October 28, 2014

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 Seventh St., S.W.
Washington, DC 20024

RE: Comments/RIN 25690-AA65, the Proposed Rule on the Enterprises' Housing Goals 2015-2017

Dear Mr. Pollard:

On behalf of the Center for American Progress and Consumer Federation of America, we appreciate this opportunity to comment on your proposed rulemaking for housing goals for Fannie Mae and Freddie Mac for 2015-17.

The Center for American Progress (CAP) is a nonpartisan think tank dedicated to improving the lives of Americans through progressive ideas and action. CAP's Housing Team focuses on access to credit, affordable housing, and foreclosure prevention. Consumer Federation of America (CFA) is a nonprofit association of some 300 national, state, and local pro-consumer organizations created in 1968 to represent the consumer interest through research, advocacy, and education.

This letter will summarize the social and economic context in which we consider the proposed housing goals levels; address the specific questions raised in the request for comment, including the methodology for determining compliance with the goals and substantive changes proposed in administering the goals**;** and offer our perspective on the proposed goals categories and levels.

Background: The Housing Goals in Context

Housing, both rental and homeownership, plays a critical role in family well being as well as the larger economy. At the macro level, the sector provides millions of jobs through construction and renovation and supports many multipliers through the economy in the form of professional services, furnishings and other ancillary products associated with the real estate and housing sector.

More importantly for our work, the broad availability of affordable rental and homeownership opportunities is crucial to increasing household opportunity, reducing economic inequality, and furthering racial justice. Homeownership remains the single most important contributor to household wealth among families at every income level, particularly for low and moderate income families and African-American and Hispanic/Latino families of all income levels. While the rate of homeownership among White households remains above 70 percent, it remains below 50 percent for black and Hispanic/Latino families and has declined significantly as a result of the mortgage crash and Great Recession. For those who cannot (by choice or circumstance) own a home, affordable and stable rental opportunities are a critical building block for family stability and financial progress.

Currently, Fannie Mae and Freddie Mac remain the largest national source of mortgage capital for both ownership and rental housing. Between 2010 and 2013, the GSE share of the conventional conforming

market fluctuated between 81 and 92 percent.[1] Not only do they provide the vast majority of the capital for conventional conforming ownership mortgage financing, but their underwriting and credit standards essentially set the rules for what loans will be made and on what terms they will be made for the entire homeownership financing market.

Fannie and Freddie play a similar role in the multifamily rental housing sector. While they do not drive the market choices and lending decisions of primary market lenders to the extent they do in the single family market, they still set the framework for the broad range of acceptable credit and underwriting practices.

The Charter Acts that established both Fannie Mae and Freddie Mac, as well as the Federal Housing Enterprises Safety and Soundness Act of 1992 and the Housing and Economic Recovery Act of 2008, or HERA, emphasize the central role that Congress intended the Enterprises to play in providing a stable source of responsible housing finance, with a particular emphasis on their obligation to fully serve all markets at all times.

Specifically, their charters require them to "…provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage finance."[2]

The Enterprises' placement into conservatorship in 2008 did not reduce or eliminate these responsibilities. If anything, their continued operation under the conservatorship with the taxpayers as their senior shareholders only increases the importance of ensuring that their operations serve the broadest possible range of borrowers through all communities in the country.

FHFA's current Strategic Plan recognizes this responsibility by stating its first goal as follows: "Maintain, in a safe and sound manner, foreclosure prevention activities and credit availability for new and refinanced mortgages to foster liquid, efficient, competitive and resilient national housing finance markets."[3]

In spite of these consistent and enduring expectations for Fannie Mae and Freddie Mac, data suggest that the Enterprises are not doing enough to meet this responsibility. Consider the following points:

- Average credit scores for new borrowers have risen significantly at both Enterprises, as much as 50 points.[4]

- Uncertainty about the value of the Enterprises' credit guarantees in the face of aggressive demands for lender buybacks of failed loans has reduced lenders' willingness to fully use even the more restrictive credit and underwriting standards in place today.

