October 25, 2021

Clinton Jones
General Counsel
Attention: Comments/RIN 2590–AB12
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20219

Re: Notice of Proposed Rulemaking on Housing Goals for the Enterprises 2022-24

Dear Mr. Jones:

The National Multifamily Housing Council ("NMHC") and National Apartment Association ("NAA") appreciate the opportunity to comment on the Federal Housing Financial Agency's ("FHFA") proposed 2022-2024 housing goals ("Proposed Rule") for Fannie Mae, and Freddie Mac (the "Enterprises") which includes separate categories for both single-family and multifamily mortgages on housing that is affordable for low-and moderate-income families, minority communities, rural areas and other underserved populations; new low-income areas subgoal with separate area-based subgoals based on minority census tracts and low-income census tracts; and several technical changes to definitions and other provisions.

For more than 25 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered on behalf of America's apartment industry. Drawing on the knowledge and policy expertise of staff in Washington, D.C., as well as the advocacy power of more than 155 NAA state and local affiliated associations, NAA and NMHC provide a single voice for developers, owners and operators of multifamily rental housing. One-third of all Americans rent their housing, and 40 million of them live in an apartment home.

The apartment industry today plays a critical role in housing this nation's households by providing apartment homes to 40.1 million residents, contributing $3.4 trillion annually to the economy while supporting 17.5 million jobs.[1] At the same time, it is apparent that the supply of multifamily housing is insufficient to meet the nation's housing needs. Moreover, the COVID-19 pandemic has laid bare the fragility of our housing infrastructure. Home should be a respite, and yet 2020 and 2021 have found many households challenged by a virus that unspooled the economy and their personal finances.

We applaud FHFA's focus on housing affordability. NMHC and NAA remain committed to not only working to stabilize the current pandemic related disruption, but also to

[1] NMHC Quick Facts

addressing housing equity, affordability, and access going forward. Before COVID-19, the country was facing a nationwide housing affordability challenge and a historic demand for new rental housing. Beginning in the mid -2000s, the nation experienced the greatest renter wave in its history, as the number of households who rent rose by more than 7 million.[2]

Fueled by this extraordinary demand for apartment homes, recent NMHC and NAA research finds that we need to build an average of 328,000 apartments every year.[3] Yet our industry faced significant challenges to new apartment construction, development and renovation before the crisis, and we have only hit that mark four times since 1989. [4]

The multifamily industry has long been at the forefront of addressing housing affordability. NMHC published its Housing Affordability Toolkit with HR&A Advisors in 2018 with the goals of both providing background on the underlying causes of the apartment industry's affordability crisis and providing specific tools that could be used to help defray the cost of building new apartments, allowing more units to be built at a variety of price points.[5]

We cited three main reasons for the worsening affordability conditions: (1) a chronic demand/supply imbalance; (2) a rise in the "lifestyle" renter (or renter by choice); and (3) an increase in overall development costs including materials and regulatory compliance. Together, these factors created a scenario that put the brakes on affordable housing production. It became increasingly challenging to buy land and build a property at rates that were broadly affordable. Furthermore, it was exceedingly difficult for lower-income renter households to find an apartment without becoming cost burdened. In the time since the publication of the Affordability Toolkit, there has been a pandemic induced economic downturn, one that put lower-income apartment residents particularly at risk financially. [6]

The purpose of the Proposed Rule is to establish the benchmark housing goals for the Enterprises for the period 2022 to 2024. The existing benchmark housing goals run through the end of 2021 and cover the purchase of both single-family and multifamily mortgages. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the "Act") and as amended in 2010, requires FHFA to establish benchmark housing goals for the Enterprises. The Safety and Soundness Act requires FHFA to establish housing goals annually in a timely manner to provide the Enterprises time to plan their activities.

