Comments of the National Community Stabilization Trust

Federal Housing Finance Agency Request for Input:

Fannie Mae and Freddie Mac Proposed 2022-2024 Duty to Serve Plans

July 16, 2021

Thank you for the opportunity to comment on Fannie Mae and Freddie Mac's proposed Duty to Serve Plans for 2022-2024.

The National Community Stabilization Trust (NCST) is a national non-profit that supports families and communities by restoring distressed single-family homes, strengthening neighborhoods, and increasing sustainable, affordable homeownership. NCST does this by facilitating sales of distressed homes to community-based partners who rehabilitate them, providing technical assistance and capital for single-family rehab, and conducting federal policy advocacy grounded in our knowledge of distressed housing markets.

FHFA Must Reverse Policies That Limit Enterprise Activities in the Underserved Markets

While the Duty to Serve program is still in its infancy, the Enterprises' accomplishments during their first Plan cycles demonstrate that increasing liquidity and investments in these underserved markets is both difficult but also possible with focused effort. Given today's housing supply shortages, rising home prices and rents, and persistent economic and racial inequality, the Duty to Serve program is more important than ever.

To achieve these difficult but important goals, FHFA will need to evaluate every policy decision it makes through the lens of its impact on underserved markets, affordable housing, and community investment. Unfortunately, over the past few years, FHFA has made a series of policy decisions that make it much more difficult for the Enterprises to achieve their statutory duty to serve mission. NCST calls on FHFA to immediately revisit three sets of policies.

- **Revisit pricing and capital policies**. We applaud FHFA's recent announcement that it is eliminating the Adverse Market Refinance Fee. As a next step, FHFA should reduce or eliminate the loan level pricing adjustments or LLPAs. FHFA should also reconsider its 2020 capital rule, especially the rule's unnecessarily large capital buffers.
- **Permit the Enterprises to make equity or equity-like investments to support their affordable housing mission**, building on the precedent of the Enterprises' LIHTC equity investments**.** This could include both investments in high capacity CDFIs as well as investments particular transactions that support the production or preservation of affordable housing. While certain limits on the GSEs' investment authorities may be prudent, we encourage FHFA to be transparent about any limitations it places on these activities.
- **Allow and encourage the Enterprises to pursue pilots to test new strategies for serving underserved markets.** Instead of finalizing the proposed rule on Prior Approval for Enterprise Products, FHFA should promulgate a rule that encourages pilots.[1]

[1] For example, see the proposal contained in Center for Responsible Lending, "Comment to the Federal Housing Finance Agency on Prior Approval for Enterprise Products," (January 8, 2021)

As FHFA reexamines these larger policy decisions, we also encourage the agency to continue to build on the transparency of the Duty to Serve program. First and foremost, we encourage FHFA to release its 2018 and 2019 Duty to Serve ratings at both the market and the objective levels. Second, we encourage FHFA to enhance the Public Use Database to include loan-level Duty to Serve flags, ideally at the objective level. Third, we also encourage FHFA to continue publishing the Enterprises' quarterly and annual Duty to Serve reports, as well as its own loan purchase dashboards. Finally, we encourage both FHFA and the Enterprises to new consider opportunities to engage substantively with stakeholders in the underserved markets. For example, FHFA should solicit ideas for new and impactful Enterprise Duty to Serve activities *before* the Enterprises submit their next proposed Plans in 2024 and require the Enterprises to respond to this input.

Overall, the Enterprises' Proposed Plans Fail to Meet the Moment and Should Be Improved, Strengthened, and Clarified

While the Enterprises' proposed Plans contain a number of objectives that will positively affect underserved markets, the Plans have retreated from the more ambitious efforts included in the Enterprises' first three-year Plans.

While there are many shortcomings in the proposed Plans, perhaps the most significant is that neither Fannie Mae nor Freddie Mac proposes objectives related to manufactured housing titled as chattel. Enterprise purchases of chattel loans would help low-income consumers access lower-priced financing and, critically, could bolster the consumer protections available in this market. We believe that the Enterprises can serve the chattel market safely and should develop their approaches to doing so through multi-year loan purchase pilots that begin in 2022. Waiting until 2025 or later to begin these activities would be a failure on the part of the Enterprises and FHFA.

Ultimately, we believe that the Enterprises should be required to improve, strengthen, and clarify their proposed Plans substantially before they are approved by FHFA later this year.

