July 10, 2017

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General Counsel
Federal Housing Finance Agency
400 7th Street, SW
Washington, D.C. 20024

Subject: Comments on Fannie Mae's and Freddie Mac's proposed Underserved Markets Plans under the Duty to Serve program (RIN 2590-AA27)
(submitted by email to DutyToServeStakeholders@fhfa.gov and by U.S. mail)

Dear Mr. Pollard.

This comment letter is submitted jointly by the Natural Resources Defense Council and the U.S. Green Building Council. We offer these comments to the Federal Housing Finance Agency (FHFA) on Fannie Mae's and Freddie Mac's proposed Underserved Markets Plans (the "Proposed Plans") under the Duty to Serve program.

We very much appreciate FHFA's and the Enterprises' recognition of and attention to the fact that improving energy and water use in homes is a meaningful pathway to preserving affordable housing.

On behalf of each of our organizations, we commend and thank FHFA and the Enterprises for actively seeking our input in the rulemaking process to date for Duty to Serve. The Duty to Serve Final Rule (the "Final Rule") incorporated or addressed many of the points we noted in our comments on the proposed rule. Both of the Enterprises included our organizations in meaningful discussions related to preparing and explaining the Proposed Plans. We genuinely appreciate the cooperation.

We value opportunity to participate in this process and hope our comments will be useful to FHFA and the Enterprises.

I. Introduction

The Natural Resources Defense Council (NRDC) is a national, non-profit environmental organization of lawyers, scientists, and other professionals. NRDC presents these comments on behalf of our 1.3 million members and online activists.

The U.S. Green Building Council (USGBC), a 501(c)(3) nonprofit organization, is committed to transforming the design, composition, and operation of the places where we live, learn and work within a generation to improve the quality of life for all1. USGBC advances leadership in energy and water conservation and efficiency through building design, construction and operations through the widespread use of our flagship rating system, Leadership in Energy and Environmental Design (LEED).

Our comments are wholly focused on the subject of energy efficiency in the Enterprises' Duty to Serve Plans. Energy efficiency is identified by FHFA in the Final Rule as a meaningful pathway to preserve affordable housing – one of the regulatory requirements

At the same time, it is important to note that the core concern expressed in the Duty to Serve (DTS) Rule – that energy expenses are a material ingredient in housing costs and affordability – arises for the Enterprises across their portfolios.

In the Fannie Mae Proposed Plan, energy arises in:

- Section G. Regulatory Activity: Finance improvements on multifamily properties: (a) which reduce energy or water consumption by tenant or property by at least 15 percent; and (b) where the savings generated over the improvement's expected life will exceed its cost (FHFA Criteria) (12 C.F.R. § 1282.34 (d)(2) (Discussion in Fannie Mae Proposed Plan at pages 89-92)
- Section H. Regulatory Activity: Energy or water efficiency improvements on single-family, first lien properties which: (a) reduce energy or water consumption by the homeowner, tenant, or property by at least 15 percent; and (b) where the savings generated over the improvement's expected life will exceed its cost (FHFA Criteria) (12 C.F.R. § 1282.34 (d) (3)) (Discussion in Fannie Mae Proposed Plan at pages 92 et seq.)

In the Freddie Mac Plan, the subject arises in:

- Activity 6, Energy or Water Efficiency Improvements on Multifamily Rental Properties (Discussion at pages 90 – 92).
- Activity 7, Energy or Water Efficiency Improvements on Single-Family, First Lien Properties (Discussion at pages 92 -98).

We also offer a comment on energy and water efficiency in manufactured housing, related to the Fannie Mae Plan activities in Section V (pages 205 et. seq.) and Freddie Mac Plan at pages 10 et seq.).

A note on the pilot ideas proposed in these comments.

Fannie Mae and Freddie Mac in conversations encouraged participants to offer specific ideas for product terms and features the Enterprises might consider for tests to reach the DTS market.

We offer several such ideas in our comments. We do so recognizing that both Enterprises have robust and skilled product development capabilities, and that Fannie Mae and Freddie Mac must consider a wide range of factors, questions, and concerns, including safety and soundness and legal and compliance matters, before implementing any products or product terms. We recognize we have substantially less information about and less exposure to all such considerations and that the Enterprises may have already considered some of the ideas we propose.

