National American Indian Housing Council
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Clinton Jones
General Counsel
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20219

Submitted electronically via *www.regulations.gov* and RegComments@fhfa.gov

RE: Comments/RIN 2590-AB64 — Enterprise Duty to Serve Underserved Markets; Notice of Proposed Rulemaking (91 FR 37848, June 24, 2026)

Dear Mr. Jones:

On behalf of the National American Indian Housing Council (NAIHC), thank you for the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposed rule to rescind and replace the Duty to Serve Underserved Markets regulation. Founded in 1974, NAIHC is the only national organization dedicated exclusively to advancing housing opportunities for American Indians, Alaska Natives, and Native Hawaiians. Our membership includes Tribes and Tribally Designated Housing Entities (TDHEs) responsible for housing delivery in Native communities across the country.

Tribal communities sit at the intersection of all three statutorily designated underserved markets. The overwhelming majority of Tribal lands are located in rural areas, often in persistent poverty counties; manufactured housing is a primary source of homeownership in many Native communities; and the preservation of an aging, chronically underfunded affordable housing stock is an urgent need across Indian Country. HUD's 2017 housing needs assessment—still the most recent comprehensive federal study—documented overcrowding and physical deficiencies in Tribal areas at rates many times the national average. How the Enterprises carry out their Duty to Serve therefore has direct and significant consequences for Native families.

These conditions persist against the backdrop of the United States' trust and treaty responsibility to Tribal Nations. While Fannie Mae, Freddie Mac, FHFA, and the federal housing agencies have each acknowledged the barriers facing Tribal communities—land titling complexities, limited housing supply, appraisal challenges, and thin lending infrastructure—the actual level of

investment, product development, and secondary market support has remained far below the need. The Duty to Serve framework is one of the few tools available to correct that longstanding shortfall. FHFA should approach this rulemaking as an opportunity to do so, not simply to reorganize existing obligations.

NAIHC approaches this proposal in a spirit of constructive partnership. We recognize FHFA's goals of reducing administrative burden and encouraging innovation, and several elements of the proposed rule represent genuine improvements for Indian Country. At the same time, we are concerned that other elements would remove the explicit regulatory focus on Native communities that has driven the Enterprises' most meaningful progress over the past decade. Our comments below identify provisions we support, provisions that concern us, and recommendations to ensure the final rule strengthens—rather than weakens—the Enterprises' service to Tribal communities.

I. Provisions NAIHC Supports

Inclusion of Indian areas in the definition of "high-needs rural region." NAIHC strongly supports the proposal to expand the definition of "high-needs rural region" to include Indian areas and to fold high-needs rural regions into the definition of "rural area." This change appropriately recognizes what NAIHC's members experience daily: Indian areas face concentrated poverty, limited banking infrastructure, aging housing stock, unique land titling complexities on trust and restricted land, and an acute shortage of housing supply. Embedding Indian areas in the regulatory definition of high-needs rural regions provides a durable geographic anchor for Enterprise attention, and we urge FHFA to retain this provision in any final rule.

NAIHC further encourages FHFA to ensure that the final rule fully reflects all federally established American Indian, Alaska Native, and Native Hawaiian trust land areas by retaining explicit protections for high-needs rural Tribal populations and by recognizing both 24 CFR Parts 1000 and 1006 in defining Indian Areas, thereby ensuring that American Indian, Alaska Native, and Native Hawaiian communities all benefit from the Enterprises' Duty to Serve responsibilities.

We pair this support with an important caution: inclusion within the rural framework must not become a means of folding Tribal housing into a generic rural category where it loses visibility. The barriers in Indian Country—trust and restricted land title, leasehold mortgage structures, appraisal gaps, Tribal sovereignty and jurisdictional considerations, and infrastructure deficits—are legally and operationally distinct from general rural housing challenges, and the final rule and FHFA's oversight should treat them as such.

Revised median income calculation. NAIHC supports the proposed change allowing the use of state or national median income, whichever is highest, in determining whether a loan qualifies for Duty to Serve credit. FHFA's own example illustrates the problem well: concentrated poverty in Indian areas depresses local median incomes to the point that families who would qualify as

low-income anywhere else in the country are excluded from Duty to Serve credit, discouraging Enterprise engagement with products such as Freddie Mac's Heritage One that were designed specifically for Indian areas. Correcting this calculation removes a structural penalty on lending in the very communities the statute directs the Enterprises to serve. We do note, however, that FHFA should monitor implementation to ensure the higher income ceilings expand access for Native families rather than shifting Enterprise activity toward the upper end of the income spectrum at the expense of very low- and low-income households.

