National Council *of* State Housing Agencies

August 12, 2024

Marcea Barringer
Supervisory Policy Analyst
Federal Housing Finance Agency
400 Seventh Street SW
Washington D.C. 20219

RE: Request for Input: The Enterprises' Proposed 2025-2027 Underserved Markets Plans

Dear Ms. Barringer:

The National Council of State Housing Agencies (NCSHA),[1] on behalf of the nation's state housing finance agencies (HFAs), thanks the Federal Housing Finance Agency (FHFA) for the opportunity to respond to the Federal Housing Finance Agency's (FHFA) June 11 Request for Input (RFI) on the government sponsored enterprises (GSEs) Fannie Mae's and Freddie Mac's Underserved Markets Plans for years 2025-2027. NCSHA thanks FHFA and Enterprises for their work on the Duty to Serve program and the new proposed Plans.

The Duty to Serve rule has catalyzed unprecedented GSE investment in underserved housing markets. HFAs have contributed to these efforts. Both Fannie Mae and Freddie Mac are currently working with HFAs, or through HFA programs, to help them meet their Duty to Serve missions. Such partnerships include Housing Credit investments, expanded GSE support for manufactured housing lending and resident-owned manufactured housing communities, and lending to low- and moderate-income families in rural areas.

As state-chartered public-mission entities dedicated to a broad range of affordable housing finance needs in urban, rural, and suburban areas, HFAs are natural partners for Fannie Mae and Freddie Mac as they work to achieve their Duty to Serve obligations. HFAs are deeply engaged in each of the Duty to Serve underserved market areas.

As Fannie Mae and Freddie Mac prepare to enter their third Duty to Serve plan cycle, we encourage each firm to continue seeking out opportunities to collaborate with HFAs and remain open

[1] NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

to HFA input on possible Duty to Serve initiatives. NCSHA is happy to help facilitate such discussions if FHFA or any of the GSEs wish.

More specifically, NCSHA believes there are several opportunities for the GSEs to work with the HFAs to fulfill their Duty to Serve obligations. These include expanded activity in the Low-Income Housing Tax Credit (Housing Credit) market, funding and equity for preserving affordable housing properties financed through the U.S. Department of Agriculture's (USDA) Section 514 and 515 programs, promoting rural homeownership, and affordable home improvement financing.

Broaden and Increase GSE Duty to Serve Housing Credit Investments

One of the most impactful Duty to Serve initiatives is the GSEs' investments in Housing Credits for properties located in rural areas, for which the GSEs are eligible for Duty to Serve credit. Since the Duty to Serve rule took effect, the GSEs combined have made over $4.2 million in Housing Credit investments to support over 1,000 properties, 127 of which were in high-needs rural regions.

The Housing Credit is our nation's most effective tool for financing the production and preservation of rental housing affordable to low-income Americans. Fannie Mae's reentry into the Housing Credit market in 2018 came at a critical time, as the lower corporate tax rate enacted by the Tax Cuts and Jobs Act of 2017 had put downward pressure on the price of Housing Credits. This continues to be a particularly acute issue for Housing Credits that support developments in rural markets, which often do not have the same potential pool of investors as projects in urban areas, where financial institutions purchase Housing Credits to earn credit under the Community Reinvestment Act.

NCSHA thanks FHFA for its recent actions to encourage these investments and ensure they help to foster affordable housing. These actions include increasing the 2024 cap for each GSE's Housing Credit investments from $850 million to $1 billion, which will inject critical liquidity into the Housing Credit market, and directing the GSEs to limit their Housing Credit investments to properties where the owner has waived their right to a qualified contract.

NCSHA appreciates that both Fannie Mae and Freddie Mac propose in their Plans to remain active participants in the Housing Credit markets, despite market and regulatory headwinds. We urge FHFA to work with both Fannie Mae and Freddie Mac to maximize their involvement in the Housing Credit market. One way to do so is to allow the GSEs to receive Duty to Serve credit for Housing Credit investments that support other Duty to Serve mission areas, such as manufactured housing communities and affordable housing preservation.

The most crucial step FHFA can take to foster further GSE Housing Credit investment is to resolve the issue of whether Fannie Mae or Freddie Mac qualify as tax-exempt controlled entities (TECEs). Uncertainty on this question has limited the GSEs' ability to participate in multi-investor Housing Credit funds. Most investors in Housing Credit properties invest through such funds, allowing them to limit their risk even when these funds invest in underserved markets where investment can be more challenging. Multi-investor funds often finance properties in rural areas, whereas a single-investor proprietary fund may be unwilling to take on the risk of these types of properties.

Fannie Mae's participation in multi-investor Housing Credit pools provides needed liquidity for Housing Credit properties in rural areas and is a valuable tool in the firm's efforts to meet its obligations to support affordable rural housing options. Fannie Mae in recent years has made a substantial majority of its Housing Credit investments through multi-investor funds. It is also our understanding that, while Freddie Mac has so far only invested in Housing Credits through proprietary funds, it is actively considering participating in multi-investor funds.

Unfortunately, multi-investor funds that include – or might include – Fannie Mae have been negatively impacted by concerns raised about whether the GSEs qualify as TECEs. This diminishes participation in multi-investor funds that include Fannie Mae, because, if any fund participants qualify as TECEs, then all fund participants lose the ability to access certain tax benefits, including accelerated depreciation, bonus depreciation, historic rehabilitation tax credits, and certain energy credits. For a time, due to this concern, Fannie Mae was forced to pull out of multi-investor funds. Though the company has been able to develop a temporary workaround allowing it to participate in such funds again, it does not view that solution as viable indefinitely.

