The Housing Trust Fund: An Overview

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Summary

The Housing Trust Fund (HTF) was established by the Housing and Economic Recovery Act of 2008 (HERA, P.L. 110-289) to provide funds to states to use for affordable housing activities, with a primary focus on the production, preservation, and rehabilitation of rental housing for extremely low-income households. It is administered by the Department of Housing and Urban Development (HUD) and is funded through contributions from two government-sponsored enterprises, Fannie Mae and Freddie Mac, rather than through appropriations. Fannie Mae and Freddie Mac purchase mortgages made by private lenders and sell mortgage-backed securities to investors, providing investors with a guarantee of timely payments of principal and interest in exchange for a guarantee fee. Their contributions to the HTF come from their earnings.

In general, affordable housing trust funds provide dedicated, permanent sources of funding for affordable housing that do not require annual appropriations. Many states and localities across the United States have their own affordable housing trust funds, and affordable housing advocates had worked to get such a fund created on a national level for years before the HTF was established. Housing advocates cite the persistent shortage of rental housing that is affordable and available for the lowest income households as a reason that such a fund is needed. Others have criticized the HTF, arguing that it should be subject to the appropriations process and that it is duplicative of other affordable housing programs.

The HTF provides funding for formula-based grants to states to use for affordable housing activities. By statute, most of the funding must be used for rental housing; states can use up to 10% of their grants for certain homeownership activities (and up to 10% for administrative expenses). Furthermore, all of the funds must benefit very low- or extremely low-income households, and at least 75% of the funds used for rental housing must benefit extremely low-income households (defined as households with incomes that do not exceed 30% of area median income) or households with incomes no greater than the federal poverty line.

In September 2008, due to concerns about their financial status, Fannie Mae and Freddie Mac entered voluntary conservatorship overseen by their regulator, the Federal Housing Finance Agency (FHFA). Shortly thereafter, FHFA exercised its authority to suspend Fannie Mae's and Freddie Mac's contributions to the HTF in light of their financial position at the time. This suspension took effect before Fannie Mae and Freddie Mac had made any contributions to the HTF, and it continued for several years. In late 2014, FHFA directed Fannie Mae and Freddie Mac to begin setting aside contributions for the HTF during 2015. Those first funds were transferred to HUD early in 2016, and HUD made the first HTF allocations to states later that year. As of the cover date of this report, Fannie Mae's and Freddie Mac's contributions to the HTF have continued in every year since.

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Introduction

The Housing Trust Fund (HTF), administered by the Department of Housing and Urban Development (HUD), provides formula funds to states to use for certain affordable housing activities. The HTF was established by the Housing and Economic Recovery Act of 2008 (HERA, P.L. 110-289), which contained a wide range of housing-related provisions.[1] Some of the key features of the HTF include the following:

- It is intended to be primarily a *rental housing production* program. Most funds must be used to produce, preserve, rehabilitate, or (up to a limit) operate rental housing, while a limited amount can be used to support homeownership for certain first-time homebuyers.
- A majority of funds must be used to benefit *extremely low-income households*, and all funds must be used for extremely low- or very low-income households.
- Rather than being funded through appropriations, the HTF (along with the Capital Magnet Fund, another affordable housing fund established by HERA) is *funded through contributions from two government-sponsored enterprises (GSEs)*, Fannie Mae and Freddie Mac.

As used in this report, the term *extremely low-income* means households with incomes no higher than 30% of area median income, *very low-income* means households with incomes no higher than 50% of area median income, and *low-income* means households with incomes no higher than 80% of area median income.

This report provides background on the HTF, including its funding mechanism and key programmatic features.

Background on the Housing Trust Fund's Creation

Many states and localities across the nation have created housing trust funds, which provide dedicated sources of state or local funding for affordable housing activities. In general, affordable housing trust funds are permanent funding streams that are not reliant on annual appropriations and are dedicated to affordable housing activities for low-income households. For example, various types of real estate transaction fees are a common source of funding for state or local trust funds.[2] According to the Center for Community Change, an advocacy group, over 800 state, city, and county housing trust funds have been established in 49 states across the nation.[3]

For several years prior to the establishment of the federal Housing Trust Fund in 2008, a coalition of low-income housing advocacy organizations led by the National Low Income Housing Coalition advocated for the establishment of an affordable housing trust fund at the national level. (**Appendix A** provides a brief overview of earlier legislative proposals to create a national housing trust fund.) Advocates wanted a national housing trust fund to be capitalized with new

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[1] For more information on the Housing and Economic Recovery Act, see archived CRS Report RL34623, *Housing and Economic Recovery Act of 2008*.

[2] For a brief overview of some common revenue sources for state and local housing trust funds, see National Low Income Housing Coalition, *Advocates Guide 2021: A Primer on Federal Affordable Housing & Community Development Programs & Policies,* "State and Local Housing Trust Funds," pp. 5-40 and 5-41, https://nlihc.org/explore-issues/publications-research/advocates-guide.

[3] See the Center for Community Change's website at http://housingtrustfundproject.org/housing-trust-funds/.

resources devoted to affordable housing activities, rather than resources diverted from other federal affordable housing programs. A dedicated source of funding would allow the program to avoid the uncertainties of the annual appropriations process, and would mean that the program would not be in competition with other housing priorities for appropriated funds.

In arguing for the need for the HTF, advocates note that there is a persistent shortage of rental housing that is affordable and available to those with the lowest incomes.[4] In 2019, for example, for every 100 extremely low-income renters, 36 physically adequate housing units were both affordable and available to that population.[5] They argue that there is a particular need for funding targeted specifically to the production of rental housing units for extremely low-income renter households.[6] Much federal housing assistance funding is largely aimed at making existing housing more affordable to low-income households, such as by providing rental assistance, rather than producing or rehabilitating additional housing units that are affordable to low-income households.[7] Current funding for these federal rental assistance programs is not sufficient to serve all eligible households, however, and the majority of eligible households do not receive assistance.[8] While some federal programs do support the production of new affordable housing—including the Low Income Housing Tax Credit and the HOME Investment Partnerships Program—these programs may not always reach those who are extremely low-income (rather than low- or very low-income). Furthermore, in the case of flexible funding like HOME, the production of rental housing may compete with other eligible uses of the funds.

