Fannie Mae

By Electronic Submission to www.fhfa.gov/open-for-comment-or-input

October 14, 2022

Clinton Jones, Esq.
General Counsel
Attention: Comments/RIN 2590-AB21
Federal Housing Finance Agency
400 Seventh Street, S.W.
Washington, DC 20219

Re: Notice of Proposed Rule and Request for Public Comment concerning the 2023-2024 Multifamily Enterprise Housing Goals, RIN 2590-AB21

Dear Mr. Jones:

Fannie Mae appreciates the opportunity to submit comments to the Federal Housing Finance Agency's ("FHFA") Proposed Rule on Multifamily Enterprise Housing Goals for 2023-2024 ("Proposed Rule").

Fannie Mae remains committed to serving every market, every day, to help assure affordable housing to renters nationwide. We appreciate FHFA's careful consideration of how to measure Fannie Mae's and Freddie Mac's (the "Enterprises") performance on multifamily housing goals and support FHFA's proposed new multifamily goal counting methodology and benchmarks. Although current market trends are making housing less affordable, we believe that these goals exhibit FHFA's and the Enterprises' commitment to making housing affordable for renters now and in the future, while preserving the Enterprises' ability to provide liquidity and stability to the broader multifamily mortgage market through variable economic conditions.

I. Executive Summary

Fannie Mae's comment letter addresses the three areas of the Proposed Rule on which FHFA requested comment:

- The proposed new methodology for measuring Enterprise performance on the multifamily housing goals, as well as on the proposed benchmark levels for 2023 and 2024 under this new methodology.
- The proposal to change the methodology for measuring the multifamily housing goals from a fixed number of goal-qualifying units to a goal-qualifying percentage share of all goal-eligible units, as well as any other changes that might be appropriate if a change to percentage-based multifamily housing goals is adopted in the final rule.
- Whether any other changes to the existing rules for counting multifamily mortgages should be made to address any unintended interactions that the proposed change to the methodology for measuring the multifamily housing goals might have with the market or affordable market segments.

We responded to FHFA's request for comment on the first two issues above in Section II of our letter, detailing Fannie Mae's support for the proposed new methodology and benchmarks. We believe that the new methodology allows the Enterprises to provide liquidity that reflects the variable nature of the multifamily mortgage market, and that the proposed benchmarks provide challenging, yet attainable, goals for the Enterprises to support affordable multifamily housing while maintaining safety and soundness.

We responded to FHFA's request for comment on the third issue above in Section III, identifying interactions and impacts of the proposed new methodology. Although there is some risk with the new methodology, we believe that it will reduce some potential unintended consequences of the historical methodology used to establish multifamily housing goals and better align the housing goals with other regulatory requirements.

II. Proposed New Methodology and Benchmarks

The Proposed Rule would change the annual multifamily goals and subgoals from a fixed number of goal-qualifying units financed (*i.e.*, a "fixed-unit" approach) in 2022 and prior years, to a goal-qualifying percentage share of all goal-eligible units financed (*i.e.*, a "percentage-based unit" approach) for 2023 and 2024 as follows:

- **Low-income ("LI") goal**. From 415,000 dwelling units to 61% of units in multifamily properties financed by mortgages purchased by each Enterprise affordable to families with incomes no greater than 80% of area median income ("AMI");
- **Very low-income ("VLI") subgoal**. From 88,000 dwelling units to 12% of units in multifamily properties financed by mortgages purchased by each Enterprise affordable to families with incomes no greater than 50% of AMI; and
- **Small ("5-50") low-income subgoal**. From 17,000 dwelling units to 2% of units in small multifamily properties (5-50 units) financed by mortgages purchased by each Enterprise affordable to families with incomes no greater than 80% of AMI.

