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October 23, 2020

Ms. Rebecca Cohen
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, D.C. 20219

Re: DTS RFI Input: Proposed 2020 Modifications and 2021 Plan Extensions

To Whom It May Concern:

Thank you for the opportunity to comment on the Fannie Mae and Freddie Mac (the Enterprises') proposed Plans for 2021 and modifications to their 2020 Plans. This comment letter will focus specifically on the proposed plans for Enterprises with regard to manufactured housing. Manufactured homes are extremely important as they are one of the only sources of unsubsidized affordable housing in the United States.[1] Prior to COVID-19 the country was in the grip of a housing crisis both due to lack of supply and the resulting skyrocketing prices.[2] With the 2020 pandemic and recession the need for good-quality homes at affordable prices is even more immediate. At the same time, COVID-19 has reduced the building of subsidized affordable housing due to economic uncertainty and increased expenses due to building and permitting delays.[3] While manufactured housing can help fill these gaps in our current housing stock—especially in rural areas and as suburban and city infill—buyers face obstacles to obtain safe, affordable financing. Though manufactured homes are less than half the price per square foot than site-built homes, the financing challenges that persist can substantially reduce the cost effectiveness of this housing option for American families.[4]

We write on behalf of The Pew Charitable Trusts, a global, non-governmental research and public policy organization dedicated to serving the public. We strive to improve public policy by conducting rigorous analysis, linking diverse interests to pursue common cause, and focusing on tangible results. In July 2020 The Pew Charitable Trusts launched its home financing project, which is focusing on loans for

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[1] B. Carson, secretary of Housing and Urban Development, "Manufactured Housing Conference Remarks" (presentation, Manufactured Housing Institute, New Orleans, Louisiana, Hyatt Regency Hotel, May 7, 2019), https://www.hud.gov/press/speeches_remarks_statements/Speech_050719.

[2] Joint Center for Housing Studies of Harvard University, "New Report Shows Us Housing Supply Falls Far Short of What Is Needed," news release, June 25, 2019, https://www.jchs.harvard.edu/press-releases/new-report-shows-us-housing-supply-falls-far-short-what-needed.

[3] P. Sisson, "Covid-19 Is Killing Affordable Housing, Just as It's Needed Most; after the Eviction Cliff, a Different U.S. Housing Crisis Looms: Low-Cost Home Production Is Lagging, Thanks to Construction Slowdowns and Budget Cuts," *Bloomberg Citylab*, July 30, 2020, https://www.bloomberg.com/news/articles/2020-07-30/the-u-s-affordable-housing-gap-is-getting-worse; L.I.S.C. Enterprise, Housing Partnership Network, Opportunity Finance Network, National Neighborworks Association, Stewards of Affordable Housing for the Future, "Addressing Affordable Housing Challenges in the Midst of Covid-19" (2020), 1, https://www.nationalhousingtrust.org/sites/default/files/news_file_attachments/HOME%20COVID-19%20Relief%20Proposal%20Updated%20April%209%202020%20%28003%29.pdf.

[4] Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States" (2014), 5, https://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf.

manufactured housing, the relative dearth of small mortgages available in the United States, and the alternative arrangements that are used to purchase homes of all types when more traditional options are not accessible.[5] Additionally, Pew's Philadelphia Research and Policy Initiative has examined the lack of financing options for lower-cost homes in that region, including challenges related to repairing and maintaining affordable housing stock. Though we are limiting our present comments to issues related to manufactured housing, we look forward to engaging FHFA, the Enterprises, lenders, and other stakeholders on all of these issues as we release research on these markets over the next several years.

One challenge in this market—as the Consumer Financial Protection Bureau and Mortgage Bankers Association have noted—is the limited secondary market for manufactured housing. In 2013, prior to Duty to Serve, over 70% of manufactured home loans reported to HMDA were held in portfolio compared with just 16% of loans for site-built homes. [6] This lack of liquidity curtails a lender's ability to originate more loans. It also prevents manufactured housing from reaching its potential to improve financial and housing—not only for the 22 million people who currently live in them but also others struggling with rising rents and untenable home prices in the absence of an affordable supply of site-built homes.

