NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

July 16, 2021

Ms. Sandra Thompson
Acting Director
Federal Housing Finance Agency
400 Seventh Street SW
Washington, D.C. 20219

RE: Duty to Serve 2022-2024 RFI

Dear Acting Director Thompson:

The National Housing Conference (NHC) is pleased to submit a letter in response to the FHFA's Request for Input (RFI) on the Enterprises' proposed Duty to Serve Plans (Plans) for 2022-2024.

Founded in 1931, the National Housing Conference is America's oldest and broadest housing coalition. We represent a diverse continuum of affordable housing stakeholders, including financial institutions, advocacy organizations, state housing finance agencies, and community nonprofits. We believe that everyone should be able to live in a quality, affordable home in a thriving community. Our mission is to convene and collaborate through dialogue, advocacy, research, and education, to develop equitable solutions that serve our common interest.

Since this RFI was issued, NHC has hosted a working group comprised of stakeholders in the various Duty to Serve (DTS) markets to discuss the long-term impact of the Plans and their impact on the mission of Fannie Mae and Freddie Mac (the Enterprises).

NHC looks forward to working with the new FHFA leadership team. We believe there are many opportunities to make immediate, meaningful changes to the DTS plans that will responsibly hold the Enterprises accountable to address the needs of underserved people and markets. These include a reexamination of the need, purpose, and impact of Loan Level Price Adjustments on underserved markets as well as the impact and necessity of current capital requirements for loans purchased from underserved markets.

We are also concerned that the Enterprises cannot make progress reaching underserved markets without robust pilot programs. We encourage FHFA to take any necessary steps to promptly clarify that pilots to serve underserved markets are strongly encouraged and to not finalize the pending New Products rulemaking without substantial changes that encourage reaching underserved markets. Finally, we believe that FHFA should adopt the plain meaning interpretation of the statute and permit targeted equity investments to reach underserved markets, clarifying that the Enterprises are expected to include equity investments in their 2022-24 DTS plans.

We encourage FHFA to announce these changes as soon as possible so the Enterprises have clear guidance as they revise their proposed plans. Understandably, the Enterprises would not spend much time making plans to engage in areas that FHFA has prohibited. To move forward, the Enterprises need clear direction. NHC also recognizes the successes and market impact we have seen the Enterprises make with their previous plans. Of note are:

- Requiring consumer protections on manufactured home loans with pad leases.

1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

- Exceeding the required 7 activities in the multi-family market. This was coupled with mortgage forbearance for multi-family apartment owners in exchange for tenant protections.
- Both Enterprises increasing their manufactured home real property purchases as well as single-family purchases.[1] While this is a modest success, it raises the question of why both proposed Plans have reduced their commitment.
- Both Enterprises have performed better than expected with LIHTC equity investments, even though there was concern that it would be difficult. Yet, without explanation, we are seeing significant scaling back of a commitment to LIHTC equity investments in the proposed Plans despite this initial success.

In addition to these successes, NHC also recognizes two items in the proposed Plans that we encourage FHFA to request the Enterprises to keep and potentially expand:

1. Fannie Mae's technical assistance for rural areas, especially in areas where it has purchased zero loans; and
2. Freddie Mac's qualitative and quantitative goals for outreach to Native communities.

Our responses to the question in the RFI follow.

Question 1. Do the proposed 2022-2024 Plan activities and objectives address the most relevant obstacles to liquidity in the applicable underserved market?

NHC believes that the Enterprises' plans inadequately address the obstacles and liquidity needs of the underserved markets.

For example, there are instances where one or both Enterprises seem to use obstacles in each market as a reason to purchase a minimal and/or stagnant number of loans without offering plans for how they would eliminate or work around those obstacles over the Plan cycle. For example, Freddie Mac does not offer any plans to eliminate or work around the primary obstacles to liquidity in the resident-owned community (ROC) manufactured housing market and commits to purchase just one such loan per year throughout the Plan cycle.[2] This objective amounts to an *acknowledgment* of the obstacles to liquidity in this market, but it does not *address* those obstacles.

In cases in which either Enterprise believes that the obstacles prevent it from making a significant and/or increasing number of loan purchases over the Plan cycle, it is imperative that they set objectives to remove those obstacles in preparation for increasing loan purchases during the next cycle. Such objectives would most likely consist of increased outreach to stakeholders in the relevant market to increase the Enterprise's knowledge of the approaches and potential products that could increase liquidity down the road, and the testing of pilots for those products.

[1] Gray, J., & McCarthy, G. (2021). (rep.). *Duty to Serve: The Purpose of Fannie Mae and Freddie Mac and Early Lessons Learned in Underserved Housing Markets.* Cambridge, MA: The Lincoln Institute of Land Policy. Available at: https://www.lincolninst.edu/publications/working-papers/duty-to-serve

[2] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. MH15). (FR_MH_Comm Govt_A)

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

Question 2. Are the proposed Plan objectives likely to increase liquidity in the applicable underserved market segment?

Manufactured Housing

One area in which neither Enterprise's Plan will increase liquidity is in the chattel manufactured housing market, which both Enterprises omitted entirely from their Plan. The omission comes after the Enterprises spent millions of dollars researching obstacles to add liquidity in the chattel manufactured housing loan market and was made with no explanation of the asserted safety and soundness concerns related to the purchase of these loans.

It is hard for the Enterprises to fulfill their statutory obligation to lead the market in providing liquidity for manufactured housing loans if they leave unaddressed loans that make up 42 percent of the manufactured home loan market.[3] Residents of manufactured housing titled as chattel are significantly more likely than other manufactured housing residents, and the broader population, to have their mortgage application rejected, be less knowledgeable about the mortgage lending process, and pay interest rates more than double those for residents of site-built homes. They are also more likely to be low- or moderate-income and to be people of color.

