



Social Mission.
Private Enterprise.

March 17, 2016

Alfred M. Pollard
General Counsel
Attention: Comments/ RIN 2590-AA27
Federal Housing Finance Agency
Eighth Floor
400 7th Street, SW
Washington, DC 20219

Dear Mr. Pollard:

Housing Partnership Network (HPN) appreciates the opportunity to comment on the Proposed Rule on Enterprise Duty to Serve (RIN 2590-AA27.)

HPN is a member-driven organization comprised of nearly 100 entrepreneurial, high- capacity nonprofits that operate all across the country. The members are diversified social enterprises combining a mission focus with business acumen. HPN members' businesses include multifamily development, lending, property management, and housing counseling. All of our members work to link their communities to services – education, workforce development, and health care. Collectively, HPN members have developed or rehabilitated 374,000 affordable homes, and assisted 9.8 million people through housing, community facilities, and services.

HPN is best described as a business collaborative. The members' senior leadership comes together with their peers to exchange information, solve problems, and share best practices. Their collaborations have spawned member-owned businesses that improve member operations and advance innovations in the practice of affordable housing and community development. For example, when members realized a need for long-term, low-cost capital they formed a multifamily real estate investment trust (REIT) called the Housing Partnership Equity Trust (HPET). HPET enables its 12 mission-driven nonprofit partners to quickly and efficiently acquire multifamily housing. Other businesses that have emerged from these collaborations include a group buying service and a new web-based approach to homebuyer education.

We commend you for the thoughtful and innovative approach you have taken to the statutory requirement that the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association (the Enterprises) have a "Duty to Serve" particular markets – preservation, rural areas and manufactured housing. These markets were chosen because they have a history of being underserved and would benefit from the liquidity and stability that the

Enterprises can provide. HPN's members are active in providing both single family and multifamily affordable housing in all fifty states. A well-functioning secondary market is crucial to our members' missions to increase the supply of safe, decent, affordable housing. Duty to Serve has the potential to push the Enterprises to be better partners to mission-driven housing nonprofits and we commend the FHFA for thinking creatively how to achieve that goal.

Housing Counseling

Overall, HPN encourages FHFA to support Enterprise products and initiatives that integrate or incentivize homeownership counseling and education for borrowers. Education and one on one housing counseling resources can support all three areas highlighted in the Duty to Serve Rule: affordable homeownership preservation, rural housing, and manufactured housing. Extensive research by the Philadelphia Federal Reserve, Freddie Mac and Department of Housing and Urban Development (HUD) all demonstrate the effectiveness of housing counseling in increasing sustainable homeownership. Homeowners and prospective homebuyers who receive counseling have higher credit scores, less overall debt and lower delinquency rates. Evaluations of the NFMC program by the Urban Institute found that homeowners counseled through this program were more likely to cure a serious delinquency, stay current after obtaining a cure and avoid foreclosure altogether.

Increasingly, housing counseling agencies are using innovative platforms to deliver their services in efficient and scalable ways that can reach a large number of consumers for a reasonable fee. New delivery systems for homeownership education and one on one counseling are more broadly accessible across geographies and attractive to the next generation of homebuyers. Web-based tools like the Housing Partnership Network's online homebuyer education course, Framework, are essential to achieve this goal. For example, now customers can have access to high-quality homebuyer education 24 hours a day, 7 days a week. They do not have to travel. They can learn the material at their own pace at their own convenience. And, the cost to deliver this content is less expensive than any of the alternatives. Through a variety of channels, consumers also have access to this education and one on one advising support as well. Specifically, through Framework[®], all HUD approved housing counseling agencies nationwide now have access to a high quality online homebuyer education tool free of charge that can be easily linked to their agency website and delivered to customers at scale. Framework is the most comprehensive and user-friendly online homebuyer education course available. Designed by a team of housing counselors and experts in online education, Framework addresses a growing demand for online homebuyer education services from such diverse customers as rural populations, working families, and younger homebuyers—people for whom travel to in-person classes is either not feasible or desirable.

