June 21, 2023

Marcea Barringer
Supervisory Policy Analyst
Attention: Duty to Serve 2023 RFI
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street, SW
Washington, D.C. 20219

Enterprise Community Partners' Comments on Proposed Modifications to Fannie Mae's Duty to Serve Plan for Rural Housing (Additional Activity: Invest in Low-Income Housing Tax Credit (LIHTC) properties to facilitate the provision of affordable multifamily housing in rural areas, Objective # 1 (FN_Rural_LIHTC_1): Invest in LIHTC properties in rural areas)

Dear Ms. Barringer:

Thank you for the opportunity to offer comments to the Federal Housing Finance Agency on Fannie Mae's proposed modifications to its Duty to Serve Plan for rural housing. Enterprise Community Partners objects to the proposed reduction in rural Low Income Housing Tax Credit (LIHTC) investments because insufficient information has been provided to understand how the proposed change in strategy from equity placement in multi-investor funds to proprietary funds will impact underserved rural markets.

1. What is the proposed modification's potential impact on the rural LIHTC investments objective in the Plan and on the rural housing market as a whole?

At first glance, reducing the target investment level from 70 projects to 20-40 represents as much as a 70% decrease in Fannie Mae's investment in rural LIHTC, when measured at the project level. On its face, the modification reads as a steep reduction in the only direct investment proposed in the Plan for rural areas – all other activities are either loan purchases or outreach activities. As discussed below, LIHTC investments play a key role in a difficult market for affordable rural rental housing.

In contrast to Freddie Mac, which has proposed supporting a smaller number of properties through proprietary funds (and should be encouraged to do more), Fannie Mae's strategy has relied on investments in multi-investor funds. In those funds, their equity investments are aggregated with that of other investors to flow into multiple projects. For the purposes of meeting their Duty to Serve requirements, our understanding is they count all rural properties in the funds into which their equity is placed, even though they are responsible for only a share of the total equity invested in any given property. The different approaches to equity investment makes it difficult to compare performance between the GSEs or assess absolute levels of support to underserved markets. In the context of the proposed reduction down to 20-40 properties, Fannie Mae has not given any indication whether the shift to a proprietary-only approach will lead to an absolute reduction in the amount of capital committed to rural LIHTC equity.

It may very well be that a proprietary fund strategy targeting 20-40 properties could lead to a *greater* level of equity investment than the original 70 properties touched by multi-investor funds. If so, the proposed modification should meet the non-objection standard. Again, greater clarity is needed to make that determination.

2. What market conditions should FHFA consider related to the proposed modification?

Affordable rural rental housing is often difficult to access. Though only 19 percent of rural residents rent their homes,[1] 39 percent of those renters are cost-burdened, spending more than 30 percent of their income on housing costs. Fifty-one percent of those cost burdened renters spend more than half of their income on housing. Rates of homelessness have risen faster in rural areas than any other part of the country since the COVID-19 pandemic.[2] And the only rental housing program specifically designed for rural places, the USDA Section 515 rental housing program, is on track to lose 400,000 units of income-restricted affordable housing by 2050 due to maturing mortgages unless legislative changes are put into place.[3]

LIHTC is the largest and most successful program in the United States for the production and preservation of affordable rental housing. LIHTC equity investment is very commonly at the financial core of rural rental housing supported by other funding sources. An analysis by Freddie Mac found that in rural persistent poverty counties, 58.2 percent of LIHTC investments were paired with other subsidies, compared to 43.2 percent for the nation as a whole.4 LIHTC investments provide key liquidity to projects that would not otherwise be possible with only one affordable housing subsidy source. In particular, LIHTC will continue to play a key role in the preservation and recapitalization of affordable rural rental housing funded by USDA Section 515 loans. With the USDA estimating a $1 billion annual need for funding to repair and upgrade existing Section 515 properties,[5] the investment of private capital from sources such as LIHTC is critical to the preservation of these properties.

However, the value of credits in rural areas is depressed by lower demand for investments outside of Community Reinvestment Act (CRA) assessment areas for large banks. A 2022 examination of credit pricing by CohnReznick found that housing credits were worth as much as $0.20 less in areas outside of large bank CRA assessment areas.[6] Over the past ten years, this pricing difference has been as high as $0.35.[7] Rural census tracts are ten times more likely to be "banking deserts," lacking a bank branch within 10 miles, than urban census tracts, leading

