March 17, 2016

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency, 8th floor
400 Seventh Street, SW
Washington, DC 20219

Subject: Comments on RIN 2590-AA27 Enterprise Duty to Serve Underserved Markets

Dear Mr. Pollard:

The National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) thank you for the opportunity to comment on the proposed rule described in RIN 2590-AA27 Enterprise Duty to Serve Underserved Markets.

For more than 20 years, NMHC and NAA have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA encompasses over 69,000 members representing more than 8.1 million apartment homes throughout the United States and Canada.

The 2008 Housing Economic Recovery Act (HERA) established Duty to Serve for the Enterprises (Fannie Mae and Freddie Mac) to facilitate the financing and liquidity of affordable housing for very low, low and moderate income families for- manufactured housing, rural housing and the preservation of affordable housing. Housing affordability is a significant challenge facing many Americans seeking to rent an apartment in today's market. The number of families renting their homes stands at an all-time high and is growing, placing significant pressure on the apartment industry to meet this increasing demand. The current shortfall in supply is making it impossible for millions of families nationwide to find quality, affordable rental housing. We applaud the FHFA for its continued efforts to guide the Enterprises to broaden their support of housing affordability. Our comments to the proposed Duty to Serve focus on the preservation of affordable housing.

Low Income Housing Tax Credit (Questions 41 – 44)

The Low Income Housing Tax Credit (LIHTC) is one of the most successful programs created to address housing affordability for the underserved markets identified in the proposed rule. Since its inception, it has created over 2.8 million rental units making the continued support of this critical program imperative. Today the Enterprises support LIHTC by providing debt financing as part of the capital stack for properties. Prior to conservatorship, the Enterprises purchased tax credit equity and guaranteed equity investments playing a key role in this market. In the current market, with the absence of the Enterprises as a source for purchasing tax credit equity, banks and insurance companies have stepped in to fill that role. Across many markets, the price of tax credits is near historic highs and often times have many bidders, which signal a strong market.

The proposed rule asked for comments on whether the Enterprises should be allowed to resume equity investment in the Low Income Housing Tax Credits (LIHTC) market. After being placed into conservatorship, the Enterprises ceased participating in the LIHTC market; and today the equity investment market is currently dominated by banks and insurance investors. Given the current robust private sector market dynamics, it appears prudent for the Enterprises to reenter the market in in a limited manner.

- Re-establishes a market presence through all economic cycles; at times when private sector demand and participation is disrupted.
- Does not displace private market participants;
- Serves underserved markets where private sector participation is limited;
- Focuses on Duty to Serve markets; and
- In markets where the numbers of tax credit purchasers may be limited.

Small Multifamily Properties

Providing capital to the small balance apartment market serving low-income residents is reflected in the housing goals for the Enterprises covering 2015-2017. Further, loan purchases for this market do not fall under the loan purchase cap that the Enterprises operate under according to the annual Scorecard. Through both of these guiding documents, the Enterprises have expanded their efforts in serving this market. Questions 46-50 ask ways that the Enterprises can or should expand their reach to better serve underserved markets identified under the Duty to Serve proposed rule. We support the Enterprises continued focus on the existing small balance programs and suggest that FHFA allow them to determine ways to expand their outreach as part of their three-year plans.

Energy Efficiency

NMHC/NAA broadly support efforts to improve the energy efficiency of the apartment industry. The critical role the Enterprises play in the apartment industry make them a natural fit to providing further focus on this critical issue. It is even more vital, given the challenges faced by properties that fall within the Duty to Serve definition. Smaller, older and affordable properties face challenges in accessing capital, retrofitting their properties and balancing the cost to improve energy efficiency against the return on the investment required.

NMHC/NAA support the Enterprises receiving regulatory credit under Duty to Serve for their efforts on energy efficiency for the apartment industry. We also support the Enterprises continued focus on their existing energy efficiency related programs and suggest allowing them to determine ways to expand their outreach as part of their three year plans. However, we believe that developing a process to insure that the cost to implement the improvements does not flow through to the occupants should not be a requirement. Benchmarking consumption at a whole building level is still difficult to achieve in many markets, as this data is not available from local utilities. Individual unit consumption is virtually impossible to obtain for privacy and resident disclosure reasons, so requiring a reporting regime at the unit level to determine if a rental increase is subject to a set of capital improvements is not a plausible. Further, residents of apartments frequently have direct control over and are billed separately for their energy and water consumption so requiring a 15% reduction as well as indirectly requiring them to modify their individual consumption habits is not a reasonable approach. Instead, the focus of the Enterprises resources should be on broadening awareness, working to continue to improve underwriting standards to reflect energy efficiency value and the enhancement of loan purchase programs geared towards energy efficiency.

Affordable housing is a significant and growing challenge for American families. The Enterprises multifamily financing plays a vital role in supporting housing affordability for our nation's citizens, and the proposed Duty to Serve rules represent a positive continued effort by FHFA in this regard.

Sincerely,

Douglas M. Bibby
President
National Multifamily Housing Council

Douglas S. Culkin, CAE
President & CEO
National Apartment Association