The request for input listed the following 8 questions:

1. Do the proposed activities and objectives for 2021 address the most relevant obstacles to liquidity in the applicable underserved market?

2. Are the proposed objectives likely to increase liquidity in the applicable underserved market segment?

3. Are there specific actions the Enterprises should consider adding to their Plans in 2021 to address challenges related to the COVID-19 pandemic?

4. Are there other additional activities and objectives the Enterprises should consider adding to their Plans in 2021?

5. What market conditions, including conditions caused by the COVID-19 pandemic, should FHFA consider when assessing the proposed activities and objectives?

6. Are there any safety and soundness concerns related to the proposed activities and objectives?

7. What additional information might be helpful in evaluating the proposed activities and objectives?

8. Is there any other feedback on the proposed Plans that FHFA should consider?

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[5] The Pew Charitable Trusts, "Home Financing," accessed Oct. 19, 2020, https://www.pewtrusts.org/en/projects/home-financing.

[6] Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States," 37; S.A. O'Connor, senior vice president, public policy and industry relations, Mortgage Bankers Association, letter to Federal Housing Finance Authority, "Re: Chattel Financing of Manufactured Homes Request for Input," March 20, 2017, https://www.fhfa.gov/forms/Lists/DTSChattelList/Attachments/26/MBA%20Response%20to%20FHFA%20Chattel%20RFI%20FINAL.pdf.

Responses to several of these questions follow. Thank you again for undertaking this essential work on behalf of the millions of American families who need better access to financing for manufactured homes.

Manufactured Homes Titled as Real Property

With regard to questions 1 and 2, the work that both Fannie Mae and Freddie Mac have done to purchase mortgages for manufactured housing that is titled as real property (FN_MH_RealProp_1, FN_MH_RealProp_2, FN_MH_RealProp_3, FN-MH_RealProp_4 and FR_MH_Real Prop_A) will likely help address relevant obstacles and increase liquidity in the market in a limited way, but it is unlikely to scale due to the relatively low number of homes that are classified this way. Based on Urban Institute's analysis, fewer than one in five manufactured homes were both titled as real property and used a mortgage.[7]

We note the addition of a new goal for 2021 (FN_MH_RealProp_4, "Engage with Industry Stakeholders in a Way that Addresses Market Needs") and applaud both of the Enterprises for including stakeholders. We encourage increased collaboration with the research community in order to share information about pending work and highlight important questions that still need to be addressed. This may include inviting researchers to participate in the manufactured housing roundtable that Fannie Mae intends to convene in 2021, collaborating or consulting about pending research that external parties or the Enterprises are conducting (such as Freddie Mac's research on consumer behavior in the manufactured housing space or analysis of recent policy changes), or expanded interactions among stakeholders through the Affordable Housing Advisory Council or similar programs. Pew is currently planning or conducting research that is relevant to these discussions and will share findings with FHFA, the Enterprises, other non-profits, and industry stakeholders.

Chattel Lending

Though the purchase of mortgages will expand access for some select properties, it will not substantially improve availability or affordability of credit for most manufactured homes as the majority (81%) of new units are titled as personal property and thus not eligible for mortgages.[8] Fannie Mae and Freddie Mac had originally planned chattel loan pilots in which they proposed to purchase a small number of existing loans in order to understand the market better. However, both Enterprises have now proposed to eliminate this work. Unfortunately, as the Mortgage Bankers Association noted in 2017 in their comment letter regarding the proposed chattel loan programs for Duty to Serve "absent the creation of a secondary market for these [chattel] loans, the Enterprises will remain unable to meaningfully contribute to increased optionality for those seeking homeownership in the manufactured housing market and critical access to credit for these consumers."[9]

Nevertheless, there may be another important opportunity to improve access to mortgages, through concerted efforts to improve titling of manufactured housing and better serve this market (question 4).

