The Community Preservation Corporation
28 East 28th Street, 9th Floor
New York, New York 10016

July 10, 2017

The Honorable Melvin L. Watt
Federal Housing Finance Agency
400 7th Street, SW
Washington, D.C. 20219

Re: Fannie Mae and Freddie Mac Duty to Serve Proposed Underserved Markets Plans Comments

Dear Director Watt:

The Community Preservation Corporation (CPC) is a New York-based nonprofit affordable multifamily housing lender, certified Community Development Financial Institution (CDFI) and longstanding qualified Seller/Servicer for both Freddie Mac and Fannie Mae. We are pleased to have the opportunity to comment on the Fannie Mae and Freddie Mac Duty to Serve Plans, dated May 8, 2017, and May 6, 2017, respectively.

In our March 17, 2016 comment letter on the Duty to Serve Proposed Rule, we identified seven key elements that we believe the Duty to Serve Plans should include. We repeat them below, along with our commentary on whether the Fannie Mae and Freddie Mac plans do in fact address them, specifically in their proposals for the Affordable Housing Preservation Market.

Although we recognize the constraints of the Statutory-Regulatory-Additional-Activities format imposed on the plans, and we note favorably that both plans are certainly comprehensive and thorough within that format, it is our view that they too often pursue the low-hanging fruit of existing programs (e.g. "buy more LIHTC loans and credits") and non-program work ("publish a study"), rather than creating new programs and products to meet challenging market needs.

CPC's desired key elements:

1. Long-term fixed rates with self-amortization. The availability of long-term fixed-rate mortgage financing is as vital to multifamily affordable housing operators as it is to single-family homeowners. Although not all will use it, a long-term fixed rate allows multifamily buildings to maintain stability and affordability as other costs escalate.

Comments: This general imperative is already well-represented in most Fannie Mae and Freddie Mac programs and so is implicitly covered in their plans, but there is little or no discussion of (a) extending loan terms beyond 30 years to better match local regulatory agreements that can now routinely be 35 years or longer, (b) allowing public subordinate debt with all products (especially Freddie Mac's successful Small Balance Loan Program), (c) purchasing more loans with nonprofit borrowers, or (d) providing lower interest rates generally as a way of encouraging long-term fixed rate debt on affordable housing preservation properties. These would readily fit into the Statutory Activity of assisting state and local affordable housing programs.

2. Long forward commitments. Long enough to accommodate a construction period of 24 to 36 months, so that an owner can begin a new construction or rehab project knowing their permanent loan rate in advance. We refer here to an advance rate lock, and not merely a spread lock where rates would vary with the index.

Comments: This does not appear to be addressed in either plan, although we note approvingly that Freddie Mac is undertaking a forward commitment pilot program that we hope will become part of their regular activities.

3. Construction lending. Consistent with the Charter Act, the Enterprises should be able to create a form of secondary market for construction loans for the rehabilitation of occupied, income-producing multifamily buildings. They currently do this in a limited fashion by the inclusion of repair holdbacks in their purchased permanent loans. For states like New York, however, which has a vigorous lien law that is often inconsistent with such repair holdbacks, other solutions could be explored such as purchasing construction loans from Seller/Servicers once a certain percentage completion has been reached and advancing funds periodically to the Seller/Servicers for the remaining loan advances.

Comments: This does not appear to be addressed in either plan, although we are aware that Freddie Mac is examining just such a possible program.

4. Prepayment flexibility. Reasonable prepayment lockouts and penalties that are not based exclusively on yield maintenance. The success of FMAC's SBL initiative shows the market attractiveness of more flexible prepayment terms.

Comments: This does not appear to be addressed in either plan. Freddie Mac, however, proposes the creation of new offshoots from its Small Balance Loan Program to create credit enhancements or permit participation certificate securitizations for small lenders (Activity 5; Objectives B-D), which CPC strongly supports and which could provide for varying prepayment terms.

5. Mandatory and measureable sustainability improvements.

Comments: Freddie Mac lists only one multifamily objective related to sustainability, which is to publish an annual study of efficiencies in its Green Advantage Program. Fannie Mae's plan lists seven objectives but most involve research or papers. CPC works extensively in this field and has recently published "Underwriting Efficiency: A Mortgage Lender's Handbook for Realizing Energy and Water Efficiency

Opportunities in Multifamily Housing," which is a comprehensive road map for underwriting savings from energy and water conservation. Energy and water efficiency improvements should be incentivized in each and every Fannie Mae and Freddie Mac loan purchase product.

6. Correspondent lending. Allow Seller/Servicers to offer correspondent lending relationships to smaller CDFIs that would not be able to qualify with the Enterprises on their own. (This is referenced in the SBL program guidelines but has not been implemented.)

Comments: This does not appear to be addressed in either plan.

7. Tertiary mortgage market. The Enterprises should explore the creation of a "tertiary market" for well-seasoned permanent mortgage loans on affordable housing, which would be purchased from CDFIs and similar lenders with very limited or no loss sharing. CDFIs and other lenders are often able to access capital sources to purchase or fund their permanent loans on a short-term basis (three years, for example), but not for the long tenor of loans that are the most useful to affordable housing providers.

Comments: Purchasing seasoned loans from small financial institutions (including CDFIs) is addressed by Freddie Mac in connection with its Small Balance Loan Program (Activity 5; Objective D), but does not appear to have been addressed by Fannie Mae – although we note that Fannie Mae does discuss creating a small multifamily loan program (Activity F; Objective 1), which might include seasoned purchases.

As a final matter, we are pleased to see that both the Fannie Mae and Freddie Mac Duty to Serve Plans address the need to work more with small financial institutions, including CDFIs, although the two enterprises appear to have different criteria for the institutions. This is a very positive step for our national secondary markets.

CPC is happy to provide further information or commentary as may be requested.

Sincerely,

Rafael Cestero
President & Chief Executive Officer
The Community Preservation Corporation