While housing advocates argue for the need for a national housing trust fund, there has also been opposition to the concept of a national housing trust fund in general and the Housing Trust Fund as established by HERA in particular. Among other criticisms, some argue that the HTF is duplicative of other federal affordable housing programs, and HOME in particular, because the activities that it funds are also eligible uses of other sources of federal funds.[9] Some also argue that any funding for affordable rental housing activities should go through the regular appropriations process, thereby giving Congress the oversight opportunities that the appropriations process provides.[10]

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[4] For example, see pages 2-3 of the written testimony of Sheila Crowley, then-President of the National Low Income Housing Coalition, at a May 25, 2011, hearing before the Subcommittee on Capital Markets and Government Sponsored Enterprises of the House Financial Services Committee, http://financialservices.house.gov/uploadedfiles/052511crowley.pdf.

[5] U.S. Department of Housing and Urban Development, *Worst Case Housing Needs 2021 Report to Congress*, p. 21, https://www.huduser.gov/portal/sites/default/files/pdf/Worst-Case-Housing-Needs-2021.pdf. Units are considered to be *available* to households at a certain income level if they are currently occupied by a household with an income at or below that level or if they are vacant. Units that are affordable to lower-income households, but currently occupied by higher-income households, are not considered to be available to lower-income households.

[6] For example, see page 4 of the written testimony of Sheila Crowley, then-President of the National Low Income Housing Coalition, at a May 25, 2011, hearing before the Subcommittee on Capital Markets and Government Sponsored Enterprises of the House Financial Services Committee, http://financialservices.house.gov/uploadedfiles/052511crowley.pdf.

[7] See CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy* for a discussion of the evolution of federal housing programs and descriptions of current programs.

[8] Center on Budget and Policy Priorities, *3 in 4 Low-Income Renters Needing Rental Assistance Do Not Receive It*, updated July 2021, https://www.cbpp.org/research/housing/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance.

[9] For example, see Andy Winkler, *The Housing Trust Fund and Capital Magnet Fund: A Primer*, American Action Forum, February 24, 2015, https://www.americanactionforum.org/research/the-housing-trust-fund-and-capital-magnet-fund-a-primer/.

[10] Ibid.

In July 2008, the Housing and Economic Recovery Act (HERA, P.L. 110-289) was enacted. Among other things, it established the Housing Trust Fund, administered by the Department of Housing and Urban Development,[11] and the Capital Magnet Fund (CMF), administered by the Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund).[12] (See the text box below for a brief description of the CMF and how it differs from the HTF.) Both programs were to be funded through annual contributions from Fannie Mae and Freddie Mac. However, as discussed in more detail later in the "Funding Mechanism" section of this report and **Appendix B**, these contributions were suspended for several years beginning shortly after HERA was enacted. Fannie Mae and Freddie Mac were directed to begin setting aside contributions for the HTF and CMF starting in 2015, and the HTF received its first funding in 2016.

HUD initially published a proposed rule governing the allocation formula for the HTF on December 4, 2009,[13] and a proposed rule governing program requirements on October 29, 2010.[14] On January 30, 2015, HUD published an interim rule governing both the HTF formula and program requirements.[15] It also indicated that it would seek public comment on the interim rule after the HTF received funding and grantees had experience administering the program.[16] In April 2021, HUD published a request for public comment seeking feedback on the interim rule as well as certain additional questions.[17]

[11] HERA established the Housing Trust Fund by amending the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The program is codified at 12 U.S.C. §4568. The GSE allocations to the Housing Trust Fund and the Capital Magnet Fund are codified at 12 U.S.C. §4567.

[12] For more information on the CDFI Fund, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues* or the CDFI Fund website at https://www.cdfifund.gov/programs-training/Programs/cmf/Pages/default.aspx.

[13] Department of Housing and Urban Development, "Housing Trust Fund; Allocation Formula; Proposed Rule," 74 *Federal Register* 63938-63942, December 4, 2009.

[14] Department of Housing and Urban Development, "Housing Trust Fund; Proposed Rule," 75 *Federal Register* 66978-67009, October 29, 2010. This proposed rule would have created a new Subpart N to Part 92 of Title 24 of the Code of Federal Regulations. Part 92 of Title 24 contains the regulations governing HUD's Home Investment Partnerships Program.

[15] Department of Housing and Urban Development, "Housing Trust Fund; Interim Rule," 80 *Federal Register* 5200-5244, January 30, 2015. The interim rule creates a new Part 93 to Title 24 of the Code of Federal Regulations, rather than putting the regulations in a new Subpart N of Part 92 as proposed in the proposed program rule.

[16] 80 *Federal Register* 5200.

[17] Department of Housing and Urban Development, "Housing Trust Fund: Request for Public Comment on Prior Interim Rule," 86 *Federal Register* 21984-21985, April 26, 2021, https://www.federalregister.gov/documents/2021/04/26/2021-08529/housing-trust-fund-request-for-public-comment-on-prior-interim-rule.

Capital Magnet Fund

Through the Capital Magnet Fund (CMF), Treasury's Community Development Financial Institutions (CDFI) Fund provides competitive funding to CDFIs or qualified nonprofit organizations that have the development or management of affordable housing as a principal purpose. The CMF is intended to leverage private capital and support for investment in housing primarily for low-, very low-, and extremely low-income households. While the HTF and the CMF share a similar purpose—expanding the supply of affordable housing for lower-income households—and both are funded through contributions from Fannie Mae and Freddie Mac, there are several differences between the two programs. Among other things, these differences include the following:

- **How the funds are distributed**: The HTF provides funds to states via formula, while the CMF provides competitive funds to eligible CDFIs or nonprofits,
- **The income groups they target:** All HTF funds must benefit *extremely low- or very low-income* households, while the CMF must *primarily* benefit households that are *low-, very low-, or extremely low-income*.
- **The degree to which they focus on rental housing or homeownership**: At least 80% of HTF funds must be used for rental housing; CMF funds can be used for rental or owner-occupied housing, with no specific amount required to be spent on one or the other.

For more information on the CMF, see the CDFI Fund website at https://www.cdfifund.gov/programs-training/Programs/cmf/Pages/default.aspx.

HTF Funding

Funding Mechanism

Both the HTF and the CMF are funded through contributions from Fannie Mae and Freddie Mac rather than through appropriations. Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs) that were chartered by Congress to provide liquidity in the mortgage market. They do not originate mortgages, but rather purchase mortgages that meet certain standards, issue mortgage-backed securities, and provide a guarantee (in exchange for a fee) that investors in the securities will receive timely payment of principal and interest even if borrowers become delinquent on the underlying mortgages.[18] Their contributions to the HTF come from their earnings.

