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Housing Finance & Regulatory Affairs

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Mr. Jim Gray
Duty to Serve Program Manager
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Dear Mr. Gray,

On behalf of the National Association of Home Builders (NAHB), I appreciate the opportunity to provide comments on The Duty to Serve Underserved Market Plans submitted by Fannie Mae and Freddie Mac (collectively, the Enterprises or GSEs) to the Federal Housing Finance Agency (FHFA).

NAHB is a Washington DC-based trade association representing more than 140,000 members involved in the development and construction of for-sale single family homes, including homes for first-time and low- and moderate-income homebuyers, as well as the construction, ownership and management of multifamily rental housing, including affordable rental housing. The ability of the home building industry to meet the demand for housing, including addressing affordable housing needs, and contribute significantly to the nation's economic growth is dependent on an efficiently operating housing finance system, including a robust and liquid secondary market for originated mortgage products.

Background

The Duty to Serve Underserved Markets (Duty to Serve), as mandated by the *Housing and Economic Recovery Act (HERA) of 2008*, calls for Fannie Mae and Freddie Mac to facilitate a secondary market for mortgages serving manufactured housing, affordable housing preservation, and rural markets. The GSEs must serve these markets in a safe and sound manner for residential properties that serve very low-, low-, and moderate-income families.

FHFA issued a final rule on December 13, 2016 to implement the Duty to Serve provisions. The rule requires each Enterprise to propose a three-year Underserved Markets Plan (Plan), which is subject to public comment and revision. The Plans must describe specific activities and objectives each GSE will undertake to fulfill its Duty to Serve obligations in each underserved market - manufactured housing, affordable housing preservation, and rural markets. The activities and objectives in the Plans may be subject to change based on factors including public input, FHFA comments, compliance with the Enterprises' Charter Acts, safety and soundness considerations, and market or economic conditions.

Both Enterprises submitted their proposals to FHFA. Freddie Mac submitted its "Duty to Serve Proposed Plan" on May 6, 2017. Fannie Mae followed with its "Duty to Serve Underserved Markets Plan for the Manufactured Housing, Affordable Housing Preservation, and Rural Housing Markets" on May 8, 2017. Each will update its Duty to Serve Underserved Markets Plan after reviewing public input and FHFA feedback. Both Plans must receive a non-objection from FHFA before January 1, 2018, the date on which they take effect.

FHFA has cautioned Stakeholders that the Plans must be accomplished within the confines of the safety and soundness and the goals and policies of the Enterprises' conservatorships.

General Comments

NAHB has long supported the sentiments expressed in the1949 National Housing Act, which states "the general welfare and security of the nation requires the realization as soon as feasible of the goal of a decent home and suitable living environment for every American family." The association has urged state and local governments, as well as Congress and the Executive Branch, to encourage and adopt policies and programs that foster housing affordability and produce and preserve affordable housing for all residents. Though home builders play a primary role in developing affordable housing for homeownership and rental, the responsibility for achieving the broader objectives belongs to society as a whole.

The Duty to Serve rule incented the Enterprises to expand activities in the three underserved markets to ensure the benefits of a liquid secondary market will flow to very low-, low- and moderate-income homeowners and renters on a consistent basis through economic cycles. Though the Enterprises continue in conservatorship, their core statutory purposes remain intact and include support of affordable housing through the affordable housing goals and implementation of the Duty to Serve rule. Compliance with these requirements must also satisfy the Enterprises' safety and soundness and Charter obligations.

In the Underserved Markets Plans submitted by Fannie Mae and Freddie Mac, both Enterprises emphasize data collection, research, collaboration with relevant agencies and experts, and distribution of information in their Duty to Serve plans. NAHB commends the emphasis on research and data collection and encourages the Enterprises to collaborate with industry stakeholders on all objectives and actions in both the multifamily and single family arenas. We are pleased that the Enterprises are planning thoughtful, informed approaches to improving their loan products and increasing liquidity in the single family and multifamily mortgage markets, as well as in "green" loans to finance energy efficiency improvements.

With these principles in mind, NAHB's comments will focus on the GSEs' proposals to re-enter the Low Income Housing Tax Credit (LIHTC) equity market and small multifamily programs.