As the Enterprises revise their Plans, they should improve on their stronger proposed elements, which include:

- **Section 515**: We applaud each Enterprise for its progress on reaching a subordination agreement with USDA and for their loan purchase targets to preserve properties supported by the Section 515 program (FN_AHP_Sec 515_1, FR_AHP_Sec 515_A). However, Freddie Mac's proposed targets are far too modest. We also applaud Fannie Mae's proposed technical assistance activities (FN_AHP_Sec 515_2).
- **Engagement with CDFIs serving high needs rural areas or populations**: Each Enterprise should be commended for working with rural and/or tribal CDFIs and for providing the technical assistance and product flexibilities necessary to purchase loans from these institutions (FN_R_HN Pop_2, FR_R_HN Reg_B). We are also glad to see Freddie Mac committing to conventional loan purchases in tribal areas by 2024 (R_R_HN Pop_A). We applaud the inclusion by both Enterprises of single-family loan purchase targets in high-needs rural areas, but we believe each Enterprise could set more ambitious goals based on their extremely strong 2020 performance (FN_R_HN Reg_2, FR_R_HN Reg_A).
- **Tenant Pad Lease Protections**: While it is good that each Enterprise proposes to purchase growing numbers of Manufactured Housing Community loans with tenant pad lease protections,

we believe that each Enterprise should set stronger loan purchase goals (FN_MH_CommPad_1, FR_MH_Comm Pad_A). We also encourage FHFA to consider ending Enterprise support of Manufactured Housing Communities that do not meet the tenant pad lease protection standards (which are not Duty to Serve eligible).

Fannie Mae Should Strengthen its Distressed Properties Objectives, and Freddie Mac Should Add Similar Objectives

NCST applauds Fannie Mae's inclusion of two distressed property objectives in its proposed Plan (FN_AHP_Distressed_1, FN_AHP_Distressed_2).

By providing liquidity in the distressed properties market, Fannie Mae can help prevent vacancy and neighborhood blight, strengthen cities and communities, and provide additional opportunities for affordable homeownership. This activity is particularly important given the impact of the pandemic on communities. Close to two million borrowers remain delinquent on their mortgages, and many communities of color – including "middle neighborhoods" where many residents have Enterprise-backed mortgages – have been hit hard both by COVID-19 itself and the virus's economic impact.

Fannie Mae's proposed activities focus on research, outreach, or product development to encourage neighborhood stabilization and owner-occupant purchases of distressed properties. Unfortunately, Fannie Mae's Plan lacks sufficient detail about what the Enterprise intends to do over the next three years. This lack of detail makes it difficult for FHFA and outside stakeholders to judge the ambition and likely impact of these activities.

As Fannie Mae revises and begins implementing its Plan, NCST encourages Fannie Mae to pursue concrete action in three areas:

- **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 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 nonprofits to use Fannie Mae's acquisition-rehab mortgages, but the pilot was ultimately unsuccessful. We urge Fannie Mae to try again. We believe Fannie Mae can improve its product by soliciting feedback from and adopting reasonable underwriting criteria for potential non-profit counterparties.
- **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 Fannie Mae to 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-to-moderate income families from large capital outlays in their first few years of homeownership is critically important.
- **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. NCST's experience has taught us that 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.

This section has focused on Fannie Mae because Freddie Mac has chosen not to include Duty to Serve activities for the distressed properties market. Through Freddie Mac's long-standing and creative partnership with NCST on REO sales, NCST has seen first-hand the positive impacts that Freddie Mac's disposition policies can have on communities. We strongly encourage Freddie Mac to take a more comprehensive approach to supporting this market by designating distressed properties as a Duty to Serve activity. We believe there is room for Freddie Mac to increase take-up of its renovation loan products and to explore other creative ways to encourage renovation of distressed properties.

The Enterprises Should Strengthen their Residential Economic Diversity Goals and Think More Broadly about Racial Equity

While the existing Duty to Serve rule's extra credit for Residential Economic Diversity is well-intentioned, more must be done to incent the Enterprises to equitably serve households and communities of color. In 2020, 3.06% of Fannie Mae's owner-occupied loan purchases were to Black borrowers. At Freddie Mac, the percentage was 3.28%. This share has actually decreased each year at each Enterprise since the Duty to Serve program began in 2018.

While NCST is pleased to see both Enterprises commit to loan purchases that support Residential Economic Diversity in high-opportunity areas (FN_AHP_RED_1, FR_AHP_RED_A), neither has proposed ambitious goals given their past purchase volumes, and Freddie Mac's goals are especially weak.

During the first Plan cycle, the impacts of each Enterprise's RED-related policy enhancements and research were mixed. The most important activities included underwriting or policy changes that directly increased Enterprise purchase of RED-eligible loans and the cataloging of state-based incentives for affordable housing in high opportunity areas. The creation of mapping tools and publication of case studies on how to finance RED-related projects were important activities the first time they were done, but it is unclear whether additional publications that repeat these achievements will meaningfully impact the market. Ultimately, we conclude that both Enterprises' proposed 2022-2024 research objectives are not ambitious and are unlikely to increase liquidity in this market (FN_AHP_RED_2, FR_AHP_RED_B).

Federal law includes a provision whereby the FHFA Director may recommend to Congress additional underserved markets to which Duty to Serve should apply, and FHFA should consider asking Congress for authority to focus on homeownership for communities of color.

In the meantime, we hope that as the Enterprises revise their Plans they propose "Additional Activities" that meaningfully advance racial equity within the three underserved markets.

If you have any questions about these comments, please do not hesitate to contact me at dsanchez@stabilizationtrust.org or (202) 706-7499. Thank you.

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