Black Americans are overrepresented among chattel loan borrowers even as they are underrepresented among all manufactured housing residents.[4] Given the historic disenfranchisement and the systemic housing discrimination they have experienced since the advent of the modern mortgage market, their overrepresentation in chattel property is indicative that chattel residents are particularly likely to be disadvantaged along multiple dimensions relative to other manufactured housing residents and the broader population. Residents of chattel properties are additionally vulnerable because they are not afforded the same property protections as residents of manufactured housing titled as real property. They typically rent the land their home sits on and are thus vulnerable to rent increases and eviction by landowners.

In omitting chattel loan activity from their Plans, the Enterprises have omitted one of the most underserved markets in the country with some of the least protected consumers, thereby neglecting their statutory duty to "facilitate a secondary market for mortgages for very low-, low-, and moderate-income families."[5] Given this failure, FHFA should not accept either Plan until each Enterprise, at a minimum, provides detailed plans to lay the groundwork for serving the chattel loan market, specifically including ways to enhance consumer protections while maintaining safety and soundness. One such consideration is studying the different lending practices in manufactured housing communities compared to units on private land. Doing this adequately will almost certainly involve

---

[3] Consumer Financial Protection Bureau Office of Research and Mortgage Markets, Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data1–55 (2021). Washington, DC; CFPB. Available at: https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf

[4] Consumer Financial Protection Bureau Office of Research and Mortgage Markets, Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data1–55 (2021). Washington, DC; CFPB. Available at: https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf

[5] Housing and Economic Recovery Act of 2008, Pub. L. 110-289 (July 30, 2008). Available at: https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf

restarting the chattel loan pilot programs that were paused in 2019. At a minimum, FHFA should encourage the Enterprises to publish research that meaningfully contributes to public knowledge on the chattel market by describing what the Enterprises learned from developing their pilots and offering ideas for overcoming obstacles to serving this market.

Two other ways the Enterprises could create a foundation for serving the chattel market are: (1) by studying low-balance manufactured housing lending (both for purchases and refinances), and publishing lessons that could be applied to the larger challenges of low-balance lending or (2) establishing standards for a financeable lease that the Enterprises would purchase.

NHC is also concerned about the Enterprises' scaling back of engagement in the manufactured housing market more broadly. Especially in comparison to their commitments in the previous plan cycle, the objectives given in the current Plans are minimal. In the previous plan cycle, Fannie Mae and Freddie Mac set 10 and 11 manufactured housing objectives, respectively, while in this cycle they have set just 6 and 5. This halving in the number of objectives might not be worrisome if the remaining objectives were extremely high-impact, but that is not the case. The objectives the Enterprises have set for themselves will almost certainly be lower-impact than those of the previous plans.

NHC questions why Freddie Mac is unable to increase its support for the non-profit/resident-owned community segment of the manufactured market beyond just one loan per year for the duration of the plan cycle. If Freddie Mac has indeed done the hard work of understanding the challenges facing this market over the previous plan cycle, why wouldn't those lessons inform their scaling-up of activity in the market over the next three years? Moreover, all of the proposed loan purchases in this segment are refinances. The plans should at least chart a path toward purchase money mortgages in the non-profit/resident-owned community segment.

Multi-family Housing Preservation

LIHTC Investments

NHC is concerned about the Enterprises' plans to scale back purchasing LIHTC debt. Freddie Mac aims to purchase loans supporting between 45,000 and 46,000 LIHTC units over the course of the Duty to Serve Plan cycle; levels consistently lower than its baseline of 51,496 units and lower than its loan purchases supporting 54,302 and 58,259 units in 2019 and 2020, respectively.[6] Fannie Mae has set a target to purchase what is likely to be the equivalent of between 27,105 and 28,495 units over the Duty to Serve Plan cycle after having financed between 24,723 and 26,700 units from 2018 to 2020.[7] Here, NHC's concern is that the larger of the two Enterprises is committing to do substantially less than its smaller counterpart. We recommend that Fannie Mae's revised plan includes a significant increase in LIHTC loan purchases.

[6] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. AHP10). (FR_AHP_LIHTC_A)
[7] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. 41). (FN_AHP_LIHTC_1). Based on the average number of units secured by Fannie Mae's reported loan purchases between 2018 and 2020 (139), we estimate that their goal of purchasing between 195 and 205 loans in 2022 and 2024, respectively, will lead to the financing of between 27,105 and 28,495 LIHTC units.

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

We have similar concerns regarding the Enterprises' plans for LIHTC equity investment in rural areas. FHFA permitted the Enterprises to re-enter the rural LIHTC equity market in 2018, and presumably the Enterprises spent much of the previous plan cycle resolving issues related to that re-entry and working on increasing the scale of those investments. As a result, we would expect to see an increase in planned LIHTC equity investment over the previous plan cycle's levels, rather than a decrease.

More broadly, we would like to note the significant limitations FHFA's $500 million cap on LIHTC equity investment places on the Enterprises' ability to lead the market in this area. In 2017, when the Enterprises' annual $500 million LIHTC equity investment caps were set, the national LIHTC equity markets were $14.9 billion. In 2021, after the enactment of a 12.5 percent increase in 9 percent LIHTC allocations in 2018, with nearly $2.25 billion in disaster LIHTC allocations authorized for 2020 and 2021, and with the enactment of the 4 percent floor for private activity bond-financed 4 percent LIHTC properties, Novogradac conservatively estimates there will be $25.6 billion of LIHTC allocations for 2021. This estimate is based on a projection of about $4 billion in additional allocations resulting from the 4 percent floor. The $4 billion increase is derived by going from the previous floating rate to a fixed 4 percent floor with the same multifamily private activity bond (PAB) issuance. If the multifamily PAB issuance increases, which we would reasonably expect in states not already at their PAB cap, given that the 30 percent more equity will make many more properties financially feasible, then more 4 percent allocations will be available, and the equity market will be larger. Also, the legislative landscape could have important impact as well, depending on how Congress finalizes the infrastructure legislation. If the 9 percent allocations are increased and the 50 percent test is lowered to 25 percent for 2022 as currently proposed, it is not unreasonable to assume that combined 9 percent and 4 percent allocations could increase anywhere from 50 percent to 100 percent.