"the annual housing goals under this subpart for each year, taking into consideration the need

[2] U.S. Census Bureau, Various Surveys
[3] Hoyt Advisory Services; NMHC and NAA, "U.S. Apartment Demand – A Forward Look", May 2017.
[4] U.S. Census Bureau, New Residential Construction, updated 4/2021.
[5] https://housingtoolkit.nmhc.org/
[6] https://www.nmhc.org/research-insight/research-notes/2021/affordability-toolkit-redux/

> *for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such annual goals."*[7]

As required by the Act, FHFA began issuing housing goals upon its establishment in 2010 and is now proposing housing goals for the period covering 2022 to 2024. The Act requires that FHFA establish a single annual goal, by either unit or dollar volume, for purchases of multifamily housing that finance units affordable to low-income and very low-income families.[8] The Act defines low-income at or below 80% of AMI and very-low income at or below 50% of AMI. Since its inception FHFA has chosen to issue multifamily housing goals for the Enterprises based on the number of units for each goal rather than dollar volume. Before discussing the impact of these housing goals, it is important to describe the annually determined purchase volume caps that also influence the Enterprise's presence in the multifamily market place.

Starting in 2014, FHFA set an annual dollar volume cap on the Enterprise's total purchases of conventional multifamily businesses while excluding certain affordable and underserved market loans from counting toward that cap. This cap and goals are separate from the goals in the Proposed Rule. The dollar volume cap is calculated annually based on the expected size of the multifamily debt market in the upcoming year and a target market share for the Enterprises. Beginning in 2019, and continuing into 2022, a minimum mission-driven percentage of total purchases were implemented that directed the Enterprises in serving the affordable and underserved markets by the inclusion of certain subgoals requiring a minimum percent of total purchases.

Many factors influence the apartment industry's health and ability to meet the nation's growing demand for rental housing, but the availability of consistently reliable and competitively priced capital is the most essential. In fact, it is the single most important factor to ensuring that the apartment industry can meet the growing rental housing demand and the nation's housing affordability needs.

To address the affordability crisis, we need capital to support development and renovation at all price points and in all markets, including urban, rural, smaller secondary and tertiary markets that may not meet the credit or return standards required by many private capital debt providers.

For this reason, we are concerned that some of the changes in the proposed rule may impede the ability of Enterprises to address the mission of addressing the shortage of supply of not only affordable housing but the housing necessary at all price points.

Our comments will highlight these issues:

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[7] Safety and Soundness Act 12 C.F.R. sec 4563
[8] 12 C.F.R Title 12 Chap 46 Sec 4563

The **proposed benchmark levels for multifamily housing goals may be too prescriptive. The unit increase may be too high** and the three-year time frame too long and may cause the Enterprises to act irrationally if the market dynamics change during the three-year period.

The annual production cap and the affordable housing goals should be harmonized. The goals in the annual production cap and those in the Proposed Rule create confusion since they are issued for different periods than the Proposed Rule, contain different affordable housing metrics, and use different methods for determining purchases. However, there is an opportunity for FHFA to harmonize the approach for both.

Notably, as stated in the Proposed Rule, we appreciate that FHFA recognized that there may be a need to adjust these housing goals, and the rule includes flexibility to accommodate possible adjustments. As stated in the rule,

> *"If after publication of the final rule establishing the housing goals for 2022-2024, FHFA determines that any of the single-family or multifamily housing goals should be adjusted, in light of market conditions to ensure the safety and soundness of the Enterprises, or for any other reason, FHFA will take any steps that are necessary and appropriate to adjust that goal such as reducing the benchmark level through the processes in the existing regulation"*

Proposed Benchmark Levels for the Multifamily Housing Goals May be too Prescriptive:

In accordance with the Act, FHFA must issue a single annual goal by either unit or dollar volume, for purchases of multifamily mortgagees that finance dwelling units that are affordable to low-income, very low-income or are in multifamily buildings that contain 5 to 50 units. Since its establishment in 2010 FHFA has chosen to issue the goals in unit count covering a series of three-year periods.

