NATIONAL RURAL HOUSING COALITION

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RE: Comments on the Proposed Duty to Serve Underserved Market Plans of Fannie Mae and Freddie Mac by the National Rural Housing Coalition

On behalf of the National Rural Housing Coalition (NRHC), thank you for the opportunity to submit public comments on the proposed Duty to Serve Underserved Markets Plans of Fannie Mae and Freddie Mac.

NRHC is a national membership organization consisting of housing developers, non-profit housing organizations, state and local officials, and housing advocates. Since 1969, NRHC has promoted and defended the principle that rural people have the right—regardless of income—to a decent, affordable place to live, clean water, and basic community services.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 was amended by the Housing and Economic Recovery Act of 2008 to create a duty to serve three specific underserved markets for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The underserved markets identified for Fannie Mae and Freddie Mac (collectively the Enterprises) to serve are manufactured housing, affordable housing preservation, and rural markets. On December 13, 2016, the Federal Housing Finance Agency (FHFA) published the final Duty to Serve rule on the Federal Register. In accordance with the Duty to Serve Rule, the Enterprises submitted their proposed plans to FHFA, which were posted on the Enterprises website and on FHFA's website for public input.

NRHC respectfully submits the following comments to FHFA on Fannie Mae and Freddie Mac's proposed plans.

Fannie Mae Proposed Plan

While not addressing one of Fannie Mae's specific Objectives, the estimations of the number of U.S. Department of Agriculture (USDA) Section 515 properties and units included on page 72 of the proposed plan are incorrect, based on the most recent data provided by USDA. The proposed plan states that there are 8,900 Section 515 properties and 600,000 units of low-income housing in these properties. According to USDA, as of September 2016 there are 13,704 Section 515 properties comprising 384,456 households.[1]

Preservation of Affordable Housing

Statutory Activity C, Objective #1

Under Statutory Activity C on pages 83 through 84, Fannie Mae identifies Objective #1 as "[w]ork with USDA and other Stakeholders to develop and implement a meaningful approach to Section 515 preservation and purchase loans[.]"

Because Section 515 loans are a direct loan from the federal government, it is unclear that there is any federal authority to purchase Section 515 loans. That said, the Coalition encourages Fannie Mae to examine ways to engage in financing options for Section 515 loans.

The Coalition believes that Fannie Mae can play an important role in addressing the both the preservation and maturation issues facing USDA's Section 515 portfolio, however the wording that is used to describe the percentage of loans that Fannie Mae proposes to purchase is unclear. The proposed plan states that Fannie Mae will "aim to provide financing for at least five to 10 percent of the total properties with financing *expiring* in 2019 and 2020" (emphasis added).

There are two separate but related issues facing the Section 515 portfolio. First, is the number of loans set to mature over the next decade. Once these loans mature, the properties will exit the portfolio, and no longer be eligible to receive Section 521 Rental Assistance, which is essential to maintaining their affordability. In 2019 there are 37 properties with loans that will mature, and in 2020 there are 26 properties.

The second issue facing the portfolio is that, separate from the number of loans set to mature, a large percentage of Section 515 mortgages are eligible for prepayment when their low-income use restrictions expire, which would have the same result as the properties exiting the portfolio. In 2019 there are 5,143 of such loans and in 2020 there are 5,147.

NRHC recommends that Fannie Mae specify that it aims to provide financing for at least five to 10 percent of the total properties with financing eligible to be prepaid in 2019 and 2020, as well as five to 10 percent of the total properties with mortgages maturing in 2019 and 2020. Five to 10 percent of the number of loans that will mature in 2019 would include the purchase of just 1.85 to 3.7 properties, and 1.3 to 2.6 properties in 2020, which would not have a noticeable impact on the preservation of the portfolio as a whole. Comparatively, addressing the percentage of properties eligible for prepayment would be a significant step in ensuring the preservation of the Section 515 portfolio (accounting for between 257 and 514 properties in both 2019 and 2020). However, in order to preserve America's affordable rural rental housing both maturing mortgages *and* those eligible for prepayment must be addressed.

[1] Results of the 2016 Multi-Family Housing Annual Fair Housing Occupancy Report, U.S. Department of Agriculture, September 2016 (available at: http://www.ruralhome.org/storage/documents/rd_obligations/mfh-occupancy/occupancymfh2016.pdf).

Regulatory Activity K, Objective #4

Under Regulatory Activity K, Objective #4 on Page 112, the proposed plan states that Fannie Mae will "[d]evelop and execute strategies to support aging in place through loan products that help older adults preserve housing that is both physically accessible and affordable."