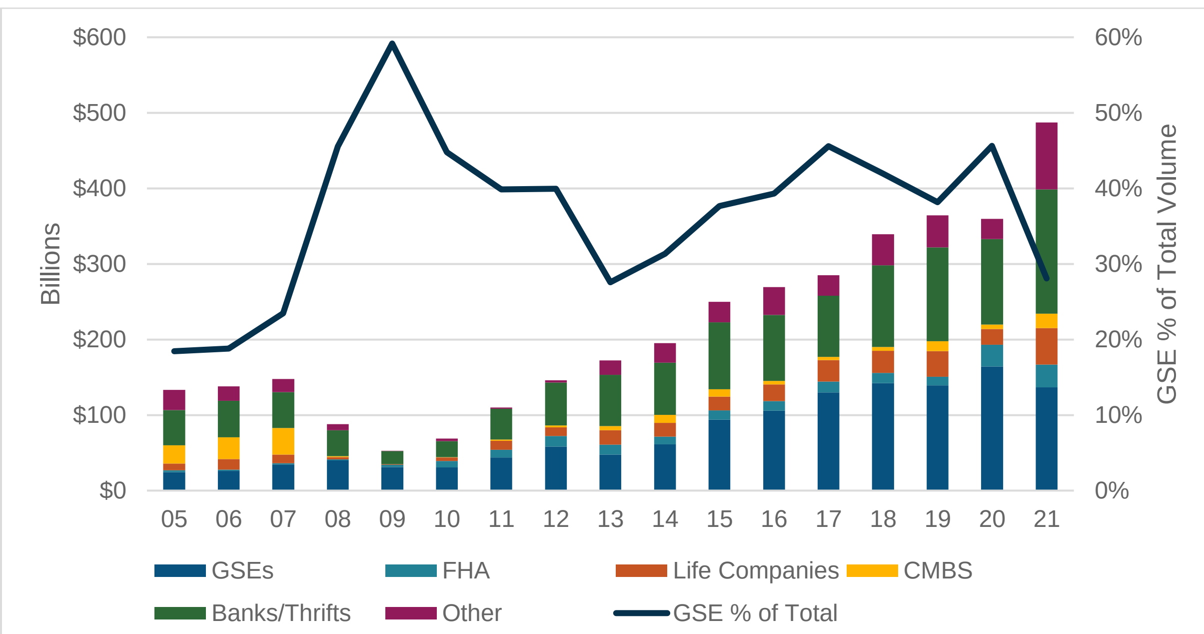
A. The proposed new methodology enables the Enterprises to fulfill their mission to provide liquidity to the multifamily mortgage market in response to variable economic conditions, while lessening the need to try to predict the size of the market using incomplete data.

Fannie Mae supports FHFA's proposed new methodology for establishing multifamily housing goals for 2023-2024. The proposed percentage-based unit approach will allow Fannie Mae to work towards the desired mix of business that FHFA intends for us to achieve without jeopardizing safety and soundness in the interest of acquiring a minimum volume of units to meet a fixed-unit goal. It will also enable us to continue to serve the LI, VLI, 5-50, workforce housing and conventional multifamily markets in a more consistent manner. We believe that a balanced portfolio that serves the broader market makes our book of business more resilient and better enables our ability to continue to support our mission through time.

1. **The new methodology better reflects the variability of the multifamily mortgage market from year to year and the need for Enterprise liquidity in the market, while ensuring that the Enterprises will provide continued leadership in financing affordable housing.**

FHFA's analysis in the Proposed Rule of the overall economic outlook and its impact on the multifamily mortgage market and affordability in that market is consistent with Fannie Mae's analysis. In addition, Fannie Mae notes that participation by other parties in the multifamily mortgage market varies depending on market conditions. As seen in the chart below, there are years in which other sources of liquidity actively participate in the market and the Enterprises' participation is lower, such as the mid-2000s when their combined share was around 20%. There are also times when other market participants significantly reduce their multifamily lending, such as 2009 (when combined Enterprise participation approached 60%) and more recently in 2020 during the early days of the COVID-19 pandemic. During those periods, the Enterprises were able to respond by rapidly increasing the level of liquidity they provide to maintain stability within the multifamily finance sector. Housing goals requirements based on a percentage of goal-eligible units give the Enterprises the flexibility to react and adjust to market needs to ensure stability and liquidity during times of uncertainty, and do not force the Enterprises to compete excessively with other sources of liquidity when they are available.

Multifamily Lending by Investor Group



Source: Mortgage Bankers Association

As market conditions change over time, this approach helps to align the level of the Enterprises' housing goals with the liquidity that the market needs from the Enterprises, rather than compelling the Enterprises to deliver liquidity in excess of market needs. As noted in the Proposed Rule, the new percentage-based unit approach means that the absolute number of goal-qualifying units needed to meet each of the housing goals and subgoals each year will adjust in proportion to each

Enterprise's multifamily loan purchase volume and accordingly better reflect then-current multifamily mortgage market conditions. This helps account for variations in the market, while continuing to provide ample incentive for the Enterprises to support affordable housing.

