NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

October 14, 2022

Clinton Jones
General Counsel
Attention: Comments/RIN 2590–AB21
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20219

Re: Notice of Proposed Rulemaking on 2023-2024 Multifamily Enterprise Housing Goals

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 2023-2024 multifamily housing goals ("Proposed Rule") for Fannie Mae, and Freddie Mac (the "Enterprises") which includes multifamily mortgages on housing that are affordable for low-and moderate-income families.

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 145 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 36.8 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 19.4 million households, 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. According to Hoyt Advisory Services, the U.S. needs to build 4.3 million more apartments by 2035 to meet the demand for rental housing.[2] Addressing the current under supply and future demand for rental housing requires capital for new development and reinvestment in existing properties, with older properties playing a disproportionately impactful role in the workforce and affordable

[1] NMHC Quick Facts

[2] Hoyt Advisory Services, "Estimating the Total U.S. Demand for Rental Housing by 2035." (2022).

rental markets. Capital availability for preservation activities will be increasingly important in future years, with one-quarter (27.5%) of all apartment units in the U.S. today built between 1960 and 1979 and nearly half (46.1%) built prior to 1980.[3]

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 dependable and competitively priced capital for development and preservation 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.

Underproduction of housing combined with insufficient investment in preservation has translated to higher housing costs and a decline of 4.7 million affordable apartments (monthly rents less than $1,000) from 2015-2020.[4] A contributing factor is the increasing difficulty of building housing that is affordable to a wide range of income levels. According to the Harvard Joint Center for Housing Studies, between 2012 and 2019, the price of vacant commercial land doubled, while the combined costs of construction labor, materials and contractor fees increased by 39%. For comparison, the overall price level rose 11%. In practical terms, this translates to the total share of cost-burdened apartment households (those paying more than 30% of their income on housing) increasing steadily from 42.4% in 1985 to 54.7% in 2019. Also, during this period, the total share of severely cost-burdened apartment households (those paying more than half their income on housing) increased from 20.9 to 29.9%.[5]

To reverse the trend of harmful housing cost burdens, 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.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 requires FHFA to establish benchmark housing goals for the Enterprises, which FHFA has satisfied through rulemakings since 2010. The purpose of this Proposed Rule is to establish the benchmark multifamily housing goals for the Enterprises for the period 2023 to 2024. The existing benchmark multifamily housing goals run through the end of 2022.

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-

[3] NMHC tabulations of 2020 American Community Survey public use microdata.
[4] Hoyt Advisory Services, "Estimating the Total U.S. Demand for Rental Housing by 2035." (2022).
[5] Ibid.

income and very low-income families.[6] 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 the multifamily housing goals for the Enterprises based on the number of units for each goal rather than dollar volume.

In 2021, FHFA issued proposed affordable housing goals for 2022-2024 that would have significantly increased the unit goals for the Enterprises multifamily businesses. Our comment letter, as well as others, called into the question the size of the increase as well as the proposed three-year period it covered. We commend FHFA for considering stakeholder input and establishing the goals for a single year while undertaking an analysis on changing the approach to setting the affordable multifamily housing goals, which is reflected in the Proposed Rule. The Proposed Rule would shift from a specific minimum number of affordable units to be purchased by the Enterprises to a percent of affordable units purchased. Before discussing the impact of these housing goals, it is important to acknowledge the annual *Scorecard for Fannie Mae, Freddie Mac, and Common Securitization Solutions (*the Scorecard*)*, a guidance document produced by FHFA that communicates policy and activity guidance to the Enterprises, with notable examples including purchase volume caps (the Caps) as well as its own set of affordable housing goals.

Starting in 2014, through its annual Scorecard, FHFA set an annual dollar volume cap on the total purchases of conventional multifamily loans for each Enterprise. The Scorecard cap and goals are separate from the goals in the Proposed Rule and are set at the discretion of the FHFA Director. The dollar volume cap is calculated annually based on the expected size of the multifamily debt market in the upcoming year, to achieve 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.

With that, we offer the following suggestions in response to the Proposed Rule:

- **The affordable housing goals in the Act and as modified by 2008 HERA are grounded in statute and are the foundation of all housing goals for the Enterprises**. Any modifications, such as those made in the Scorecard, can be more stringent but cannot be less.

- **We support the change from a specific unit-based approach to a percent of unit-based approach**. A specific unit-based approach requires the

[6] 12 C.F.R Title 12 Chap 46 Sec 4563

estimation of the total size of the multifamily market over a multi-year period. It also does not reflect potential changes in the size of the market during any period. A percent of unit approach facilitates a multi-year goal setting approach and accommodates a shift in the size of the marketplace, whether growing or shrinking. We believe it would better support the Enterprises being in all markets in a smoother and more consistent approach throughout the year.

- **The Scorecard and the affordable housing goals should be harmonized.** The guidance in the Scorecard and in the goals in the Proposed Rule create confusion since one is based on dollar volume of business and the other is based on units, they are issued for different periods, they still 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.

- **We recommend FHFA study and routinely publish findings on the existing multifamily housing stock.**

- **We recommend eliminating the production cap** as it is no longer needed to manage the Enterprises footprint in the market.