The Coalition supports this objective. Currently, there are very few federal resources available to address the increasing need for housing repairs and renovations that elderly Americans, who often rely on a fixed income, are able to access. Virtually the only resource for the elderly living in rural communities is the USDA Section 504 Loan and Grant program.

The Section 504 program is a tool that allows elderly, low-income rural residents to repair and preserve their homes. It provides assistance to very-low income rural homeowners that are unable to obtain financial resources through conventional means to make necessary repairs to improve the health and safety of their homes. While Section 504 loans do not have an age limitation on their own, they are frequently used with Section 504 grants. Eligibility for Section 504 grants is limited to elderly applicants (those 62 years or older). The Section 504 program is used to improve dwellings, address health and safety violations, and repair or remodel homes to make them accessible for persons with disabilities.

The Coalition encourages Fannie Mae to develop its own product to address the needs for the elderly living in rural communities to allow them to age in place.

<u>Rural Housing</u>

Regulatory Activity A, Objectives #6, 7, and 8

On page 181 of the proposed plan, Fannie Mae states that its 6th Objective for addressing the housing needs in high-need rural areas is to "[c]reate and implement a multifamily work-plan and increase the purchase of loans in Middle Appalachia." Objectives #7 and #8 involve the same goals for the Lower Mississippi Delta and colonias. NRHC supports the inclusion of these regions in the proposed plan.

One of the activities in Year One of the proposed plan for each region requires that Fannie Mae identify the three top multifamily housing issues, as well as two key actions that would enhance Fannie Mae's ability to serve the multifamily markets in these regions. While each region is different in character, they generally face the same multifamily housing issues facing other rural communities:

1. There is a massive shortfall in the funds needed to maintain the habitability of existing properties. The average age of the USDA rural rental housing portfolio is 34 years. As the 2016 USDA Comprehensive Report indicated, there is a 20 year, $5.5 billion cost for maintaining and preserving existing rural rental housing developments and the approximately 470,000 units of existing rural rental housing (Section 515 and 514). Revitalization efforts must expand in order to fully address the scale of the issue. In FY 2015 USDA financed the revitalization of 3,544 units of rental housing, bringing the total number of units revitalized through the MPR to over 30,000.

2. There is a rising tide of maturing mortgages, which will result in increasing affordability issues for low- and very-low-income rural renters. As Sections 515 and 514 loans have matured, those developments and their tenants are no longer eligible for rental assistance. USDA has already lost a substantial number of units, losing 2,646 units from 205 properties in 2015 alone, and this trend is expected to continue over the next several decades. If existing refinancing programs are not expanded and new preservation policies and practices are not explored, rural communities across the country will lose this essential source of affordable housing. According to the Housing Assistance Council's analysis of USDA data, rate of maturation of Section 515 mortgages between 2016 and 2027 is expected to average around 74 properties per year.[2] However, the number of properties exiting the USDA portfolio sky rockets in 2028 to 407, and averages 556 properties per year for the next five years (2028 through 2032).[3] Between 2032 and 2050, an estimated 12,530 properties will mature or be prepaid, with the greatest loss, 927 properties, with some 30,831 units, exiting in 2040.[4]

Frequently, Section 515 rental properties are the only affordable rental option for the community, so if the tenants are priced out, as the Section 515 mortgage matures, they will have great difficulty finding a housing alternative. In addition to the affordability issues related to maturing Section 515 mortgages, many Section 515 rural rental properties are older developments, and in need of significant rehabilitation to remain habitable. Many of these projects have not been renovated since their initial construction, and so experience higher costs for energy and utilities. These necessary repairs will require additional financing.

A tool for preserving these projects is the use of the Section 538 Guarantee Rural Rental Housing Program. With the Section 538 program, USDA provides guarantees for loans made to developers by commercial lenders for the construction of housing units serving low- and moderate- income tenants in rural areas. This program, which can be combined with other financing sources, is used to guarantee permanent financing or a combination of construction and a permanent loan. The federal government guarantees up to 90 percent of a loan made by a qualified lender. Section 538 can be used with other financing sources, including LIHTC or a second bank loan.

Section 538 is a strategic investment in affordable housing in rural America, with minimal loan costs. According to USDA, for every $1 invested from the Section 538 program, $5.50 is leveraged in public-private funding. In the last five years, around half of the Section 538 loans have been used in the rehabilitation of existing Section 515 projects, making it an important tool in the preservation effort for the Section 515 portfolio.