Evaluation and public disclosure

Before we answer the FHFA's specific questions raised in various parts of the rule, we would like to urge the FHFA to calibrate the evaluation of the Enterprises' performances to the expansiveness of the activities allowed in the various categories in the rule. For example, the statute directs that the Enterprises should facilitate a secondary market for loans to preserve properties developed under various federally subsidized housing programs. The proposed rule

adds additional categories of affordable housing preservation that are broader than the list in the statute but that seem consistent with the idea that the Enterprises have a responsibility to help preserve the affordable housing stock.

Duty to Serve is not a numeric target that the Enterprise need to meet, but rather is a more qualitative assessment of the Enterprises' performance on the plans they submit to the FHFA. Thus, if the FHFA adds additional ways that the Enterprises can meet needs in underserved markets, then the evaluation of the Enterprises' performance needs to take into account that the Enterprises had a more expansive list of activities that would meet the requirements. If the FHFA adds additional flexibility into Duty to Serve by including more activities that qualify, then FHFA needs to also raise the bar in the evaluations.

Transparency and public disclosure can enhance the ability of the FHFA to be rigorous in its evaluations of Enterprise performance. Question 9 asks "Should public input be sought on the Enterprises' proposed Underserved Markets Plans and, if so, is there a more effective approach than the proposed approach?" It is unclear from the proposed rule whether the documents involved in the Duty to Serve process such as the final Duty to Serve Plans, the quarterly reports and the evaluations will be made public. FHFA should make this information available in a reasonable timeframe with the appropriate protections for proprietary data. This is very helpful for ongoing public monitoring of the Enterprises and can help inform FHFA's deliberations over the need for any mid-course corrections. It may helpful to add a brief public comment period before the FHFA considers each Enterprise's underserved markets plan so that FHFA has additional perspectives to consider.

Preservation

Making Duty to Serve more flexible and responsive to the great variety of needs in the affordable housing market is positive if FHFA is also as thoughtful and rigorous about evaluating the Enterprises' performance. With that proviso, HPN commends the FHFA for the additional Regulatory Activities added to the statutory list:

1. Purchasing and securitizing loan pools of small multifamily properties from community development financial institutions and community financial institutions
2. Energy efficiency improvements on existing multifamily rental properties provided loan will reduce energy and water consumption by the tenant by at least 15 percent
3. Energy efficiency improvements on existing single-family, first-lien properties, provided that the improvements financed by the loan will reduce energy and water consumption by the homeowner or tenant by at least 15 percent
4. Affordable homeownership preservation through shared equity homeownership programs
5. Choice Neighborhoods Initiative
6. HUD's Rental Assistance Demonstration program

A key question that the FHFA proposes as part of the Affordable Housing Preservation section is whether new construction of affordable rental housing where long term affordability is

required by regulatory agreement should count as preservation. This is certainly not preservation in the classic understanding of renovating and refinancing old HUD housing. *“FHFA specifically requests comments on whether the term “preservation” should be interpreted to allow “Duty to Serve” credit for Enterprise support for both the purchase of permanent construction take-out loans on rental properties with long-term affordability regulatory agreements and the purchase of refinanced mortgages on existing rental properties with long term affordability regulatory agreements.” (Page 79195)*

HPN supports this expansion of the concept of preservation as being inclusive of new construction where there is a long term regulatory agreement. FHFA has included preservation programs that were created after the Duty to Serve rule passed like Choice Neighborhoods or the Rental Assistance Demonstration as “Regulatory Activities”. This makes sense because these programs rebuild aging assisted housing and preserve the subsidized units for the future. There is sometimes a new construction element in these projects if the developers decide to increase the density of the project. HUD also has regulations implementing Section 8(b)(b) that allows Section 8 project-based rental assistance to be moved to from one development to another in certain circumstances. It makes sense that the Enterprises should get Duty to Serve credit if they buy mortgages on new construction of rental housing that has had Section 8 transferred to it. This could be an effective way of preserving affordable housing in high opportunity neighborhoods and the Enterprises should get Duty to Serve Credit if they help finance it.