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[1] Estimates based on Inside Mortgage Finance data.
[2] Sec 301(3), Fannie Mae Charter Act and Freddie Mac Charter Act
[3] 2014 FHFA Strategic Plan for the Conservatorships of Fannie Mae and Freddie Mac, May 13, 2014
[4] *Opening the Credit Box,* Jim Parrott and Mark Zandi, Urban Institute, September 30, 2013

- In 2012, the Enterprises purchased only 16 percent of home purchase loans originated in low income and minority census tracts, a quarter of home purchase loans to African-Americans, and under one-third of home purchase loans to Hispanics or Latinos.[5]

- Census tracts with low levels of any type of home purchase lending are disproportionately minority (45 percent on average, compared to 33 percent in other areas) and lower-income (with an average income of 82 percent of area median income vs. 107 percent of AMI in other areas).[6]

Much of the inequality in the housing market stems from the broad, negative, economic trends of income and wealth disparities, higher unemployment, and higher student debt, especially among young households and communities of color. However, FHFA and Enterprise policies have exacerbated this inequality. The imposition of loan level pricing adjustments for loans with lower down payments and weaker credit scores, for instance, on top of risk-based pricing by private mortgage insurers, makes loans for these populations more expensive, pushing home buyers in general, and first-time homebuyers and homebuyers of color in particular, out of the conventional market either into loans insured by FHA or out of the homeownership market altogether.

Additionally, until FHFA's recent announcement on LTV policy changes, both Enterprises cut off financing for loans with LTVs greater than 95%, reducing their ability to serve low wealth households. What's more, FHFA has failed to implement the Duty to Serve rule required by HERA and has not capitalized the Housing Trust Fund and Capital Magnet Fund.

The rising generation of new homebuyers will have a significantly different profile than those that preceded it in the recent past. Well over half of new family formation will be families of color, who will not have access to family wealth for down payments and whose credit scores are impacted by decades of discrimination. To ensure that Fannie and Freddie fulfill their chartered purpose of serving this emerging market, FHFA will have to take aggressive and targeted action.

History of the Enterprise Housing Goals

First established in 1992, the Enterprise housing goals essentially measure Fannie's and Freddie's success at meeting the requirements of their charters. They also serve to encourage the Enterprises to develop and market products that push the primary market to better serve underserved borrowers and communities. In 2008, HERA broadened FHFA's mandate in this area by establishing and providing initial guidance on the Enterprises' "duty to serve." Taken together, these mandates demonstrate Congress's intent that Fannie and Freddie be held to a high standard of performance in providing mortgage credit in both the rental and homeownership sectors. The goals are also meant to assure that the Enterprises' policies do not constrict liquidity for safe and responsible products offered in the primary marketplace.

The theme running throughout our specific comments below is that this year's goals rulemaking should set key priorities for the Enterprises; establish clear and reasonable standards against which they will be held accountable; and encourage the broadest availability of responsible and sustainable credit possible.

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[5] Analysis of 2012 Home Mortgage Disclosure Act Data for applications for conforming loans for the purchase of 1-4 family owner-occupied units.

[6] Low-lending census tracts defined as those with fewer originated home purchase loans per owner-occupied home than the median (2.15 percent) in 2012. Analysis based on 2012 HMDA data for applications for conforming loans for the purchase of 1-4 family owner-occupied units.

As noted above, the Enterprises' ability to meet their obligations to serve the market broadly is intimately bound up in other on-going supervision and regulation by FHFA, including their policies regarding reps and warrants as noted above. The approach used by the GSEs to set guarantee fees, including loan level adjustments; the capital and other counterparty requirements for mortgage insurers who provide a credit enhancement for low down payment mortgages that is mandated by statute; and a variety of other policy choices have damaged the Enterprises' ability to serve the populations targeted by the goals.