The Enterprise Affordable Housing Goals Should be the Foundation for a Unified Policy Agenda

The affordable housing goals in the Act are grounded in statute and are the foundation of all housing goals for the Enterprises. Any modifications, such as those made in the Scorecard, can be more stringent but cannot be less. The annual Scorecard has been used since 2014 to provide specific guidance to the Enterprises for special projects, establish annual limits on the dollars of multifamily loan purchases, and other issues as required by the Director. The Proposed Rule changes the paradigm for affordable housing goals. Without modification, the affordable housing goals for the Scorecard will be less stringent than what is in the Proposed Rule, requiring a change in the Scorecard as outlined below. The starting point for both should be the level set for the Proposed Rule, with the Scorecard used in a certain year to adjust a goal higher, if warranted, but not lower than the Proposed Rule.

	Proposed 2023-24 Affordable housing goals	**2022 Scorecard**	**Comparison**
Measure	Percent of Units	Dollars	Different units
Low Income Limit	80% AMI	80% AMI standard markets; 100% AMI in cost burdened areas; 120% very cost burdened areas	Scorecard can qualify loans that would fail the AH goal measure
AH qualifiers	AMI limit	Specifically identified in the Scorecard	AH goals could use the definitions in the Scorecard
Low Income Goal	61% of all units	50% of all purchases in dollars	Different goals at same AMI
Very Low-Income limit	50% AMI	60% AMI	Different very low-income limits
Very Low-Income goal	12% of all units	25% of all purchases in dollars	Can't compare due to different limits
Production limit	NA	$78 billion for each Enterprise	NA

Change the Affordable Housing Goals to a Percent of Unit Approach

We support the change from a specific unit-based approach to a percent of unit-based approach. The Proposed Rule reflects the approach that has been used for the Enterprises' single-family business since the establishment of the affordable housing goals. We believe it will support the Enterprises being in all markets in a smoother and more consistent manner throughout the year and will more easily accommodate changes in the overall market demand for multifamily debt in any one year.

The goal for 2022 significantly increased the unit count for each goal to at or above the unit count in each of the past two years, which were each record setting for the Enterprises' purchase volume. 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. As we have seen this year, inflationary pressures have resulted in a significant increase in interest rates, dampening the demand for multifamily debt. This could result in the Enterprises stretching to meet a fixed unit count goal for 2022 that does not vary based on the actual size of the market. Shifting to a percent of unit approach as presented in the Proposed Rule will eliminate this type of adverse market behavior.

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 Scorecard. 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. This is a confusing process whereby each Enterprise must meet two different goal frameworks that thematically share the same affordability objective.

The most pressing example of need for policy harmonization is AMI targeting requirements. The Proposed Rule uses the Act definition of very low-income loans, which is 50 percent of AMI, whereas the Scorecard uses 60 percent of AMI as its subgoal. The Proposed Rule requires the Enterprises to meet a minimum of 61 percent of their units purchased to be at or below 80 percent of AMI, while the Scorecard only requires that 50 percent of the dollar volume of purchases meet that threshold. If the Scorecard goals do not change, the Enterprises could meet the Scorecard goals but fail to meet the goals in the Proposed Rule. Similarly, the Enterprises could meet the very low-income goal for the Scorecard at 60 percent of AMI but fail to meet the goals in the Proposed Rule at 50 percent of AMI. 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 should modify its approach to establishing affordable housing goals required as part of the Act to make it the principle directive to the Enterprises, then unify the message across the goals and Scorecard to best achieve the desired outcome through guidance clarity and compliance simplicity. The Scorecard has variable components, including an affordable housing goal, which can appropriately adjust based on the requirements of the Act, with modifications of its affordable goal metrics. As part of this recommendation, we suggest changing the Scorecard to a percent of unit approach to harmonize with the approach used in the goals set by the Proposed Rule. 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.

FHFA Study and Routinely Publish Findings on the Existing Multifamily Housing Stock

We encourage FHFA to study and routinely publish findings on the existing multifamily housing stock in America, including historic trends and "filtering[7]" behavior, to best understand where gaps exist or are forming in the supply of rental housing as it relates to the needs of renters. A clear and routinely studied assessment of the multifamily housing stock can enhance the targeting and impact of the Scorecard, beyond the baseline established by the less flexible housing goals. Consistent sufficiency of capital for all geographies, markets, and product types promotes a healthier rental housing market now and in the future.

The Annual Production Cap Should be Eliminated

We recommend eliminating the production cap, as it is no longer needed to manage the Enterprises footprint in the market. The increased focus on serving the needs of housing affordability[8] and equity[9] for the Enterprises' multifamily businesses are constrained by the cap, limiting progress in two critical areas for housing markets and communities. That there is no companion policy applied to the single-family activities at the Enterprises also limits capital to housing disparately relied on by certain segments of the population.[10] We also note that 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.

NMHC and NAA thank FHFA for the opportunity to provide these comments on the Proposed Rule.

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,

[7] https://www.nmhc.org/research-insight/research-report/nmhc-research-foundation-study-filtering-of-apartment-housing-between-1980-and-2018/

[8] https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-Sandra-Thompson-Before-the-HFS-Committee_7202022.aspx

[9] https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Equitable-Housing-Finance-Plans--for-Fannie-Mae-and-Freddie-Mac.aspx

[10] https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/

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