Each year, HERA requires Fannie Mae and Freddie Mac to set aside 4.2 basis points (0.042%) for each dollar of the unpaid principal balance of their new business purchases (basically, 0.042% of the dollar amount of mortgages that they purchase, or 42 cents for every $1,000 of the unpaid principal balance of mortgages they purchase). Of that amount, 65% is provided to HUD for the HTF, and 35% is provided to Treasury for the CMF.[19] Fannie Mae and Freddie Mac are prohibited from passing the costs of the contributions on to mortgage lenders.[20]

HERA requires the Federal Housing Finance Agency (FHFA), Fannie Mae's and Freddie Mac's regulator, to suspend the GSEs' contributions to the affordable housing funds under certain circumstances. Specifically, FHFA is to suspend the contributions if it finds that they (1) are contributing or would contribute to a GSE's financial instability, (2) are causing or would cause a

[18] For more information on Fannie Mae and Freddie Mac and the role that they play in the mortgage market, see CRS Report R42995, *An Overview of the Housing Finance System in the United States*.

[19] 12 U.S.C. §4567(e). By statute, the first 25% of the annual contributions was to be diverted to pay for any ongoing costs of the Hope for Homeowners program, a temporary foreclosure prevention program that began in 2008 and ended in 2011. No funds have been diverted for that purpose since 2017 (from funds set aside in 2016).

[20] See 12 U.S.C. §4567(c) and Federal Housing Finance Agency, "Housing Trust Fund," 79 *Federal Register* 74595-74597, December 16, 2014.

GSE to be classified as undercapitalized, or (3) are preventing or would prevent a GSE from successfully completing a capital restoration plan.[21] In September 2008, a little over a month after HERA was enacted, Fannie Mae's and Freddie Mac's financial condition was deteriorating as the financial crisis unfolded. They agreed to enter voluntary conservatorship, and FHFA took control of the companies from their stockholders and management. (They remain in conservatorship as of the cover date of this report.[22]) Shortly after Fannie Mae and Freddie Mac entered conservatorship, FHFA exercised its authority to suspend the contributions to the HTF and the CMF before any contributions had been made.

At the end of 2014, after the GSEs' financial positions had improved, FHFA directed Fannie Mae and Freddie Mac to begin making the contributions.[23] Fannie Mae and Freddie Mac began setting funds aside in 2015 and the first funds were transferred to the HTF in 2016. As of the cover date of this report, they have made contributions in every year since. For more details on the suspension and ultimate beginning of the contributions, see **Appendix B**.

HTF Formula

On an annual basis, the GSE contributions designated for the Housing Trust Fund are transferred to HUD, which administers the program. Through the HTF, HUD provides formula grants to the 50 states, the District of Columbia, and Puerto Rico. Four insular areas—the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa—are also eligible for funding.

HTF funds are allocated among the 50 states, the District of Columbia, and Puerto Rico by formula. (Funding for the four insular areas is allocated by a different formula.[24]) By statute, the formula for allocating funds to states is based on the following factors:

- the ratio of the shortage of standard rental units affordable and available to *extremely low-income* renter households in a given state to the aggregate shortage of such rental units in all states (this factor is given "priority emphasis");
- the ratio of the shortage of standard rental units affordable and available to *very low-income* renter households in a given state to the aggregate shortage of such rental units in all states;
- the ratio of *extremely low-income* renter households living with incomplete kitchen or plumbing facilities, more than one person per room, or spending more than 50% of income on housing costs in a given state to the aggregate number of such households in all states; and

[21] 12 U.S.C. §4567(b).

[22] As of the cover date of this report, Fannie Mae and Freddie Mac remain in conservatorship and subject to agreements with Treasury (which have been amended multiple times over the years). Under these agreements, Treasury provided financial support to both Fannie Mae and Freddie Mac, and Fannie Mae and Freddie Mac paid dividends to Treasury in exchange for that support. Neither Fannie nor Freddie has required additional support from Treasury for several years. For more information on the conservatorship and support that Fannie Mae and Freddie Mac have received from Treasury, see CRS Report R44525, *Fannie Mae and Freddie Mac in Conservatorship: Frequently Asked Questions*.

[23] FHFA's letters to Fannie Mae and Freddie Mac directing them to begin the contributions, and its justification for lifting the suspension, are available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx.

[24] 24 C.F.R. §93.50(c) provides that funding for the four insular areas will be based on the ratio of renter households in each insular area to the total number of renter households in the 50 states, DC, Puerto Rico, and the insular areas.

- the ratio of *very low-income* renter households spending more than 50% of income on rent in a given state to the aggregate number of such households in all states.

The sum of these factors is multiplied by the relative cost of construction in the state (compared to the national cost of construction) and applied to the overall amount of funding available to arrive at a grant amount.

While the formula factors are specified by statute, HUD has discretion to choose how to weight each factor (with the additional limitation that the first factor is to be given "priority emphasis"). In its interim rule, HUD chose to weight the formula factors in a way that prioritizes the need for housing for extremely low-income households. The highest weight is given to the first formula factor (50%), followed by the third formula factor (25%). The second and fourth factors are given the lowest weights (12.5% each).[25]

The statute specifies that each of the 50 states and the District of Columbia (DC) are to receive a minimum annual grant of $3 million.[26] In its interim rule, HUD stated that, in the event that HTF funding in a given year is not sufficient to award each state and DC a minimum grant amount of $3 million, HUD will publish an alternative method for allocating the funds in the Federal Register with an opportunity for public comment.[27]

Annual HTF Funding and FY2021 Allocations

The GSEs first set aside contributions for the HTF during 2015, and transferred the first funding to the HTF in early 2016. HUD announced the first formula allocations—totaling nearly $174 million—in May 2016.[28] The majority of states (plus DC) received the minimum allocation of $3 million. (The minimum allocation applies to the 50 states and DC, but not Puerto Rico and the insular areas, which received smaller amounts of funding.) Fifteen states received allocations higher than the minimum in 2016.

The HTF has continued to receive funding in subsequent years. The amount of annual funding provided to the HTF has increased since 2016, and the funding available for allocation in 2021 (nearly $693 million) was more than twice the amount available in 2020 (nearly $323 million). The increase in HTF funding in 2021 reflected an increase in the dollar amount of mortgages that Fannie Mae and Freddie Mac had purchased in 2020 compared to 2019.[29]As noted previously, Fannie Mae and Freddie Mac are required to contribute 4.2 basis points for each dollar of the unpaid principal balance of their new business purchases to the HTF and the CMF. (Of that

[25] 80 *Federal Register* 5206 and 24 C.F.R. §93.50(d)(2)(ii).

[26] 12 U.S.C. §4568(c)(4)(C).