The specific ideas we offer in these Comments as possible pilots are intended to be considered for small-scale implementation to test market acceptance, operational feasibility, and the like. We assume any such pilot would occur with controls as needed to fulfill Enterprise and FHFA requirements, and expect that that any implementation would be carefully structured to obtain market-based results while also limiting risks.

II. Comments:

1. **(Single Family). The Enterprises' Plans should identify and prioritize experiments, pilots, and tests of new products or new product features that can be implemented in the near term. Such tests should occur in parallel the research identified in the Proposed Plans.**

If we understand the Proposed Plans correctly, both Enterprises appear to contemplate a significant period of research before they expect to specify and implement tests or pilots to test new single family products or product features.

We urge the Enterprises to expand their Plans to describe specific product concepts and new product features for the purpose of testing in the market in the near term. We recognize any concepts noted will be preliminary and not all will evolve into fully-fledged pilots or prototypes for "in market" testing.

Fannie Mae's Proposed Plan, at Activity H, Objective 1 states: "Conduct outreach and market research through engagements with lenders and cross-functional industry representatives to identify and analyze market challenges, provide information about energy and water efficiency lending products, facilitate the delivery of loans, and maintain a communication feedback loop to facilitate a continuous improvement process."

Objective 2 states: "Conduct research, develop data, and analyze findings to understand the challenges and opportunities in financing energy or water efficiency improvements and distribute findings."

Freddie Mac's Proposed Plan, Activity 7, Objective A, is not clear on sequencing of research and pilots. It states: "Freddie Mac recognizes that we have opportunities to further enhance our product features to specifically address valuation challenges and other market needs. However, as a first step, we see an immediate opportunity to encourage implementation of our existing product features and flexibilities by increasing lender awareness."

Freddie Mac's Proposed Plan continues: "While we work to increase lender awareness about our existing product features, Freddie Mac also plans to conduct limited pilots to test product features ahead of any new offerings. The feedback received during our outreach efforts and the information we obtain from our pilot results will augment the results of the research and development described in Objective A." Freddie Mac's Proposed Plan does not identify specific pilots to test the product features referenced above.

A staged, sequenced approach with research first, pilots to follow, will unreasonably delay needed action in the market by the Enterprises. Moreover, it would ignore the fact that there are many specific, well-grounded concepts available to be implemented now with a reasonable basis to expect beneficial outcomes. In many cases, the best research about consumer behavior, lender adoption, costs, and the like could be obtained in the Enterprises own small-scale market interventions.

We encourage both Fannie Mae and Freddie Mac to identify in their Final Plans specific ideas for small-scale pilots and tests that could be structured that allow for market-based results while also limiting risks. Results from these tests would allow the Enterprises to refine products and features for further implementation.

2. **(Single family) In addition to refining existing lending products designed to fund significant home renovations (like Fannie Mae's Homestyle Energy loan), we encourage the Enterprises to test possible terms for conventional purchase and refinance mortgages for DTS borrowers that would allow a limited amount of additional financing for specified eligible repairs and improvements.**

Both Fannie Mae and Freddie Mac specify in their Proposed Plans the need to re-examine terms of their existing "renovation loans" – a purchase or refinancing lending product designed to accommodate construction or renovation. Typically, the loan contemplates the borrower obtaining proceeds to make energy and water efficiency improvements to the subject home, within eligibility guidelines, and based upon an "as completed" appraisal and other terms such as a process for escrow account disbursements.

Fannie Mae, at Objective 5 states, "Implement updates to the HomeStyle® Energy mortgage single-family loan product to include projections or expectations that the FHFA Criteria are met, simplify product parameters and loan requirements, and maintain appropriate risk controls." Fannie Mae Objective 6 is "Purchase HomeStyle Energy mortgage loans that meet the FHFA Criteria."

Freddie Mac's Activity 7, Objective C is more general, but appears similarly conceived to re-examine terms of an existing cash-out refinancing. It emphasizes lender training for existing products. It states, "During our outreach, we learned that many of Freddie Mac's existing product and underwriting flexibilities in support of energy efficiency are not well known at the lender level and are not being widely used. As a result, during the first year of the plan term, Freddie Mac plans to conduct lender training by leveraging its existing outreach capabilities and dedicated customer education teams to increase lender awareness about its product features and flexibilities in support of financing of energy-efficiency retrofits and high-efficiency homes."

