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| **C**ouncil for **A**ffordable and **R**ural **H**ousing  |

 Serving the Affordable Housing Needs of Rural America

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July 20, 2023

Director Sandra L. Thompson

Federal Housing Finance Agency (“FHFA”)

Constitution Center
400 7th Street, SW
Washington, D.C. 20219

Re: Fannie Mae’s request to modify its Duty to Serve commitments to reduce the amount of equity investment in rural areas

Dear Director Thompson:

Thank you for allowing the opportunity to provide feedback regarding Fannie Mae’s request to modify its Duty to Serve (“DTS”) commitments for the purpose of reducing the amount of equity investment in rural areas. As the trade association representing many rural affordable housing developers and managers, we strongly oppose Fannie Mae’s request and encourage Treasury and Fannie Mae to work together to confirm the not tax-exempt status of Fannie Mae and Freddie Mac in order to facilitate as much public and private investment in multi-investor funds supporting rural affordable housing as possible.

There continues to be an overwhelming need for both affordable and decent housing throughout rural America. The need for rental housing is even more acute. With lower median incomes and higher poverty rates than homeowners, many renters are simply unable to find decent housing that is also affordable. Neither the private nor the public sector can produce affordable rural housing independently of the other. It has been, and should be, a partnership between the public and private sectors.

We understand that Fannie Mae’s proposed modification is a result of the recent concern that Government Sponsored Enterprises (“GSEs”), Fannie Mae and Freddie Mac, are not Tax-Exempt Controlled Entities under Section 168(h)(6)(F)(i) of the Internal Revenue Code. As you are aware, tax counsel for several Low-Income Housing Tax Credit (“LIHTC”) investors have questioned whether the FHFA's conservatorship of Fannie Mae and Freddie Mac, and the Treasury Department's senior preferred stock and stock warrants in the GSEs, make them tax-exempt controlled entities. This public concern, resulted in a letter written last month by a a bi-partisan group of United States Senators to the Secretary of Treasury urging the Treasury Department provide written guidance that clarifies that the GSEs, Fannie Mae and Freddie Mac, are not Tax-Exempt Controlled Entities. As outlined in the letter to Secretary Yellen, GSEs are significant LIHTC investors in rural areas because of their statutory DTS requirements and the limited number of banks incentivized by the Community Reinvestment Act.

Given the size of deals in rural areas, it is more common for these transactions to be funded through multi-investor funds and thus GSEs are vital to the continued creation of affordable housing for working families in rural America. Unfortunately, uncertainty around the tax-exempt controlled entities issue, has sidelined the GSEs from participating in multi-investor Funds that deliver the majority of capital to rural LIHTC deals.

We agree with the bi-partisan group of Senators that that the GSEs are not tax-exempt controlled entities and urge Fannie Mae to not modify its DTS commitments and reduce the amount of equity investment in rural areas. We ask that Fannie Mae refrain from modifying its DTS commitments until the Treasury Department has an opportunity to issue written guidance on this important legal matter. Creating more infrastructure jobs in rural rental housing requires increased access to credit, consistent revenues, and a tax code that supports these jobs. Now is not the time for GSE’s to reduce their participation in multi-investor funds that are so essential to preserving rural housing throughout our country.

We are happy to schedule a time to discuss further at your convenience. Thank you for your attention to this important issue.

Sincerely,



Colleen M. Fisher

Executive Director