1 Mazur, Christopher, "Rural Residents More Likely to Own Homes Than Urban Residents," US Census Bureau (September 27, 2017), https://www.census.gov/library/stories/2017/09/rural-home-ownership.html
2 Joint Center for Housing Studies of Harvard University, "The State of the Nation's Housing 2023," (2023), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf
3 Nosse-Leirer, Emily, "Updating Laws to Protect Rural Renters," Enterprise Community Partners, (May 18, 2023) https://www.enterprisecommunity.org/blog/updating-laws-protect-rural-renters
4 Freddie Mac Multifamily, "Spotlight on Underserved Markets," https://mf.freddiemac.com/docs/lihtc_persistent_poverty_counties.pdf
5 Torres Small, Xochitl, "Statement by Xochitl Torres Small, Under Secretary for Rural Development before the Senate Committee on Banking, Housing and Urban Affairs Subcommittee on Housing, Transportation, and Community Development," (May 25, 2022) https://www.banking.senate.gov/imo/media/doc/Small%20HTCD%20Testimony%205-25-22.pdf
6 CohnReznick, "Housing Tax Credit Monitor," (August 2022), www.cohnreznick.com%2F-%2Fmedia%2Fresources%2F2022_housing-tax-monitor_august_2022.pdf&usg=AOvVaw0US4qhbBy1Jtt5cFnSgbyV&opi=89978449
7 CohnReznick, "The Community Reinvestment Act and Its Effect on Housing Tax Credit Pricing," (https://ahic.org/images/downloads/Research_and_Education/the_community_reinvestment_act_and_its_effect_on_housing_tax.pdf

to significantly lower rates of being included in CRA assessment areas.[8] Allowing Fannie Mae to reduce its commitment to investing in rural LIHTC properties would exacerbate already-difficult market conditions.

3. What additional information might be helpful in evaluating the proposed modification?

Fannie Mae should provide greater clarity on the change in strategy, including the breakdown between multi-investor funds closing in 2023 in which they previously committed funds and proprietary funds they are now focused on. How many of the 20-40 properties now being proposed for the target are the result of 2022 calendar year investments in multi-investor funds? How many proprietary deals is Fannie Mae targeting to do this year?

In addition to seeking answers to these questions, we believe total capital committed to LIHTC equity is a better metric for assessing the level of support for underserved markets and the proposed modification's potential impact on rural housing markets and suggest that FHFA obtain that information before making a decision on the proposal.

We understand that the current lack of clarity regarding whether the FHFA's conservatorship of Fannie Mae makes it a tax-exempt controlled entity (TECE) has caused Fannie Mae to cease its multi-investor fund investment activity. However, we do not believe this justifies reducing the target investment in rural LIHTC projects. Even if the investments made via a multi-investor fund must be paused until Treasury provides clarity on the TECE issue, It is imperative that the equity commitment to rural LIHTC projects not be reduced. To receive a non-objection, Fannie Mae should make clear that this is in fact the case.

Fannie Mae should also provide guidance on what they will do if the TECE issue is resolved quickly. Will they shift back to a multi-investor fund strategy? If so, how will the volume of capital change? On a pro-rata basis, how many units would be supported?

4. Is the proposed modification appropriate based on the information and justifications provided by Fannie Mae? If not, why not?

Until the question of absolute level of equity to be placed is clarified, Fannie Mae's proposed modification should not be adopted.

If the modification is ultimately one of a change in strategy from multi-investor funds to proprietary ones but with the capital commitment unchanged, the modification (upon clarification) should then meet the non-objection standard. If, however, the unresolved TECE issue is being used in the justification for the withdrawal from supporting underserved rural markets (as measured by equity placed), the proposed modification should be rejected. (This is yet another reason why FHFA should publish evaluation data at the objective level.)

Assessing the proposed modification is ultimately a question of metrics. It is clear that a count of projects supported is inadequate to answer the questions posed. We believe that a capital-

---

[8] Dahl, Drew and Michelle Franke, *Regional Economist,* "Banking Deserts Become a Concern as Branches Dry Up," (July 25, 2017), https://www.stlouisfed.org/publications/regional-economist/second-quarter-2017/banking-deserts-become-a-concern-as-branches-dry-up

Enterprise Community Partners

10 G Street NE, Suite 580, Washington, DC 20002 | 202.842.9190 | enterprisecommunity.org

based metric would give FHFA and the public a better measure by which to determine the reasonableness of the proposal. Alternatively, a GSE's rural equity investment in a given year could be measured as a percentage of their overall equity caps. A better non-capital-based metric than projects invested in would be units supported, where units supported by a multi-investor fund would be allocated to each GSE as a share of their fund participation.

As a second-best alternative to keeping their equity commitment unchanged, should Fannie Mae demonstrate that they will be unable to achieve their initial equity target through proprietary funds, the difference between their original equity target and the modified one should be added to the target levels of other rural rental Duty to Serve activities. (Note that this kind of flexibility based on changing market conditions is part of the rationale for our recommendation, previously shared with FHFA, that the aggregate level of activity within each underserved markets plan be set above the sum of the individual components, with greater flexibility afforded to the GSEs to shift the mix of activities based on market conditions over the course of the plan while still meeting the overall objective of expanding the amount of capital flowing to support the affordable housing needs of underserved mortgage markets.)

Thank you for considering our comments. If you have any questions, I can be reached at ajakabovics@enterprisecommunity.org.

Sincerely,

Andrew Jakabovics

VP, Policy Development