The goals and other policy issues take on even greater importance because of the Enterprises' dominance in the conventional mortgage market. Their standards largely dictate the terms on which the market will lend. While the housing goals are a means to incent more responsible innovation by holding the GSEs to a high standard, the market's own performance will be driven to a large degree by the Enterprises' appetite for more expansive lending. This circular relationship makes the process of setting the housing goals for 2015-17 critically important. It also highlights the importance of the other rule makings and guidance that FHFA has under consideration at the same time.

We strongly urge FHFA to use its regulatory and conservatorship powers to maximize the impact of the Enterprises in pursuing responsible innovation and market expansion for underserved borrowers. This proposed housing goals rule is an important instrument but by no means the only way this will be achieved.

Specific Questions Posed in the Proposal

I. FHFA should retain a dual approach, setting aggressive benchmarks for the Enterprises while using the retrospective market standard for enforcement purposes

Under the current housing goals rule, FHFA determines compliance against one of two standards for the single family percent of business goals. One standard is the so-called "benchmark" that is set by FHFA through the rulemaking process, based on a number of specific criteria and forecasted into the future. The second standard, first adopted in the rule establishing housing goals for 2010-2011, added a second test comparing the Enterprises' performance against the single family goals to the levels reported in the Home Mortgage Disclosure Act (HMDA) data for the same year. Each Enterprise is deemed to have met the relevant goal if their performance is greater than at least one of the two numeric tests.

In its proposed rule, FHFA seeks comment on whether the goals for 2015-17 should be determined on this same basis or on the basis of only one of the two tests. CAP and CFA recommend retaining a dual approach, setting aggressive benchmarks while using the retrospective market information for enforcement purposes.

If FHFA uses only a benchmark, it can be problematic if the benchmark is either too low and results in a withdrawal of credit, but it can also be problematic if the benchmark is too high. The GSEs depend on the actions of primary market lenders to originate and deliver loans for securitization. Their business flows are influenced by primary market lenders' business and capital management strategies. Their

ability to fine tune these flows is limited also by the forward nature of their commitments. As the calendar year for which goals are calculated winds down, the ability to influence the mix of business to be delivered through the balance of the year declines quickly as forward commitments are fulfilled.

Further, if market conditions change markedly from what FHFA predicts – as in the case of an unexpected surge in refinancing that swells the loans in the "denominator" with a mix that is not consistent with the required "numerator" of goals-positive loans – the Enterprises' ability to respond can be very limited. This lack of control over deliveries and their mix during any one year is amplified by the fact that primary market lenders on whom the Enterprises depend do not have similar goals imposed by their own regulators. The Enterprises can offer pricing, marketing and product support incentives to encourage lending that meets the goals. But primary market lenders have little or no incentive of their own to match the mix of business against which GSE performance is measured.

Yet depending only on a goal determined by the primary market's performance in the subject year can be problematic as well because the intention of the goals is to encourage lending in these areas, and pegging to the market undermines the incentive for the GSEs to promote products that expand access to the populations targeted by the goals. This method is especially challenging in the current environment, when GSE underwriting, credit and product standards basically determine what the market is. Determining goals performance based only on the market level therefore threatens to become a circular exercise in which the GSEs' market dominance determines the primary market's appetite for risk and product mix, driving a result that decreases the opportunity or incentive for innovation and responsible credit expansion.

Below, we examine how our recommendation for a dual approach would work, first addressing the question of the right benchmark, and then discussing the use of the market data in enforcing that benchmark.

FHFA should set a benchmark of 27 percent rather than 23 percent for low-income home-purchase lending.

FHFA projects that loans made to borrowers qualifying under the low-income home-purchase lending goal will be 20.9 percent of the market. However, the analysis concedes that this estimate is at a 95 percent confidence interval, with the possible variance within that interval amounting to 6.7 percent, resulting in a range for 2015 of between 14.2 percent and 27.6 percent. The forecast for 2017 has an even larger range for this goal category: between 10.8 and 28.8 percent.