LIHTC Equity Investment

Until 2008, the Enterprises were actively involved in the LIHTC market as both debt and equity investors and also as guarantors. Like other investors, Fannie Mae and Freddie Mac exited the LIHTC market when their financial conditions constrained the use of tax credits. The loss of LIHTC investors led to a significant decline in the production of affordable rental units and the supply of affordable housing for multifamily renters has continued to decline. The Enterprises remain active in the debt side of LIHTC investments, but FHFA, as conservator, has prohibited their participation as equity investors and guarantors.

Each GSE proposed a modest, limited re-entry into the LIHTC equity investment market. The Duty to Serve Rule limits this activity to rural areas, and the investments are subject to approval by FHFA as conservator. In 2018, each GSE plans to analyze market opportunities for LIHTC equity investment in rural areas, conduct outreach and reestablish its infrastructure for such investments. Subject to FHFA approval, each GSE proposes to make equity investments in years 2019 and 2020.

<u>Fannie Mae's Proposal</u>

- Fannie Mae will acquire equity investments in LIHTC properties to facilitate the provision of affordable rural areas housing, including but not limited to, housing associated with other Statutory and Regulatory Activities (i.e. Project-Based Section 8, Section 515 Rural Housing, LIHTC debt financed projects, small multifamily properties, etc.).
  - In 2018, conduct research, outreach and rebuild LIHTC investment infrastructure;
  - In 2019, Fannie Mae will acquire at least five equity investments in LIHTC projects in rural areas; and
  - In 2020, if approved by FHFA, Fannie Mae will acquire at least 10 equity investments in LIHTC projects in rural areas.

<u>Freddie Mac's Proposal</u>

- Freddie Mac plans to develop a product that leverages LIHTC equity investment in order to help meet the affordable rental needs of low-income families in high needs rural regions, including members of Indian tribes in Indian areas as well as agricultural workers in designated rural areas.
  - In 2018- 2019 Freddie Mac will conduct research, outreach and rebuild LIHTC investment infrastructure;
  - In 2019, begin LIHTC equity investment, subject to conservator approval;
    - Freddie Mac's initial target is to achieve the lesser of one transaction or 5 percent market share in high needs rural areas over plan years 2019-2020;
    - At the end of 2019, Freddie Mac will file a plan amendment with FHFA based on research of LIHTC in high needs rural areas and revise LIHTC equity investment goals.
  - In 2020: Freddie will have completed at least one LITHC equity investment or achieved 5 percent market share;
    - But could potentially reach a 15 percent market share or a different target based on an approved plan amendment.

<u>NAHB Comments</u>

NAHB believes the Enterprises can assist with the preservation of affordable rental housing by investing in both the debt and equity side of the LIHTC market. Each Enterprise proposed a gradual return to LIHTC equity investment, which is limited to rural areas and subject to FHFA's approval as their conservator. NAHB would have preferred no regional or geographic restrictions on GSEs' LIHTC equity investment opportunities. Nevertheless, we believe permitting the Enterprises to rebuild their LIHTC investment infrastructure and re-enter the LIHTC equity investment market would be a positive and beneficial development for inadequately housed low-income families in rural America. Therefore, we consider the proposals offered by the GSEs as positive first steps to re-entry in LIHTC equity markets.

The Enterprises should be permitted to make LIHTC equity investments to the degree the marketplace calls for their involvement and in accordance with safety and soundness considerations. Rural areas desperately need quality affordable multifamily housing. The LIHTC program will benefit from the competition for credits. Sufficient levels of investment and competition for the tax credits could increase the value of the credits, which would result in more capital and greater affordability for LIHTC projects.

Further, NAHB believes allowing LIHTC equity investments to be eligible for Duty to Serve credit will incent the Enterprises to stay in the market when they might otherwise exit during a period of declining income and decreased tax liability. Participation by the Enterprises, incented by Duty to Serve credit, would help ensure LIHTC investments are less vulnerable to market volatility. The Enterprises also are motivated to participate in LIHTC as debt investors because purchase of LIHTCs can be counted toward multifamily affordable housing goals.

The Enterprises should make their investment decisions based on their knowledge of markets and expertise in risk management. Based on the scope of the GSEs' research and in accordance with safety and soundness considerations, NAHB hopes that FHFA will permit the GSEs to become robust LIHTC investors in rural America. Similarly, pending the outcome of Freddie Mac's research on how LIHTC may be used most effectively in high-needs rural areas, we would encourage the Enterprise to propose a more vigorous LIHTC equity investment target than a minimum of one transaction for FHFA's approval.