Frequently, Section 538 funds are used with USDA's Multifamily Preservation and Revitalization program (MPR). The MPR was established by Congress as demonstration program, and authorizes USDA to employ a variety of financing options in order to preserve the Section 515 and Farmworker housing properties in its portfolio. The goal of the MPR program is

[2] "Maturing USDA Rural Rental Housing Loans: An Update," *Rural Policy Note*, Housing Assistance Council. August 29, 2016. http://www.ruralhome.org/storage/documents/policy-notes/rpn_maturing-mortgages-usda-2016.pdf.

[3] *Id.*

[4] *Id.*

to recapitalize properties by restructuring USDA multifamily housing loans and leveraging resources from other federal and state programs. This includes both Section 515 and Section 514 mortgages that may be deferred or refinanced, and is often done in conjunction with grants, private debt guaranteed under Section 538, tax credits and other sources in order to revitalize the properties and extend their affordable use. Thus far, the MPR effectively attracts three times its funds in investments from LIHTC and other sources, though it remains a demonstration program subject to annual appropriations. The MPR has financed an estimated 26,459 units in 1,218 properties between 2006 and 2014.

Over the past years, funding for Section 515 has decreased as funding for Section 538 has remained relatively consistent. Thus, in addition to providing financing for Section 515 loans that are maturing or eligible for prepayment as discussed above, NRHC recommends that Fannie Mae consider providing increasing its acquisition of Section 538 guaranteed loans that are used to provide new financing or rehabilitation for properties with maturing Section 515 mortgages, or those eligible for prepayment.

Regulatory Activity B, Objective #4

Under Regulatory Activity B, Objective #4 on page 193, the proposed plan states that Fannie Mae will "[c]reate and implement a multifamily work-plan on rental housing for agricultural workers." The Coalition supports this objective.

USDA's Section 514 and Section 516 Farm Labor Housing loans and grants are made to farmers, associations of farmers, family farm corporations, Native American Tribes, nonprofit organizations, public agencies and other similar organizations for the purchase, construction, or rehabilitation of housing facilities for domestic farm laborers. The standards for Section 514 housing units are similar to the standards for Section 515, and units financed with Section 514 are eligible to receive Section 521 Rental Assistance. Section 514 and Section 516 properties are an essential source of affordable rental housing for America's agricultural workers.

Despite farmworkers being some of the worst-housed people in America, Section 514 and Section 516 are the only federal programs that provide affordable loans and grants to purchase, construct, or repair housing for this population. Agriculture is a driving force of the American economy, and its sustainability depends on a steady supply of farm laborers. In recognition of their important role, NRHC encourages Fannie Mae to develop a loan product that can better serve the housing needs of this important population.

Additional Activity: LIHTC Investments

On page 203 of the proposed plan, Fannie Mae proposes to "[i]nvest in LIHTC properties to facilitate the provision of affordable multifamily housing in rural areas." The Objective under this activity is to "[a]quire 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." The proposed plan specifies that this additional activity and objective are contingent upon the approval by FHFA as conservator.

Subject to approval from FHFA, NRHC supports Fannie Mae's proposal to invest in LIHTC properties. We also urge Fannie Mae to make investing in LIHTC projects in rural communities a priority. LIHTC is an invaluable resource for developing affordable rental housing in communities across the nation. In rural areas, LIHTC has historically played an essential role in financing affordable multifamily housing. Between 1987 and 1994, 31 percent of all affordable housing properties financed with LIHTC also leveraged Section 515 Rural Rental Housing Loans.[5] As funding for Section 515 has been cut, however, rural communities find it more difficult to attract LIHTC investments. Since its peak in 1982, Section 515 funding declined by more than 96 percent from $954 million to just $35 million in FY 2017. As this decline in funding occurred, the share of LIHTC in rural communities has also decreased: between 1995 and 2009, only nine percent of LIHTC-financed rental properties leveraged Section 515 funds.

The Section 515 funding cuts have had a broader impact than just the loss of USDA's affordable rental housing portfolio. Low-cost capital is essential to the preservation and development of affordable rental housing. It is almost impossible to maintain below-market rents when paying market-rate debt service. Rural rental developments often lack the economies of scale that help keep rents low. The housing tends to be smaller, and have fewer units over which to spread operational costs. A lack of population density also means there will be fewer borrowers and lenders in a rural community with the experience and expertise to make these deals work.

Authority to invest in LIHTC is important. In order for this strategy to work in rural America, Fannie Mae should make investing in rural multifamily preservation and new construction projects a priority.

