7 March 2016

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Submitted Via: www.fhfa.gov/open-for-comment-or-input

Re: RIN 2590-AA27

Dear Mr. Pollard:

The Affordable Housing Investors Council (AHIC) appreciates the opportunity to comment on the proposed rule regarding **Enterprise Duty to Underserved Markets**. We are limiting our comments to questions 41-45.

AHIC is a non-profit organization comprised of 55 corporations engaged in investing in affordable housing properties that qualify for the low income housing tax credit (LIHTC). Our members are primarily financial institutions and insurance companies; they represent the bulk of the market and have invested more than $80 billion in all states and territories since the housing credit was established in 1986. Fannie Mae was a founding member of AHIC in 1995, and one of the early presidents of AHIC's board of governors was from Freddie Mac.

AHIC's mission is to provide educational opportunities to investors, promulgate best practices, create a forum for investors to share their insights on issues facing the field, and promote the investor's voice and perspective in this unique public/private partnership. Through these activities, AHIC seeks to strengthen the housing credit as an efficient and effective tool for the development of affordable housing. In light of its membership and mission, AHIC is keenly interested in how the potential re-entry of the Enterprises would affect the LIHTC market.

41. Should FHFA allow the Enterprises to resume LIHTC equity investments? Would the resumption of LIHTC equity investments by the Enterprises benefit the financial feasibility of certain LIHTC projects or would it substitute Enterprise equity funding for private investment capital without materially benefiting the projects?

AHIC does not support the resumption of LIHTC investing by the Enterprises. When they abruptly ceased investing in 2008, the Enterprises were 40% of the market. Their exit caused a significant disruption that had repercussions for years. The market has recovered, and now LIHTC pricing across the country exceeds the previous highs in 2006 and 2007: a dollar of tax credit equity in the most sought after areas can top $1.20, with other parts of the country commanding $0.90-1.00.

Prices in the "CRA hot " market areas are propelled by larger financial institutions seeking to meet their obligations under the Community Reinvestment Act (CRA). In the non-hot CRA areas, the appetite of economic investors and regional banks has meant that prices have risen there as well, and no developments are failing to find investors. We can see no public policy purpose to having government-supported institutions compete with private corporations in a well-functioning and robust market in which the supply is capped.

It is not possible to know whether or when the market could soften to the extent that the financial feasibility of LIHTC developments would be jeopardized – there are certainly no predictions of this currently. A strategy by the Enterprises to serve as "investor of last resort" could result in an unbalanced portfolio that puts taxpayer resources at risk. A strategy that would have the Enterprises enter the market if prices decline to a certain level takes the questionable approach of having government-sponsored entities create an artificial pricing floor based on unknown criteria, creating a distorting impact. In either case, the Enterprises would need to rebuild complex and costly investing infrastructures with no clear indication whether or when their threshold criteria would be triggered.

A key feature of the success of the housing credit is that the involvement of private investors imposes market discipline on the development of affordable housing and the private sector assumes the risk, not the federal government. Investment by government-sponsored enterprises runs counter to this strength of the LIHTC program.

42. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit investments to support for difficult to develop projects in segments of the market with less investor demand, such as projects in markets outside of the assessment areas of large banks or in rural markets or for preservation of projects with expiring subsidies? Are there other issues that FHFA should consider if limiting the types of LIHTC projects appropriate for equity investment by the Enterprises?

As noted above, the demand for LIHTC investments in markets outside the assessment areas of large banks is strong due to interest by regional banks and economic investors. Our investor members are competing aggressively for every type of LIHTC project in every market, including those the Enterprises contend are 'underserved' (e.g., rural, Indian Country, rental assistance subsidized, and high opportunity areas). If the Enterprises were to begin investing at this time, they would most likely crowd out the non-bank economic investors who provide important diversity to the investor community.

The industry is also still waiting to see the results of the 2013 changes to the Interagency Questions and Answers Regarding Community Reinvestment (Q&A). These revisions sought to clarify the treatment by the regulators of investments outside a bank's assessment area in the broader statewide or regional area, with the goal of fostering a more rational distribution of investor equity. Because of the timing of CRA examination cycles, a full picture of the impact of the Q&A changes is still forthcoming.

43. If FHFA permits the resumption of LIHTC equity investments, should Duty to Serve credit be provided only for LIHTC equity investments in projects with expiring subsidies or projects in need of refinancing, or should Duty to Serve credit also be given for LIHTC equity investments in new construction projects with regulatory agreements that assure long-term rental affordability?

As noted above, AHIC does not support the re-entry of the Enterprises into the LIHTC market. However, should the FHFA approve resumption of their investing, Duty to Serve credit should only be provided for LIHTC investments for which equity would otherwise not be available - criteria that would be difficult to determine and challenging to monitor.

44. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit such investments to those that promote residential economic diversity, for example, by investing in LIHTC properties located in high opportunity areas, as proposed to be defined in § 1282.1, to address concerns raised about the disproportionate siting of LIHTC housing (non-senior) in low-income areas and the effect on residential segregation?

The investor community does not have an impact on the siting of LIHTC properties, which are selected by state allocating agencies through a competitive process according to criteria outlined in their Qualified Action Plans. Therefore, <u>a decision by the Enterprises to pursue this strategy would not increase the number of properties developed in high opportunity areas.</u> In addition, these areas are generally strong CRA markets, which would result in the Enterprises competing against financial institutions seeking to fulfill their CRA obligations in markets where credit prices are highest.

45. Should FHFA consider permitting the Enterprises to act as the guarantor of equity investments in projects by third-party investors provided any such guarantee is safe and sound and consistent with the Enterprise's Charter Act? If so, what types of guarantees should the Enterprises offer?

As the housing credit market has matured over the last thirty years, a sophisticated cadre of investors has emerged that is comfortable with the risk inherent in housing credit properties, which are widely acknowledged to have the lowest default rate of any real estate asset class in the United States. In addition, the decision by the Financial Accounting Standards Board to allow investors to apply a proportional amortization method to LIHTC investments further lessened interest in guaranteed investments.

As a result, <u>the market for guaranteed investments is minimal</u> and we expect that the offering of guarantees by the Enterprises would have a very limited impact, mostly likely resulting in the displacement of other non-guaranteed investors and those few private capital market guarantee providers currently offering this product to the very small pool of investors who seek it.

AHIC appreciates the opportunity to comment on the potential impact of the resumption of LIHTC investing by the Enterprises. **While we do not support this proposal, we do want to express our firmest support for the extremely valuable role the Enterprises play in multi-family affordable housing lending.** If you wish to discuss the above comments further, please contact the undersigned at (347) 392-9983 or jhertzog@ahic.org.

Respectfully,
The Affordable Housing Investors Council
Julie H Hertzog
Julie H. Hertzog
Executive Director