The Proposed Rule is proposing to significantly increase the three housing goals as shown here:

Proposed Housing Goals

Goal	Criteria	Current benchmark level for 2021	Proposed benchmark level for 2022-2024
Low-Income Goal	Units affordable to families with incomes no greater than 80 percent of AMI in multifamily rental properties with mortgages purchased by an Enterprise	315,000 units	415,000 units
Very Low-Income Subgoal	Units affordable to families with incomes no greater than 50 percent of AMI in multifamily rental properties with mortgages purchased by an Enterprise	60,000 units	88,000 units
Small Multifamily Low-Income Subgoal	Units affordable to families with incomes no greater than 80 percent of AMI in small multifamily rental properties (5 to 50 units) with mortgages purchased by an Enterprise	10,000 units	23,000 units

The Enterprise actual performance against each of these three goals covering the period 2014 through 2020 is shown in the charts below. The Enterprises have exceeded each of the goals in each of these years but as noted there is a variability in performance for each Enterprise based on overall market conditions. Most noticeably, recently they have exceeded the goals by a wide margin which has led to the Proposed Rule requesting the significant increases in each of the goals.

Multifamily Low-Income Housing Goals

	Performance						
Year	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
Fannie Mae Benchmark	250,000	300,000	300,000	300,000	315,000	315,000	315,000
Freddie Mac Benchmark	200,000	300,000	300,000	300,000	315,000	315,000	315,000
Fannie Mae Performance							
Low-Income Multifamily Units	262,050	307,510	352,368	401,145	421,813	385,763	441,773
Total Multifamily Units	372,072	468,798	552,785	630,868	628,230	596,137	637,696
Low-Income % Total	70.4%	65.6%	63.7%	63.6%	67.1%	64.7%	69.3%
Freddie Mac Performance							
Low-Income Multifamily Units	273,434	379,042	406,958	408,096	474,062	455,451	473,338
Total Multifamily Units	366,377	514,275	597,399	630,037	695,587	661,417	667,451
Low-Income % of Total Units	74.6%	73.7%	68.1%	64.8%	68.2%	68.9%	70.9%

Multifamily Very Low-Income Housing Goals

	Performance						
Year	2014	2015	2016	2017	2018	2019	2020
Fannie Mae Benchmark	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Freddie Mac Benchmark	40,000	60,000	60,000	60,000	60,000	60,000	60,000
Fannie Mae Performance							
Very Low-Income Multifamily Units	60,542	69,078	65,910	82,674	80,891	79,649	95,416
Total Multifamily Units	372,072	468,798	552,785	630,868	628,230	596,137	637,696
Very Low-Income % of Total Units	16.3%	14.7%	11.9%	13.1%	12.9%	13.4%	15.0%
Freddie Mac Performance							
Very Low-Income Multifamily Units	48,689	76,935	73,030	92,274	105,612	112,773	107,105
Total Home Purchase Mortgages	366,377	514,275	597,399	630,037	695,587	661,417	667,451
Very Low-Income % of Total Units	13.3%	15.0%	12.2%	14.6%	15.2%	17.1%	16.0%

Small Multifamily Low-Income Subgoal

	Performance						
Year	2014	2015	2016	2017	2018	2019	2020
Small Low-Income Multifamily Benchmark		6,000	8,000	10,000	10,000	10,000	10,000
Fannie Mae Performance							
Small Low-Income Multifamily Units	6,732	6,731	9,312	12,043	11,890	17,832	21,797
Total Small Multifamily Units	11,880	11,198	15,211	20,375	17,894	25,565	36,880
Low-Income % of Total Small Multifamily Units	56.7%	60.1%	61.2%	59.1%	66.4%	69.8%	59.1%
Freddie Mac Performance							
Small Low-Income Multifamily Units	2,076	12,801	22,101	39,473	39,353	34,847	28,142
Total Small Multifamily Units	4,659	21,246	33,984	55,116	53,893	46,879	41,263
Low-Income % of Total Small Multifamily Units	44.6%	60.3%	65.0%	71.6%	73.0%	74.3%	68.2%

As seen from the charts above, the proposed goals for 2022-24 significantly increased the unit count for each goal to nearly at or above the unit count in each of the past two years which were very strong years for the Enterprises purchases. Moving the proposed unit count goal to this level over the next three-year period without supporting analysis to estimate the size of the market, consider changing economic conditions, or alternate sources of capital is problematic. For example, if inflationary pressures cause interest rates to rise the demand for multifamily debt could decrease. This could result in the Enterprises stretching to meet the fixed unit count goal that does not vary based on the actual size of the market.