Emphasis on responsible chattel financing. NAIHC supports FHFA's expectation that the Enterprises develop and implement robust, responsible chattel financing initiatives. The majority of new manufactured homes are titled as personal property, and in many Native communities—particularly on trust land where conventional mortgage lending is complicated by title status—chattel lending is the predominant, and sometimes only, path to homeownership. The persistent denial-rate and pricing disparities FHFA cites fall heavily on Native borrowers. We urge FHFA to hold the Enterprises accountable for measurable progress on chattel liquidity, including in Indian areas, with strong consumer protections attached.

Codification of needs assessments and public engagement requirements. We support requiring each Enterprise to ground its Plan in a rigorous needs and opportunities assessment and to provide reasoned responses to public input. Given the absence of a comprehensive federal Native housing needs assessment since 2017, Enterprise-level research obligations can help fill a critical data gap—provided, as discussed below, that Indian areas are expressly within their scope.

New Markets Tax Credit investment authority. In response to FHFA's request for comment on whether the Enterprises should be permitted to invest in New Markets Tax Credits to support housing supply, NAIHC encourages FHFA to pursue this authority with Indian Country expressly in view. Housing development in Tribal communities is rarely a standalone undertaking; it is bound up with infrastructure, community facilities, health care, childcare, and grocery access. NMTC investment authority, appropriately structured, could allow the Enterprises to support the mixed-use and housing-adjacent community development that makes Tribal housing projects viable.

II. Provisions of Concern

Elimination of the high-needs rural populations activity removes the only explicit regulatory focus on Native Americans. The proposed rule would eliminate the Regulatory Activity for "high-needs rural populations," which is currently the sole provision directing Enterprise attention to members of federally recognized Indian Tribes, along with its supporting definitions. FHFA reasons that adding Indian areas to the high-needs rural region definition ensures Native communities "are not overlooked." While NAIHC appreciates that intent, a geographic definition standing alone is not a substitute for an explicit regulatory obligation. We strongly urge FHFA to retain the requirement for Regulatory Activity addressing high-needs

rural populations, including members of federally recognized Indian Tribes and Native Hawaiians, to ensure that Fannie Mae and Freddie Mac continue to develop products, partnerships, investments, and other targeted activities that respond to the unique legal, geographic, and economic barriers facing all Native communities in Indian Areas.

Under the proposal, nothing would require either Enterprise to include a single action serving Indian areas in its Plan, and FHFA identifies no mechanism—in regulation or in published guidance—by which the adequacy of Enterprise service to Indian areas would be independently assessed. The Enterprises' meaningful recent progress in Indian Country, including dedicated loan products, Native CDFI partnerships, and targeted technical assistance, developed precisely because the current regulation required them to consider these activities and evaluated their performance against them. History in federal housing policy counsels caution: when explicit requirements to serve Native communities are removed in favor of general discretion, Native communities are too often the first to be deprioritized.

Full Enterprise discretion, combined with the absence of evaluation standards, creates substantial uncertainty for the smallest markets. The shift to "any eligible action," evaluated against unpublished standards, leaves stakeholders with no way to understand FHFA's expectations or to hold the Enterprises accountable for serving high-needs rural regions. Because lending in Indian areas involves smaller loan volumes, more complex transactions, and longer development timelines than mainstream rural lending, an evaluation framework oriented toward aggregate market impact risks systematically undervaluing this work. Without published evaluation guidance or component-level standards, the Enterprises may rationally conclude that concentrating capital in larger, simpler rural markets is the surest path to a favorable rating.

Removal of the small financial institutions activity. Native CDFIs and small local lenders are the backbone of mortgage credit in many Tribal communities. Eliminating the Regulatory Activity for financing by small financial institutions of rural housing removes a benchmark that has encouraged Enterprise partnerships with these mission-driven lenders, without any replacement mechanism.