Additionally, the FHFA model uses historical data from a very atypical time period: years of rampant predatory lending followed by a historically unprecedented foreclosure crisis and constriction of credit. As a result, certain assumptions underlying the model are very likely to be incorrect. For example, the model assumes that recent affordable housing levels are normal for periods with the low interest rates and lower housing prices that have been in effect, and that since these factors are becoming less favorable in the next three years, affordable housing will decline. However, it is likely that affordable housing levels are quite depressed right now for the other reasons we cite above and therefore could rise again as conditions change even if prices or rates rise. Given underlying affordability levels and interest rates, there should be little reason to think that 2017 will be far worse than 2004, when 29.1 percent of Fannie Mae's owner-occupied 1-unit home purchase lending served borrowers at or below 80 percent of area median income.

It is also worth noting the circularity of the modeling process at a time when the Enterprises dominate the market. If other Enterprise policies lead to low levels of affordable lending, this becomes the apparent “normal,” even if these levels have been impacted by reversible (and in some cases, already reversed) Enterprise policies.

Finally, as we have noted in several of our recent letters to FHFA, the lack of transparency about the FHFA model hampers researchers’ ability to comment effectively on the proposals.

Given this uncertainty, and given that other data strongly indicate that lower-income and minority borrowers and communities are having a great deal of trouble accessing conventional, conforming mortgage credit, we strongly suggest that FHFA set aggressive benchmarks for all the goals categories, such as 27 percent for the low income home purchase goal. Below, we explain how retrospective market data can be used to mitigate risk that this or other benchmarks are set too high.

FHFA should use retrospective market information to evaluate goals performance.

As explained above, given the considerable uncertainty in the model used by FHFA and given that the housing market can be affected by any number of unpredictable externalities in any given years, we recommend that FHFA use the retrospective market information as a tool in setting future goals and in considering the Enterprises’ performance in meetings its goals.

Under our recommendation, if the Enterprises meet the benchmark, then they have met their housing goals, and if they do not meet the benchmark, then they have not met the goals. However, if they failed to meet the benchmark, in considering whether to impose penalties or what penalties to impose, FHFA can consider whether they met or exceeded the market. This review should be more extensive the smaller the margin of success against the market test.

Specifically, FHFA should identify GSE policies, including pricing and underwriting standards, market conditions, and externalities that contributed to their failure to meet the benchmark and require actions that would improve performance in a subsequent year. For example, if the GSEs are substantially above the market but still below the benchmark, that FHFA could conclude that their performance was satisfactory, subject to further results in a subsequent year. It also could determine that the benchmark itself needs to be adjusted based on trending experience. On the other hand, if they have missed the benchmark and only met or exceeded by a small margin the market’s performance, it would suggest that they are not making substantial progress in meeting the needs of the communities targeted by the goals. FHFA also should consider the GSEs’ results over time, as performance in any individual year could mask a longer term trend.

There are good reasons why an Enterprise may fail to meet a benchmark. Sometimes, the annual measurement period can provide a misleading picture of their performance in serving the market’s needs because originations and secondary market sales occur throughout the calendar year but not necessarily at the same time, resulting in “lumpiness” that may smooth out over time, but not in synch with the goals period. As an example, the proposed rule includes historical information about the GSEs performance against both the benchmarks established in the current period and the primary market’s performance based on HMDA reports. Interestingly, in 2010 and 2012 the forecasted benchmark for low-income home-purchase lending was below the actual market performance. GSE performance exceeded the benchmark in 2012, but fell below the market in every year, although there were marked differences in performance between Freddie Mac and Fannie Mae, and in 2011 and 2012 Fannie’s performance was off the market level by only a small margin. Over the three-year period, however,

Fannie Mae's performance delivered 99 percent of the market level for this goal, and exceeded the benchmark by a small margin. Freddie Mac also delivered 99 percent of the benchmark goals, but only 98 percent against the market

Looking at the retrospective market information is also helpful if the Enterprises meet or exceed the benchmark goal but lag the market's performance. This situation arose several times prior to the reforms in HERA. For example, between 2003 and 2005, both Fannie Mae and Freddie Mac's performance on the Low- and Moderate-Income Borrower Goal was consistently above the 50 percent benchmark but below the actual market share, which ranged between 52.9 percent and 57.2 percent. If FHFA sees this situation occurring, it should adjust the benchmark for subsequent years to ensure that the intention of the goals regime is carried out.

