August 16, 2023

Director Sandra Thompson
Federal Housing Finance Agency
400 7th Street, SW
Washington, D.C. 20219

Re: Underserved Mortgage Markets Coalition Policy Recommendations and Meeting Request

Dear Director Thompson,

The Underserved Mortgage Markets Coalition (UMMC) thanks you for taking significant actions under your tenure to promote affordable housing opportunities through the Federal Housing Finance Agency's (FHFA) regulator and conservatorship role of the Government Sponsored Entities (GSEs). The UMMC represents 30 national affordable housing organizations which are firmly committed to working with FHFA and the GSEs to increase affordable housing of all types in underserved markets. Three of UMMC's members have associate status because they never take positions on policy issues, including those in this letter.

Our coalition offers the following policy recommendations, which we believe will allow the GSEs to increase affordable housing opportunities and further the public's understanding of their work. We request a meeting to discuss these suggestions with you and your staff.

Recommendations

1) Targeted Equity Investments

FHFA should allow the GSEs to provide targeted equity and/or grant investments to community development financial institutions (CDFIs) engaged in Duty to Serve (DTS) activities where the Enterprises have struggled to make progress. We believe the types of transactions that will expand housing choice and opportunity for underserved areas and low-income households are often smaller, more labor-intensive, and have different risk profiles than is typical in conventional mortgage underwriting. CDFIs have worked in underserved communities for many years and have first-hand knowledge of local markets and partners. We are adept at mitigating the risks that are often inherent in investing in them. With our strong loan portfolios, CDFIs are natural partners for expanding responsible investment in these markets, especially where there is little other support from GSE lenders.

Relatively small, targeted investments by the Enterprises will have an outsized impact on improving liquidity across underserved markets and help cover some of the substantial credit risk barriers for CDFIs. Manufactured Housing Resident-Owned Communities (MHROCs) are an example of a high-impact market where the Enterprises have not yet succeeded in materially increasing capital. Targeted equity and/or grant investments would allow the Enterprises to meaningfully reach the MHROC market.

2) CDFI Preferred Product

We recommend that FHFA work with the Enterprises to add a CDFI preferred product that will meet low- and middle-income borrowers' needs. This product should allow: (1) exceptions for income limits; (2) credit exceptions; (3) increased seller concession amounts; and (4) eliminate the limit on the combined loan to value, given that the Federal Housing Administration does not have such a limit. CDFIs have long demonstrated their special expertise in reaching underserved communities with loans that perform over time. There is a great need for the Enterprises to recognize this and help create a better secondary market for CDFI loans. For example, cdcb and Fahe are two CDFIs serving respectively the DTS High Needs Rural Regions, the colonias and Appalachia, which have met all the requirements to become Fannie Mae and Freddie Mac seller/servicers, yet most of the performing loans these two CDFIs originate are ineligible for sale to the Enterprises. Developing a CDFI preferred product would allow the Enterprises to better serve all underserved mortgage markets, not just rural, DTS, and Equitable Housing Finance plan markets.

3) Pricing Policy

The pricing and capital policies adopted by FHFA, should keep the Enterprises liquidity and affordable housing mission at the center of their business. To the maximum extent possible, consistent with safety and soundness, pricing and capital policy should encourage the Enterprises to do more to reach underserved markets. The reason the Enterprises were established in the first place and have the backing of the U.S. Treasury, is to promote efficient mortgage markets and to continue to innovate to reach historically underserved markets.

If pricing or capital policy is set in a way that doesn't permit and encourage the Enterprises to meet their mission, then FHFA and the Enterprises are failing at their public purpose. We do not think there's sufficient understanding of the tradeoffs implicit in raising capital and in meeting public purpose. While raising additional capital over time to allow the Enterprises to come out of conservatorship is a worthy objective, given that the Enterprises already have sufficient capital for their day-to-day operations, we urge FHFA to put more emphasis on reaching underserved markets and less emphasis on increasing capital to a level that would be sufficient to exit conservatorship. We are preparing a comment that will explain our position in greater detail in response to FHFA's request for information on pricing.

4) Low-Income Housing Tax Credit Qualified Contract Protections

The Low-Income Housing Tax Credit (LIHTC) is a production subsidy provided to developers who agree to rent their properties to qualifying low-income residents at reduced rents for a minimum of 30 years, including a 15-year tax compliance period and another 15-years of extended use subject to deed restriction. This is the essential structure of the program and it is commonly understood. However, there are two little-known exceptions to the requirement that LIHTC properties remain affordable for 30 years: 1) in the case of foreclosure; and 2) where a Qualified Contract (QC) is presented to the state Housing Credit agency.

