AFFORDABLE HOUSING TAX CREDIT COALITION

June 29, 2009

Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Honorable Barney Frank
Chairman
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Dodd and Chairman Frank:

The undersigned organizations are writing to you to express our concern about the proposed sale by Government Sponsored Enterprises (GSEs) of portions of their interests in Low-Income Housing Tax Credit (Housing Tax Credit) properties. Our concern is prompted by what we understand may be an impending sale by Freddie Mac of a substantial part of its portfolio of such properties, and a smaller but still significant sale by Fannie Mae. We believe that the sale or even the potential sale by either Freddie Mac or Fannie Mae of its existing portfolios is having a chilling effect on the market for new Housing Tax Credits and will affect the production and preservation of affordable rental housing.

As longtime committed advocates for affordable housing, we know you are aware of the crisis confronting the Housing Tax Credit industry in attracting sufficient private sector investment capital to fully fund all the properties receiving awards of Housing Tax Credits. The reduction of available capital is dramatic—last year saw a decrease of approximately 40-50% from 2007 levels and predictions for this year suggest that even less equity capital will be raised—perhaps in the range of $3.5 to $4.0 billion. The main reason for this decrease is the crisis in the financial markets leading to the withdrawal of the GSEs, which had traditionally accounted for as much as 40% of the equity capital raised, from the market. Although the capital markets remain distressed, the need for affordable rental housing remains very strong. The program continues to be the most successful federal rental housing production program in history and except for the lack of sufficient equity capital, the program is otherwise operating in a manner that fulfills Congressional intent.

With the primary investor market for new investments so weak, any secondary market sales have the substantial potential of reducing capital which would be available for new construction and preservation transactions.

We believe that the GSEs should be permitted by the Treasury Department to use the Housing Tax Credits they possess to repay dividend payments owed to the Federal government. This approach would mitigate their need to sell their portfolios, and the Federal government should be indifferent to this from a revenue perspective. If the GSEs sell Housing Tax Credit portfolios to generate cash to pay dividends, then those Housing Tax Credits will be claimed by another taxpayer and reduce Federal revenues. In the alternative, the Federal government could accept the Housing Tax Credits as payments from the GSEs against their dividend payment obligations and be in similar financial position, but without the impact on the primary Housing Tax Credit market that would result from a sale of their portfolios.

If the GSEs are allowed to sell their portfolios, then we believe it is imperative that any sales by Freddie Mac and Fannie Mae include the following requirements:

1. Any sales by Freddie Mac and Fannie Mae should not be made to companies which currently or have recently (within the past ten years) invested in Housing Tax Credits and the Federal Housing Finance Agency (FHFA) should determine, as a condition to their approval of the transactions, that any sales will not adversely affect the ability of the Housing Tax Credit industry to find new investors for new production and preservation transactions.

2. The GSEs should take either or both of the following actions:

   a. be required within a short period of time after any sale, to re-invest some portion of the proceeds of any such sales back into the primary market for Housing Tax Credits; or
   b. take other actions which would provide immediate benefits to the primary market for Housing Tax Credits.

As an industry, we were grateful that the Congress recognized the problem in the capital markets for Housing Tax Credits and enacted two programs, the “Exchange Program” and the “Tax Credit Assistance Program” (TCAP) as part of the American Recovery and Reinvestment Act of 2009, to provide an additional means on a temporary basis to finance this housing. In particular, TCAP funds will be most effective if combined with Housing Tax Credit equity to fill funding gaps and, to the extent that less equity is available, the success and efficiency of that program and the stimulus it was intended to create will be undermined. Moreover, in many states, there are substantial pipelines of housing properties that have been stalled due to the lack of investor equity. It is these developments that are most likely to be adversely affected by the reduction of equity that may result if these secondary market transactions are completed without adherence to the requirements stated above.

The severe falloff in equity to the Housing Tax Credit market has impacted developers, many of which are non-profit organizations and almost all of which are small businesses, and ancillary companies across the country in a dramatic fashion. As developers have been unable to finance new projects they have been forced to lay off employees. Firms that depend on new production for revenues (contractors, suppliers, etc.) have also seen their businesses suffer. If capital is directed to secondary market sales of the GSEs’ Housing Tax Credits, these businesses may find it more difficult to finance new projects and maintain jobs.

We strongly believe that the GSEs should have a continuing role in the production and preservation of affordable rental housing and that they have a duty to act in a manner that does not interfere with that role.

We would be happy to discuss with you and your staffs potential other ways of dealing with these assets and answer any questions you may have. But unless the requirements set forth above are satisfied, we would respectfully request that you ask the FHFA (which we understand has approved the Freddie Mac portfolio sale in principle) to suspend the sale of existing Housing Tax Credit portfolios by the GSEs. In addition, we expect to present legislative proposals to the tax writing committees aimed at making investment in Housing Tax Credit properties more attractive and allowing investors without current tax liability to utilize their Housing Tax Credits in exchange for reinvesting into new Housing Tax Credit properties. While we recognize that these proposals are not within your respective Committees' jurisdiction, we will keep you and your staffs apprised of these proposals.

Thank you very much for considering our views.

Sincerely,

Affordable Housing Tax Credit Coalition

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The Affordable Housing Tax Credit Coalition is comprised of a group of developers, syndicators, lenders, nonprofit groups, public agencies, and others concerned with the low-income housing tax credit. The Coalition is a nonprofit corporation chartered in 1989 under the laws of the District of Columbia and governed by an elected Board of Directors.