Across the country we are seeing states adopt new ways to fund affordable housing. For example, Arizona and Pennsylvania recently funded state LIHTCs for the first time and Oregon is seeing much more soft financing available, which should amount to greater multifamily PAB issuance in those states. By date of submittal of this letter, the national median equity pricing is about 88-89 cents but has been slightly trending up in the past couple of months. However, if we assume a conservative median pricing of 88 cents for all of 2021, that $25.6 billion allocation would lead to $22.5 billion in increased equity. With such a potential increase in the equity market, NHC strongly believes that the LIHTC equity investment cap should be increased at least to $800 million for 2021.

Permanent Supportive Housing

NHC believes FHFA should require the Enterprises to focus on maximizing their activity in markets that are the hardest to serve and that could most benefit from an increase in liquidity. In that spirit, we are concerned about the omission from the plans of one of the remaining statutory activities, permanent supportive housing (PSH) under the McKinney-Vento Act. With conservative estimates suggesting more than 1.125 million units of PSH are needed nationally, and with the complexity of financing and servicing these projects, PSH is a market that would significantly benefit from increased liquidity.[8] Given PSH's role in supporting the country's lowest-income and most vulnerable populations, the Enterprises must consider adding plans to serve this market, including

[8]CSH. (2021). (rep.). *Estimated supportive housing need - 1,125,000 homes* (pp. 1–2). New York, NY.

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

setting loan purchasing targets, releasing market intelligence, and identifying areas in the revised plans where the Enterprises may be double counting.

Increase Section 515 purchasing goals

NHC applauds both Enterprises' efforts to reach a loan subordination agreement with the Department of Agriculture's Rural Development Division (USDA-RD) for purchasing loans securing Section 515 properties at risk of exiting that program. Section 515 is a crucial tool for reaching populations at the nexus of several underserved markets, and we commend the Enterprises for their recognition of the importance of their becoming involved in this market. However, while we appreciate that the Enterprises' involvement in this market is contingent on finalizing an agreement with USDA-RD, we believe that their objectives for loan purchases, should such an agreement come to pass, are not sufficient to meet the liquidity needs of this market. According to Fannie Mae, between 39 and 84 Section 515 properties are expected to see their subsidies expire over the next three years, yet Fannie Mae aims to purchase loans securing just 15 percent of those properties, amounting to between 6 and 13 loans per year.[9] Freddie Mac aims to do even less, proposing to purchase a flat 7 loans per year over the Duty to Serve cycle, which, according to Fannie Mae's data, would amount to just 8 percent of expiring Section 515 loans in 2024. In other words, should the Enterprises clear the hurdle of reaching an agreement with USDA-RD, the Enterprises should position themselves to maximize their value given clear market need and few obstacles in doing so.

Given the relatively modest number of loans in this market and their outsized importance in providing affordable rental housing in rural areas, NHC recommends that FHFA request that the Enterprises include plans to purchase, at minimum, a majority of expiring Section 515 loans, excluding only those with clear safety & soundness concerns in their revised plans. NHC also recommends that FHFA request that the Enterprises commit to performing more outreach to the lenders that originate Section 515 loans to find ways to increase supports for such lenders and potentially bring more actors into the Section 515 lending market. Even if the Enterprises are unable to purchase all or almost all Section 515 loans with expiring subsidies going forward, bringing more lenders into this space would itself be a market-making activity consistent with the Enterprises' Duty to Serve obligations.

NHC believes that neither of the Enterprises has made sufficient commitments to multifamily energy efficiency given that they both executed outreach plans described in the previous plan cycle.[10] Especially concerning is Freddie Mac's total exclusion of this activity from its plan after three years of promising foundation-laying, but we also question why after three years of parallel activity, Fannie Mae is not ramping up its loan purchases in this area in addition to the continued outreach they plan.

[9] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. 34). (FN_AHP_Sec 515_1)

[10] Freddie Mac. (2017). (rep.). *Freddie Mac Duty to Serve Underserved Markets Plan for 2018–2021* (pp. i-117). Tysons Corner, VA. Available at: https://www.novoco.com/sites/default/files/atoms/files/freddie-mac-lihtc-hud-duty-to-serve-plan-2018-2021-010621.pdf; Fannie Mae. (2018). (rep.). *Introduction of the Duty to Serve Underserved Markets Plan for the Manufactured Housing, Affordable Housing Preservation, and Rural Housing Markets* (pp. 1–158). Washington, DC. Available at: https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/Fannie-Mae-Revised-Underserved-Markets-Plan-2018.pdf

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

This is also the case with the Enterprises' plans for the Rental Assistance Demonstration market, where Fannie Mae commits to a modest amount of activity and Freddie Mac omits the activity altogether. [11] Both Enterprises need to do much more to support this essential and successful program.