By definition, using a unit count implies that there is knowledge of the number of units of affordable apartments that will need financing in each of the three years of the Proposed Rule. In fact, the Proposed Rule identifies the difficulty in estimating the demand due to lack of data to conduct that analysis.

"Unlike the single-family mortgage market, where HMDA provides a reasonably comprehensive dataset about single-family mortgage originations each year, the multifamily mortgage market (and the affordable multifamily mortgage market segment) has no comparable single, unified

source with coverage extending across many years. As a result, it is difficult to correlate different datasets that rely on different reporting metrics."[9]

FHFA should consider establishing an affordable housing goal each year rather than for a three-year period in order to more accurately estimate the loan demand for the upcoming year. As discussed in the next section FHFA should also consider shifting to a dollar volume goal based on the market size estimated as the annually issued purchase volume cap which would allow the Enterprises and industry stakeholders to operate from a single metric.

FHFA Should Harmonize the Affordable Housing Goals with the Conservatorship Scorecard

Presently FHFA imposes two affordable housing goal frameworks on the Enterprises multifamily businesses. As noted previously, one comes from the affordable housing goals from the Act and the second comes from the annually determined purchase volume cap. Since 2014 FHFA has imposed a dollar purchase volume cap (the "Cap") for the Enterprises multifamily businesses. The dollar volume cap is calculated annually based on the expected size of the multifamily debt market in the upcoming year and a target market share for the Enterprises. Beginning in 2019, and continuing to 2022, minimum mission-driven percentages of total purchases were implemented that direct the Enterprises in serving the affordable and underserved markets by the inclusion of certain subgoals requiring a minimum percent of total purchases.

Thus, the Enterprises multifamily businesses operate to meet two distinct affordable housing goals in each operating year, one based on unit count and the other based on a dollar volume limit with required minimum percentages of mission centric loans. There is no equivalent cap or dual nature of affordable housing goals for the Enterprises single-family businesses. This is a confusing process whereby each Enterprise has to meet two different goal frameworks that each has the same affordability objective. Because renter households tend to be more housing cost burdened than their homeowner counterparts, the multifamily loan cap seems to unduly impact those most appropriately served by the Enterprises, compounded by the disjointed nature of additional layers of lending activity requirements.

The description becomes more complex based on the subgoals in each of the goal frameworks. The Proposed Rule uses the Act definition of very low-income loans which is 50 percent of AMI whereas the purchase cap uses 60percent of AMI as its subgoal. No reason is provided by FHFA as to why these two different very low-income definitions are used but it does demonstrate the potential confusion caused by the different goals.

FHFA has an opportunity to modify its approach to establishing affordable housing goals

[9] Federal Register, RIN 2590-AB12, "2022-2024 Enterprise Housing Goals", p.41

required as part of the Act by harmonizing the cap and its own affordable housing goals. The annual cap has all the components, including an affordable housing goal in dollar terms, that can appropriately meet the requirements of the Act, with modifications of its affordable goal metrics. By shifting the goals required by the Act to an annual determination, FHFA and the Enterprises can be more responsive to changes in market conditions.

NMHC and NAA thank FHFA for the opportunity to provide these comments on the Proposed Rule. We agree with the objectives of the Enterprises providing liquidity to the affordable and underserved markets and have offered our comments to facilitate and clarify the approach to these efforts.

If you have any questions or if you would like to discuss our comments, please contact David Borsos, Vice President, Capital Markets at NMHC by telephone at 202-974-2336 or by email at dborsos@nmhc.org.

Sincerely,

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