As the proposed rule notes, “However the population has been expanding while the stock of rental housing has been shrinking. The rate of construction of affordable rental housing has not kept pace with the demand. Further, desirable markets face particular upward rent pressure. One way to preserve affordability is to give credit for newly constructed rental units where long-term affordability is required by regulatory agreements, as for at least 15 years.” This does make sense if the FHFA scrutinizes the Enterprise’s performance to make sure that the housing is developed by a mission-driven nonprofit and truly does expand the supply of affordable housing in an area with high demand. New construction can make affordable housing available in communities that offer residents better opportunities like good schools or access to transit. As long as FHFA calibrates its assessment of Enterprise performance to the breadth of activities allowed to count for Duty to Serve credit, it is helpful for FHFA to include additional activities in the preservation category. This makes the system more responsive to regional needs and more adaptive.

LIHTC investments

Another key questions posed in the preservation section of the proposed rule is whether the FHFA should allow the Enterprises back into the market as LIHTC investors. Prior to the government conservatorship, Fannie Mae and Freddie Mac were active LIHTC investors. FHFA asks the following questions about LIHTC investments for the GSEs:

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?

While the LIHTC market is currently functioning well without the significant disparities in prices evident in recent years between CRA markets and non-CRA markets, this will likely change in the future. Whether due to some sort of economic shock or cyclical economic slowdown, or yield fluctuations some current investors will leave the market periodically. The Enterprises have been and can again be useful investors in the LIHTC market because their investments can fill in the gaps left by banks' CRA assessment areas and thus it makes sense to let them resume LIHTC investing. FHFA, however, should monitor their performance to make sure that the Enterprises are using their investment authority to fill gaps in the market and are not displacing existing LIHTC investors. For this reason, it would be appropriate for FHFA to establish a flexible framework for regulating the volume of capital that the Enterprises can invest in LIHTC.

FHFA should also make it clear to the Enterprises that part of their Duty to Serve is the responsible disposition of LIHTC assets at Year 15. The Enterprises should abide by the letter and spirit of partnership agreements and ensure that the housing remains affordable and well-capitalized for the long term. The Enterprises should not be depleting capital reserves as a condition of exit at Year 15. The long term affordability of this housing stock should be a strategic goal for the Enterprises, and their conduct should be monitored accordingly.

42. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit investments to support for difficult to develop projects in segments of the market with less investor demand, such as projects in markets outside of the assessment areas of large banks or in rural markets or for preservation of projects with expiring subsidies? Are there other issues that FHFA should consider if limiting the types of LIHTC projects appropriate for equity investment by the Enterprises?

Duty to Serve is a qualitative assessment of the value that the Enterprises are adding to the market for affordable housing. There is certainly more value for the affordable housing market in the Enterprises investing in deeply targeted LIHTC housing that serves people with special needs developed by a nonprofit or in small rural projects that have struggled to find investors. Rather than having the FHFA proscribe the parameters for LIHTC investments, it should assess the Enterprises' plans and put the burden on the Enterprises to articulate how their LIHTC investments are consistent with Duty to Serve. FHFA can direct the Enterprises to modify their LIHTC investment plans if they aren't following the goals they articulated or are somehow failing to provide liquidity and stability for underserved markets. Additionally, for the Enterprises to be effective LIHTC investors, they must be consistent participants in the market. They will need to redevelop the infrastructure, systems and skill sets of an active LIHTC investor. As mentioned above, the volume of LIHTC capital invested should be governed by a regulatory framework established by FHFA.

43. If FHFA permits the resumption of LIHTC equity investments, should Duty to Serve credit be provided only for LIHTC equity investments in projects with expiring subsidies or projects in need of refinancing, or should Duty to Serve credit also be given for LIHTC equity investments in new construction projects with regulatory agreements that assure long term rental affordability?

