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Federal Housing Finance Agency
400 7th Street SW., 8th Floor
Washington, DC 20219

By email through www.fhfa.gov/open-for-comment-or-input

Re: Comments on RIN 2590-AA27 - Enterprise Duty To Serve Underserved Markets Proposed Rule

Dear Mr. Pollard:

On behalf of the National Association of Housing and Redevelopment Officials (NAHRO), I am pleased to offer the following comments in response to the Federal Housing Finance Agency (FHFA) notice of proposed rulemaking (RIN 2590–AA27) entitled “Enterprise Duty To Serve Underserved Markets,” published in the Federal Register on December 18, 2015.

Formed in 1933, NAHRO represents over 20,000 individual and agency housing and community development members. Collectively, our membership manages over 970,000 public housing units, or approximately 83 percent of the entire public housing inventory, as well as 1.7 million Housing Choice Vouchers. NAHRO members provide housing for more than 7.9 million low-income people and bring more than $1.5 billion Community Development Block Grant and HOME Investment Partnerships Program funding to their communities, and are also involved with the Low Income Housing Tax Credit program. NAHRO works to support policies that allow housing and community development agencies to efficiently and effectively meet the needs of their communities.

NAHRO commends FHFA for its efforts to expand the Enterprises’ role in preserving our nation’s affordable housing stock at a time the affordability gap continues to widen. In the last decade, the share of all renter households has increased from 31 percent to 37 percent, with 43 million total renters. This country experienced the largest gain in renter households compared to any 10-year period on record, with an unprecedented 9 million renter households added to the overall share. Yet, since 2001, real rents have increased by 7 percent, and renter income has declined by 9 percent, driving the number of cost-burdened renters (spending over 30 percent of income on housing) to a record 21.3 million households, or one out of every two renters.1 According to the Department of Housing and Urban Development (HUD), the supply of rental units that are affordable to low-income renters remains inadequate. Currently, there are only 39 affordable units available for every 100 extremely low-income renters (earning up to 30 percent of the area median income).2 The FHFA’s Duty to Serve proposed rule offers an important contribution to alleviating this country’s housing affordability gap.

1 Joint Center for Housing Studies, America’s Rental Housing: Expanding Options for Diverse and Growing Demand: http://www.jchs.harvard.edu/americas-rental-housing.
Responses to FHFA Questions

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

NAHRO supports allowing the Enterprises to resume LIHTC equity investments because the Enterprises could help absorb an increase in the supply of housing credits seeking investors. NAHRO, along with numerous industry partners, are calling for a substantial increase to the overall annual Housing Credit allocation, given the competitive nature of obtaining tax credits and the well-documented lack of affordable housing in the United States. The Housing Credit program is the largest source of capital supporting the affordable housing inventory. The program is a critical source of equity for about 90 percent of new affordable housing developments, and is often an important financing component to the federal programs that NAHRO members work with, including the Rental Assistance Demonstration (RAD), Choice Neighborhoods Initiative (CNI), HOME Investment Partnerships Program (HOME), and the Community Development Block Grant (CDBG).

Expanding the Housing Credit allocation is the best solution to address the affordable housing crisis, at a time where other federal resources are limited. The growing housing needs for low-income households, especially elderly households, is an imminent reality that Congress and policymakers cannot ignore. The number of severely cost-burdened renters (spending over 50 percent of income on housing) has reached a record 11.4 million households, or one in every four renters. Severely cost-burdened households are more likely to fall victim to the pressures of housing burdens and often must make harmful tradeoffs related to health and financial stability. Severely cost-burdened households spend 38 percent less on food, 55 percent less on healthcare, and 45 percent less on retirement savings compared to those living in affordable housing. In a baseline scenario where rents and incomes grow in line with inflation, researchers from Enterprise Community Partners and Harvard University have found that severely cost-burdened renters will grow by 11 percent over the next ten years, an increase of 1.3 million households.

Additionally, due to the Baby-boomer generation and increased longevity, the number of American adults over age 50 is expected to hit 132 million by 2030, a 70 percent increase since 2000. Within fifteen years, one in five Americans will be aged at least 65. There is mounting pressure to provide affordable and accessible housing, social connectivity, and supportive services for aging adults. While the share of housing cost-burdened households has considerably increased across all age groups, the increase for older adults has been even larger. One third of those over age 50 (approximately 20 million households) are putting excessive shares of their income towards housing, and almost half of those households are severely cost-burdened. Meanwhile, almost 13 percent of the nation’s low-income housing supply has been permanently lost over the last 15 years.