We appreciate that Fannie Mae included goals in their Proposed Plan for this activity. For years 2 and 3 of the plan Fannie Mae aspires to purchase between 100 and 200 HomeStyle Energy loans that meet the FHFA Criteria.

We agree that the Enterprises should make corrections to the existing product, but the low numbers for Fannie Mae goal appear to confirm our perception that a renovation loan is not likely reach a substantial number of DTS borrowers making energy and water improvements.[1]

We encourage the Enterprises to focus on product development within the context of the routine, conventional purchase and refinancing transaction. That is, for a DTS-eligible customer seeking a routine purchase or refinancing loan, could Fannie Mae and Freddie Mac find ways to provide limited additional proceeds to make certain specified energy or water repairs or improvements in the property?

As constraints to attempt to meet, the transaction: (i) should not require low to moderate income homeowners to increase down payments or otherwise use cash beyond that needed for the purchase or refinancing transaction, and (ii) to the extent feasible, the transaction should offer the same origination and loan processing as a conventional purchase or refinancing transaction.

These practical requirements and other Enterprise requirements may make it necessary to significantly limit the eligible repairs and improvements to a limited, pre-figured list of measures. A limited pilot could possibly be defined to substantiate the extent to which a selected f measures are likely to add value to or protect the integrity of the property securing the first-lien transaction.

For purpose of possible pilots to obtain market-based results, the Enterprises might consider the following concepts:

a) At the time of a conventional purchase or refinancing, offer a selected DTS-eligible borrowers the option to obtain additional proceeds (e.g., up to $3,000 to $5,000) to make specified energy or water repairs and improvements, such as weatherization, air sealing, insulation, and the like. If implemented in partnership with a local utility program or state-energy office program the added proceeds could be potentially be disbursed directly to the partner-program implementer with quality controls in place.

Program evaluations of existing weatherization programs should be instructive with regard to this possible pilot. According to one report, weatherization programs appear to often achieve 10% to 15% savings in homes at a cost of $3,000 to $5,000 per house. See Oak Ridge National Labs, Evaluation of the US Department of Energy Weatherization Innovation Pilot Program

[1] There are several reasons why the availability of a renovation loan is unlikely to spur DTS homeowners in meaningful numbers to undertake needed energy and water related repairs and improvements. One reason is that the costs of refinancing can be substantial. Refinancing is likely to make sense only for a subset of borrowers at any time, depending on rates and other factors. For many DTS eligible borrowers, a renovation loan may still require the borrower to provide cash for certain costs, which will exclude additional prospective borrowers. In the context of a purchase mortgage, large numbers of DTS borrowers may not have cash reserves to engage in renovation. And the displacement of residents during renovation is often not practical.

2010–2014 (Published May 2017). As a part of any test, we encourage the Enterprises to attempt to identify the extent to which such the measures add to, or protect, the property value as well as producing lower utility expenses for occupants.

b) The Enterprises might consider following the model established by the successful Fannie Mae and Freddie Mac multifamily programs, which would suggest offering discounts or incentives rewards in the form of lower financing charges to DTS borrowers who make certain limited energy and water related improvements to their property (such as weatherization, air sealing, insulation, and the like). Such rewards would require substantiation in terms of added value for the property or reduced expenses.

c) Share the cost of an energy assessment at the time of home inspection.

d) Allow customers making repairs and improvements identified in an energy assessment or audit to count some amount of expected savings as "income" for purposes of fulfilling eligibility requirements.

3. **(Single Family) We encourage the Enterprises to specify at least one pilot that is designed to reach Enterprises' existing first-lien homeowners with proceeds to support installation of a high-efficiency heating, cooling, or hot water heating system when the borrower's existing system fails and replacement is required.**

Most homeowners with existing Fannie Mae or Freddie Mac first-lien loans will, at some point, face the need to replace essential heating, cooling, and hot water systems. It can be an expensive transaction. Low to moderate income households often use high-priced credit card financing, dealer financing, or to deplete limited cash reserves. Homeowners frequently opt to install equipment with the lowest "up-front" costs even if it has substantially higher life-cycle costs.