If the Enterprises fail to meet either the benchmark or the market goal and FHFA determines that the goal or goals were feasible, then FHFA should use its authority to require the filing of a Plan of Action and, if necessary, the further steps provided in HERA as discussed in Section VIII below.

This dual approach provides the FHFA the tools and flexibility to effectively and fairly evaluate the GSEs' performance relative to the two metrics. It should encourage FHFA to set goals levels that "stretch" the GSEs to maximize their support for responsible credit for targeted groups while acknowledging that market conditions may mitigate against their success in any single year. It is true that under a benchmark-only approach FHFA could change the goals based on evolving market conditions, either during the year or *post hoc.* However, past experience suggests that this would be hard to execute. The dual approach offers a more reliable means by which to balance the benefits and drawbacks of each of the single approaches. In sum, we support the continued use of a modified dual test in the proposed goals periods.

Most important, we note that the goals are a means to an end, not an end themselves. They are critical to measuring Enterprise performance. But FHFA should focus on the policies, pricing and marketing strategies that the Enterprises adopt to fulfill their mission to fully serve the market. The goals will measure the success of these efforts. Their best result will be robust programs and policies that drive more participation in the targeted markets.

II. FHFA should set strong multifamily goals levels that support affordable rental housing in the marketplace.

Strong multifamily goals will push the Enterprises to responsibly innovate in serving affordable multifamily properties, a market segment whose supply falls significantly short of demand and that would greatly benefit from increased GSE support. However, we fear FHFA's proposed multifamily goals are too conservative. The Enterprises have consistently exceeded their multifamily goals in recent years, sometimes dramatically.

While we appreciate that the Enterprise share of the market is likely to decline as private sources of capital become increasingly competitive, the overall size of the multifamily market is expected to increase in coming years. What's more, in recent years, units affordable to low- and very low-income renters have made up an increasing share of Fannie Mae and Freddie Mac's multifamily business, a trend we can expect to continue given FHFA's strong emphasis on the affordable segment of the multifamily market. Even if the Enterprises' multifamily volumes decline to more normal levels, the

number of affordable units they support may remain far higher than the goals they are currently subject to—especially if the Enterprises maintain their current ratio of affordable units to overall production, as we hope they will.[7]

Additionally, FHFA should also help the Enterprises identify gaps in the multifamily market and encourage them to serve these segments. For example, there may be room to innovate in supporting the construction of affordable multifamily properties through forward commitment loans or in supporting substantial rehabilitations of existing affordable housing.

FHFA should also encourage the Enterprises to become more flexible when working with mission-driven developers who are focused on affordable rental housing. This effort should include revisiting pre-conservatorship initiatives, such as those that provided lines of credit to high-quality mission-based entities who built or preserved affordable housing.

We also recommend that FHFA consider providing a "bonus credit" to encourage the Enterprises to finance affordable multifamily rental properties outside of areas with high concentrations of minorities and low income residents. There is a growing body of evidence that housing located in communities with better schools, transportation and employment potential can lead to significant improvements in resident outcomes. Offering to allow the Enterprises to count every unit of such otherwise qualifying affordable multifamily rental housing that is located in such areas as 1.25 units or some other appropriate multiplier will provide an incentive for them to seek out lenders working in these areas and to develop outreach and product features that increase liquidity for them. A similar approach was adopted in the rules establishing housing goals during the 2001-2003 period when small multifamily properties received a similar bonus score. A 2006 analysis of this bonus regime, which applied separately to small multifamily units and single family 2-4 unit rental properties, concluded that when combined with high goals targets, the incentives did increase the Enterprises' participation in the targeted markets.[8]