[7] L. Goodman and B. Ganesh, "Challenges to Obtaining Manufactured Home Financing" (Urban Institute, 3, 4, https://www.urban.org/sites/default/files/publication/98687/challenges_to_obtaining_manufactured_home_financing_0.pdf.
[8] Ibid., 3.
[9] O'Connor, letter.

Data from 2013 shows that 72% of manufactured home buyers who used some form of financing owned both the home and land.[10] Yet the Consumer Financial Protection Bureau has estimated that 65% of borrowers who own both home and land still used a chattel loan for the purchase between 2001 and 2010.[11] The titling of manufactured housing as personal property has increased over time. Census Bureau data shows that new manufactured housing titled as personal property increased from 67% in 2009 to 80% in 2015.[12]

Thus it is possible that additional owners of manufactured homes could benefit by retitling to real property and becoming eligible for mortgage financing—which has been shown to carry lower interest rates and also stronger consumer protections.[13] Exploring this possibility will require a deeper understanding of state titling and tax laws for manufactured homes as well as any other factors that lead consumers to title their manufactured homes as personal property. This is an area of interest that Pew intends to examine, and we will be reaching out to staff at the Enterprises to discuss their knowledge of contributing factors and potential solutions. Fannie Mae has published a 50-state assessment of current titling laws.[14] But neither of the Enterprises have proposed further action on this crucial question (such as research, outreach, owner education, or partnership with key stakeholders). We urge Fannie Mae and Freddie Mac to identify ways to help eligible owners title their homes as real property so that they may be able to access mortgage financing. This work could result in the Enterprises serving a far larger percentage of the manufactured home loan market.

The terms, conditions, and cost of chattel loans are also areas that we urge the Enterprises to assess. In the absence of a secondary market, nearly all loans originated by the top three manufactured housing lenders were considered high-cost as defined by the Consumer Financial Protection Bureau—compared with under 6% for the top three site-built lenders.[15] And according to the Housing Assistance Council, about 90% of chattel loans that were secured by just the home were considered high cost in 2018 compared to 48% of manufactured home loans on both the home and land.[16] In addition, chattel loans lack significant protections that mortgages purchased by Fannie Mae and Freddie Mac enjoy—such as foreclosure protections and the federal COVID-19 protection in the CARES Act.[17] Further, chattel loans were largely not included in pandemic-related legislation at the state level providing forbearance to

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[10] Goodman and Ganesh, "Challenges to Obtaining Manufactured Home Financing."
[11] Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States," 6.
[12] Freddie Mac, "Manufactured Home Loan Performance (for Originations between 2009 and 2019)" (2019), MH3, https://sf.freddiemac.com/resources/manufactured-housing-performance-data.
[13] Goodman and Ganesh, "Challenges to Obtaining Manufactured Home Financing," 3, 4.
[14] Fannie Mae, "Titling Requirements for Manufactured Homes" (2020), https://www.fanniemae.com/content/guide/titling-requirements-for-manufactured-homes.pdf?_ga=2.66053485.210667105.1603362108-1717120808.1601930950.
[15] K. Wiley and I. Green, "Manufactured Housing's Importance in Rural America" (presentation, Federal Deposit Insurance Corp. 9th Annual Consumer Research Symposium, L. William Seidman Center, Sheila C. Bair Auditorium, Arlington, VA, Oct. 18, 2020), https://www.fdic.gov/news/conferences/consumersymposium/2019/documents/posters/wileygreen-poster.pdf.
[16] Housing Assistance Council, "Rural Research Brief; the Latest Research from the Housing Assistance Council" (2020), 3, http://www.ruralhome.org/storage/documents/rrbriefs/Manufactured_Housing_RRB.pdf.
[17] The Pew Charitable Trusts, "Protections for Owners of Manufactured Homes Are Uncertain, Especially During Pandemic; Personal Property Loans Facilitate Purchases but Have Substantial Risks," Sept. 11, 2020, https://www.pewtrusts.org/en/research-and-analysis/articles/2020/09/11/protections-for-owners-of-manufactured-homes-are-uncertain-especially-during-pandemic.

borrowers,[18] despite the fact that the low-to-moderate income families who tend to live in manufactured housing have been more likely to suffer economic consequences than owners of site-built homes—as they tend to work in industries that have lost the most jobs during this crisis.[19] Accordingly, with regard to questions 4 and 7 Pew urges the Enterprises to add goals to publish results from research concerning the chattel loan market and describe their preliminary work to launch the now canceled pilot programs.