Supporting this transaction to assure the borrower could obtain low-cost financing and high-quality, high-efficiency equipment installed through a qualified contractor could yield benefits for the Enterprises and the DTS eligible borrowers. No matter what condition the house, the borrower in many climate zones is likely to obtain materially lower utility expenses with a high-efficiency air conditioner, heater, or hot water heater as compared to a "standard" model they are likely to install without support. Also, installing a high-efficiency system enables many homeowners to obtain incentives from local utility programs.[2] The property securing the Enterprises first-lien loan would therefore be improved in part with funds from an outside source.

A DTS pilot could potentially be offered in a location where homes typically have high heating or cooling loads and the local utility offers a meaningful incentive toward installation of high-efficiency equipment. Any such pilot could be limited to installing one type of equipment -- e.g., a high efficiency air conditioner in a location with high cooling loads.

[2] For example, Duke Energy in North Carolina offers customers up to $800 toward the cost of installing a high efficiency heat pump air conditioner.

We encourage the Enterprises to devote their product development expertise and resources to find a product or product features to test that will help homeowners at this moment when low-cost financing for energy and water related repairs and improvements is most needed.

We recognize this concept presents significant challenges and is unconventional. Nonetheless we feel the potential benefits merit attention. Please consider the following:

(a) For purposes of a DTS pilot, a reasonable basis may exist for Enterprises to conclude that the existing uniform security instrument allows the Enterprises to support additional disbursements to existing first-lien borrowers solely for the purpose of enabling the borrower to replace an essential system upon system failure. Proceeds disbursed in such a program directly to a contractor (or program implementer) may arguably be deemed additional disbursements covered by covenants that require borrowers to maintain and prevent deterioration of the property.[3]

(b) For purposes of a small-scale pilot or prototype to test, a first-lien loan (purchase or refinance) might expressly contemplate a borrower option to receive an additional disbursement up to a specified amount (e.g, up to $5,000) for the purpose of maintaining and preventing deterioration of the property as required. Upon disbursement, such additional proceeds could be added to the loan balance and secured by the existing first-lien instrument. The Enterprises may be able to design terms and documentation so that there is a reasonable basis to treat any such advance, if and when it occurs, as first-lien financing for purposes of DTS.

(c) Another option might be to reserve funds at origination to be disbursed within a certain defined period for one of a few defined repairs and improvements, and to defer financing charges on the reserved funds until a draw occurs.

The Enterprises will find substantial program experience to draw upon with potential partners in the market:

- In Massachusetts, the MassSaves program has organized a network of local and regional lenders to finance homeowner system replacement in cooperation with local and regional utilities, which perform certain quality assurance functions and act as loan servicers collecting the loan payments on the utility bill (“on bill financing”).
- In New York, the state energy office (NYSERDA) has originated thousands of loans to homeowners for energy efficiency repairs and improvements. The NYSERDA loans are also “on bill” financing, with local utilities acting as loan servicers.
- In the southeast US, TVA offered support (a loan guarantee) for a small loan to customers of rural electric co-ops for the installation of high efficiency heat pumps. The loan was originated and held by a regional lender.

We recognize these concepts will require significant examination and testing and close participation of the Enterprises, lenders, and FHFA.

[3] See for example Fannie Mae Deed of Trust, North Carolina (Form 3034 1/01) (accessed on the Fannie Mae website July 1, 2017). Under Uniform Covenants 7 and 9 the borrower appears obligated to maintain the property, and certain follow-on lender disbursements arguably become debt secured by the Deed of Trust. This description is not intended to be legal analysis.

4. **(Single Family and Multifamily) The Enterprises' Plans should offer more specific plans to work with energy and water efficiency programs such as those administered by utilities.**

As discussed in the Final Rule, utilities, state energy offices, and other related parties operate robust programs to support residential energy and water efficiency projects. Such programs support homeowners and multifamily building owners making a wide-range of energy and water efficiency projects.

We encourage the Enterprises to provider greater specificity in their Plans about how they would seek to work with such existing programs. We offer two specific concepts to consider:

(a) The Enterprises should explore "layering" incentives where possible to increase the support delivered to homeowners for specific measures. For example, many utilities offer a program along the lines of Home Performance with Energy Star, in which they offer incentives to reduce the out-of-pocket cost for the customer to obtain an energy audit or assessment and follow-on incentives if the homeowner (or MF building owner) installs measures recommended by the audit or assessment.