As articulated above, the burden should be on the Enterprises to demonstrate how their participation is consistent with the requirements of the statute that the affordable housing market benefits from their presence. The Enterprises used to participate in multi-investor funds where their investment would be leveraged with others. In that situation, it can be difficult for a syndicator to tell the investors in advance exactly where their money is going, but the Enterprises should be able to report on the type of syndicator they use and the business strategy for the fund. An investment with a mission-driven syndicator that is planning to invest in LIHTC developments with services for residents or preservation transactions is a better candidate for Duty to Serve credit than an investment with a for profit syndicator with no plans for longer term affordability or serving extremely low income populations.

44. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit such investments to those that promote residential economic diversity, for example, by investing in LIHTC properties located in high opportunity areas as proposed to be defined in section 1282.1 to address concerns raised about the disproportionate siting of LIHTC housing (non-senior) in low income areas and the effect on residential segregation?

In addition to investing LIHTC equity in areas with higher opportunity, the Enterprise should receive Duty to Serve Credit for non-LIHTC equity investments in naturally occurring affordable housing in high opportunity areas. The Housing Partnership Equity Trust is a social venture REIT focused on the preservation of naturally occurring affordable housing throughout the United States. HPET was started by the Housing Partnership Network and 12 nonprofit partners to acquire and preserve multifamily properties serving low and moderate income renters in higher opportunity neighborhoods, using capital from philanthropy and investors. The 12 nonprofit partners include the nation's preeminent affordable housing developers/operators who collectively own more than 72,000 units across 38 states with an estimated value of over \$6 billion. HPET provides a private market solution for preserving needed affordable housing across the U.S. that increases the supply of unsubsidized affordable housing owned by mission-driven landlords in higher opportunity neighborhoods. It is an example of the sort of creative investment that the Enterprises should receive credit for under Duty to Serve.

45. Should FHFA consider permitting the Enterprises to act as the guarantor of equity investments in projects by third-party investors provided any such guarantee is safe and sound and consistent with the Enterprise's Charter Act? If so, what types of guarantees should the Enterprises offer?

It would be an appropriate role for the Enterprises to provide guarantees to third party investors which would like to invest in LIHTC but may be unfamiliar with real estate investing. The Enterprises' long track records and expertise in the LIHTC market qualify them to do this work, and it would be beneficial to the liquidity and stability of the market overall to have more investors.

82. Is FHFA's proposed definition of "high opportunity area" the most appropriate? Should the rule use DDAs to define high opportunity outside metropolitan areas or is there a better definition such as a factor-based definition that would be preferable for those areas?

83. How could FHFA incorporate state-defined high opportunity areas (or similar terms into its definition of high opportunity area? If such state-defined areas are included, how could this be implemented by the Enterprises?

HPN supports the addition of “extra credit” for Enterprise investments in housing in high opportunity areas and mixed income developments in areas of concentrated poverty. Our members agree that paying attention to the siting of affordable housing in order to maximize the benefits for residents is an appropriate policy goal. Using Difficult to Develop Area designation, however, does not really achieve the goal. DDAs are a function of high housing costs relative to incomes. That does not really capture access to opportunities for residents like high quality schools or access to transit. Many states are adding “access to opportunity” scoring criteria to their Qualified Allocation Plans for LIHTC. These criteria vary depending on local market factors. It might make sense for FHFA to give the Enterprises credit for loans and investments that align with the applicable state criteria. Over time, as more research is done on “access to opportunity”, FHFA may be able to create an “opportunity index” that is broadly applicable. The Housing Partnership Equity Trust is currently working on such an index for our real estate investments and would be happy to share the data points we use. FHFA should begin by deferring to state definitions, and over time, work with practitioners to create a more robust set of measures for areas of opportunity.

In conclusion, FHFA should be commended for the thoughtful creativity in its approach to Duty to Serve, and HPN stands ready to share information and practitioner feedback on these important issues. Please feel free to contact me at Siglin@housingpartnership.net if you have any questions.

Sincerely,

Kristin Siglin

Vice President, Policy