Manufactured Housing Association for Regulatory Reform

1331 Pennsylvania Avenue, NW • Suite 512 • Washington, DC 20004 • 202-783-4087 • Fax 202-783-4075 • mharrdg@aol.com

November 12, 2019

VIA ELECTRONIC SUBMISSION

U.S. Federal Housing Finance Agency
Division C – Housing Mission and Goals
7th Floor
400 7th Street, S.W.
Washington, D.C. 20219

Re: Proposed Modifications: 2018-2020 Duty to Serve Plans

Dear Sir or Madam:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade association representing the views and interests of producers of federally-regulated manufactured housing. MHARR was founded in 1985. Its members include smaller and medium-sized independent manufactured housing producers from all regions of the United States.

On October 24, 2019, the Federal Housing Finance Agency (FHFA) published, for public comment, proposed modifications to the 2018-2020 Fannie Mae and Freddie Mac Duty to Serve Underserved Markets (DTS) implementation plans previously approved by FHFA. The DTS provision of the Housing and Economic Recovery Act of 2008 (HERA) directs Fannie Mae and Freddie Mac to "develop loan products and flexible underwriting guidelines" to, among other things, "facilitate a secondary market for mortgages" and personal property, or "chattel" loans, "on manufactured homes for very low, low and moderate-income families." As such, DTS was designed to provide a specific statutory remedy for the failure of the Government Sponsored Enterprises (GSEs) to properly serve – for decades -- the manufactured housing market and the mostly lower and moderate-income consumers who rely on inherently affordable manufactured housing. As MHARR has emphasized repeatedly, however, the DTS "implementation" plans approved by FHFA in late 2017[1] and subsequently modified with FHFA's approval, were, are, and remain, with respect to manufactured housing, wholly deficient and completely inadequate to meet either the express mandate or remedial purpose of the DTS directive[2] and constitute, instead, a de facto administrative rejection and distortion of DTS.

[1] See, MHARR July 10, 2017 comments to FHFA, "Duty to Serve Underserved Markets – Implementation Plan Evaluation"

[2] See, MHARR November 2, 2018 comments to FHFA, "Proposed Modifications: 2018-2020 Duty to Serve Plans."

And now, Fannie Mae, in its most recent proposed DTS Plan modifications for plan years 2019 and 2020, as published by FHFA, would further weaken and further delay its already long-delayed and virtually non-existent commitment to mainstream manufactured housing subject to federal regulation by the U.S. Department of Housing and Urban Development (HUD). These proposed changes, which have been deemed "substantial" by FHFA,[3] will devastate an already greatly-diminished manufactured housing market[4] currently dominated by a small number of portfolio lenders affiliated with the industry's largest producers. By failing to support the manufactured housing consumer financing market in any meaningful, market-significant manner, and thereby needlessly subjecting manufactured homebuyers to higher-cost interest rates charged by those market-dominant lenders, fueled in significant part by the absence of full free-market competition, the GSEs' DTS "implementation" plans -- as already modified and as proposed to be modified now -- will effectively exclude, altogether, millions of otherwise credit-worthy lower and moderate-income Americans from the benefits of homeownership.[5] This, again, is directly contrary to – and in direct and blatant violation – of the DTS mandate and the clear purposes and objectives of Congress in enacting DTS.

Specifically, while nearly 80 percent of the mainstream affordable manufactured housing market is financed through personal property (i.e., chattel) consumer loans,[6] this largest single segment of the manufactured housing consumer financing market remains totally unserved by the GSEs more than a decade after Congress' adoption of DTS. By leaving at least 80% of the manufactured housing finance market totally unserved, there is absolutely no valid or legitimate basis for concluding that the GSEs (or FHFA as their regulator) are in compliance with DTS, despite their baseless claims to the contrary. Indeed, even the minimal and insufficient manufactured housing chattel loan "pilot programs" promised by the GSEs since at least 2017 have failed to materialize, with FHFA claiming that programs are under review, while refusing, in response to an inquiry by MHARR, to disclose the terms or parameters of such alleged programs, claiming that they are "pre-decisional." In the meantime, however, both American consumers of affordable housing and the industry as a whole continue to suffer, with year-over-year