NHC encourages FHFA to request that Fannie Mae include an additional activity comparable in aim to Freddie Mac's Additional Activity on Sustainability to provide further liquidity to the market for green retrofits of affordable housing.[12] Not only does NHC view this as necessary from a mission standpoint, since moderate-, low-, and extremely low-income households are more likely to live in buildings that are vulnerable to the hazards of climate change; it is also important that the Enterprises preemptively finance improvements to buildings' resilience to avoid an overwhelming crush of demand for such improvements down the road. NHC commends Freddie Mac for recognizing the importance of research on this issue but is concerned that it should be bolstered in a revised plan. We recommend that FHFA request that Freddie Mac follow up this research by developing workable loan products in the years following its planned completion in 2022.

Finally, NHC would like to make two recommendations regarding the Enterprises' plans to purchase loans securing properties supported by state and local affordable housing programs.[13] First, the Enterprises' rules regarding which state and local affordable housing program loans are eligible for purchase provide too little in terms of risk reduction to justify the limitations they create for their purchase. NHC trusts state and local leaders' ability to construct safe and sound affordable housing programs, and we believe the Enterprises should as well. To that end, we recommend that the Enterprises create a "patch" whereby loans securing properties that qualify for state and local affordable housing programs are automatically eligible for purchase by the Enterprises, regardless of whether they would otherwise be eligible. Since this would have the effect of streamlining the vetting of these loans and enabling the Enterprises to purchase far more of them, we also recommend that FHFA request the Enterprises include higher targets for state and local affordable housing program loan purchases in their revised plans.

Single-family Preservation

Distressed Properties

NHC is concerned about the lack of detail provided regarding distressed properties objectives. Freddie Mac notes concerns about the effects of the COVID-19 pandemic on the housing market elsewhere in its plan, but it should outline a plan to preempt such a crisis by expanding its activity in this space. We encourage FHFA to require Fannie Mae to add concrete details about its proposed actions to their Plans. FHFA should also request that Fannie Mae ensure its proposed activities take meaningful steps to increase non-profit access to acquisition and renovation capital. These include:

1. Access to acquisition and renovation capital: Access to affordable and stable capital is a constant need for non-profits and other mission minded entities that acquire and rehabilitate distressed properties, and it has never been more important than during today's inventory crisis, where rapid home price appreciation and legions of cash buyers are making it harder

[11] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. 44). (FN_AHP_RAD_1)
[12] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. AHP29). (FR_AHP_Sustainability_A)
[13] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. 43). (FN_AHP_State Local_1); *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. AHP27). (FR_AHP_State Local_A)

than ever for these nonprofits to compete in the acquisition-and-rehab market. During its first Plan, Fannie Mae piloted a product that would allow non-profits to use Fannie Mae's acquisition-rehab mortgages, but the pilot was ultimately unsuccessful. We urge FHFA to request that Fannie Mae try again and to adopt reasonable underwriting criteria for non-profit counterparties.

2. REO property repairs: Fannie Mae reports that its initiatives to repair a greater share of its REO properties are helpful in encouraging owner-occupant purchases of these properties. We would appreciate additional data that substantiates and explores this claim. In addition, we encourage FHFA to request that Fannie Mae ensure that its property repair programs are making all needed upgrades to major systems that can reasonably be anticipated in the next few years, because protecting first-time homebuyers and low- and moderate income families from large capital outlays in their first few years of homeownership is critically important.
3. Community First: We encourage FHFA and Fannie Mae to closely monitor the success of Fannie's Community First REO sales platform, which provides a first look purchase opportunity to mission-minded developers. The success of this type of program depends on Fannie Mae's policies regarding property sales prices and the ability of prospective purchasers to access or inspect properties. Another important ingredient is providing technical assistance to non-profit rehabbers, as well as carefully monitoring and tracking their work and outcomes.

Shared Equity

NHC is concerned with the loan level purchasing goals in the proposed plans as well as the absence of activities for the Model Deed Restriction program. In addition to having inadequate purchasing goals, FHFA must have the Enterprises commit to sizing the shared equity homeownership market so that these goals can be measured reasonably and transparently. Even without this additional context, as it stands, the goals that both Enterprises propose are far too low. Specifically, Freddie Mac's loan purchase objectives are structured in a way that if the same number of loans in 2020 during 2022 and 2023, they would still meet their objectives.[14] This will not increase liquidity. Additionally, Freddie Mac only proposes minor activities beyond loan purchases in 2022 with no activities in 2023 or 2024, which we do not believe will increase loan volume (except for adding a guarantor execution option for delivery of CLT mortgages). Unfortunately, Freddie Mac's plans make it clear that they no longer intend to invest in addressing the liquidity challenges for the underserved market of shared equity borrowers.

In addition, given the investment they have made, and the potential value to this market in the creation of Model-Deed Restriction legal documents, we encourage FHFA to request that the Enterprises maintain the activities that are needed for successful adoption of this program. We have been encouraged by the market impact and progress the Enterprises have made with the Model Ground Lease and so are hopeful that with a similar commitment we can see the Model-Deed Restriction do the same.

[14] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. i-111). (FR_AHP_Shared Eq_A)

Rural Housing

Loan Purchase Goals and Geography of Purchase
NHC asks FHFA to encourage the Enterprises to build on their success and expand their loan purchase goals in Rural Markets. Two important areas need to be addressed to address this. While the Enterprises have exceeded their 2020 target purchase goals and should be commended for doing so, we request that the revised Plans contain a more realistic baseline to better measure impact that is being made and the targets being produced. For example, in 2020, Fannie Mae met 166 percent of their rural single family purchase goals, and Freddie Mac met 181 percent of their rural single family purchase goals. Yet, both Enterprises submitted their 2022-2024 3-year plans with rural purchase targets at, or only slightly above, their 2020 activity. In addition to the numerical targets, geographic activity within the rural markets is an equally important consideration. In several rural markets, especially those experiencing persistent poverty or long-term economic distress, Enterprise activity is limited if nonexistent.

