ICBA
Independent Community Bankers of America®

July 16, 2021

Sandra Thompson
Acting Director
Federal Housing Finance Agency
400 7th St. SW
10th Floor
Washington, DC 20219

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

Dear Acting Director Thompson,

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to provide comments and input regarding the Duty to Serve (DTS) proposals which have been developed by Fannie Mae and Freddie Mac (the Enterprises). The Federal Housing Finance Agency (FHFA) is required by statute to direct the Enterprises to seek public review and input regarding their respective proposals. The Enterprises are required by the Housing and Economic Recovery Act (HERA) of 2008 to develop specific plans that detail how they will implement the various provisions of their Duty to Serve obligation for certain underserved markets, particularly low and moderate-income borrowers. This includes manufactured housing, rural housing, and affordable housing preservation. ICBA supports efforts to improve access to affordable mortgage credit, especially in rural and small-town markets, and appreciates the work the Enterprises and FHFA are doing in this regard.

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[1] *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than $5 trillion in assets, over $4.4 trillion in deposits, and more than $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

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Consistent with previous comment letters regarding FHFA's plans to implement DTS requirements, ICBA urges FHFA to focus on the safety and soundness of the Enterprises. The latest amendments to the preferred stock purchase agreements (PSPAs) allow the Enterprises to retain earnings until they satisfy the requirements of the 2020 Enterprise capital rule. However, the Enterprises are still critically undercapitalized and vulnerable to market volatility. While we support efforts to expand access to credit through various programs and new product initiatives, these types of loans in general carry a higher degree of credit risk. Additionally, in some cases these loans cannot be included in normal Enterprise mortgage-backed securities and as such the Enterprises will have to retain loans acquired through these various pilot programs in their respective portfolios, potentially increasing their hedging costs in addition to credit costs.

Rather than provide specific comments on each plan from each Enterprise, ICBA will provide the following suggestions which can be applied by the Enterprises across all the proposed Duty to Serve initiatives.

1. **Reopen PSPA negotiations and delay the implementation of the product and program provisions of the PSPAs issued earlier this year**. The amendments set arbitrary and rigid limits on the Enterprises' acquisitions and cash window purchases. The limits are likely to impact small lenders the most due to their relatively small lending volumes. Moreover, purchase restrictions on "high-risk" loans disproportionately harm low-to-moderate income and minority borrowers. Limits on the purchase of second homes and investor properties diminish the cross-subsidies that bolster the Enterprises' affordable housing mission. Using the PSPAs as a vehicle to impose these limits is unacceptable and will likely undermine the economic recovery by restricting liquidity, inhibiting the Enterprises' affordable housing and DTS obligations, and disrupting the thriving housing market.

2. **Increase outreach to smaller, locally based lenders as pilot programs are developed and implemented.** The Enterprises should seek out increased participation by community banks, as they provide a majority of mortgage financing in rural communities and substantial mortgage financing for manufactured housing, and generally work to help preserve affordable rental housing in small towns. ICBA encourages the Enterprises to engage with community bank lenders to gain knowledge

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regarding underwriting and servicing these types of loans, particularly those that are held in their portfolios. Local institutions are well positioned in terms of understanding the local markets and are better able to respond to borrower issues when they arise. This is especially true when originating and servicing manufactured housing loans.

3. **Review existing underwriting guidelines and product eligibility requirements to identify areas that inhibit the sale of manufactured housing and mortgage loans from rural communities through the Enterprises' standard programs.** Adjusting various manufactured housing (MH) guidelines – including maximum loan-to-value, total loan-to-value, combined loan-to-value, as a well as additional fees or other requirements – to align the requirements for manufactured homes with those of stick-built homes could expand the sale of MH loans as well as loans from rural and small-town markets.

4. **Encourage participation by the mortgage insurance (MI) industry to develop and expand mortgage insurance products for manufactured housing for both loans titled as real estate and loans titled as chattel.** ICBA still believes that the Enterprises could take a leadership role in moving more manufactured home sales to real estate. Additionally, MIs could provide the needed credit insurance for chattel loans which could help reduce the cost and risk of those loans for both the borrower and the Enterprises and would allow more lenders to participate in that market if they wished to do so.

5. **Decline to buy manufactured housing loans from any entity that is not subject to the SAFE act and is exempt from the CFPB mortgage originator compensation (MLO) rules.** Currently, employees of manufactured housing dealerships that arrange financing are not subject to SAFE Act registration or licensing, or CFPB MLO compensation rules. Exemptions from these rules by MH dealerships create a regulatory loophole that disadvantages both depository and non-depository mortgage loan originators. It also creates the opportunity for consumer abuses that have afflicted the manufactured housing industry for years. If MH dealerships want access to the national secondary market provided by the Enterprises, they should have to comply with the same rules as all other lenders that sell and service loans for the Enterprises.

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As stated earlier, ICBA fully supports the Enterprises seeking to fulfill their statutory mandate to serve all markets at all times. We have provided suggestions on how the Enterprises can accomplish those goals in a prudent manner that does not result in all the benefits going to a select few large national lenders. Working with and including locally based community lenders will result in better outcomes. We continue to call on the FHFA to focus on safety and soundness and rebuilding robust capital. This will help ensure the successful and sustainable implementation of the DTS mandate.

Thank you for the opportunity to provide comment and feedback on these proposals. We look forward to working with FHFA and the Enterprises as they move forward with this initiative.

Please feel free to contact the undersigned at tim.roy@icba.org if you have any questions regarding the content of this letter.

Sincerely,

Tim Roy
Director – Housing Finance Policy