Enterprise support for the same interventions would be likely to have greater effect. For example, a DTS homeowner obtaining a Fannie Mae supported refinancing loan could obtain a discount or other incentive if he or she implements improvements through a Home Performance with Energy Star program supported by the utility. Another option is to enable financing (at a discounted rate) for the out-of-pocket costs of a project also supported by the local utility's Home Performance with Energy Star program.

(b) The Enterprises should clarify the flexibility provided in the Final Rule to rely upon project eligibility for utility incentives to satisfy DTS energy savings and cost neutrality requirements.

The Final Rule, at Section 1282.34(d)(2), provides Duty to Serve credit for Enterprise supported financing of energy or water improvements on multifamily rental property provided there are credible projections that (1) the improvements will reduce energy or water consumption by at least 15 percent, and (2) the utility savings are expected to exceed the cost of the project. Section 1282.34(d)(3) applies the same concept to energy or water efficiency improvements on single-family, first lien properties.

At Page 106 of the Final Rule states, "Demonstrating that an energy improvement is cost-effective will only be required for projects undergoing an energy audit that meets a national standard, because the other methods of credibly demonstrating reduction in energy and water consumption are presumed to show that the improvements are cost-effective."

Our reading of the commentary in the Final Rule is that the Enterprises have flexibility to support financing of projects that are eligible for utility program incentives, without additional determinations or documentation of expected savings. For example, if a utility program provides incentives for the installation of a specific model heat-pump air conditioner, Fannie Mae or Freddie Mac may support financing of the cost to install the system as an eligible measure without independently substantiating that the measure is cost-effective based on expected energy savings.

Relying on a utility program's eligible measures list may also help the Enterprises avoid certain difficult fact patterns. For example, in the case of a customer replacing essential equipment (like an air conditioner or heater) with a high efficiency model requires a calculation using as the cost the premium for the high efficiency model (not the total cost of installation), and comparing it to a baseline model – calculations that the Enterprises and lenders should not be expected to delve into.

5. **(Single family and Multifamily) Even though DTS credit is limited to DTS eligible borrowers and transactions, we recommend the Enterprises offer new products (and new product features, tests, pilots, and research) to a wider range of borrowers and transactions. Determining which transactions are eligible for DTS credit could occur separately from eligibility for a loan (or pilot).**

Our comment is based largely on the positive experience of the Fannie Mae and Freddie Mac multifamily "green" initiatives. These successful products were implemented separately from the DTS rule, grounded in findings that more efficient properties produce better outcomes for the Enterprises and all stakeholders. It would not make sense to limit eligibility for the MF Green Rewards and Green Advantage products to DTS-eligible customers. Instead, it makes sense to expect the Enterprises to implement ways to track and identify the subset of transactions that meet the DTS criteria for purposes of DTS goals and credit.

Similarly, it may make sense for the Enterprises to implement and test new products and features with a broad set of homeowners in order to identify effective ways to achieve energy and water improvements in single-family homes that have beneficial outcomes for the residents/borrowers and the Enterprises. The Enterprises would be expected to track and identify the subset of transactions that meet DTS criteria.

Fannie Mae and Freddie Mac should also make clear they will use all of their available authority to explore beneficial options. We understand, for example, that the Enterprises may have the flexibility to purchase, for purposes of general research and product development, subordinate-lien loans. The Enterprises may find opportunities to work with a partner, such as lenders originating loans in the MassSaves or NYSERDA programs, that could provide valuable insights.

We recognize the Enterprises DTS plans must focus on the terms FHFA has identified for DTS credit. We encourage the Enterprises to acknowledge in their DTS Plans the value of supporting energy and water related improvements may extend to other properties in their portfolio, which will likely warrant initiatives in a broader range of Fannie Mae and Freddie Mac activities.

6. **(Multifamily) Fannie Mae's goals for multifamily loan purchases should be more ambitious (given the current success of their programs). Freddie Mac should set similar specific goals for its multifamily program.**

Freddie Mac's Proposed Plan does not include specific measures that would indicate progress to DTS objectives. Freddie Mac's Plan should be revised to include such goals, drawing on the detail set forth below.

Fannie Mae's Proposed Plan states that it will purchase at least 25 loans that reduce usage by 15% in year 1, with 25% increase annually. In light of the very strong results of FNM's Green Rewards suite, which is already generating substantial volume and has achieved market acceptance, it is appropriate to consider more ambitious objectives for number of buildings improved or units improved.