[27] 80 *Federal Register* 5207 and 24 C.F.R. §93.52(b).

[28] Department of Housing and Urban Development, "HUD Makes $174 Million Available through New Housing Trust Fund," press release, April 4, 2016, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-042.

[29] Fannie Mae reported new business purchases of $1.4 trillion in 2020, compared to about $667 billion in 2019. See *Fannie Mae 2020 Form 10-K*, p. 223, https://www.fanniemae.com/media/38271/display and *Fannie Mae 2019 Form 10-K*, pp. 65-66, https://www.fanniemae.com/sites/g/files/koqyhd191/files/migrated-files/resources/file/ir/pdf/quarterly-annual-results/2019/q42019.pdf. Similarly, Freddie Mac reported $1.2 trillion in new business purchases in 2020, compared to about $529 billion in 2019. See *Freddie Mac 2020 Form 10-K*, p. 148, http://www.freddiemac.com/investors/financials/pdf/10k_021121.pdf and *Freddie Mac 2019 Form 10-K*, p. 130, http://www.freddiemac.com/investors/financials/pdf/10k_021320.pdf.

amount, 65% is allocated to the HTF.) Therefore, a higher dollar volume of mortgages purchased results in a higher amount of funding for the HTF.

Table 1 shows the amount of HTF funding that HUD has allocated to states in each year from 2016 through 2021.[30]

Table 1. Amount of HTF Funds Allocated by HUD

(Dollars in millions)

Fiscal Year	Amount
2016	$173.6
2017	$219.2
2018	$266.8
2019	$247.7
2020	$322.6
2021	$692.9

Source: Table created by CRS based on *Federal Register* notices announcing HTF allocations amounts.

HUD announced the 2021 allocations from the HTF in April 2021. (These allocations are from the funds that were set aside by Fannie Mae and Freddie Mac during calendar year 2020.) State allocation amounts are shown in **Table 2**. All states received allocations above the minimum state allocation amount of $3 million in FY2021: the smallest state allocation was slightly over $3.1 million, which was received by 13 states and DC. The highest allocation was California's, at almost $127 million, followed by New York at $73 million. The median HTF grant amount (including the 50 states, the DC, and Puerto Rico, but not the other insular areas) was $7.3 million, and the mean was $13.3 million.

State allocations from the HTF in previous years are available on HUD's website.[31]

Table 2. FY2021 HTF Allocations to States

(Dollars in millions)

State	Allocation
Alabama	$6.69
Alaska	$3.10
Arizona	$11.48
Arkansas	$4.12
California	$126.58
Colorado	$10.03

[30] The amount allocated by HUD may be more or less than the amount transferred from Fannie Mae and Freddie Mac in a given year for a variety of reasons. For example, the 2016 allocations were lower because of a required sequestration of mandatory spending, while the 2017 allocations were higher because unobligated 2016 funds were included in the allocation amount.

[31] State allocations for formula grants administered by HUD's Office of Community Planning and Development are available on HUD's website at https://www.hud.gov/program_offices/comm_planning/about/budget or on the HUD Exchange website at https://www.hudexchange.info/grantees/allocations-awards/.

State	Allocation
Connecticut	$8.45
Delaware	$3.10
District of Columbia	$3.10
Florida	$35.07
Georgia	$17.46
Hawaii	$3.48
Idaho	$3.10
Illinois	$30.70
Indiana	$10.67
Iowa	$4.36
Kansas	$4.21
Kentucky	$6.72
Louisiana	$8.12
Maine	$3.10
Maryland	$9.98
Massachusetts	$16.99
Michigan	$17.16
Minnesota	$9.25
Mississippi	$4.01
Missouri	$10.54
Montana	$3.10
Nebraska	$3.10
Nevada	$6.75
New Hampshire	$3.10
New Jersey	$24.35
New Mexico	$3.19
New York	$73.38
North Carolina	$17.49
North Dakota	$3.10
Ohio	$21.19
Oklahoma	$5.25
Oregon	$9.82
Pennsylvania	$24.13
Rhode Island	$3.10
South Carolina	$7.76
South Dakota	$3.10
Tennessee	$9.74

State	Allocation
Texas	$41.75
Utah	$3.27
Vermont	$3.10
Virginia	$14.34
Washington	$15.69
West Virginia	$3.10
Wisconsin	$11.16
Wyoming	$3.10
American Samoa	$0.04
Guam	$0.34
Northern Mariana Islands	$0.19
Puerto Rico	$3.20
Virgin Islands	$0.37
Total	***$692.90***

Source: U.S. Department of Housing and Urban Development, "Housing Trust Fund Federal Register Allocation Notice; Fiscal Year 2021," 86 *Federal Register* 20515, April 20, 2021, https://www.federalregister.gov/documents/2021/04/20/2021-08022/housing-trust-fund-federal-register-allocation-notice-fiscal-year-2021.

Program Requirements

HUD awards grants from the HTF to states based on the formula described above. States designate an entity to administer the funds, such as a housing finance agency, housing and community development agency, or another "qualified instrumentality of the state."[32] The state-designated entity can administer the grant itself, or it can allow subgrantees to administer some or all of the funds. Subgrantees can be state agencies, or they can be units of local government that receive other HUD block grant funds and have submitted Consolidated Plans to HUD.[33]

Grantees (the state-designated entities that administer the funds) and any subgrantees must submit plans to HUD that describe how they will distribute HTF funds, including both geographic priorities and any priority housing needs they plan to address with the funds. These plans are discussed in more detail in the "Planning" section.

Grantees and subgrantees ultimately provide funds to recipients, which are for-profit or nonprofit entities that receive HTF funds as owners or developers of affordable housing. Recipients of HTF grant amounts must have relevant experience. More specifically, an organization receiving funding for a rental housing project must have experience owning, constructing, rehabilitating, managing, or operating affordable multifamily rental projects. An organization receiving funding

[32] The definition of a *state-designated entity* is at 24 C.F.R. §93.2. A list of the entities that states have designated to administer their HTF programs is available at https://www.hudexchange.info/programs/htf/grantees/.

[33] HUD requires states and local jurisdictions to submit a Consolidated Plan in order to receive funds from its block grant programs, such as the Community Development Block Grant (CDBG) program and the HOME Investment Partnerships Program. The Consolidated Plan describes a jurisdiction's affordable housing needs and explains how HUD funds and other resources will help address those needs.

for homeownership activities is required to have experience in designing, constructing, rehabilitating, or marketing affordable homeownership housing, or in providing assistance with down payments, closing costs, or interest rate subsidies. Recipients also have to demonstrate general financial experience and expertise and familiarity with the requirements of any related federal, state, or local housing programs that will be used in conjunction with grants from the HTF.[34]

This section provides an overview of some of the key requirements governing the HTF based on the HTF statute and HUD's implementing regulations.

