NCSHA

October 28, 2014

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA65
Federal Housing Finance Agency
400 Seventh St. SW
Washington, DC 20024

Attention: Comments/RIN 2590-AA65, 2015-2017 Enterprise Housing Goals

Dear General Counsel Pollard:

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) appreciates the opportunity to respond to the Federal Housing Finance Agency's (FHFA) August 29 proposed rule establishing affordable housing goals for the Government-Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac for the years 2015 through 2017.

Fannie Mae and Freddie Mac currently play a dominant role in the housing finance market. Together, the firms represent the largest source of capital supporting single-family and multifamily housing financing. The Congressional Budget Office (CBO) estimates that about two-thirds of all loans originated are guaranteed by one of the GSEs. In the rental market, a September 2012 Government Accountability Office (GAO) report found that from 1994-2011, the GSEs' share of total multifamily lending activities steadily increased and spiked during the recent housing downturn when private sources of capital vanished.

Their dominant market presence, along with the federal government backing they receive, have made the GSEs true market leaders. Their policies and standards substantially influence what loans are made and how in both the homeownership and rental lending markets. As a result, the affordable housing goals and the influence they have on the GSEs' activities will substantially impact the availability of affordable rental housing and homeownership opportunities for low- to moderate-income people.

Consequently, NCSHA urges FHFA to enact strong and aggressive affordable single-family and multifamily housing goals that push the GSEs to support substantially increased levels of affordable housing financing. Establishing strong goals is critical toward fulfilling the firms' public purpose, which is specified in their enabling charters, of facilitating a liquid and accessible housing finance market capable of meeting the needs of all borrowers and consumers, especially low- to moderate-income and other underserved populations. Strong, aggressive goals will also build on FHFA's recently renewed focus on one of the key elements of its mission: ensuring that the GSEs "serve as a reliable source of liquidity and funding for housing finance and community investment."

Further, we urge FHFA to continue using the hybrid approach toward measuring the GSEs' compliance with their single-family goals (using the benchmark and market standards). That being said, to encourage the GSEs to lead the market in supporting affordable homeownership lending, we believe that FHFA should change how it applies the standards, and only test the GSEs' affordable lending activities against the market standard during unexpected market downturns. We also encourage FHFA to provide Fannie Mae and Freddie Mac with an efficient and effective option for supporting affordable housing by allowing them to count the purchase of tax-exempt housing bonds issued by HFAs toward their goal compliance. We also support FHFA's proposal to establish a new affordable multifamily housing subgoal for small multifamily properties.

**State HFAs are Affordable Housing Lending Specialists**

NCSHA represents the state HFAs of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and New York City. Though they vary widely in their characteristics, including their relationship to state government, HFAs share a common mission of providing affordable housing to those in their states who need it.

HFAs have demonstrated that affordable lending done right is responsible lending. They engage in many best practices that are proven to increase loan performance, such as pre-purchase counseling, high-touch servicing, and flexible yet prudent underwriting. All total, HFAs have funded more than 3 million affordable homeownership loans to low- and moderate-income families, a vast majority of whom were first-time homebuyers. In 2013 alone, HFAs funded almost 75,000 home loans, and they predict financing nearly the same amount in 2014.

HFAs predominately serve creditworthy borrowers who might not otherwise be able to secure an affordable loan. In 2012, the last year for which such data is available, the median income of a borrower who received an HFA loan financed through the sale of tax-exempt single-family mortgage revenue bonds (MRBs) was $46,444, 90 percent of the national median income. The median purchase price of an MRB-financed home that year was $125,834, 71 percent of the national median sale price.

FHFA recently recognized the key role that HFAs play in supporting responsible and affordable mortgage lending in its 2014 Strategic Plan for Conservatorship, crediting HFAs with having "historically provided access to credit and lower down payment lending for lower- and moderate-income families" and having "proven, strong performance records." The Plan and related Scorecard both encourage Fannie Mae and Freddie Mac to increase their partnerships with state HFAs.

Fannie Mae has a long history of partnering with state HFAs, and currently offers state HFAs preferred terms through its HFA Preferred products. This program provides Fannie Mae an opportunity to responsibly support affordable homeownership while allowing HFAs to reach underserved borrowers they cannot generally serve through traditional tax-exempt bonds, such as non-first-time homebuyers and those homeowners who wish to refinance. NCSHA is also continuing to work with Freddie Mac on expanding its partnerships with HFAs.