Small Multifamily Financing

Both Enterprises proposed initiatives to support small multifamily properties with 5 to 50 units, as well as programs to support small financial institutions having assets of $304 million or less. Each GSE also intends to support financing for preservation and recapitalization of USDA's Section 515 rural housing properties.

Examples of Fannie Mae's plans include, but are not limited to:

- Considering loan product and underwriting changes to purchase multifamily mortgage loans from small financial institutions in rural areas and purchase loans. This objective includes:
  - Conducting outreach to three investors to determine potential mortgage backed securities (MBS) investor appetite for multifamily mortgage loans in rural areas;
  - Obtaining necessary approvals to begin purchasing subject loans in 2019; and
  - In each of Years 2019 and 2020, purchase at least 15 multifamily loans originated by a small financial institution in rural areas.

- Identifying market opportunities, lenders, and other partners and product(s) to prepare to proactively purchase small multifamily loans and purchase loans in rural areas.
    - In both 2019 and 2020, Fannie Mae will increase the number of loan purchases on small multifamily properties in rural areas by 20 percent over the Baseline of 51 loans.

- In addition, Fannie Mae intends to purchase at least 45 small multifamily affordable loans from institutions with $10 billion or less in assets by end of 2020.

<u>Examples of Freddie Mac's proposals include, but are not limited to:</u>

- Exploring a small balance loan (SBL) pilot offering for 5 to 50 unit properties in rural areas.
    - In 2020, assuming research (in 2018 and 2019) supports the activity, publish and distribute an official product term sheet for use in a pilot.

- To enable small financial institutions to provide greater community benefit, particularly through five to 50 unit properties, Freddie Mac intends to increase access to liquidity through a full suite of seasoned loan securitizations and guaranty offerings. Its planned products and purchases include:

    - Developing a new offering for small balance loan pool (SBL) securitization.
        - Freddie Mac will introduce a formal product for seasoned SBL pool purchases and securitizations for small financial institutions in 2018. This offering is intended to alleviate the commercial real estate (CRE) regulatory requirements while enabling small institutions to increase financing of small multifamily loans.
        - In 2019, Freddie Mac will provide FHFA with a Product Status Report that will include the number of transactions, number of seller/servicer participants and observations regarding product adoption.

    - Developing a new offering for SBL pool credit enhancement.
        - In 2018, Freddie Mac will develop a credit enhancement product that enables Freddie Mac to wrap small balance loans on banks' balance sheets. In this non-securitized alternative, Freddie Mac would guaranty the underlying small multifamily loans while the bank continues to hold the loans on its balance sheet. This supports small financial institutions that are seeking relief from heavy commercial real estate exposure.
        - In 2019, Freddie Mac will provide FHFA with a Product Status Report that will include the number of transactions, number of seller/servicer participants and observations regarding product adoption.

    - Developing a new offering for SBL participation certificate (PC) securitizations which should appeal to small financial institutions that do not have the capital markets capacity to engage in a securitization.
        - In 2019, Freddie Mac will develop a new PC securitization product for small financial institutions.

- ▪ In 2020 Freddie Mac will provide FHFA with a Product Status Report that will include the number of transactions, number of seller/servicer participants and observations regarding product adoption.

- o Purchasing or guarantying SBLs from small financial institutions.
  - ▪ Assuming the successful adoption of the three offerings described above, Freddie Mac intends to meet a loan purchase or securitization objective for 2020 of the lesser of one transaction or $100 million
  - ▪ Freddie Mac will refine specific loan purchase or securitization targets as it more fully engages in the SBL seasoned pool market with small financial institutions during 2018 and 2019.

NAHB Comments

Small, multifamily rental properties would benefit from sale to the secondary market. Targeting purchases from smaller local and regional banks and community-based lenders who are attempting to meet the financing needs of small multifamily property owners could provide a boost to the liquidity of loans on small multifamily properties and increase affordability of the units. Incenting the Enterprises to purchase small multifamily rental properties from this niche group of small financial institutions also serves as a way to encourage the Enterprises to engage with these small institutions and may lead to additional support for mortgage and small business lending by these institutions. We also applaud the Enterprises' securitization proposals for small multifamily properties. NAHB supports these initiatives since many of our members rely on their community lending institutions for financing and their ongoing viability is critical.

Conclusion

Thank you for your consideration of NAHB's comments on the Underserved Markets Plans proposed by Fannie Mae and Freddie Mac. If you have any questions, please contact Michelle Kitchen, NAHB Multifamily Finance Director, at 202 266-8352 or mkitchen@nahb.org.

Sincerely,

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