In the absence of any chattel loan pilot or program that examines loan performance and viability and without research or stakeholder engagement to help owners title their home and land as real property, the majority of this market will continue to be underserved, and this shortfall should be included in the evaluation and rating for each of the Enterprises' performance reaching their goals to launch a chattel loan pilot program in FHFA's annual report to Congress.[20] In the near term, we encourage FHFA to request the Enterprises to state what they will do to help the majority of borrowers in the manufactured home space (those who finance homes that are not titled as real property) in the absence of chattel loan programs. This might include adding programmatic efforts to bring relief to borrowers who were unable to take advantage of federal and state COVID-19 protections (such plans would relate to question 3 in FHFA's request for input).

Manufactured Housing Communities Owned by a Governmental Entity, Non-profit Organization, or Residents

Residents in land lease communities have faced many serious challenges around the country, particularly as they compete with developers and investors in a tight market for land. The people living in land lease communities are both financially vulnerable and face steep challenges to move their homes when necessary. In many states and localities lot rents can increase dramatically with little protection or recourse for the homeowners and developers can buy the land, evict owners with some small notice, and convert the community to a different use. Relocating a manufactured home is expensive and can be impossible depending on the resources of the owner and condition of the home. Costs to relocate a manufactured home are between $5,000 to $13,000 to move the structure less than 100 miles.[21] Because relocation is costly, owners are often unable to relocate when rent increases beyond their ability to pay, giving them fewer options than both traditional renters (who can relocate with fewer losses) or owners of both home and land. As a result, manufactured home owners on rented land tend to lack the kind of certainty and price stability that other homeowners enjoy. Freddie Mac's research of resident-owned communities shows that residents there are better able to control costs, make decisions that affect their homes, and eliminate the threat that their land will be redeveloped compared to

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[18] Ibid.; J.J. Choi and L. Goodman, "22 Million Renters and Owners of Manufactured Homes Are Mostly Left out of Pandemic Assistance" (2020), https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance.

[19] Choi and Goodman, "22 Million Renters and Owners of Manufactured Homes Are Mostly Left out of Pandemic Assistance."

[20] The Enterprises have set goals and are evaluated annually by the Federal Housing Finance Agency (FHFA) for each underserved market (manufactured housing, affordable housing preservation, and rural housing). FHFA then rates Fannie Mae and Freddie Mac based on a quantitative and qualitative measures for their performance toward goals in each of the underserved markets. Federal Housing Finance Agency; Division of Housing Mission and Goals, "Duty to Serve: Overview of Program and Evaluation Guide"), https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/OverviewDeck-DTSListeningSessions.pdf.

[21] Freddie Mac Multifamily, "Spotlight on Underserved Markets; Manufactured Housing Resident-Owned Communities" (2019), 10, https://mf.freddiemac.com/docs/dts_mhroc_report.pdf.

owners elsewhere.[22] Investors currently have far superior access to credit backed by the Enterprises compared to residents, and giving similar access to communities seeking to buy their land is critical to allow homeowners greater ability to maintain financial and housing stability and security. When these lands are sold it is extremely complex for the homeowners to purchase their community. Pew applauds both Enterprises (FN_MH_CommGovt_1, FN_MH_CommGovt_3, FR_MH_Comm Govt_C) for their focus on increasing the liquidity and purchase of loans of resident owned communities (questions 1 and 2). Assuming these efforts improve resident opportunities to buy their land, we recommend their continuation and expansion.