The inevitable expansion of the overall Housing Credit allocation will ultimately leave a demand gap that must be filled by additional investors. As a reliable source of capital, investments from the Enterprises could play a stabilizing role in the Housing Credit market by expanding and diversifying the investment pool.

3 The ACTION Campaign, of which NAHRO is a steering committee member, is urging Congress to expand the Low-Income Housing Tax Credit by raising the allocation cap by at least 50 percent. Learn more at: http://rentalhousingaction.org/.
5 Joint Center for Housing Studies, Housing America’s Older Adults – Meeting the Needs of an Aging Population: http://www.jchs.harvard.edu/research/housing_americas_older_adults.
NAHRO supports allowing the Enterprises to resume LIHTC equity investments in the overall Housing Credit market, but in a limited capacity. NAHRO is sensitive to the concerns that the Enterprises may push private investors out of the Housing Credit market, or leave it weak if the entities are scaled back or cease making investments all together, as was the case in 2007 and 2008. NAHRO supports allowing the Enterprises to resume equity investments as long as FHFA mandates a reasonable cap to their share of the overall Housing Credit market in a year. This would cushion the Enterprises’ portfolio with a share of less-risky investments. FHFA should have the authority to adjust the cap and rules in what the Enterprises could receive Duty to Serve credit for, since affordable housing needs may change as the market changes. Investments that are targeted towards underserved markets and segments would be exempt from the cap. Additionally, the FHFA could encourage Freddie Mac and Fannie Mae to stay in the market and/or ramp up investments during a down market. This scenario would create a unique opportunity for FHFA to introduce a counter-cyclical force in the Housing Credit market cycle.

While NAHRO believes the Enterprises’ investments should not be limited to serving only underserved markets and segments, these categories should receive the majority of their support. Prior to the financial crisis, the Enterprises’ investments produced tens of thousands affordable units each year that existed in underserved markets largely ignored by private investors. Now that the market has rebounded, most private investors are seeking Housing Credits for Community Reinvestment Act (CRA)-eligible projects located in major urban markets. Housing Credits allocated to projects in underserved markets, such as rural areas, and other difficult submarkets are far less stable and have less liquidity. It is estimated that non-CRA projects are priced as $0.10 and $.24 lower, on a per tax credit basis, than CRA projects.6 The resumption of the Enterprises’ investments creates a unique opportunity for FHFA to support projects and markets that private investors fail to serve, and to provide more equity dollars to those projects with the same allocation of credits.

NAHRO does not believe the Enterprises should be limited in the type of affordable housing project they support, though it could be argued that investing in projects that have expiring subsidies, are in need of refinancing, or consist of new construction would all contribute to the overall preservation of the entire affordable housing stock. As discussed above, the Enterprises should focus on the underserved markets and segments that are currently most in need of Housing Credit investment.

NAHRO would like to see the Enterprises receive Duty to Serve credit for Housing Credit investments that serve certain underserved segments important to the NAHRO membership, including but not limited to:

- Section 8 federally subsidized properties: Even though Congress has provided this program with stable support and funding over the years, private investors shy away from these properties due to the perceived risk of appropriations cuts. Unfortunately, this perceived risk decreases the Housing Credits value, particularly in non-CRA markets, such as rural areas, that have less credit demand. Developers and owners of properties with Section 8 Project-Based Rental Assistance (PBRA) and project-based Housing Choice Voucher (HCV) contracts must assume that the federal subsidy is eliminated and structure deals with large transition reserves that protect investors, substantially increasing total development costs. In reality, these properties perform better because rents are subsidized by long term contracts. The Enterprises equity

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investments towards these properties could lower the cost of the projects by lowering the transition reserves, thereby strengthening the overall Housing Credit market for these types of properties.

- **Preservation of affordable housing through 4 percent deals:** There is less demand for the 4 percent Housing credits, largely used for the acquisition and preservation of existing affordable housing. Since 9 percent credits are often grossly difficult to secure and the 4 percent is non-competitive, NAHRO members are turning to the 4 percent credit to preserve their distressed affordable housing stock. These properties include those in HUD’s Rental Assistance Demonstration, Section 8-subsidized stock, Section 202 elderly properties, HOME, and Housing Credit properties that have surpassed the initial 15-year compliance period. The Enterprises could strengthen the affordable housing stock by making targeted 4 percent investments to existing affordable housing properties.