Eligible Uses of Funding

States must use most of their grant amounts from the HTF to support rental housing, although they can use a portion of their funding to assist certain first-time homebuyers. Similarly, most of the funding is required to be used to benefit extremely low-income families or families with incomes below the poverty line, but some funding can be used to benefit very low-income families as well. Funds can be used to provide a variety of different types of assistance, including grants, equity investments, and interest-bearing or non-interest bearing loans.[35]

Housing assisted with HTF funds must meet certain property standards that address various requirements related to housing quality, accessibility, and energy efficiency, among other things. Different standards apply depending on whether HTF funds are used to construct, rehabilitate, or acquire housing, and, in some cases, whether the funds are used for rental or owner-occupied housing.[36]

Rental Housing Activities

Grants from the HTF can be used for the production, preservation, rehabilitation, or operation of rental housing. By law, at least 80% of HTF funds must be used for rental housing activities. (Up to 10% can be used for certain homebuyer activities, and up to 10% can be used for administrative purposes.)

HUD's interim rule specifies that a state grantee may use no more than one-third of its annual grant for operating assistance.[37] (Operating assistance refers to using funds for the ongoing costs of operating rental housing, such as paying for utilities, maintenance, insurance, or other similar expenses.) Some housing advocates have argued that more funds should be allowed to be used for operating assistance. However, HUD has expressed concern that allowing more funds to be used for such purposes could eventually result in most HTF funds being used for operating assistance rather than being used for rental housing production.[38] Grantees can choose whether they will allow each recipient to use up to one-third of its funding for operating costs, or whether they will allow some recipients to use more and others to use less so that no more than one-third of the total grant is used for operating assistance.

[34] These requirements are included in the definition of *recipient* at 24 C.F.R. §93.2.

[35] 24 C.F.R. §93.200.

[36] 24 C.F.R. §93.301.

[37] 24 C.F.R. §93.200.

[38] See 80 *Federal Register* 5210.

Owner-Occupied Housing Activities

Up to 10% of a state's grant from the HTF may be used for the production, rehabilitation, or acquisition of owner-occupied housing, including through down payment assistance, closing cost assistance, and interest-rate buy-downs.[39] The homebuyer must use the home as a principal residence and be a first-time homebuyer, defined as not having owned a home in the prior three years. Homebuyers must also complete a pre-purchase financial counseling requirement.[40]

Any owner-occupied housing assisted with HTF funds must be *modest* housing, defined as having a purchase price that is no higher than 95% of the median purchase price in the area.[41] The grantee must adopt either resale or recapture provisions for owner-occupied housing assisted through the HTF. Resale provisions specify that, if the HTF-assisted household no longer occupies the home as a principal residence during a specified affordability period, then the house will be offered for sale to another income-eligible household. Recapture provisions specify that, if the HTF-assisted household no longer occupies the home as a principal residence during a specified affordability period, the grantee is able to recapture some or all of the HTF funds that were provided.[42]

Restrictions on Eligible Activities

By statute, money from the HTF cannot be used for political activities, advocacy, lobbying, counseling services,[43] travel expenses, or preparing or providing advice on tax returns.[44] HUD's interim rule specifies additional activities that are ineligible uses of HTF funds.[45]

HUD can set a limit of up to 10% of a state or state-designated entity's HTF grant amount that can be used for the cost of administering the programs funded by the grant; HUD has set this limit at 10%. Using funds for other administrative costs of the grantee or funding recipient is prohibited.

Income Targeting

All HTF funds must benefit households that qualify as extremely low-income or very low-income.[46] As noted earlier, extremely low-income (ELI) households are defined as households with incomes that do not exceed 30% of area median income, and very low-income (VLI)

[39] 12 U.S.C. §4568(a)(7)(B) and 24 C.F.R. §93.200.

[40] 12 U.S.C. §4568(a)(7)(B).

[41] 24 C.F.R. §93.305. The limits by area are available at https://www.hudexchange.info/resource/4982/housing-trust-fund-homeownership-value-limits/.

[42] 24 C.F.R. §93.305.

[43] The costs of housing counseling for HTF-assisted households can be considered an eligible administrative expense under 24 C.F.R. §93.202(c).

[44] 12 U.S.C. §4568(c)(10)(D).

[45] 24 C.F.R. §93.204.

[46] 12 U.S.C. §4568(c)(7). The specific definitions of *extremely low-income* and *very low-income* that apply are at 12 U.S.C. §4568(f) and 24 C.F.R. §93.2. The definition of *very low-income family* includes families in rural areas with incomes below the poverty line for a family of the applicable size.

households are defined as having incomes no higher than 50% of area median income.[47] HUD publishes the dollar amounts of the income limits by area on its website.[48]

By statute, of the funds that are used for rental housing (at least 80% of total HTF funds), at least 75% must be used to benefit ELI households or households with incomes at or below the poverty line. In general, the remaining funds may be used to benefit VLI households.

However, in its interim rule, HUD requires that *all* HTF funds must benefit ELI households or households with incomes at or below the poverty line in years when the total amount of HTF funds available for allocation is less than $1 billion. In years when more than $1 billion in HTF funds is available to be allocated, HUD specifies that at least 75% of a state's grant amount must be used to benefit ELI households or households with incomes at or below the poverty line.[49]

Affordability

HTF-assisted housing must meet a number of requirements to be considered affordable.[50] Among other things, these requirements include maximum rents that can be charged for HTF-assisted rental units and affordability periods for all HTF-assisted units.

Maximum Rent

HUD's interim rule specifies a maximum rent (including utilities) for HTF-assisted rental housing units. For ELI households, rents in HTF-assisted units cannot exceed the greater of (1) 30% of the income of a household that is making 30% of area median income, or (2) 30% of the federal poverty line. For VLI households, rents cannot exceed 30% of the income of a household that is making 50% of area median income.[51] HUD annually publishes the dollar amounts of rent limits by area.[52]

Some housing advocates have argued that rents in HTF-assisted units should be limited to no more than 30% of tenants' *actual* incomes, rather than 30% of a specified percentage of area median income.[53] These advocates point out that, for ELI households who are earning significantly less than 30% of area median income (or VLI households earning significantly less than 50% of AMI), rents that are set at 30% of 30% of AMI (or 30% of 50% of AMI) may be unaffordable and impose a hardship on tenants. Several other federal affordable housing

[47] Several years after the passage of the law that established the HTF, the Consolidated Appropriations Act, 2014 (P.L. 113-76) amended the definition of *extremely low-income* for the purposes of certain other federal housing assistance programs to mean households with incomes that do not exceed the higher of (1) the federal poverty line or (2) 30% of area median income. The HTF statute defines *extremely low-income* as households with incomes at or below 30% of area median income, but requires that a certain amount of funds be used for the benefit of ELI households or households with incomes below the federal poverty line.