Expansion of LIHTC investment eligibility could dilute rural and Native investment. NAIHC does not oppose LIHTC preservation needs outside rural areas, but expanding Duty to Serve credit for LIHTC equity investments to all three markets—without any requirement to maintain rural investment levels—creates a clear incentive to shift Enterprise LIHTC capital toward larger, lower-risk urban and suburban transactions. LIHTC is one of the few reliable sources of rental housing capital in Indian areas, where deals are small and would not otherwise attract investors. FHFA should pair any expansion with an expectation that rural LIHTC investment, including in Indian areas, is maintained or increased, and should track and publish investment levels by geography. Beyond preserving existing levels, FHFA should establish a clear expectation that the Enterprises affirmatively support Tribal LIHTC transactions—particularly those sponsored by Tribes, TDHEs, and Native housing organizations working to bring affordable rental housing to market in communities where conventional equity is scarce.

Compressed timelines and reduced transparency constrain Tribal participation. The proposed 45-day comment period on Enterprise Plans, falling largely in August, is a difficult window for Tribal governments and TDHEs, whose governance processes and consultation norms require time. Similarly, the proposal to end publication of quarterly performance data, to publish Plans and annual reports only on Enterprise websites, and to limit Plan modifications to extraordinary circumstances collectively reduce the public's ability to monitor Enterprise performance in real time. For small markets like Indian Country, granular public data is often the only means of verifying whether service is actually occurring. Finally, treating a "minimally passing" level of performance as noncompliance is sound in principle, but without published rating standards it is impossible for stakeholders to assess whether the new 1–5 scale will be applied rigorously.

III. Recommendations

To preserve the strengths of the proposal while safeguarding service to Native communities, NAIHC recommends that FHFA:

- Retain the requirement for Regulatory Activity addressing high-needs rural populations, including members of federally recognized Indian Tribes and Native Hawaiians.
- Retain the inclusion of Indian areas in the "high-needs rural region" and "rural area" definitions, and retain the revised median income calculation—while making clear in the final rule and its implementation that Tribal housing is not to be subsumed into a generic rural category.
- Expand the definition of "Indian Area" to fully include 24 CFR 1006 along with 24 CFR 1000 to ensure the geographic impact of Duty to Serve includes all tribal lands.
- Require each Enterprise's needs and opportunities assessment to specifically address each high-needs rural region, including Indian areas, and require that each Plan include at least one concrete action responsive to identified needs in Indian areas.
- Direct the Enterprises to develop and scale practical tools for Tribal housing finance—including lending on trust and restricted land, leasehold mortgage products, appraisal approaches suited to Indian areas, Native CDFI partnerships, and direct engagement with Tribes and TDHEs—consistent with the barriers FHFA itself identifies in the preamble.
- Add a component or published evaluation standard assessing Enterprise performance in high-needs rural regions, so that service to Indian areas is visible in ratings rather than absorbed into market-wide averages.
- Publish evaluation guidance, or codify rating standards, before the first Plan cycle under the new framework, and develop it in consultation with Tribes consistent with the federal trust responsibility.
- Require the Enterprises to report specifically and publicly on their activity in Indian areas—loan purchases, investments, pilots, partnerships, and technical assistance—with

sufficient geographic granularity to permit year-over-year comparison with performance under the current rule.

- Condition the expansion of LIHTC investment eligibility on maintaining or growing rural LIHTC investment, and establish an affirmative expectation that the Enterprises support Tribal LIHTC transactions sponsored by Tribes, TDHEs, and Native housing organizations.
- If NMTC investment authority is granted, direct the Enterprises to include Indian Country within its scope, supporting housing-related infrastructure and mixed-use community development.
- Extend the Plan comment period to 60 days, and require meaningful consultation and engagement with Tribes, TDHEs, Native CDFIs, and Native housing organizations before FHFA issues a non-objection to any Duty to Serve Plan.
- Direct the Enterprises to include Native CDFIs and small financial institutions serving Indian areas within their outreach and loan product development strategies, and evaluate them accordingly.

IV. Conclusion

The Duty to Serve statute exists because certain markets—rural communities chief among them—will not be served by capital markets left to their own devices. Nowhere is that truer than in Indian Country. NAIHC appreciates the elements of this proposal that remove genuine barriers to serving Native families, particularly the recognition of Indian areas as high-needs rural regions and the correction of the median income calculation. But flexibility without accountability is not innovation; it is risk borne by the communities with the least margin for error. The federal housing finance system cannot continue to acknowledge the barriers facing Tribal communities without requiring measurable action from the Enterprises to address them. We urge FHFA to finalize a rule that pairs the proposal's flexibility with explicit, enforceable expectations for service to Indian areas, developed in consultation with Tribes and consistent with the federal trust responsibility.

Please contact me or our office with any questions regarding these comments.

Respectfully,

Rudy Soto
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National American Indian Housing Council