- **Community Housing Development Organization (CHDO) projects:** Over 600 States and localities receive annual HOME grant allocations to fund affordable housing activities, including building, buying, and/or rehabilitating rental or homeownership housing, or providing direct rental assistance to low-income families. At least 15 percent of each grant allocation must be set aside for affordable housing projects undertaken by a type of a local nonprofit called CHDO. Jurisdictions that fail to contract or commit its set-aside within a HUD specified timeframe automatically forfeit those funds. Despite HOME’s successful track record, Congress has cut program funding nearly in half since 2010. CHDOs are now receiving smaller set-asides, while also experiencing operational and capacity issues due to more stringent CHDO regulations recently put in place by HUD. Targeted Enterprise investments could offer the additional financial support that CHDO projects may need, especially those located in the rural markets, saving communities from having to forfeit a valuable affordable housing resource.

- **Supportive housing projects:** Housing Credit investors are wary of projects that involve intensive supportive services on site (e.g., services for the chronically homeless or disabled) due to the ongoing funding that is required to continue operating intensive services. Supportive housing is a critical need in many communities and investment from the Enterprises could strengthen the entire supportive housing portfolio, particularly at a time when Congress and the Administration have been providing additional resources to address homelessness that could be leveraged.

**Choice Neighborhoods Initiative Established as a Duty to Serve Regulatory Activity - §1282.34(d)(5)**

NAHRO accepts the FHFA proposal to establish Enterprise support for the Choice Neighborhoods Initiative as a Duty to Serve “Regulatory Activity,” as long as the ratio of distribution remains the same. The FY 2016 Appropriations Act provides $125 million for CNI and reserves no less than $75 million for use by PHAs. This is close to the set-aside of two-thirds of CNI funding reserved for use by PHAs that NAHRO has consistently advocated for. The CNI offers PHAs the unique opportunity to transform severely distressed public housing into sustainable, mixed-income housing with access to community assets and services. Large capital grants through programs like the CNI are among the most effective tools to help PHAs address their preservation needs by attracting private capital. Support from the Enterprises through federally guaranteed loans would offer greater financial security to PHAs that want to transform their communities.

**Rental Assistance Demonstration Established as a Duty to Serve Regulatory Activity - §1282.34(d)(6)**

NAHRO conditionally accepts the FHFA proposal to establish Enterprise support for the Rental Assistance Demonstration program as a Duty to Serve “Regulatory Activity.” RAD seeks to improve and preserve distressed public housing by enabling PHAs to access outside sources of capital in order to renovate and preserve public housing units reserved for very low-income households. Yet, the RAD program is still in its infancy, and NAHRO has concerns over HUD’s capacity to complete successful and streamlined RAD transactions, especially if the RAD cap on conversions is lifted.

NAHRO believes that RAD must grow to a scale that encompasses transactions that all result in Section 8 PBRA conversion before the Enterprises can engage RAD with their secondary market, particularly since the Enterprises
would be liable for loans if a RAD conversion goes belly up. Owners of properties assisted through the PBRA program have historically faced far fewer challenges meeting their financial needs than public housing due to: 1) the Congress’s historical commitment to full funding of the Section 8 PBRA account, 2) the flexible operating environment created by the Section 8 PBRA program, and 3) the level of comfort within the lending community that the PBRA program has achieved.

Additionally, NAHRO believes that the Enterprises should support research on innovative finance structures for affordable housing preservation. One of the most critical national affordable housing preservation needs is for capital improvements to public housing. There is an inventory of over 1.1 million units of federally subsidized public housing that provides housing to very low income households yet is under-capitalized. It represents a national resource that should be sustained where possible because it would cost too much to replace. Funds for capital improvement needs have been inadequate, which are estimated at $26 billion and up.7 FHFA could ask the Enterprises to dedicate some research resources to imagining innovative finance structures that might create new models for investment, such as the RAD program.

Like many of our housing industry partners, NAHRO believes that the LIHTC program is one of the most effective tool we have available to alleviate our nation’s affordable housing crisis. FHFA has the unique opportunity to stimulate portions of the Housing Credit program so that its benefits reaches individuals and families that are in the greatest need. NAHRO appreciates the opportunity to comment on this rulemaking. If we can provide any additional information or clarification regarding our suggestions, please do not hesitate to contact me at jhsu@nahro.org.

Sincerely,

Jenny Hsu
Policy Analyst, Community Development Programs