HFAs have also demonstrated a strong commitment to affordable multifamily lending, including by using specialized products and flexible, yet prudent, underwriting standards designed to meet the unique housing needs of their jurisdictions. At the end of 2012, HFAs' multifamily lending portfolios consisted of 15,713 properties that contained over 1.1 million apartments. HFAs extended 512 another affordable multifamily loans in 2013 that are expected to support the development of an additional 23,605 units, and HFAs anticipate financing more than 24,000 additional multifamily units in 2014. Many of these apartments assist residents with special needs, including the elderly, those in assisted living, persons with disabilities, rural poor, and those who were formerly homeless.

**Adjust Homeownership Goals Annually**

To determine the GSEs' low-income homeownership loan purchase goal and subgoals for 2015 through 2017, FHFA relies on its own market estimation model. Unfortunately, as has been documented by the Urban Institute, FHFA's model has several shortcomings. This makes it unclear whether the model provides FHFA with a truly reliable estimate that FHFA can use to determine the appropriate level for affordable homeownership goals. Specifically, the model produces a wide range of possible market shares. For example, in 2015, though FHFA projects that loans made to borrowers with incomes below 80 percent of area median income will make 20.9 percent of the market, that percentage could vary substantially, as indicated by the fact that the 95 percent confidence interval (i.e., the margin of error in its forecast) is 6.7 percent.

In addition, the model is based on the recent housing market, in which credit has been prohibitively tight for many low- and moderate-income borrowers. This model likely understates the percentage of loans that will go to low-income consumers in future years, when the markets return to normalcy. Consequently, there is a strong possibility that the proposed homeownership goals and subgoals for 2015 through 2017 would be set below levels that are reasonable and achievable.

NCSHA recognizes that it is exceedingly difficult to put together solid market projections, especially following the uncertainty created by the housing downturn. To remedy this issue, and to ensure that the benchmark affordable homeownership goals are not set at levels lower than they should be, we suggest FHFA commit to updating its projection each year and adjusting the GSEs' benchmark goals accordingly.

**Adopt Strong and Flexible Standards for Measuring Compliance with Single-Family Goals**

NCSHA appreciates FHFA's willingness to seek input on the standards it should use to measure the GSEs' compliance with its proposed affordable homeownership goal and subgoals. After careful examination, we recommend FHFA maintain its current practice of determining each GSE's compliance by using both the "benchmark" test and the "market" test. However, we suggest that the application of these tests be adjusted to provide both firms strong incentives to lead the affordable homeownership lending market, not just reflect it.

Abandoning the current hybrid approach and adopting a single standard for measuring compliance, whether it is the benchmark standard or market standard, will make it more difficult for FHFA to structure the affordable housing goals to promote affordable homeownership while also protecting the GSEs' financial health. While relying solely on the benchmark standard could spur the GSEs to increase their support for affordable homeownership lending, it also leaves the GSEs vulnerable to unexpected market swings. If, for example, FHFA were to set its low-income homeownership goal at 25 percent, but the market for that year were to contract significantly to the point where loans to low-income consumers only accounted for ten percent of the market, the GSEs might not have time to adapt to the new market conditions.

The market approach also has disadvantages. Because it is applied retroactively, it will be impossible for the GSEs to plan ahead. The lack of a clear prospective standard might lower the GSEs' incentive to support affordable homeownership lending. In addition, given the GSEs' public mission and federal support, it is not enough to simply expect the GSEs to match the rest of the market's level of support for affordable homeownership lending. The benefit they receive from their quasi-governmental status should come with a responsibility to be an affordable housing lending leader. In addition, given their unmatched influence in the market, any increase in the GSEs' support for affordable homeownership might also increase the amount of mortgage loans made to low- and moderate-income borrowers throughout the market.

With this in mind, NCSHA suggests FHFA continue utilizing the current approach of combining the benchmark and market tests but make two adjustments to it. First, the benchmark rate for the affordable housing goals and subgoals should be set at a level that FHFA believes will exceed the overall market's level of support for affordable homeownership lending. We believe this means that FHFA should increase the goals from the proposed levels.