Colonias
NHC is concerned about the omission in either Enterprise's Plan on border Colonias, which face a unique array of unique obstacles to mortgage market liquidity. While it is unreasonable to expect the Enterprises to solve such problems as the contract-for-deed system of housing payments that persists in Colonias, it would be productive for the FHFA to request that the Enterprises provide additional and specific supports to community-oriented lenders in Colonias to encourage a culture of more traditional housing finance there. It is important to address the challenges to liquidity in the Colonias as challenges specific to Colonias, rather than as challenges related to housing in rural regions or persistent-poverty counties more broadly. NHC requests FHFA to direct the Enterprises to do the following in the Colonias:

- We applaud Fannie Mae for their support of the 'Colonias Investment Areas' concept and research in their first 3-year Plan Cycle. Fannie Mae must continue to pursue a better understanding of Colonias Investment Areas with updated research and metrics as these areas are dynamic and change occurs often.
- FHFA should encourage the Enterprises to include additional research and product development that informs what NHC believes is the next step Colonias Investment Areas: "New Colonias." As markets in the Border Region continue to change, developing potentially new forms of Colonias, we strongly support the Enterprises' engagement in this emergent issue.

Question 5. Are there other activities and objectives the Enterprises should consider adding to their Plans?

Racial Equity

NHC is concerned that the Enterprises are not doing nearly enough to address the racial disparities in homeownership. The COVID-19 pandemic has shown a bright light on longstanding disparities, disaggregated by race and zip code, with respect to homeownership and intergenerational wealth. The net worth of Black families is 10 times less than that of White families. Housing policy deliberately limited the scope and scale of Black homeownership, the single greatest source of wealth.

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

Homeownership rates currently stand at 73.8 percent for White householders, 45.1 percent for Blacks, 59.6 percent for Asian, Native, Hawaiian and Pacific Islanders, and 49.3 percent for Hispanics.

NHC recommends that FHFA request the Enterprises take a more action-orientated approach to this issue and use their market-making capacity to reduce the racial disparities in housing with targeted programs that focuses on Black and Brown communities. NHC recommends adding an Addition Activities to the DTS Affordable Preservation Market with three multi-year objectives as follows:

1. *De-bias Technology*

NHC believes we are at a critical point in determining whether and how technology can be used to create a more equitable housing financial system. This will require the Enterprises to understand the use of software that uses Artificial Intelligence (AI) and Machine Learning (ML) and their impact on financial services markets, or systems that perpetuate, amplify, or even accelerate existing discriminatory patterns.

The definition of model risk should include the potential of racial discrimination or inequitable outcomes for consumers as part of the risk assessment and fair lending analysis, not just loss of money. Failure to include a definition of risk that recognizes racial impact or equitable outcomes could result in the Enterprises using AI models that increase discrimination due to the models' greater complexity and their potential reliance on flaws in underlying data. This could cause a ripple effect which leads to (i) models that are fundamentally flawed and discriminatory; (ii) models that result in discriminatory feedback loops; (iii) models that have not been tested for discriminatory outcomes; (iv) models that are not explainable or understandable; (v) models that contain the risk of overfitting; and (vi) risks related to dynamic models.

2. *Small-Dollar Mortgage Program Pilot*

Despite the number of low-cost property sales, available mortgage lending is limited for these borrowers. In 2015, only 25 percent of homes purchased for $70,000 or less were financed with a mortgage, compared to almost 80 percent of homes worth between $70,000 and $150,000.[15] Between 2009 and 2016, the number of loans with a balance between $10,000 and $70,000 had fallen 17 percent and made up only 5 percent of all origination while those between $70,000 and $150,000 declined less than 1 percent.[16] Despite the concern that small-dollar mortgage loans are riskier, the data show that small-dollar mortgage borrowers have comparable credit profiles to borrowers of midsize mortgages and that the loans perform similarly.[17] Though they perform comparably, small-dollar mortgages have higher loss severity than larger loans. The loss severity for small-dollar loans originated from 1999 to the second quarter of 2017 was 61.6 percent in comparison to 44.6 percent for loans with a balance between $70,000 and $150,000.[18]

---

[15]Strochak, S., Bai, B., & McCargo, A. (2019). (rep.). *Small-Dollar Mortgages: A Loan Performance Analysis* (pp. 1–9). Washington, DC: Urban Institute.
[16]McCargo, A., Bai, B., George, T., & Strochak, S. (2018). (rep.). *Small-Dollar Mortgages for Single-Family Residential Properties* (pp. IV-33). Washington, DC: Urban Institute.
[17]McCargo, A., & Strochak, S. (2019). (rep.). *Debunking the Myth That Small-Dollar Mortgages are Riskier due to Poor Loan Performance and Borrower Credit*. Washington, DC: Urban Institute.
[1818]Strochak, S., Bai, B., & McCargo, A. (2019). (rep.). *Small-Dollar Mortgages: A Loan Performance Analysis* (pp. 1–9). Washington, DC: Urban Institute.