[48] The HTF income limits are available at https://www.hudexchange.info/programs/htf/htf-income-limits/.

[49] 24 C.F.R. §93.250.

[50] See 24 C.F.R. §93.302 and §93.304.

[51] 24 C.F.R. §93.302(b). Under the most commonly used definition of housing affordability, housing is considered to be affordable if a household is paying no more than 30% of its income on rent. As noted previously, ELI households have incomes at or below 30% of area median income, and VLI households have incomes at or below 50% of area median income. The maximum rents for the HTF are based on 30% of the incomes of households at the highest end of these ELI and VLI income ranges.

[52] The HTF rent limits are available at https://www.hudexchange.info/programs/htf/htf-rent-limits/.

[53] For example, see National Low Income Housing Coalition, "NLIHC Comments on HUD's Proposed NHTF Rule," press release, January 7, 2011, http://nlihc.org/article/nlihc-comments-hud-s-proposed-nhtf-rule.

programs, such as the public housing and Section 8 programs, generally cap rents at 30% of a tenant's income. However, HUD notes that there is no separate source of appropriated funds for operating assistance for HTF units to help make up the difference between tenants' rents and the costs of operating the housing. Although HTF funds can be used for operating assistance, that amount is capped, and funds may not be available for operating assistance if there is no funding for the HTF in a given year. Therefore, HUD believes that fixed rents (rather than variable rents based on tenants' actual incomes) are necessary for the purposes of underwriting and financing rental developments using HTF funds.[54]

Affordability Periods

HTF-assisted housing must remain affordable for a specified period of time. HTF-assisted rental housing must remain affordable for 30 years. (The grantee can choose to impose a longer affordability period.[55]) HTF-assisted owner-occupied housing must remain affordable for 10, 20, or 30 years, depending on whether resale or recapture provisions are used and the amount of HTF assistance provided to the unit.[56]

Planning

HERA requires states or the state-designated entities that administer grants from the HTF to develop allocation plans describing how the grant money will be distributed. The allocation plan is part of the Consolidated Plan and Annual Action Plan that grantees must submit in order to receive certain other HUD block grant funds (such as HOME and CDBG).[57] Grantees' allocation plans must describe the state's priority housing needs and how it plans to distribute HTF funds, and they must include performance goals. The states and state-designated entities are to make their allocation plans available for public comment and consider any public comments they receive.

If the grantee will be awarding funds to recipients directly, it must describe how the funds will be geographically distributed throughout the state, as well as describe other factors that it will prioritize in awarding funds to projects and set certain program requirements. If the state plans to prioritize any specific segment of the extremely low- and very low-income population, or allow property owners to prioritize a specific population, such a preference must be described in the allocation plan.[58]

If the grantee intends to provide funds to subgrantees (i.e., local governments), it must indicate that in its allocation plan. Subgrantees that receive HTF funds from the state must submit their own allocation plans that describe HTF requirements, priority factors for funding, and any plans to prioritize a specific segment of the extremely low-income or very low-income population, among other things. The subgrantee's allocation plan must be consistent with the state's allocation plan.[59]

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[54] 80 *Federal Register* 5215

[55] 24 C.F.R. §93.302(d).

[56] 24 C.F.R. §93.304(e) and §93.305(b).

[57] For more information on the Consolidated Plan and Annual Action Plan, see HUD's website at https://www.hudexchange.info/programs/consolidated-plan/.

[58] 24 C.F.R. §91.320(k)(5).

[59] 24 C.F.R. §91.220 (l)(5).

Oversight

Both grantees and HUD have certain oversight responsibilities for HTF funds.

The states or state-designated entities that receive grants from the HTF are responsible for overseeing the proper use of the funds and obtaining reimbursement from recipients for improperly used funds. Future HTF grants are to be reduced by the amount of any improperly used HTF funds – that is, funds that are used in projects that do not meet HTF requirements or are not completed—unless the improperly used funds are repaid to the grantee by the recipient. Grantees must conduct inspections of HTF-assisted properties at the time of project completion, and must conduct inspections of HTF-assisted rental housing periodically thereafter. Grantees are also subject to recordkeeping and other requirements.

Grantees are responsible for monitoring the compliance of subgrantees. Grantees and subgrantees are required to submit annual performance reports to HUD describing how HTF funds were used and the extent to which they complied with the allocation plans.[60]

HUD is to review grantees' performance on at least an annual basis.[61] If grantees are not complying with HTF requirements, and fail to come into compliance, HUD can take certain actions, such as requiring the grantee to submit plans detailing how it will correct the issue.[62] In cases of substantial noncompliance, HUD can take additional actions, including preventing the grantee from withdrawing HTF funding, restricting its activities, or terminating its HTF assistance entirely. HUD must comply with requirements related to providing notice and an opportunity for a hearing before taking these actions.[63]

Grantees must commit HTF funds within two years and spend HTF funds within five years.[64] Any funds that are not committed or spent within the time provided will be recaptured by HUD and reallocated.

HTF Program Outcomes

The first HTF funding was allocated to states in 2016 and, as of the cover date of this report, funding has been provided in every year since. States have two years to commit their HTF funds and five years to spend their funds. In 2021, HUD began publishing National Production Reports on the HTF that provide some information on funding spent and units completed.[65]

According to HUD's National Production Report with data as of November 30, 2021, HTF funds had been used in a total of 1,641 completed housing units as of that date.[66] While overall data and trends could change as more units are completed and occupied, some characteristics of these first completed HTF units included the following:

- All of these units were rental units; none were owner-occupied.

[60] 24 C.F.R. §91.520.

[61] 24 C.F.R. §93.451.

[62] 24 C.F.R. §93.452.

[63] 24 C.F.R. §93.453.

[64] 24 C.F.R. §93.400.

[65] The HTF National Production Reports are available on HUD's website at https://www.hudexchange.info/programs/htf/htf-national-production-reports/. HUD also publishes certain reports related to monitoring grantees' activities under the HTF, including reports on compliance with certain deadlines, open activities reports, and vacant unit reports.