As mentioned above, the GSEs are federally chartered businesses with an assigned public mission. They have received implied federal benefits throughout their existence, in addition to the direct federal assistance they have received when taken into conservatorship. With this support should come an expectation that the GSEs will strive to fulfill their public mission of ensuring access to credit for borrowers in all markets and populations.

In the same vein, we also urge you to structure the market test so that the GSEs are not automatically considered compliant if their level of support for affordable homeownership lending matches that of the market. Instead, the market test should only be used to protect the GSEs against significant market shifts. For example, using the goals FHFA proposes, if loans to low-income borrowers were to comprise 22 percent of all home purchase loans in 2015, then it would not be unreasonable to expect the GSEs to still have met their benchmark purchase goals for such loans (23 percent) considering the market advantages they enjoy and their public obligation. Instead, the GSEs should only receive a reprieve from meeting their benchmark goals and subgoals in those years in which the total market share of low-income loans differs substantially from the benchmark goals.

**Encourage the GSEs to Purchase HFA Bonds to Support Affordable Homeownership**

As explained above, state HFAs have a strong track record of responsibly financing affordable mortgages to low- and moderate-income consumers. Their affordable homeownership mission is especially critical in the current housing market, with many creditworthy low- and moderate-income borrowers currently struggling to purchase a home due to stringent credit standards. This makes state HFAs ideally positioned to partner with the GSEs to help them meet their affordable homeownership goals and obligations.

To help facilitate such partnerships, we recommend that FHFA allow the GSEs to receive credit toward their affordable homeownership goals for the purchase of MRBs issued by HFAs. Doing so will provide the HFAs with an efficient means of supporting affordable homeownership without having to take on excessive risk. It will also ensure that the GSEs' affordable homeownership efforts are effective. As state agencies, HFAs are well aware of the needs and nuances of their states' housing markets. Finally, it will inject much-needed liquidity into the MRB market which has been struggling due to the current low-interest rate environment.

**Increase the Affordable Multifamily Goals**

NCSHA thanks FHFA for proposing to increase the low- and very low-income multifamily housing goals for Freddie Mac. This being said, we believe the proposed multifamily goals for both GSEs are still too low given the GSEs' current activity in the multifamily market and the nation's overwhelming need for more affordable housing. We ask that FHFA raise these goals at least to reflect the GSEs' current levels of affordable rental production.

As FHFA acknowledges in the proposed rule, both GSEs have in recent years surpassed their low-income and very low-income multifamily goals. For example, in 2013, Fannie Mae financed 326,597 low-income multifamily units and 78,071 very low-income units, despite goals of 265,000 and 70,000 respectively. That same year, Freddie Mac financed 255,057 low-income multifamily units and 56,752 very low-income units, despite goals of 215,000 and 50,000 respectively. This means that, for 2015, both GSEs' affordable multifamily goals are set at levels that are around a quarter less than their actual affordable multifamily production last year.

In the proposed rule, FHFA says that one of the reasons it did not seek to match the GSEs' affordable multifamily goals with their recent production is because it expects the GSEs' role in the multifamily market to lessen over the coming years. While that is certainly a strong possibility, one must also take into account that, as the Harvard Joint Center for Housing Studies has reported, the overall multifamily market is expected to continuing growing in the next few years. Thus, while the GSEs' market share might drop, their total production can be reasonably expected to stay at least at the same level.

Also, most of the increased activity in the multifamily market has come from life insurance companies, which tend to invest in multifamily buildings geared toward higher-income earners. There is little evidence that the GSEs will soon be facing substantially more competition on lending for more affordable developments.

Increasing the GSEs' multifamily goals will help FHFA to fulfill its new strategic goal of supporting underserved segments of the rental market. As FHFA is aware, this goal is more important than ever. Our nation is currently suffering from what former Secretary of Housing and Urban Development Shaun Donovan has called "the worst rental affordability crisis that this country has known." Half of all renters currently face housing cost burdens that exceed 30 percent of their monthly income, and 28 percent are paying more than 50 percent of their income for housing. From 2009 to 2011, the number of low-income renters paying more than half their monthly income for rent increased by nearly a million and a half, to 8.48 million, a record high.