NATIONAL HOUSING CONFERENCE

1900 M Street NW, Suite 550
Washington, DC 20036

p 202 466 2121
f 202 466 2122

www.nhc.org

By increasing the liquidity of the small-dollar mortgage market, low-cost properties could be a larger source of affordable housing and help many move from renting to owning.[19] Specifically, addressing the small-dollar mortgage problem would open pathways to homeownership for traditionally underserved groups, particularly for communities of color which often have low-cost housing stock as a result of long-standing redlining, disinvestment, and segregation.[20] Many Black and Brown neighborhoods that continue to be underserved by traditional financial institutions could significantly benefit from increased access to small-dollar mortgage financing.[21]

NHC encourages FHFA to request the Enterprises fulfill their statutory obligation to "provide leadership to the market in developing loan products" by creating a small-dollar mortgage loan program that would be positioned to buy small mortgages that the market is not currently generating.[22]

3. Special Purpose Credit Program Pilot

NHC encourages FHFA to request that the Enterprises consider adding a pilot for purchasing and securitizing loans from lenders who offer special-purpose credit programs (SPCP) to first-time homebuyers. As has been well documented, credit remains a major barrier to homeownership, particularly for Black homebuyers. Innovation in mortgage credit scoring and mortgage products (such as the Small-Dollar Mortgage Loan Program mentioned above) are an essential component of any successful strategy to close the racial homeownership gap. Through this pilot program, the Enterprises can use their market-making capacity to incentive lenders need to do a better job of identifying those that are ready for homeownership and those that are not ready yet and provide referrals to housing counselors who can turn a "no" into a "not yet."

Question 6. Should the Enterprises adjust the methodology used to set loan purchase baselines for 2022-2024 given the historically high volume of single-family mortgage refinances and the very strong performance of the affordable multifamily rental market in 2020?

NHC recognizes that it is unreasonable to expect the Enterprises to replicate their performances in 2020, but FHFA should not allow the Enterprises to reject the year as anomalous when weighting their 3-year average baselines. There are always going to be outlier years which is why the Enterprises have developed a system to account for this: Set baselines using their average performance during the previous Plan Cycle. We encourage FHFA to have the Enterprises reset baselines in those cases in which they discounted their 2020 performances.

---

[19]McCargo, A., Bai, B., George, T., & Strochak, S. (2018). (rep.). *Small-Dollar Mortgages for Single-Family Residential Properties* (pp. IV-33). Washington, DC: Urban Institute.
[20]McCargo, A., Bai, B., George, T., & Strochak, S. (2018). (rep.). *Small-Dollar Mortgages for Single-Family Residential Properties* (pp. IV-33). Washington, DC: Urban Institute.
[21]McCargo, A., Zhu, L., Strochak, S., & Ballesteros, R. (2020). (rep.). *The Micro Mortgage Marketplace Demonstration Project* (pp. 1–19). Washington, DC: Urban Institute.
[22] Duty to Serve Underserved Markets, 12 U.S.C. § 4564 (2008). Available at: https://www.govinfo.gov/content/pkg/USCODE-2011-title12/pdf/USCODE-2011-title12-chap46-subchapI-partB-subpart2-sec4565.pdf

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

We also hope that FHFA will discourage the Enterprises from setting baselines using average performances for periods longer than three years, because in almost all cases ≥4-year-old data is simply too outdated to helpfully inform the Enterprises' loan purchase goals for an upcoming Duty to Serve cycle. Further, setting a baseline using data older than three years often serves only to lower the number of loans the Enterprise aims to purchase, which we feel is inappropriate in all but the most unusual of circumstances. For example, Freddie Mac uses a five-year baseline to set its objective to purchase between 4,300 and 4,500 loans securing manufactured housing titled as real property between 2022 and 2024, with the justification that a five-year average "help[s] ensure that we have set realistic targets."[23] Freddie Mac does not, however, explain why a five-year average is more helpful in setting realistic targets in this case. Absent such a justification, the only observable difference between using a five-year and three-year average to inform Freddie Mac's baseline is that a five-year average results in a baseline that is 571 loans less than a baseline set using the standard method.[24] If Freddie Mac used the standard methodology to set this baseline, their low-bound objectives for 2022, 2023, and 2024 would respectively fall 13 percent, 10 percent, and 8 percent below that baseline.

Given that baselines using average performances longer than 3 years are both unreliable as market indicators and tend to reduce the Enterprises' Duty to Serve obligations, we do not believe they should be used without a detailed and valid explanation. FHFA's Duty to Serve Evaluation Guidance also identifies a three-year average as the default way to set a loan purchase baseline and notes that Enterprises should justify any departure from this methodology.[25] Since there are no instances in which the Enterprises provide such justification, we recommend that FHFA reject all baselines set using average performance over a period longer than three years and evaluate plans based on the standard 3-year baseline.

NHC recommends two places where the Enterprises' methodology can be improved for greater transparency and understanding of their performances. First, there are instances where the Enterprises may be counting certain loan purchases as providing credit for two or more objectives. For example, Fannie Mae proposes loan purchasing goals for housing programs administered by a state/local program, but it is not clear whether they plan to count only affordable inclusionary units or units in the whole project, of which only 25 percent may be affordable.[26] Similar double-counting may take place in permanent supportive housing loan purchases where affordable units are often incorporated into the overall project. We recognize that double-counting in some cases is a positive indication that the Enterprises have encouraged greater cooperation by actors in each marketplace. However, we also note that the nature of this sort of double-counting is that it allows the Enterprises to meet their Duty to Serve goals with less overall activity in the relevant underserved markets, and for that reason, we encourage FHFA to take extra care in ensuring that the Enterprises can meet those obligations in cases in which double-counting is possible.

We recognize that double counting of loan purchases is not prohibited by statute or regulation and is not necessarily an indication of intent on the part of either Enterprise to neglect the full extent of its

---

[23] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. MH7). (FR_MH_Real Prop_A)
[24] Freddie Mac's 5-year baseline is 4,304 loans. A 3-year baseline for the same market would be 4,875.
[25] FHFA, Duty to Serve Evaluation Guidance: Guidance 2020-4ai-43 (2020). Washington, DC. Available at: https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/DTS-Evaluation-Guidance-2020-4a.pdf
[26] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. i-111).