III. FHFA should establish subgoals for small multifamily properties.

We commend FHFA for establishing small multifamily sub goals for Fannie Mae and Freddie Mac. The small multifamily market is an important source of affordable housing. It is also generally acknowledged that it is difficult for small multifamily properties to access affordable, fixed-rate financing, likely due to a lack of standardized lending products, a more disparate range of borrowers, and relatively fixed origination costs despite smaller loan sizes and origination fees. Freddie Mac's announcement that it will begin offering a product specifically targeting small multifamily properties is an important step toward better serving this market. FHFA's subgoals will also encourage the Enterprises to continue to innovate in their service of small multifamily properties. As the GSEs' approaches to the small multifamily market evolve, it will be important for FHFA to monitor the effectiveness and risk of Enterprise efforts.

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[7] For example, in 2002, Fannie Mae financed 461,397 multifamily units. If Fannie maintains its 2013 ratio of units affordable to low-income renters to all units (76%) and finances the same number of units, they will have financed over 350,000 affordable units.

[8] *Effectiveness of HUD's Housing Goals Incentives for Fannie Mae and Freddie Mac: Small Multifamily and Certain Single-Family Rental Properties,* Paul B. Manchester, presented at Mid-Year AREUEA Conference, Washington DC, May 30, 2006

IV. FHFA should count manufactured housing communities toward multifamily goals if they meet appropriate standards.

Manufactured housing is a critical source of affordable housing. We believe that Enterprise support for manufactured housing communities should count under the multifamily housing goals, subject to certain conditions.

First, Enterprise purchase of loans to Resident Owned Communities (ROCs) should count towards the housing goals in all cases, as these communities are explicitly organized to give their residents a security of tenure as well as affordable lot rents. However, FHFA will need to establish a methodology to determine whether lot rents in ROCs are affordable to very-low income residents or merely low-income residents.

Second, consistent with our recommendations on the Duty to Serve rulemaking, we recommend that the Enterprises grant goals credit for loans to investor-owned communities under certain conditions. The reality is that most manufactured housing residents will live in investor-owned communities, so for the goals to matter in this context, we believe these communities should be included. At the same time, these communities operate outside any effective regulatory regime, and owners can take advantage of residents and engage in predatory or abusive practices.

For this reason, we suggest that FHFA establish conditions under which lending to an investor-owned community can count under the goals. Key among these conditions are assurances of the security of their land tenure and access to other consumer protections.

We recommend the following practices be required:

- Requirement of good cause for eviction;
- A term of at least one year renewable in the absence of good cause;
- Provision of advance written notice of rent increases as well as information about policies on rent increases (including any formulas on how rent increases will be calculated);
- A grace period for rent payments;
- A right to cure;
- No prohibition on the formation of resident associations and the right to associate and organize;
- Language giving a resident association the right to be notified and to present a competing purchase offer before the sale or closure of the community; and
- Provisions permitting transfer of the home to a new owner by the borrower or the lender in the event of default

As in the case of ROCs, FHFA will also need to develop a methodology to determine whether the lot rents in investor-owned communities are affordable, including for low-income and very-low income residents who own their manufactured home but rent the land underneath it.

V. FHFA should establish single-family rental reporting requirements.

We welcome FHFA's proposal to require the Enterprises to report more information on their support for single-family rental properties, which will enable us to understand more fully the role that the Enterprises play in financing single-family rental units. It will also help us better understand whether Enterprises support for these properties plays an important role in their overall support for affordable rental housing.

Despite the smaller amount of attention such properties receive, 1-4 unit properties, which are defined as single-family properties, contain more than half of all occupied rental units.[9] Single-family rental units also make up the bulk of the stock affordable to the lowest-income Americans, accounting for three-quarters of unassisted units renting for less than $400 and nearly 60 percent of unassisted units renting for $400-599.[10]

We recommend having the Enterprises separately report information on rental units in owner-occupied and in investor-owned single-family properties (in table 3 at a minimum) as well on rentals in 1-unit buildings and in 2-4 unit buildings. We also encourage FHFA to report information on the number and UPB of their acquisitions of mortgages on investor-owned 1-unit and 2-4 unit buildings (using table 1A).