Those low- and moderate-income renters who are struggling to find affordable rental homes are the populations HFAs seek to serve through their multifamily lending programs. Over the years, many HFAs have utilized the GSEs to support their multifamily missions. In 2012 alone, at least six HFAs used GSE products to originate 14 multifamily loans that will finance the completion of 3,722 affordable apartments.

The GSEs and HFAs have a strong history of working together to support affordable multifamily housing. For example, since 1985, the GSEs have helped the New York City Housing Development Corporation, which serves a jurisdiction with a substantial shortage of affordable apartments, finance 82 developments in low-income neighborhoods. This has resulted in the development and rehabilitation of nearly 24,500 affordable rental units.

Increasing the GSEs' affordable multifamily goals will promote more of these productive GSE-HFA relationships.

Given the GSEs' demonstrated ability to support increased levels of affordable multifamily housing, as well as the severe affordable rental housing shortage impacting low- and moderate-income borrowers across the nation, it is more critical than ever that the GSEs be called upon to fulfill their vital public role of supporting liquidity for affordable multifamily housing. Consequently, we ask that FHFA amend the proposed rule and enact higher, aggressive low-income and very low-income multifamily goals that build on and strengthen the GSEs' roles as leaders in affordable rental financing.

**Allow the GSEs to Earn Goals Credit for Purchasing HFA Multifamily Bonds**

Previously, the GSEs were allowed to count purchases of tax-exempt multifamily housing bonds issued by state HFAs as credit toward meeting their affordable housing goals. This incentivized the GSEs to buy such bonds, giving many HFAs a valuable option for financing the development of affordable rental housing. This tool was particularly beneficial to HFAs in smaller or rural states, which typically issue bonds of smaller value that are difficult to sell in the broader bond market. In addition, many HFAs benefitted from being able to directly deliver bonds to Fannie Mae or Freddie Mac, which cut down on their issuance costs and allowed them to dedicate more resources towards their affordable housing mission.

Since the GSEs have been prevented from using such purchases to meet their affordable housing goals, their interest in purchasing such bonds had decreased substantially. Once again, this is especially problematic for smaller HFAs, many of which lack the resources to become approved sellers/servicers with the GSEs. One HFA has told us that selling its multifamily bonds to the GSEs is no longer an option for it, which has greatly increased the costs associated with its multifamily lending.

Given HFAs' public purpose, strong record of high performing multifamily lending, and deep understanding of the housing needs of their states, encouraging the GSEs to support HFA multifamily lending will allow them to more efficiently and effectively meet their affordable multifamily goals. We urge FHFA to once again allow the GSEs to count purchases of tax-exempt multifamily housing bonds toward meeting their affordable multifamily housing goals.

In addition, many HFAs have also benefitted from the ability to purchase from the GSEs credit enhancement for their multifamily bonds. The purchase of GSE credit enhancement immediately increases bonds' perceived credit quality. This allows HFAs to receive a more competitive price in the market, reducing the costs of their affordable multifamily lending. We believe that the GSEs also should be able to receive credit for providing such credit enhancement for HFA multifamily bonds.

**Maintain and Look to Expand the Low-Income Housing Subgoal for Small Properties**

NCSHA commends FHFA for proposing to establish a new multifamily housing subgoal requiring the GSEs to finance the development of a minimum number of affordable rental units located in small multifamily properties (defined as those building with between five and 50 units). As FHFA mentions in the proposed rule, such small properties account for about a third of all rental units and their units often have rents that are more affordable than those in larger multifamily buildings. In addition, such properties play a key role in efforts to provide affordable housing in rural and other less-densely populated areas. At the same time, it is often difficult for developers to secure financing for small multifamily properties.

Establishing the small multifamily building subgoal will help to ensure that this critical sector of the rental market is fully supported. As FHFA implements this subgoal, we urge you to monitor developments in this market and to consider increasing the levels for this subgoal if market dynamics and the GSEs' activities and capabilities justify such an increase.

Thank you for your consideration. We would be happy to discuss these issues with you at your convenience.

Sincerely,

Barbara Thompson

Barbara Thompson
Executive Director