Under the QC provision, an owner of a LIHTC property may, after year 14, request a QC from the Housing Credit allocating agency. This begins a one-year period during which the allocating agency seeks a qualified buyer to purchase the property and maintain it as affordable for the duration of the extended use period. The required purchase price for a qualified contract is stipulated by Section 42 and was designed to prevent backend windfalls to owners and investors by limiting them to an inflation-adjusted return on the original equity contribution. While the original intent of this provision was to create a limited return and some liquidity for investors at a time when the Housing Credit was an unproven program, for some properties it has come to function as a nearly automatic affordability opt-

out after just 15 years of affordability. This is because the QC formula price in nearly all cases significantly exceeds the market value of the property as affordable housing. As a result, it is rare for the allocating agency to find a buyer willing to pay the qualified contract price. If the allocating agency fails to identify a qualified buyer within one year, the property is released from the affordability requirements of the program. The current LIHTC QC language is being used by some owners to remove properties from the LIHTC program after year 15, which results in a loss of affordability housing. According to the National Council of State Housing Agencies, approximately 10,000 units of affordable housing are lost each year due to the QC loophole, with more than 100,000 since data has begun to be collected.

We urge the FHFA to take the following actions to prevent this abuse:

- Prohibit GSEs from investing in Housing Credit properties unless the owner has agreed to waive its QC rights.[1]
- Prohibit GSEs from acquiring multifamily loans on Housing Credit properties unless the owner has agreed to waive their QC rights.[2]
- Prohibit GSEs from acquiring multifamily loans on properties financed with Housing Credits where an owner has taken the property through the QC process and terminated the rent and income limitations on the property.[3]
- Prohibit Federal Home Loan Banks from providing Affordable Housing Program funds to Housing Credit properties unless the owner has agreed to waive its QC rights.[4]

5) Strategic Planning Processes to Reach Underserved Markets

Duty to Serve and Equitable Housing Finance Planning are both potentially highly impactful because they present the opportunity for the Enterprises to work collaboratively with FHFA and affordable housing stakeholders to engineer their business processes to better meet underserved markets. If this is attempted with a process like the EHF proposed rule with no guardrails, the Enterprises have no incentive to take it seriously and it runs the risk of giving an illusion of progress where none can be made. The DTS process has all of the necessary structure, except that FHFA is not disclosing progress at a granular level so that affordable stakeholders have the information to meaningfully engage in dialogue with the Enterprises on how to adjust strategic planning to reach underserved markets.

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[1] This prohibition would apply to all forms of Housing Credit equity investing that may be undertaken by a GSE, including investment through a multi-investor fund, a proprietary fund and a direct investment where there is not syndicator.

[2] This proposal is intended to make it more difficult for developers to obtain long-term debt financing for their properties if they have they have the ability, through the QC process, to convert the Housing Credit property to market rental after 15 years of rent and income restrictions. The proposal contemplates that debt financing on the property would qualify for purchase by a GSE only if: a) the regulatory agreement between the developer/owner and the HFA includes a waiver of the right to go through the QC process, or b) the owner agrees to a subsequent, legally binding obligation to meet the affordability requirements throughout the extended use period

[3] This would apply to the purchase of any multifamily loan which finances a Housing Credit property that has gone through the QC process. To be eligible for GSE purchase, the loan on such properties would be required to include an attestation by the borrower that the property has not gone through the QC process.

[4] This and other proposed restrictions would permit an owner to receive GSE financing if it agrees to a subsequent, legally binding obligation to meet the affordability requirements throughout the extended use period regardless of whether it has formally waived the QC right in the regulatory agreement with the state allocating agency.