NCSHA is currently working to advance bipartisan, bicameral legislation, the Preserving Rural Investments Act, that has been introduced to clarify that Fannie Mae and Freddie Mac are not TECEs. In the meantime, we ask that FHFA continue to seek clarification from Treasury that the GSEs are not TECEs to allow for more robust Housing Credit investment activity from Fannie Mae and Freddie Mac.

Limit Owners' Ability to Engage Qualified Contract Transactions

Helping to prevent the early termination of Housing Credit affordability restrictions through the tax code's qualified contract (QC) provision is consistent with the GSE's commitment to preservation through their Duty to Serve. This is why NCSHA supports FHFA's decision last year to limit Fannie Mae's and Freddie Mac's equity investments in Housing Credit properties to developments for which the owner agrees to waive the right to a QC. We also appreciate Freddie Mac's commitment to review existing research on the use of Low-Income Housing Tax Credit QC provisions and intention to develop a framework for interventions related to debt offerings.

We recommend the GSEs take the further step to mitigate QC losses by helping finance multifamily loans on Housing Credit properties only if the owner has agreed to waive their QC rights. We also recommend FHFA prohibit the GSEs from purchasing loans on properties financed with Housing Credits if the owner has exercised the QC process to terminate rent and income limitations.

Loans on such properties would require an attestation from the borrower confirming that the property has not gone through the QC process.

Preserving USDA Affordable Properties

Fannie Mae's draft Plan proposes to modestly increase its nascent efforts to preserve the affordability of properties funded under USDA's Section 515 Rural Rental Housing Program. Specifically, Fannie Mae proposes to finance the preservation of 85 affordable Section 515 units each year of the Plan cycle, and to increase technical assistance for owners and operators of such properties to help them remain affordable. Freddie Mac's Plan contains no specific purchase targets for Section 515 properties, which it did include in its previous Plan, but does commit to making capital available to support affordable rural housing projects, including Section 515 properties.

Section 515 was once the principal source of financing for affordable rental housing in rural areas. However, the program has seen its funding cut by nearly 95 percent in the last few decades, limiting the program's ability to finance new housing. In fact, no new housing has been financed through Section 515 since 2012. In the meantime, more and more properties financed with Section 515 have had their mortgages mature and their affordability periods expire, limiting affordable housing options for low-income rural households. It is estimated that there are 390,000 Section 515 units throughout the country, down from a peak of 550,000.

Given the critical need, we urge FHFA and the GSEs to do more to preserve the affordability of Section 515 properties and housing built through other USDA multifamily programs. An ideal place to start would be for the GSEs to develop a product to finance loans for properties going through USDA's "decoupling initiative," which allows Section 515 housing, as well as housing built through the Section 514 Farm Labor Housing program, to remain eligible to receive long-term rental assistance through the Rural Housing Service after their mortgage matures. The success of this initiative, which fits squarely in the GSE Duty to Serve obligations to support rural housing and affordable housing preservation, will depend greatly on the ability of property owners to secure affordable financing. The GSEs are well positioned to step in and meet this crucial need. Additional GSE Housing Credit investments in projects to recapitalize decoupled properties would also be beneficial.

Expanding Homeownership Opportunities for Working Rural Families

Both GSEs propose in their Plans to engage in several different activities to support affordable homeownership for rural regions and communities. We commend the GSEs for their commitment to this market and suggest they can do more in this area by partnering with State HFAs. HFAs have a strong track record of responsibly and sustainably funding affordable homeownership lending to low- and moderate-income borrowers and underserved communities, including rural regions.

To further support affordable homeownership in rural areas, we urge FHFA and the GSEs to maintain the competitive advantage of each GSE's HFA-specific products (Fannie HFA Preferred and Freddie HFA Advantage). We also recommend the GSEs work with HFAs to develop other new products and initiatives to expand credit to rural borrowers.

Home Improvement Financing

Our nation's lack of affordable for sale housing is a persistent crisis. In the aftermath of the Great Recession, construction of new for-ownership homes has not kept up with demand. As a result, our nation's stock of for-ownership housing is quicky aging. According to the American Community Survey, the median age of owner-occupied homes in the United States is 40 years old. A little less than half of the owner-occupied homes were built before 1980, and around 35 percent were built before 1970.

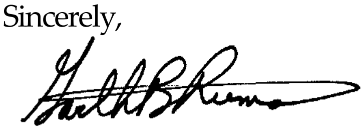
As homes get older, they require necessary repairs and upgrades to remain habitable. Unfortunately, many working families have trouble accessing affordable financing to pay for such projects. This is a particular concern for many people in rural, manufactured, and at-risk housing.

NCSHA appreciates that Fannie Mae has proposed in its Plan to explore the development of a small-scale renovation loan product for single-family properties. We submit this is an area where more concrete GSE involvement is necessary. Such activities certainly fall under the purview of the GSEs' Duty to Serve affordable housing preservation, and the GSEs' strong market presence puts them in a great position to catalyze a market for such lending.

HFAs have in recent years explored and launched various new initiatives to fund home improvement loans for low- and moderate-income homeowners. They stand ready to work with the GSEs on this crucial issue.

Thank you again for the opportunity to comment. Please let us know if we can provide any additional information as you consider our recommendations.

Sincerely,



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