabled espionage and intellectual property theft;
    - Improvised explosive devices (IEDs);
    - Attacks against U.S. citizens and interests abroad and similar attacks in the homeland;
    - Tenant fraud;
    - Pandemic risk; and
    - Unmanned aircraft system (UAS) attacks against hardened and soft targets.
- As a critical part of the nation's infrastructure, real estate continues to assess and strengthen its cyber and physical defenses to protect our industry from an array of threats—international and domestic terrorism, criminal activity, cyber-attacks, border security and natural catastrophes.
- RER continues to promote security measures against both physical and cyber threats by facilitating increased information sharing and cooperation among its membership with key law enforcement and intelligence agencies.