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

obligations under Duty to Serve. However, DTS Evaluation Guidance requires the Enterprises to "clearly indicate in its Plan any instances where the baseline and target for a loan purchase or investment objective include loans or investments that will also be counted in the baseline and target for another objective in that market." [27] FHFA already requires the Enterprises to label instances of double counting, and they are simply not doing what is required.

To this end, we first recommend that FHFA request that the Enterprises follow existing Evaluation Guidance by including in their revised plans explicit, affirmative statements about whether loan purchases in a certain market can also count toward objectives for other markets *for every objective included in the plans*. This way, both FHFA and outside observers can be sure about which loans may be double-counted and when. In making this request, we also recommend that FHFA ask that the Enterprises clarify which loans will count toward objectives where this was ambiguous in the plans. And in their reporting on their performance on the duties to serve, provide transparency by identifying those instances where a loan is counted against multiple objectives.

Second, we recommend that FHFA ask that the Enterprises include topline objectives for each of the three main Duty to Serve markets set out in the relevant statute - i.e., affordable housing preservation, manufactured housing, and rural housing - in addition to the objectives for the specific markets contained within each of them. These topline objectives would be expressed in loans purchased or, preferably, in net new units financed, to draw attention to the fact that the Enterprises are obligated to *add* new units in each of the relevant markets, rather than just preserve existing ones. Such topline objectives would preserve the Enterprises' ability to flexibly count certain loan purchases toward more than one objective while ensuring that they do not lose sight of their overall objectives to lead the market in the creation and preservation of units within each of them.

Question 9. Are there any safety and soundness concerns related to the proposed Plan activities and objectives?

NHC does not believe that it threatens the Enterprises' safety and soundness to fulfill their mission to provide liquidity to mortgage markets where the market by itself would not do so. In fact, the notion that affordable housing is to be blamed for the Enterprises' safety and soundness concerns has been thoroughly and incontrovertibly debunked. The 2010 Financial Crisis Inquiry Commission, which "studied at length how the Department of Housing and Urban Development's (HUD's) affordable housing goals for the Enterprises affected their investment in risky mortgages" found that, "based on the evidence and interviews with dozens of individuals involved in this subject area, […] these goals only contributed marginally to Fannie's and Freddie's participation in those mortgages."[28]

[27] FHFA, Duty to Serve Evaluation Guidance: Guidance 2020-4ai-43 (2020). Washington, DC. Available at: https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/DTS-Evaluation-Guidance-2020-4a.pdf
[28] FCIC, Financial Crisis Inquiry Report vii-553 (2011). Washington, DC. Available at: https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf; Ghent, A., Hernández-Murillo, R., Owyang, M. (2015). Did Affordable Housing Legislation Contribute to the Subprime Securities Boom? *Real Estate Economics,* 43(4), 820–854. Available at: https://research.stlouisfed.org/wp/more/2012-005; Center for Responsible Lending, Leadership Conference on Civil and Human Rights, NAACP, National Association of Hispanic Real Estate Professionals, National Association of Real Estate Brokers, National CAPACD, National Community Reinvestment Coalition, National Housing Conference. (2020, September 8). Notice of Proposed Rulemaking Qualified Mortgage Definition under the Truth in

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

Question 10. What additional information might be helpful in evaluating the proposed Plan activities and objectives?

Feedback from outside experts at advocacy and research institutions is an indispensable part of the process of evaluating any program. This is especially true for the Enterprises' Duty to Serve plans given their high level of detail about a great number of highly technical subjects. However, the Enterprises' Duty to Serve plans do not lend themselves to the sort of outside analysis necessary to provide detailed and valuable feedback. The plans are dense and can often be difficult to interpret, and objectives are set with little data to justify them. For stakeholders like NHC and our members to be helpful to FHFA and the Enterprises in this process, Fannie Mae and Freddie Mac must improve the readability of their plans and provide more information justifying the objectives that their plans detail. Further, FHFA should make substantially more data and other information public, starting with a flag in the Public Use Database for each DTS Activity.

NHC has two recommendations for improving the readability of the Enterprises' Duty to Serve plans. First, we recommend that FHFA publish detailed guidance for formatting the plans that includes common standards for presenting data and formatting tables and charts. This guidance should call for each Enterprise to create a master table detailing at a minimum all activities in the plan and the relevant Enterprise's past performance in the relevant market, to make it easier to identify broad trends in each Enterprise's plan across markets. This guidance should also call for uniform standards of orientation and formatting for all tables and charts within each plan, to ease analysts' ability to use this data to evaluate the plans (i.e., standards for which variables are placed on each axis, etc.). Such standards should also ensure that the Enterprises' master tables are easily combined so that both FHFA and outside analysts are more able to identify trends in Duty to Serve performance across the Enterprises. FHFA should also publish on its website a combined master table for both Enterprises' Duty to Serve plans for use by outside analysts.

It is frequently the case that parallel objectives are expressed using different metrics in each Enterprise's plan, which makes it difficult for analysts to understand how the objectives will work together to increase liquidity in the relevant market. For example, Fannie Mae expresses their aim for increasing liquidity for Section 8 loans in terms of *loans purchased*,[29] but Freddie Mac expressed its aim for the same purpose in terms of *units supported*.[30] While it is not difficult to estimate the number of units supported by a typical loan purchase, doing so is yet another barrier to analyzing plans that would be extremely complex even if they were presented optimally, and the number of times that the Enterprises use different metrics in this way adds up to a serious encumbrance on analysis. We also recommend that FHFA publish detailed guidance on the metrics the Enterprises use to express their loan purchase performance, baselines, and objectives. For each statutory and regulatory activity, FHFA should recommend one metric the Enterprises should reference in their plans so that analysts can work with just one unit of analysis as they review the plans.