At such time as the Enterprises are able to track estimates of energy saved from supported projects, it may be appropriate to establish goals for total energy saved in DTS eligible activities.

7. **(Multifamily) Fannie Mae and Freddie Mac should consider an objective to achieve greater market consistency in the energy and water attributes of the property condition report required of property owners in connection with purchase and refinancing loans.**

The property condition report or assessment identifies the repairs and improvements an owner and lender should expect during the term of a loan. Both Enterprises use a property condition report, along with an energy audit, to identify repairs and improvements eligible for financing with their Green Advantage and Green Rewards financing products.

We understand that greater standardization in the requirements associated with property condition reports would benefit a range of market participants.

We encourage both Enterprises to use their strong leadership capabilities to confer with a wide range of affordable housing finance participants on this subject, including CDFIs, state housing finance agencies, energy assessors and auditors, and equipment manufacturers. One question to examine is whether common requirements across the industry for the energy and water elements of the property condition report would be beneficial. While we support the value of a full audit to identify repairs and improvements most likely to protect and improve the property, a question to address is whether a less intensive assessment for certain types of properties would produce reliable recommendations for a limited set of repairs that fulfill Enterprise requirements.

8. **(Single Family & Multifamily) We concur with the Enterprises that research is vital, support the specific research initiatives identified by the Enterprises, and support DTS credit for research activities.**

Freddie Mac at Objective A states it plans to "Provide the market with broad empirical information about the impact of energy efficiency on property value and loan performance."

Freddie Mac proposes at Objective B, page 96, to begin the process to assess the Uniform Residential Appraisal Report to correct deficiencies related to the collection of information related to energy and water efficiency of the house.

At Objective D, Freddie Mac states it will develop loan purchase tracking capabilities related to energy and water features, which will lay the foundation for follow-on reseach across data sets.

Similarly, Fannie Mae in its Proposed Plan describes research initiatives. Objective 2 states Fannie Mae will “Conduct research, develop data, and analyze findings to understand the challenges and opportunities in financing energy or water efficiency improvements and distribute findings.”

Objective 4 states: “Work with industry stakeholders to enhance industry standards on how energy and/or water efficient products are captured in real estate listings, appraisals, and other documents, including ways to identify the FHFA Criteria.”

We support the high value of each of these specific research objectives identified in the Freddie Mac and Fannie Mae Proposed Plans. In particular, it is important for the Enterprises to improve their ability to track and substantiate the extent to which various energy and water related attributes of a home factor into valuation, as these factors change over time.

9. **With regard to research, we recommend the Enterprises consider the following ideas for their DTS Plans:**

(a) Conduct research about energy and water use continually and across the Enterprises portfolios generally, not limited to DTS-eligible transactions.

The Enterprises’ interest in improving energy and water efficiency in properties securing their portfolio of loans is not limited to loans for which they will receive DTS credit – better efficiency can reduce total housing expenses for homeowners and renters and improve the property securing a loan supported by the Enterprises. Moreover, findings about energy efficiency and borrower behavior in non-DTS properties could apply to DTS eligible properties.

We recommend Fannie Mae and Freddie Mac engage in research beyond DTS. Research should be structured to inform product management, product development, and risk management across the Enterprise portfolio.

(b) We encourage the Enterprises to consider gathering information about energy use in properties from outside the loan transaction. The Enterprises may find information from other sources such as energy audits or ratings, utility program interventions, and state energy office programs.

(c) Enterprise plans for research and reporting on energy and water features of properties securing Enterprise loans should include some amount of joint, coordinated work of both Enterprises if the research results would benefit from a larger pool of loans and loan–related data. We encourage FHFA to explore options for such studies to harness the information residing with both Fannie Mae and Freddie Mac and potentially additional willing data partners such as FHA or even private mortgage lenders, insurers, service providers, or large investors.

10. **(Manufactured Housing) The Enterprises should consider a product or pilot to support purchase financing of high-efficiency manufactured houses and to**

manufactured home park owners (obtaining MF financing) who make high-efficiency manufactured houses available to residents.

The DTS Final Rule (at footnote 74) appears to contemplate that transactions involving manufactured homes could fulfill single family eligibility for DTS credit. We encourage the Enterprises to expand on this concept with specific pilots for both single family and multifamily transactions for high-efficiency manufactured homes.

