

United States Senate Committee on Finance
“Hearing To Consider the Nominations of Marjorie A. Rollinson to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury, Patricia Hart Neuman to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, and Demetrios Kouzoukas to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund”
September 28, 2023

Question for the Record for Ms. Marjorie A. Rollinson

Senator Warner - Question 1

Ms. Rollinson - In June, Senator Moran and I were joined by 20 of our Senate colleagues in sending a letter asking the Treasury Department to issue clarifying guidance that Fannie Mae and Freddie Mac (the GSEs) are not subject to the Tax Exempt Controlled Entity (TECE) rule for purposes of multi-investor LIHTC partnerships.

As you know, Internal Revenue Code Section 168(h)(6) states that investors that partner with TECE organizations are not entitled to benefits including accelerated depreciations, bonus depreciation, historic rehab tax credits, or certain energy credits that support companies offering affordable housing tax credits. Under current guidance, there is some confusion over whether the GSEs, despite paying billions of dollars in federal taxes, are considered TECEs, due to the fact that the Treasury Department currently operates as a conservator for both organizations. This uncertainty has effectively sidelined the GSEs from participating in multi-investor funds, which deliver the majority of capital to rural LIHTC deals.

Rural areas face unique challenges related to affordable housing development, including an aging population, smaller development opportunities, and many substandard homes in need of repair. These factors have led to generally fewer investors seeking development opportunities in these areas, and as a result, the LIHTC program has historically served as an investment lifeline in these communities, with GSEs serving as significant LIHTC investors due to their statutory Duty to Serve requirements.¹

In short, barriers to GSE participation in the LIHTC program – such as the current uncertainty surrounding the TECE rule – would significantly reduce affordable housing investment in rural America at a time when it is desperately needed.

Do you agree that Fannie Mae and Freddie Mac should not be considered Tax Exempt Controlled Entities?

Answer: The availability of low-income housing is an important priority, and I appreciate your leadership on this. Since I am not in the building, I do not know the

¹ A recent report from Freddie Mac showed that the LIHTC program supports over 40 percent of the multifamily housing market in rural Persistent Poverty Counties (PPCs).

legal analysis that has been done to date by the Office of Chief Counsel, but I would be eager to get up to speed quickly if confirmed as Chief Counsel.

If confirmed, do you commit to promptly engaging with me and the bipartisan group of cosigners on this issue?

Answer: If confirmed, I look forward to working with you and your Senate colleagues on this important issue.