We further recommend that FHFA establish bonus credit for *owner-occupied* 2-4 unit properties when the owner has participated in a certified counseling program that includes landlord training. When properly underwritten, these properties can provide a significant opportunity for wealth-building by the owner and for affordable rental by the tenants. Specifically, we recommend FHFA consider allowing the Enterprises to count the units financed by such loans to a goals-eligible borrower at a rate of 1.25 or other reasonable multiplier, rather than 1.0.

VI. FHFA should count higher-priced loans but monitor them closely.

The proposed rule seeks comment on whether the current prohibition on counting single family loans with interest rates greater than 150 basis points above the APOR should be maintained. The final rule on ability to repay adopted by the Consumer Financial Protection Bureau (CFPB) permits such loans to qualify under the definition of a Qualified Mortgage (QM), but offers lenders a rebuttable presumption of compliance for such loans, in contrast to a safe harbor presumption for lower cost loans. The Bureau reasoned that such loans can serve an important role in providing credit to worthy populations whose credit or other risks might justify a higher interest rate, but that such borrowers should be afforded a higher degree of protection against abusive practices or unaffordable products by granting only the rebuttable presumption treatment for them.

Given that these loans can provide valuable access to credit for underserved households when properly underwritten and that they have additional protections under CFPB rules, we support their inclusion in both the denominator and numerator. However, we urge FHFA to closely monitor the GSEs' acquisitions of such loans to ensure that they do not encourage or promote higher cost loans when more affordable credit can and should be available to consumers, and we urge FHFA to be prepared to change this treatment if consumers appear to be receiving more expensive loans than those for which they qualify.

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[9] Harvard Joint Center on Housing Studies, "America's Rental Housing: Rental Housing Supply," (2013).
[10] Harvard Joint Center on Housing Studies, "America's Rental Housing: Rental Housing Stock," (2011).

Close analysis of whether and how such loans are significant drivers of goals performance also should be a priority for FHFA.

If the final rule does not allow them to be counted for goals purposes, then we support removing them from the calculation of both the market and benchmark levels established by the rule. It seems perverse to include in the market estimate denominator loans that cannot be moved into the numerator.

VII. Other specific questions

With respect to other specific questions posed by FHFA in its rulemaking, we support its proposed approach on the following items:

- Single Family Rental Units
- Clarification of rent
- Group living
- No stated income loans
- MF incomes
- Blanket coop loans
- Sr. housing with upfront fees (NOTE: We support the principle of this change, but would like to flag the possible adverse impact on seniors with high assets from home or other asset appreciation but low ongoing income. We urge FHFA to examine more carefully whether this change will lead to an unintended impediment for some seniors to be able to move to appropriate homes as their needs change.)

VIII. We support strong and predictable enforcement of the housing goals.

In past years, the Enterprises have frequently failed to meet particular goals and subgoals. In some cases, the established affordable goals have been determined to be infeasible, but even when this has not been the case, the regulator has not taken any enforcement actions.

Strong and predictable enforcement of the housing goals is a critical part Congress' overall approach on this matter. Current statutory authorities provides a range of enforcement tools, including the ability to require Plans of Action, to issue cease and desist orders, and to impose civil monetary penalties when housing goals are not met. Specifically, the agency can require submission of "any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible." The written submission requires a plan that details how housing goals will be met for the next year. Under HERA, when goals are not met and the GSEs either fail to submit the goals/reasons for failure report, or fail to comply with the housing goals, the monetary penalties are increased. Funds from these penalties are directed to the established Housing Trust Fund.

Moving forward, we recommend FHFA fully use the authorities we have described above in evaluating performance against both the benchmark and market tests.

Sincerely,

Julia Gordon, Director of Housing Finance and Policy
Center for American Progress,

Barry Zigas, Director of Housing Policy
Consumer Federation of America