Fannie Mae has consistently met or exceeded its multifamily housing goals in prior years, but the current methodology based on a fixed number of units is more challenging in certain years because Fannie Mae is compelled to acquire a minimum volume of new loans, regardless of market conditions or competition, to achieve the fixed-unit goal. This can be challenging to achieve in a safe and sound manner in years when anticipated business volumes are not met as the year progresses, due either to lower-than-expected market activity or higher-than-expected competing sources of capital.

As we anticipated in our 2021 comment letter to FHFA's Notice of Proposed Rulemaking for 2022-24 Housing Goals, the increase in the multifamily goals that FHFA initially proposed for 2022-24 would have required Fannie Mae to acquire a higher volume of loans to make the goals achievable. In response, we recommended a higher loan acquisition volume cap for those years to enable higher acquisitions and make the goals feasible to achieve in a safe and sound manner. For example, we acquired $70 billion in new loans in 2021 consistent with our 2021 volume cap, but would not have met our 2022 goals at that level of acquisitions. FHFA appropriately recognized this dynamic by providing each Enterprise a larger volume cap of $78 billion for 2022.

Even with a larger volume cap, our ability to acquire loans, including mortgages financing goal-qualifying units, remains dependent on market conditions that enable us to acquire a sufficient number of loans within the volume cap. We believe that the increased volume cap was necessary to give us the potential to meet the increased housing goals in 2022, but the volume cap only represents a maximum permissible amount of acquisitions and our ability to actually acquire loans at a volume sufficient to meet fixed-unit goals is dependent on many factors, including macroeconomic and multifamily market conditions. [1]

2. **The new methodology lessens the need to predict the multifamily mortgage market using incomplete information.**

The new methodology would alleviate some of the risks associated with attempting to predict the size of the multifamily mortgage market. For FHFA to set fixed-unit goals, and for the Enterprises and other parties to comment on those goals, we each must forecast the multifamily mortgage market and the combined Enterprise volume of multifamily mortgage purchases as much as three to four years into the future. As noted in the Proposed Rule, attempting to forecast multifamily market conditions and Enterprise purchase volumes even one year ahead, let alone three to four years into the future, is an exceedingly difficult exercise. This task is made even more complicated

[1] The first half of 2022 was marked by (1) heavier market competition from both traditional and non-traditional lenders; (2) an approximate doubling of both the 10-year US Treasury Rate and our Mortgage-Backed Security (MBS) spreads; and (3) continued high growth in multifamily property values and rents in the backdrop of high inflation levels. The confluence of these factors made lending conditions much more difficult in the first half of this year.

by the lack of a comprehensive dataset of multifamily loan origination volume like the Home Mortgage Disclosure Act (HMDA) data available for the single-family mortgage market. The proposed new methodology allows FHFA to continue to set robust goals for the Enterprises for acquiring mortgages financing multifamily affordable housing without attempting to predict the multifamily mortgage market far into the future with limited data.

The Proposed Rule does not eliminate the need to anticipate important elements of the multifamily mortgage market, especially the relative availability among housing goal-eligible, workforce housing, conventional, and other types of loans that we may acquire in a given year. Unexpected economic change, lower affordable rental housing supply, new competition, or other unanticipated factors may reduce the volume of eligible loans available, which could in turn limit the number of loans that we can acquire in the broader market and still meet the benchmarks. The new methodology could also separately impact liquidity for the LI, VLI or 5-50 segment of the market if the size of those segments is significantly out-of-balance with our historical experience. For example, the 5-50 subgoal could limit the Enterprises' ability to acquire mortgages for properties serving the LI and VLI markets if the 5-50 market is less active or more competitive, because each new LI or VLI mortgage acquired that does not also meet the 5-50 subgoal reduces the Enterprises' percentage of 5-50 units. Despite this concern, we believe that the new methodology greatly reduces the uncertainty of anticipating the market that exists under the historical methodology.