6) Data Democratization and Accountability

The GSEs administer the most comprehensive data set for U.S. mortgage markets and considering their business models are entirely reliant on Federal government guarantees, the public has a compelling interest in this data. We believe that FHFA can create a more equitable U.S. housing finance market by broadening access to the regulated entities' data. More rigorous examination of Enterprise and FHLBank data has enormous potential to identify ways to break down barriers to sustainable housing opportunities. For example, there is currently a lack of information available on racial and economic disparities in housing finance. We recommend that FHFA instruct the GSEs to provide the following data:

- **Race and ethnicity**. Publish accessible data broken down by race and ethnicity relating to lending practices, loss mitigation practices and outcomes (including for note sales), tenant screening, repayment options, and automated underwriting system acceptance and rejection rates.
- **Pilot data**. Make all available data on pilot programs public and accessible to evaluators.
- **Joint appraisal database**. Increase transparency of the Enterprises' proprietary joint appraisal database. Stakeholders have previously requested that FHFA make the joint appraisal database public and we're aware that Privacy Act concerns have prevented it's release. We recommend that FHFA consult with stakeholders on how appraisal data can be disclosed, without violating the Privacy Act.
- **Data already disclosed**. FHFA should broadly look at how increased data disclosure can help the public understand GSE performance. For instance, FHFA should require the Enterprises to disclose their 10K supplemental data in ways that would increase transparency into the relative risk of loan purchases from underserved markets. The Fannie Mae 10K supplement demonstrates that in the multifamily market, manufactured housing loans and affordable housing loans have a serious delinquency (SDQ) rate substantially lower than the SDQ rate of the overall multifamily book. Analogous information is available for Fannie Mae's single-family business and Freddie Mac's business. We believe that if FHFA required the Enterprises to slice this already-public data to show the SDQ rate of loans purchased in DTS, EHF, or other affordable criteria, the public would have much greater transparency into the actual risk of reaching underserved markets, strengthening the case that it is lower profitability, rather than credit risk, that most often drives Enterprise decisions not to reach the underserved markets.

7) Note Sales

We commend FHFA for the significant improvements to the note sale program announced in June 2023, including exclusion from sales of loans forbearance and deferral offers post-sale for borrowers able to resume regular mortgage payments. We urge further changes to ensure that the non-performing loan (NPL) and reperforming loan (RPL) sales are consistent with Fannie Mae and Freddie Mac's mission.

- **Exhaust pre-sale loss mitigation.** A loss mitigation review should be completed within a set period prior to sale. This is especially important for NPL sales, where a homeowner may have been reviewed earlier but may have experienced a change in circumstances.
- **Notify homeowners of an impending sale.** Homeowners who know their loan will soon be sold may be more likely to seek out assistance and some who have been seeking modifications have had their loans sold mid-process.
- **Require meaningful loss mitigation post-sale.** The current "benefit to the borrower" standard is too vague to promote sustainable offers. Additional rules should include targeted payment reductions and retention of the existing interest rate. Bidders also should be required to provide and make public their loss mitigation waterfall. FHFA should study loan samples to understand pre- and post-sale evaluation procedures.

- **Expand and update data reporting.** The new RPL data collection should result in robust public reporting, including demographic data, and should be aligned with NPL data reporting. Reporting should include long-term performance and use new benchmarks to reflect today's market. Reports should distinguish between note sales made to nonprofits, MWOBs and other purchaser categories.
- **Prioritize non-profits.** Sales should give a preference to housing-focused nonprofits and other eligible purchasers that commit to maximize homeownership preservation outcomes.

8) Building Codes and Energy Efficiency

Mortgage repayment rates are at risk from the increasingly destructive forces of extreme conditions exacerbated by climate change and escalating energy burdens for low- and moderate-income households, posing significant financial risks for the stability of the GSEs. We recognize and appreciate FHFA's performance on issues of climate risk, as documented in Ceres' annual Climate Risk Scorecard, but more actions are needed to disclose and address climate risk and energy performance, to keep homeownership within reach for everyone.

- **Require mortgages for new homes guaranteed by the GSEs meet building code requirements** currently proposed by HUD and USDA: 2021 International Energy Conservation Code and ANSI/ASHRAE/IES Standard 90.1-2019. Building energy codes greatly reduce ongoing energy costs and increase resilience to those extreme conditions.
- **Require disclosure of both climate risk and energy performance** for mortgages of existing homes guaranteed by the GSEs.
- **Continue to expand access to mortgage financing for energy efficiency and electrification**, particularly for underserved communities, including through enabling targeted equity investments as discussed above. The unprecedented level of financial incentives that will roll out through the Inflation Reduction Act's tax credits, the Greenhouse Gas Reduction Fund, and home energy rebates create an opportunity for the GSEs to help bolster community development financial institutions and other entities as they seek to bridge financing gaps and support rapid deployment of those resources.

Thank you for considering these recommendations and we look forward to hearing from your staff on when we can meet to discuss them.

Sincerely,

Underserved Mortgage Markets Coalition