July 21, 2023

Federal Housing Finance Agency

Attn: Clinton Jones, General Counsel

400 7th Street SW

Washington, DC 20219

Re: Fannie Mae's Rural LIHTC Duty to Serve Plan Modification

Dear Mr. Jones,

The Lincoln Institute of Land Policy and the undersigned organizations appreciate the opportunity to offer this response to your request for input (RFI) on Fannie Mae's Proposed Modification to the Rural Low Income Housing Tax Credit (LIHTC) Investments Objective for 2023 in its Duty to Serve (DTS) Plan.

[The undersigned organizations are all members of the Underserved Mortgage Markets Coalition (UMMC), but] this letter is only on behalf of the undersigned organizations and has not been endorsed by all members of the UMMC.

**Underserved Mortgage Market Coalition**

The UMMC works with FHFA and the Enterprises to adjust their underwriting practices to better reach underserved markets in a safe, sustainable manner. The UMMC seeks to promote broader understanding of the increasingly central role the Enterprises play in U.S. affordable housing and to demystify the Enterprises' business practices to make them easier for our member organizations, and others, to understand and engage with.

LIHTC investment is an excellent example of how the array of affordable housing advocates collaborate through the UMMC, leveraging each other's expertise to focus FHFA and the Enterprises' attention on sometimes highly technical issues and reducing them to the essence of what's necessary to reach underserved mortgage markets.

**Getting LIHTC Equity to Rural Markets**

It is well-established that multi-investor LIHTC funds are a critical tool for reaching certain markets, including rural markets. The alternative is a "proprietary" investment structure, where Fannie or Freddie is the sole investor in the LIHTC deal. The problem with this investment approach is that it far more difficult to make proprietary investments work for small rural developments since the Enterprise must invest almost the same amount of time and human capital to underwrite each property as it takes to underwrite a multi-investor fund. Smaller deals require less Housing Credit capital (around $3 - $5 million). Those deals are too small for a single-investor, proprietary execution. Most proprietary fund investors (banks and otherwise) require a minimum deal size of $10 million to justify the underwriting resources that must be expended versus a multi-investor fund execution where the syndicator takes that responsibility and the costs are absorbed within the larger fund.

Of the major LIHTC equity investors, Fannie and Freddie are by far best positioned to deliver LIHTC equity to rural markets. The Community Reinvestment Act isn't much help for reaching rural markets because small rural lenders generally have little or no appetite for tax credits and the larger banks that make up much of the LIHTC equity market exclude most rural areas from their footprint.

This leaves Fannie and Freddie which also have affirmative Duty to Serve obligations to reach rural markets. FHFA should not condone Freddie's failure to embrace the multi-investor fund model, nor should FHFA permit Fannie to back away from multi-investor funds or reduce its commitment to providing LIHTC equity to rural America.

A proximate cause of Fannie's request to lower its rural target is a complex recent interpretation question that the US Treasury needs to resolve in favor of permitting favorable tax treatment to multi-investor fund investments by Fannie and Freddie. We will not go into the details of that question here, other than to say, the strong policy rationale for limiting certain "tax exempt controlled entities" from benefiting from the multi-investor fund model, were clearly never intended to apply to Fannie and Freddie. It is incumbent upon FHFA both to insist that Treasury resolve this interpretation question in favor of preserving practically the only source of subsidy for affordable rural multifamily housing and in the meantime, continue to encourage both Fannie and Freddie to make these critical LIHTC equity investments in rural areas.

**Unmet Rural Investment Needs**

Freddie Mac has much lower rural LIHTC equity investment goals than Fannie Mae, and Fannie Mae is proposing decreasing its rural LIHTC purchases (from 70 to 20-40). We urge FHFA to require both enterprises to commit to ***more*** ambitious rural LIHTC investments, not less. While the cost of housing in rural communities is comparatively lower than urban areas, the area

median incomes are far lower, making it difficult to develop housing without subsidies in the regions. A 2020 study from the U.S. Department of Agriculture found that 80% of the nation's high poverty counties are in rural areas.

As the need for rural rental housing continues to grow, we ask that FHFA require both Enterprises to adhere to the goals previously set for rural LIHTC equity investments and to substantially increase their commitment to rural LIHTC equity in the coming DTS plan cycle. We further urge FHFA to work with Treasury on a favorable resolution of the "tax exempt controlled entity" question. There are members of the UMMC who can be available to work with FHFA and Enterprise staff on the details of these policy questions.

Thank you for considering our comments.

Respectfully,

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Housing Assistance Council
Institute for Market Transformation (IMT)
Lincoln Institute of Land Policy
Local Initiatives Support Corporation
National Council of State Housing Agencies
NeighborWorks America
Next Step Network
Novogradac