Freddie Mac Proposed Plan

Several of the objectives in Freddie Mac's proposed plan discussed below are similar or identical to objectives already discussed in the above section on Fannie Mae's proposed plan. In this section, NRHC will note that overlap occurs, but focus discussion on new comments.

Rural Housing

Activity 1, Objective F

On page 43 of the proposed plan, Freddie Mac identifies researching the use of LIHTC in high-needs rural regions as Objective F. The proposed plan recognizes the importance of LIHTC for multifamily housing in high-needs rural regions, due to the need for affordable debt financing options in these communities. However, the proposed rule continues to state that "there is not currently sufficient understanding of how the LIHTC may be used to support these high-needs areas."

As explained in the Fannie Mae section above, LIHTC is the principle federal funding tool for constructing and renovating affordable rental housing in America. It is a flexible funding source that can be used with other federal and private capital to ensure that low-income families have access to safe and decent rental housing. NRHC recently released a report, *A Review of Federal Rural Rental Housing Programs, Policy and Practices*, which details the importance of LIHTC

[5] Jill Khadduri, Carissa Climaco, and Kimberly Burnett, "What Happens to Low-Income Housing Tax Credit Properties at Year 15 and Beyond," U.S. Department of Housing and Urban Development, August 2012 (available at https://www.huduser.gov/publications/pdf/what_happens_lihtc_v2.pdf).

for addressing the rental housing needs in rural areas (cited below).[6] Included in the report are case studies which detail the challenges in financing rental housing in rural areas, as well as the important role that LIHTC plays.

NRHC urges Freddie Mac to make investing in the preservation and new construction of rural multifamily housing a priority. Understanding that any investments in LIHTC properties by Freddie Mac are subject to approval from FHFA, NRHC encourages Freddie Mac to reach out to rural developers that are experienced in these deals in order to gain additional understanding about the important role of LIHTC. Additionally, if given authority, Freddie Mac should prioritize LIHTC investments in rural communities.

Activity 1, Objective G

On page 44, Freddie Mac outlines its objective to develop a loan offering to work with USDA Section 515 properties. As discussed in the Fannie Mae section above, Freddie Mac acknowledges the pending maturing mortgage crisis facing the Section 515 portfolio. NRHC looks forward to reviewing the loan product that Freddie Mac develops, and encourages Freddie Mac to work with existing Section 515 developers and nonprofit stakeholders as it develops the product to ensure its usefulness.

Activity 1, Objective H

On page 46 of the proposed plan, Freddie Mac proposes that in year 3 of the proposed plan, it will loans on properties in the USDA Section 515 programs, with a target of between 5 percent and 20 percent of units lost annually. As in the Fannie Mae section, NRHC encourages Freddie Mac to look at the number of projects projected to be prepaid (5,147 projects in 2020) as well as number of projects with maturing mortgages (26 projects in 2020).

Activity 1, Objective J

On page 47 of the proposed plan, Freddie Mac proposes to develop a LIHTC equity investment offering, contingent on receiving approval from FHFA, for high-need rural regions. For the reasons discussed in the Fannie Mae section above, NRHC supports this proposal.

Activity 2

Many of Freddie Mac's objectives for High Needs Rural Populations in Activity 2 are similar to the objectives for High Needs Rural Regions in Activity 1. For example, in Objective C Freddie Mac proposes to research the use of LIHTC in support of high needs rural populations (page 52), in Objective D Freddie Mac proposes to develop a LIHTC investment equity offering (page 53). NRHC has the same comments for these Objectives are were provided for the similar objectives in Activity 1.

[6] National Rural Housing Coalition, "A Review of Federal Rural Rental Housing Programs, Policy and Practices," April 2017 (available at: http://ruralhousingcoalition.org/wp-content/uploads/2017/05/Rental-Housing-Report-FINAL-04.18.17.pdf).

Activity 4, Objective D

On page 60 of the proposed plan, Freddie Mac outlines its proposal to purchase loans on properties in the USDA Section 515 portfolio. NRHC has the same comments for this section as it had in similar sections in the Fannie Mae rule and Activity 1, Objective H of Freddie Mac's own proposed plan.

Affordable Housing

Activity 1

On page 71 of the proposed plan, Freddie Mac identifies its first Affordable Housing activity as supporting the LIHTC program through debt financing. NRHC's comments on LIHTC provided above apply for this Activity as well.

Activity 4

On page 83 of the proposed plan, Freddie Mac details its proposal for Section 515. NRHC's comments above on Section 515 and Section 538 apply for this section.