B. <u>The proposed LI goal, VLI subgoal and 5-50 subgoal are challenging, yet attainable, for the Enterprises.</u>

The proposed benchmarks reflect levels that are challenging yet attainable for Fannie Mae, allowing us to both achieve our mission and maintain safety and soundness. As described below, the new percentage-based unit goals for LI and VLI would have been higher than the historical fixed-unit goals in all years shown except for 2015, and the 5-50 subgoal would have been higher in all years from 2015 to 2021. Fannie Mae would have achieved the percentage-based unit goals proposed under the new methodology in most years based on actual acquisitions, but the narrow margins and occasional gaps show that proposed percentage-based unit goals would have been more challenging, holding Fannie Mae to a high standard of support for affordable multifamily rental housing.

If the benchmarks were set at a higher level, it could limit the Enterprises' ability to provide liquidity to the broader multifamily market for affordable, workforce housing and conventional loans when other sources of liquidity are unavailable. As with a shift in relative market size between segments noted in Section II.A.2 above, a higher 5-50 subgoal could exacerbate challenges faced in meeting the LI goal and VLI subgoal if the 5-50 segment was less available to the Enterprises.

FHFA notes in the Proposed Rule that it may modify the benchmark levels in response to unexpected market developments after publication of the final rule, and suggests that the new methodology could reduce the likelihood that FHFA will be required to modify the benchmark levels. If the percentages for each goal and subgoal are set at a higher level, especially if the levels are not consistent with the historical experience of the Enterprises, the new methodology may not reduce the need for modification and may even increase it.

1. Low Income (LI) Goal

The chart below compares the proposed benchmark for the LI goal under the new methodology against both the *goals* that FHFA established on a fixed-unit basis for the Enterprises during the years 2015-2021, and Fannie Mae's *actual performance* in acquiring LI units during those same years.

	2015	2016	2017	2018	2019	2020	2021
Total Housing Goal-Eligible Units Acquired	468,798	552,785	630,868	628,230	596,137	637,696	557,152
Historical LI Fixed-Unit Goal	300,000	300,000	300,000	315,000	315,000	315,000	315,000
Historical LI Goal as a %	64.0%	54.3%	47.6%	50.1%	52.8%	49.4%	56.5%
Proposed %-Based Unit Goal	61.0%	61.0%	61.0%	61.0%	61.0%	61.0%	61.0%
LI Units Acquired	307,510	352,368	401,145	421,813	385,763	441,773	384,488
LI Units Acquired as a %	65.6%	63.7%	63.6%	67.1%	64.7%	69.3%	69.0%

[2]

Proposed LI Goal vs. Past Goals: The fixed-unit LI goals established by FHFA for each year from 2015 to 2021, expressed as a percentage of the number of housing goal-eligible units that Fannie Mae acquired in each of those years, falls within a range of 47.6% to 64.0%. FHFA's proposed LI goal under the new methodology of 61% is near the high end of this historical range, indicating that FHFA is appropriately proposing an ambitious benchmark for the Enterprises to acquire affordable housing loans.

Proposed LI Goal vs. Past Performance: Fannie Mae's acquisition of units meeting the LI goal each year from 2015 to 2021, expressed as a percentage of total goal-eligible units acquired by Fannie Mae during the same period, ranged from 63.6% to 69.3% with a median level of 65.6%. While we would have exceeded the 61% benchmark in each of these years, the margins were narrow in some years and wider in others. We believe the proposed LI goal of 61% ensures a similar level of participation by the Enterprises in the LI mortgage market in 2023 and 2024, while giving us flexibility to meet the goal in a safe and sound manner.

2. Very Low Income (VLI) Subgoal

The chart below compares the proposed benchmark for the VLI goal under the new methodology against both the *goals* that FHFA established on a fixed-unit basis for the Enterprises during the

[2] The tables in this section compare the newly proposed percentage-based unit benchmark for each goal and subgoal to the following for each year from 2015-2021: (1) total housing goals eligible units acquired by Fannie Mae, (2) the former fixed-unit goals, (3) the former applicable goals expressed as an implied percentage of the housing goal-eligible units acquired, (4) our actual units acquired that met each goal and subgoal, and (6) our actual units acquired as a percentage of housing goal-eligible units for each goal and subgoal.

years 2015-2021, and Fannie Mae's *actual performance* in acquiring VLI units during those same years.