Manufactured Housing Communities with Certain Pad Lease Protections

Both Enterprises have offered investors in manufactured home communities incentives such as discounted loan pricing and third-party rebates (such as appraisal and Phase I Environmental Site Assessment) when they agree to implement eight tenant protections within 12 months of the mortgage loan origination date. Though notably, Freddie Mac requires that these protections go into effect for all homeowner leases whereas, for Fannie Mae, just 50% of the residents need to be included.[23]

These incentives include the following:

1. One-year renewable lease term, unless there is good cause for non-renewal
2. 30-day written notice of rent increases
3. Five-day grace period for rent payments and the right to cure defaults on rent payments
4. Right to sell the manufactured home to a buyer that qualifies as a new tenant in the community, without having to first relocate it out of the community
5. Right to sell the manufactured home in place within 30 days after eviction by the community owner
6. Right to sublease, or assign the pad site lease, for the unexpired term to the new buyer of the tenant's manufactured home without any unreasonable restraint, so long as the new buyer qualifies as a new tenant within the community
7. Right to post "For Sale" signs that comply with community rules and regulations
8. Right to receive at least 60 days' notice of planned sale or closure of the community [24]

[22] Ibid.

[23] Fannie Mae Multifamily, "Tenant Site Lease Protections Pricing Incentive; Tenant Site Lease Protections (Tplps) Serve to Preserve the Affordability and Stability of Manufactured Housing Communities (Mhcs) across the Country," accessed Oct. 18, 2020, https://multifamily.fanniemae.com/financing-options/specialty-financing/manufactured-housing/tenant-site-lease-protections-pricing-initiative; Freddie Mac Multifamily, "Mhc Program Update and Mhc Tenant Protections Training," accessed Oct. 18, 2020, https://mf.freddiemac.com/docs/mhc_program_update_mhc_tenant_protections_training.pdf.

[24] Freddie Mac Multifamily, "Tenant Protections in Manufactured Housing Communities," accessed Oct. 18, 2020, August 20, 2019, https://mf.freddiemac.com/news/2019/20190820_tenant_protections.html; Fannie Mae Multifamily, "Tenant Site Lease Protections Pricing Incentive; Tenant Site Lease Protections (Tplps) Serve to Preserve the Affordability and Stability of Manufactured Housing Communities (Mhcs) across the Country."

Fannie Mae and Freddie Mac's submitted Duty to Serve plans indicate that Fannie Mae financed 23 communities and Freddie Mac financed eight in 2019, and both plan to expand their goals substantially for 2021.[25] The programs (FN_MH_CommPad_1, FR_MH_Comm Pad_C) seem promising. We urge Fannie Mae to evaluate results to date and strongly consider expanding the tenant protection requirements to all leases in the community if warranted. We encourage both Enterprises to consider whether there is an opportunity to improve tenant lease protections even further such as for longer lease terms and limits on how much rent can increase year over year (question 4). These steps could give increased stability to residents. Lease pad protections and the potential to improve them further may be especially important during the current COVID-19 pandemic and resulting recession as families struggle to pay bills and remain in their homes (question 5).

Pew has found the need to understand manufactured home buyers more thoroughly and will publish further research regarding the purchasing process, reasons that such a high percentage of owners use cash to purchase or title as personal property, and consumer protection issues for those who use chattel loans or other alternative financing arrangements.

Once again, thank you for the opportunity to comment on this request for input. As we complete more research in this space, we look forward to continuing to work with FHFA, the Enterprises, and stakeholders from the community and industry.

Sincerely,

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[25] Fannie Mae, "Duty to Serve Underserved Markets Plan for the Manufactured Housing Market" (2020), MH42-MH44, https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/Fannie-Mae-Extended-2018-2020-Plan-Proposed-2021-Additions.pdf; Freddie Mac, "Duty to Serve: Underserved Markets Plan 4-Year Activities and Objectives" (2020), MH44, https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/Freddie-Mac-Extended-2018-20-Plan-Proposed-2021-Additions.pdf.