[66] U.S. Department of Housing and Urban Development, *Housing Trust Fund National Production Report, November 30, 2021*, https://files.hudexchange.info/reports/published/HTF_Prod_Natl_20211130.pdf.

- Most units, and most funding, have been new construction (62% of units), followed by rehabilitated units (36%). About 1.5% of units represented acquisition.
- Nearly all funds—98%—benefitted households with incomes at or below 30% of area median income.
- About 70% of units also received some form of rental assistance. The largest share—41%—had project-based Section 8 assistance, and another 22% of units had other forms of federal, state, or local project-based assistance. About 6% had tenant-based Section 8 vouchers, while another 2% benefitted from either HOME-funded tenant-based rental assistance or other forms of federal, state, or local tenant-based assistance. Twenty-nine percent of units had no rental assistance.
- In occupied units, most tenants identified as White (65%), while about 23% identified as Black. In terms of ethnicity, about 13% of units were occupied by tenants identifying as Hispanic or Latino.
- Some completed HTF-assisted units were designated for specific populations, such as homeless individuals (22% of units) or homeless families (6%).
- HTF funds are generally combined with other funding sources to produce affordable housing. For completed HTF-assisted units as of November 30, 2021, about nine dollars in other funding was used for each dollar of HTF funding.

Appendix A. Earlier Legislative Proposals to Establish a National Housing Trust Fund

Prior to the enactment of HERA, legislation to establish a national affordable housing trust fund was introduced several times, beginning in the 106th Congress. This appendix provides a brief description of those previous legislative proposals to establish a national housing trust fund.

One major question surrounding the creation of an affordable housing trust fund was how such a program would be funded. Early legislation proposed using a portion of receipts from the Federal Housing Administration (FHA). However, because FHA receipts are counted as offsets to appropriations, diverting FHA receipts to a housing trust fund would have a cost.

Later legislation proposed using contributions from Fannie Mae and Freddie Mac as a potential funding source. Fannie Mae and Freddie Mac were chartered by Congress to ensure liquidity in the mortgage market.[67] They purchase mortgages from private lenders and package them into mortgage-backed securities that they sell to investors with a guarantee that the investors will receive timely principal and interest payments. Their charters give them a special relationship with the federal government that includes both certain privileges and certain responsibilities. They are overseen by an independent federal regulator.

Because of the GSEs' status as government-sponsored private entities, rather than federal agencies, contributions from Fannie Mae and Freddie Mac would not have counted as new government spending. However, there was some disagreement over whether it was appropriate for the government to require the GSEs to contribute to affordable housing funds. Opponents of GSE contributions argued that the GSEs should not be asked to balance public policy objectives against the interests of their shareholders. Proponents pointed to the special privileges that the GSEs received, and statutory affordable housing goals that they already had, to justify their contributions to a national housing trust fund.

In 2008, HERA created the HTF and the CMF. Both were to be funded by contributions from Fannie Mae and Freddie Mac. **Table A-1** summarizes previous legislation that had been introduced to create a national housing trust fund, including proposed funding sources.

[67] For more information on Fannie Mae and Freddie Mac, see CRS Report R44525, *Fannie Mae and Freddie Mac in Conservatorship: Frequently Asked Questions*.

Table A-1. Previously Introduced Legislation to Create a National Affordable Housing Trust Fund

Bill Number	Bill Title	Brief Description	Final Status
106th Congress			
S. 2997	The National Affordable Housing Trust Fund Act of 2000	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA Mutual Mortgage Insurance Fund (MMI Fund) beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	Hearings were held by the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs.
107th Congress			
S. 1248	The National Affordable Housing Trust Fund of 2001	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	Hearings were held by the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs.
H.R. 2349	The National Affordable Housing Trust Fund Act of 2001	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain the capital adequacy level required by statute (2%) as well as any excess funds from Ginnie Mae.	The bill was referred to the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services. No hearings were held.
108th Congress			
S. 1411	The National Affordable Housing Trust Fund Act of 2003	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	S. 1411 was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
Reed Affordable Housing Fund amendment to S. 1508	Amendment to the Federal Housing Enterprise Regulatory Reform Act of 2003	This amendment would have required Fannie Mae and Freddie Mac to annually provide 2.5% of their pre-tax profits into a fund to provide affordable housing grants or other subsidies, and 2.5% of their pre-tax profits into an underserved market fund that would support new mortgage products or increased flexibility to address underserved markets.	This amendment to a GSE reform bill was adopted by the Senate Banking Committee. The bill was ordered reported by the committee, but was not considered on the Senate floor.

Bill Number	Bill Title	Brief Description	Final Status
H.R. 1102	The National Affordable Housing Trust Fund Act of 2003	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been funds in the FHA MMI Fund beyond those needed to maintain the capital adequacy level required by law (2%), as well as any excess funds received by Ginnie Mae.	The bill was referred to the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services. No hearings were held.
109th Congress			
H.R. 1461	The Federal Housing Finance Reform Act of 2005	This bill, as passed by the House, would have required each GSE to establish and manage an affordable housing fund and established requirements for the funds. The dedicated funding source would have been either 3.5% or 5% of Fannie Mae's and Freddie Mac's prior year's after-tax income, depending on the year. The bill included a sunset provision after five years, after which the GSEs would no longer have been required to make contributions.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs
110th Congress			
H.R. 1427	The Federal Housing Finance Reform Act of 2007	This bill, as passed by the House, would have established an affordable housing fund and established requirements for the fund. The dedicated funding source would have been 1.2 basis points for each dollar of Fannie Mae's and Freddie Mac's average total mortgage portfolio for the preceding year. The bill included a sunset provision after five years, after which the GSEs would no longer have been required to make contributions.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.
H.R. 1852	The Expanding American Homeownership Act of 2007	This bill, as passed by the House, would have authorized appropriations in an amount equal to the net increase in negative credit subsidy for certain FHA programs in each fiscal year. The appropriation would have been used for designated housing activities, including grants to an affordable housing fund.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.
H.R. 2895	The National Affordable Housing Trust Fund Act of 2007	This bill, as passed by the House, would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The bill did not include a permanent funding source, but provided that the trust fund would include any amounts transferred from Fannie Mae and Freddie Mac, any amounts appropriated pursuant to H.R. 1852, or any other amounts that may be appropriated, transferred, or credited to the trust fund.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