Lending Act (Regulation Z): General QM Loan Definition. Available at: https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/joint-qm-comment-sep2020.pdf.

[29] *Fannie Mae Duty to Serve Underserved Markets Plan For 2022–2024* (pp. 38). (FN_AHP_Sec 8_1)

[30] *Freddie Mac Duty to Serve Underserved Markets Plan For 2022–2024* (pp. AHP13). (FR_AHP_Sec 8_A)

NATIONAL HOUSING CONFERENCE
1900 M Street NW, Suite 550
Washington, DC 20036
p 202 466 2121
f 202 466 2122
www.nhc.org

These recommendations are at least partially aimed at increasing the ease of comparing the Duty to Serve activities of each Enterprise. The relevant statute charges Fannie Mae and Freddie Mac with "meet[ing] the then-existing *unaddressed* [emphasis added] needs of, and affordable to, low-income families in low-income areas and very low-income areas."[31] It is impossible to determine whether one Enterprise's proposed level of activity in any given market is sufficient to meet "unaddressed" need without taking note of the performance context of the other Enterprise's Plan in the area. Thus, we recommend that the Enterprises to standardize the presentation of their Duty to Serve plans.

The lack of data sharing by the Enterprises often poses a significant barrier to true analysis due to the near-total absence of contextual information provided by each Enterprise on each one of their objectives. For almost every objective in which either Enterprise commits to purchasing a certain number of loans, the only context given is the number of loans the Enterprise made during the previous Duty to Serve evaluation cycle. This is relevant information, but it is certainly not enough to determine whether the loan purchase goal for 2022-2024 is adequate for the Enterprise to meet its obligation to provide liquidity to underserved mortgage markets. The most important piece of information for evaluating whether any loan purchase goal is adequate to provide liquidity to the applicable underserved market is the share of the total number of loans in that market the Enterprise plans to purchase, a datapoint absent in all but one of the Enterprise's objectives dealing with loan purchase goals. Absent this piece of information, it is extremely difficult to evaluate whether the relevant goal will be adequate.

FHFA should request that the Enterprises include additional information contextualizing each loan purchase goal they set for themselves in their Duty to Serve plans. At a minimum, this should include:

- The total number of loans in the relevant market (i.e., a goal to purchase a certain number of rural multifamily loans should be contextualized with the total number of rural multifamily loans eligible for purchase by the relevant Enterprise).
- The share of loans, as a percentage, the relevant Enterprise aims to purchase.

Given the unique position the Enterprises hold in the housing market – not to mention the value that a central source for such information would have for analysts and the private sector even outside the context of Duty to Serve – we think the Enterprises should provide this data in their plans.

Question 11. Is there any other feedback on the proposed Plans that FHFA or the Enterprises should consider?

Additional suggestions for the DTS plans include:

- Release all the DTS market-level ratings for 2018, 2019, and 2020, as well as the scores assigned to each objective in all three years. Any additional working papers that help explain how FHFA arrived at the scores would also be helpful to make public. Also, release the DTS data dictionary.

[31]Housing and Community Development Act of 1992, 102nd Cong. (1991-1992). Available at: https://www.congress.gov/bill/102nd-congress/house-bill/5334/text/enr

1900 M Street NW, Suite 550
Washington, DC 20036

p 202 466 2121
f 202 466 2122
www.nhc.org

- Update the Public Use Database to include flags for DTS-related activities, ideally at the objective level.
- Increase the portion of Enterprise LIHTC equity investments that support DTS markets and eliminate the CRA exception now that it is established that the Enterprises can find sufficient rural LIHTC equity investments.
- Amend DTS regulations to allow DTS credit for Enterprise LIHTC equity investments used to finance affordable housing preservation. If the LIHTC equity mission category is expanded to include affordable preservation, that should only include LIHTC investments in existing buildings, not any new construction unless the new construction is included as part of preservation strategy, such as through HUD's Rental Assistance Demonstration program.

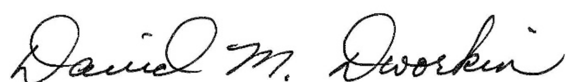
Conclusion

On the first Juneteenth federal holiday, NHC joined Secretary of Housing and Urban Development Marcia Fudge, House Banking, Housing and Urban Affairs Committee Chairman Sherrod Brown, and many others to announce a plan developed by the Black Homeownership Collaborative to sustainably create 3 million net new Black homeowners by 2030. This 3by30 Black Homeownership Collaborative was led by a steering committee consisting of NHC, the NAACP, the National Urban League, the Mortgage Bankers Association, the National Association of REALTORS®, the National Association of Real Estate Brokers, and the National Fair Housing Alliance, with the research from the Urban Institute. We continue to work together to meet this daunting but essential objective.

We believe that if the right changes are made, this goal can be met. It cannot succeed, however, without the serious and sustained participation of Fannie Mae and Freddie Mac. We are hopeful that the Enterprises will play a major role to help us meet this audacious objective that would sustainably push the Black homeownership rate to well over 50 percent. This would be an historic accomplishment, but still leave much work to be done to close an unacceptable gap in homeownership for all people of color. Contributing to success on this initiative is the heart and soul of the Enterprise's mission and is existential to their special status as government sponsored enterprises.

The Duty to Serve Rule is an ideal regulatory mechanism to manage this important work, consistent with FHFA's responsibility to ensure the Enterprises achieve their mission in a safe and sound manner. We look forward to working with you, as well as the leadership of Fannie Mae and Freddie Mac, to achieve these important objectives.

Sincerely,



David M. Dworkin
President and CEO
National Housing Conference