11. **(Single Family and Multifamily) We encourage FHFA to work with Fannie Mae and Freddie Mac to explore whether it is appropriate to provide DTS credit for purchase transactions for already-improved homes or multifamily buildings that meet or exceed DTS standards for energy and water savings and meet certain affordability standards.**

Fannie Mae's Green Rewards and Freddie Mac's Green Advantage products currently offer incentives (such as preferential pricing) to multifamily borrowers to purchase multifamily properties that already meet certain energy and water standards or certifications and certain affordability standards.

The Final Rule establishes DTS credit for Enterprise support for financing energy or water efficiency improvements on single-family and multifamily properties. With regard to multi-family loans, the Final Rule (at page 96269) states:

> *Instead, as recommended by some commenters, FHFA finds that if a multifamily property meets a credible and generally accepted standard, such as the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED), EarthCraft, Greenpoint, the National Green Building Standard (NGBS), or the U.S. Environmental Protection Agency's (EPA's) ENERGY STAR certifications, or other standards that may be developed that are credible and generally accepted, then a projected reduction of at least 15 percent in energy or water consumption can reasonably be assumed under the standard.*

We encourage FHFA and the Enterprises to consider that the purpose of the DTS Final Rule would be fulfilled by Enterprise supported products or product features the provide incentives for purchasers of existing high-efficiency homes. Incentives for a homeowner or multifamily building owner to invest in energy and water related improvements may depend, in part, on the ability of another buyer to pay a premium for the energy and water efficiency attributes of the improved property.

As noted in the Final Rule, the market currently provides credible mechanisms and certifications to identify such properties.

Products or product features that offer buyers incentives to purchase high efficiency properties would provide market-based incentives for home builders and homeowners to make energy and water efficiency improvements in homes that could be sold to DTS-eligible consumers.

We acknowledge also the importance of obtaining some assurance that the benefits of the improvements accrue to DTS eligible borrowers or properties.

12. **(Single Family) Both Fannie Mae's and Freddie Mac's Proposed Plans for single family, first-lien financing fail to address the action that would likely accomplish the greatest amount of energy efficiency for DTS-eligible customers at the least cost: assuring all homes supported by Enterprises are built in compliance with a modern energy code in the first place.**

We find it somewhat jarring that the Enterprises will get DTS credit to support homeowners financing the cost to repair energy defects in their homes, such as adding insulation in uninsulated walls, while at the same time the Enterprises support financing that encourages homebuilders to build new homes with these very same energy defects.

We encourage FHFA and the Enterprises to implement a requirement, similar to the requirement in place at the Federal Housing Administration (FHA), to require home builders to certify that a new home meets or exceeds the standards of a modern energy code in order to be eligible to secure a loan supported by the Enterprises. FHA currently requires homes to meet or exceed the 2009 IECC in order to be eligible for a loan insured by FHA, with a process to update the applicable code version. FHA's experience implementing this requirement may provide Fannie Mae and Freddie Mac with guidance on navigating any practical challenges (if there are any).

In the event the Enterprises do not implement such a requirement, they should include in their DTS Plans a description of the benefits and costs of requiring newly built homes to conform to a modern energy code in order to be eligible for a purchase loan supported by Enterprises. Much of the needed data will likely be readily available from the Federal Housing Administration's implementation of a similar requirement. See Final Affordability Determination- Energy Efficiency Standards, Fed. Reg. Vol. 80, No. 87, page 25901 (Wednesday, May 6, 2015).

We recognize that the Final Rule establishes DTS credit for Enterprise support for financing energy or water efficiency <u>improvements</u> on single-family, first-lien properties. We believe it is inappropriate to maintain a policy wholly inconsistent with the policy expressed in the DTS Final Rule.

In addition to having an interest in the affordability of housing generally, Fannie Mae and Freddie Mac have a strong interest in the integrity of America's housing stock. It extends beyond the interests of the initial home purchaser, since it is highly likely the Enterprises will hold a property in portfolio for future homebuyers, including potential DTS eligible homeowners who may occupy the home at some point.

In conclusion, our organizations appreciate the opportunity to comment on the Enterprises' important plans to serve underserved markets. These comments are respectfully submitted jointly by our organizations. If you have any questions about any of the comments or our supporting materials, or if we can provide further information, please do not hesitate to contact any one of the undersigned.

Sincerely,

Philip Henderson

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Natural Resources Defense Council

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U.S. Green Building Council