Bill Number	Bill Title	Brief Description	Final Status
S. 2391	The Government Sponsored Enterprise Mission Improvement Act	This bill would have established an affordable housing block grant program and a Capital Magnet Fund and established requirements governing both programs. The dedicated funding source would have been GSE contributions of 4.2 basis points for each dollar of the unpaid principal balance of their total new business purchases.	The bill was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
S. 2523	The National Affordable Housing Trust Fund Act of 2007	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The bill did not include a permanent funding source, but provided that the trust fund would include any amounts transferred from Fannie Mae and Freddie Mac, any amounts appropriated pursuant to H.R. 1852, or any other amounts that may be appropriated, transferred, or credited to the trust fund.	The bill was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
H.R. 3221	The Housing and Economic Recovery Act of 2008	This bill, as passed by both the House and Senate, established the Housing Trust Fund and the Capital Magnet Fund and established requirements governing both programs. The dedicated funding source is GSE contributions of 4.2 basis points for each dollar of the unpaid principal balance of their total new business purchases.	This bill became P.L. 110-289, which authorized the Housing Trust Fund and the Capital Magnet Fund and identified a permanent funding source.

Source: Table compiled by CRS based on information from https://www.congress.gov/.

Appendix B. Suspension of HTF Contributions in 2008 and Subsequent Beginning of Contributions

This Appendix provides a brief timeline of the suspension of the GSEs' contributions to the HTF in 2008 and the subsequent lifting of the suspension.

Suspension of Contributions

In September 2008, not long after HERA was enacted, there were concerns about the financial status of Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac entered into voluntary conservatorship and FHFA took over their management. The Department of the Treasury agreed to provide financial support to the GSEs through the purchase of senior preferred stock.[68]

In November 2008, FHFA informed Fannie Mae and Freddie Mac that they should suspend their contributions to the affordable housing funds until further notice.[69] Neither GSE had started making contributions at the time that the contributions were suspended, and the suspension of the contributions left the HTF without a source of funding for several years.

Beginning of Contributions

In December 2014, FHFA directed Fannie Mae and Freddie Mac to begin setting aside contributions for the HTF and the CMF.[70] In lifting the suspension, FHFA noted Fannie Mae's and Freddie Mac's recent profitability. The GSEs were directed to set aside funds beginning in calendar year 2015, with the first funds required to be transferred to the affordable housing funds within 60 days after the end of 2015.

When FHFA directed Fannie Mae and Freddie Mac to begin their contributions to the HTF and the CMF, some criticized the decision to require them to make these contributions while they remain in conservatorship and subject to agreements with Treasury. They argued that the funds

[68] For more information on the financial status of the GSEs, see CRS Report R44525, *Fannie Mae and Freddie Mac in Conservatorship: Frequently Asked Questions*.

[69] United States Securities and Exchange Commission filing, Form 8-K, Federal National Mortgage Association, November 18, 2008, available at http://www.sec.gov/Archives/edgar/data/310522/000129993308005442/htm_30041.htm; and United States Securities and Exchange Commission Filing, Form 10-Q, Federal Home Loan Mortgage Corporation, November 14, 2008, available at http://otp.investis.com/clients/us/federal_homeloan/SEC/sec-show.aspx?FilingId=6249253&Cik=0001026214&Type=PDF&hasPdf=1.

[70] See letters dated December 11, 2014, that FHFA sent to Fannie Mae and Freddie Mac, available at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx. The letters direct the GSEs to transfer their contributions to the HTF and the CMF within 60 days of the end of their fiscal year. The GSEs' fiscal year is the calendar year, so the contributions are to be transferred within 60 days of the end of each calendar year.

being diverted to the affordable housing funds should go to Treasury[71] or to ensure Fannie's and Freddie's continued financial stability.[72]

While reinstating the contributions, FHFA stated that Fannie Mae and Freddie Mac will not be required to make contributions in any year during which they draw funds under the agreements they have in place with Treasury, or if the contributions would cause them to make such a draw.[73] FHFA continues to have the authority to suspend the contributions in the future if it determines that circumstances require it.

In the fourth quarter of 2017, Fannie Mae and Freddie Mac each had to take a draw from Treasury. These draws were due to a change in the value of deferred tax assets held by each GSE as a result of the tax revision law that was enacted by Congress and signed by President Trump in December 2017 (P.L. 115-97). Despite these draws, and FHFA's statement that a draw would result in a suspension of the contributions for that fiscal year, the Director of FHFA directed Fannie Mae and Freddie Mac to make their contributions to the HTF as scheduled. The director's decision was based on his view that the draws were the result of a one-time accounting change and that they were not indicative of broader financial instability at either of the GSEs.[74]

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[71] According to the terms of the preferred stock purchase agreements with Treasury, Fannie Mae and Freddie Mac were required to pay quarterly dividends to Treasury; the terms of these dividend payments have been changed several times. The dividend payments compensate Treasury for the risk it incurred in providing support for Fannie Mae and Freddie Mac but are not technically considered repayment of the amounts that Fannie Mae and Freddie Mac received. The GSEs have paid dividends to Treasury in an amount that exceeds what they received in support. For more information on the terms of the agreements with Treasury and dividends paid, see CRS Report R44525, *Fannie Mae and Freddie Mac in Conservatorship: Frequently Asked Questions*.

[72] For example, see "FHFA Director Delivers Lump of Coal to Every Taxpayer," press release, December 11, 2014, https://republicans-financialservices.house.gov/news/documentsingle.aspx?DocumentID=398566, with a statement from then-House Financial Services Committee Chairman Jeb Hensarling.

[73] See the December 11, 2014, letters that FHFA sent to Fannie Mae and Freddie Mac directing them to begin making contributions to the HTF at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx. When Fannie Mae and Freddie Mac were placed into conservatorship in 2008, Treasury also agreed to provide financial support to Fannie Mae and Freddie Mac through purchases of senior preferred stock. Neither Fannie nor Freddie has required support from Treasury since early 2012, but under the terms of the agreements, they can receive additional funds from Treasury if necessary. For more information on these agreements, see CRS Report R44525, *Fannie Mae and Freddie Mac in Conservatorship: Frequently Asked Questions* .

[74] The February 2018 letters that the Director of FHFA sent to Fannie Mae and Freddie Mac directing them to make their contributions as scheduled are available at https://www.fhfa.gov/Media/PublicAffairs/Documents/2-7-18_ltr_Fannie_Mae_re_Housing_Trust_Fund.pdf and https://www.fhfa.gov/Media/PublicAffairs/Documents/2-7-18_ltr_Freddie_Mac_re_Housing_Trust_Fund.pdf, respectively.

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