	2015	2016	2017	2018	2019	2020	2021
Total Housing Goal-Eligible Units Acquired	**468,798**	**552,785**	**630,868**	**628,230**	**596,137**	**637,696**	**557,152**
Historical VLI Fixed-Unit Goal	**60,000**	**60,000**	**60,000**	**60,000**	**60,000**	**60,000**	**60,000**
Historical VLI Subgoal as a %	**12.8%**	**10.9%**	**9.5%**	**9.6%**	**10.1%**	**9.4%**	**10.8%**
Proposed %-Based Unit Subgoal	**12.0%**	**12.0%**	**12.0%**	**12.0%**	**12.0%**	**12.0%**	**12.0%**
VLI Units Acquired	**69,078**	**65,910**	**82,674**	**80,891**	**79,649**	**95,416**	**83,459**
VLI Units Acquired as a %	**14.7%**	**11.9%**	**13.1%**	**12.9%**	**13.4%**	**15.0%**	**15.0%**

<u>Proposed VLI Subgoal vs. Past Goals</u>: The fixed-unit VLI subgoals established by FHFA for each year from 2015 to 2021, expressed as a percentage of the number of housing goal-eligible units that Fannie Mae acquired in each of those years, falls within a range of 9.4% to 12.8%. FHFA's proposed VLI goal under the new methodology of 12% is also near the high end of this historical range, indicating that FHFA is appropriately proposing an ambitious benchmark for the Enterprises to acquire multifamily loans for very low-income households.

<u>Proposed VLI Subgoal vs. Past Performance:</u> Fannie Mae's acquisition of units meeting the VLI subgoal each year from 2015 to 2021, expressed as a percentage of total goal-eligible units acquired, ranged from 11.9% to 15.0% between 2015 and 2021 with a median level of 13.4%. While we would have met the 12% benchmark in each of these years except for 2016, we would have narrowly missed the subgoal in 2016 and only narrowly exceeded it in several other years. We believe the proposed VLI subgoal of 12% ensures that Fannie Mae will maintain a high level of participation in the VLI mortgage market.

3. Small Low Income (5-50) Subgoal

The chart below compares the proposed benchmark for the 5-50 subgoal under the new methodology against both the *goals* that FHFA established on a fixed-unit basis for the Enterprises during the years 2015-2021, and Fannie Mae's *actual performance* in acquiring 5-50 units during those same years.

	2015	2016	2017	2018	2019	2020	2021
Total Housing Goal-Eligible Units Acquired	**468,798**	**552,785**	**630,868**	**628,230**	**596,137**	**637,696**	**557,152**
Historical 5-50 Fixed-Unit Goal	**6,000**	**8,000**	**10,000**	**10,000**	**10,000**	**10,000**	**10,000**
Historical 5-50 Subgoal as a %	**1.3%**	**1.4%**	**1.6%**	**1.6%**	**1.7%**	**1.6%**	**1.8%**
Proposed %-Based Unit Subgoal	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**
5-50 Units Acquired	**6,731**	**9,312**	**12,043**	**11,890**	**17,832**	**21,797**	**14,409**
Small Low Income Percentage Acquired	**1.4%**	**1.7%**	**1.9%**	**1.9%**	**3.0%**	**3.4%**	**2.6%**

<u>Proposed 5-50 Subgoal vs. Past Goals</u>: The fixed-unit 5-50 subgoals established by FHFA each year from 2015 to 2021, expressed as a percentage of the number of housing goal-eligible units that Fannie Mae acquired in each of those years, falls within a range of 1.3% to 1.8%. FHFA's proposed 5-50 goal under the new methodology of 2% for this subgoal is higher than the historical range for this subgoal, indicating that FHFA is appropriately proposing an ambitious benchmark for the Enterprises to acquire affordable housing loans financing small multifamily rental properties.

Proposed 5-50 Subgoal vs. Past Performance: Fannie Mae's acquisition of units meeting the 5-50 subgoal each year from 2015 to 2021, expressed as a percentage of total goal-eligible units acquired, ranged from 1.4% to 3.4% with a median level of 1.9%. We would not have met the proposed goal between 2015 and 2018, but would have exceeded it in 2019-2021. As with the LI goal and VLI subgoal, we believe the proposed 5-50 subgoal of 2% ensures that Fannie Mae will maintain an appropriate level of participation in the 5-50 mortgage market.

FHFA appropriately notes in the Proposed Rule that "…the need for a significant presence by the Enterprises in this [5-50] market may no longer be necessary." We agree that this market is well served today by both large and small financial institutions as well as other traditional and non-traditional lenders. While we have sought to compete in this market to achieve this subgoal, we have found at times our competition willing to lend at pricing and credit underwriting terms that are outside Fannie Mae's prudent and risk-based safety and soundness parameters.

Given the robust competition in this segment of the market, we believe that setting this subgoal for the Enterprises at 2% of goal-eligible units will not result in a material change in the market support of this well-served segment. In the event of a material disruption in this or any segment of the industry, we will seek to fulfill our mission to provide liquidity and stability to the market, as we did most recently during the market disruption caused by the COVID pandemic in 2020 when our multifamily loan acquisition volume for properties with 5-50 units and percentage of acquisitions of loans for properties with 5-50 units was the highest in recent history.

III. Interactions and Impacts of New Methodology

Fannie Mae does not foresee any material unintended consequences of the Proposed Rule on the multifamily mortgage market or affordable market segments. The Proposed Rule reinforces our focus on our mission while enabling us to maintain a safe and sound business strategy in variable market conditions. Our goal each year is to help finance sustainable and affordable housing for renters, including exceeding the multifamily housing goals set by FHFA. We have no intention of changing our business practice in this regard and we believe our support of multifamily affordable housing will remain robust with the proposed methodology and benchmarks.

A. The Proposed Rule eliminates potential negative incentives created by fixed-unit goals that were identified by commenters to earlier housing goals regulations.

There are several other factors that support the proposed change to percentage-based unit multifamily housing goals. In the commentary to the Proposed Rule, FHFA notes that commenters in past years have highlighted the negative incentives that could be created by the historical approach for multifamily housing goals. For example, some commenters have suggested that the goals based on a fixed, minimum number of units do not incentivize the Enterprises to continue to acquire mortgages backed by goal-qualifying units after the Enterprises have met the minimum levels. The new methodology responds to this criticism as the Enterprises must now maintain a consistent mix of affordable and conventional business throughout the applicable year. By using the proposed approach, the Enterprises obligation to acquire affordable multifamily housing loans would rise as their respective volumes of multifamily mortgage acquisitions rise.

FHFA also notes that other commenters have suggested that goals based on a fixed, minimum number of units that do not adjust with the market can "incentivize erratic Enterprise competitive behavior." While we do not believe we have acted in this manner historically, hypothetically we could have been incentivized to compete very aggressively if we were behind on a particular goal, and then rapidly reduce our presence in that submarket once we achieved the goal, potentially causing disruption. FHFA's proposed new methodology better aligns our incentives to the market and reinforces the need for consistent Enterprise financing in the market whenever it is needed. If the market is well-served and other sources of liquidity are available, the Enterprises would not be compelled to excessively compete with other sources to acquire a fixed, minimum number of units in a manner that could potentially jeopardize our safety and soundness.

B. The Proposed Rule better aligns the Enterprise housing goals with mission percentages mandated by FHFA for each Enterprise each year.

The Proposed Rule also aligns FHFA's approach to the Enterprise housing goals with its approach to the mission percentage goals it gives us each year in our scorecard. These mission goals provide for a minimum percentage of our loan purchases (50% of UPB in recent years) to be mission-driven, focused on specified affordable and underserved market segments. In addition, 25% of our loan purchases in 2022 must be affordable to residents earning 60% or less of area median income, up from the 20% requirement in 2021. The change to percentage-based unit goals in the Proposed Rule means that both housing goals and mission goals will be measured by percentages and defined by area median income, simplifying management of these goals and paving the way for a possible consolidation of these goals given the significant overlap between the two sets of goals.

* * * *

We appreciate the opportunity to comment on the Proposed Rule. If you have questions regarding the matters addressed in this letter, please feel free to contact the undersigned at 202-752-1234.

Sincerely,

DocuSigned by:
Michele Evans
E5807B046B07485...
Michele Evans
Executive Vice President
Head of Multifamily

DocuSigned by:
Laurel Davis
D4523B81E34B411...
Laurel Davis
Senior Vice President
ESG & Mission