---

[3] See, FHFA "Request for Input on Fannie Mae and Freddie Mac Proposed Modifications to their 2018-2020 Duty to Serve Plans" at p. 3: "The DTS regulation provides that proposed modifications will be subject to public input 'if FHFA determines that public input would assist its consideration of the proposed modifications.' FHFA has determined that public input would be helpful in considering proposed modifications that would make a substantial change to the content of a Plan, or could affect the concept score of an objective. FHFA has discretion to determine which proposed modifications will be subject to public input on a case-by-case basis." (Emphasis added, footnotes omitted).

[4] Manufactured housing production in 2018 was 96,555 homes, a reduction of more than 74% from the 373,143 manufactured homes produced by HUD-regulated manufactured homebuilders in 1998.

[5] The direct linkage between the failure of the GSEs and FHFA to fully implement DTS with respect to mainstream manufactured housing in a market-significant manner, and higher-cost interest rates for manufactured housing consumers is specifically addressed by manufactured housing producer Cavco Industries, Inc. ("Cavco"), in its Form 10-Q filing with the United States Securities and Exchange Commission, for the quarter ending September 28, 2019. That document states, in relevant part: "The lack of an efficient secondary market for manufactured home loans and the limited number of institutions lending to manufactured home buyers result in higher interest rates for loans secured by manufactured homes compared to those for site-built homes." See Cavco September 28, 2019 Form 10Q at p. 37. (Emphasis added).

[6] See, U.S. Census Bureau, "Cost and Size Comparisons: New Manufactured Homes and New Single-Family Site-Built Homes," attached hereto as Exhibit 1, showing that 77% of new manufactured homes in 2018 were "titled as personal property."

manufactured home production levels having declined substantially over ten of the last twelve months.[7]

Meanwhile, since the GSEs' initial DTS Plans were approved, Fannie Mae, Freddie Mac and FHFA regulators have made much of their alleged DTS support for the comparatively tiny portion of the total manufactured housing market represented by real estate loans. Now, though, even that flimsy "commitment" to manufactured home loan purchases would be undermined and delayed by the proposed modifications to Fannie Mae's 2018-2020 DTS Plan.

Pursuant to the proposed modifications, Fannie Mae's 2020 "loan purchase target" for mainstream manufactured homes titled as real estate under its Plan "Objective 2," would drop from an already miniscule 450 loans to a mere "100" loans (i.e., 0.1% of the entire manufactured housing market, based on 2018 production). Further, under its separate alleged DTS undertaking to "develop an enhanced manufactured housing loan product for quality manufactured homes and purchase loans" (emphasis added) (i.e., its highly-touted "MH Advantage" program for higher-cost manufactured homes), Fannie Mae proposes to totally remove any commitment to purchase such loans in 2019 and 2020, and is reducing its loan purchase "goal" from 500-750 such loans to a mere 25, (see, Fannie Mae proposed DTS modifications, p. 3 of 5), asserting that 25 loans "is a meaningful loan purchase target" in that it "represents a significant increase in purchase volumes as compared to 2018 and 2019." Thus, as has been the case throughout the DTS process, Fannie Mae effectively claims that its total failure to serve any component of the manufactured housing market in the past somehow constitutes a legitimate justification for its continuing and ongoing failure to do so now.[8]

By failing to implement any aspect of DTS for mainstream manufactured homes in a market-significant manner – or at all – for major sections of the HUD Code market, the GSEs and FHFA are seriously harming lower and moderate-income American homebuyers by helping to sustain needlessly high-cost interest rates, particularly for personal property loans. This inures to the specific benefit of the industry's largest manufacturers and their captive lenders, while it discriminates against – and unduly harms – smaller, independent producers while undermining competition within the industry as a whole.

If there were any doubt, however, that the GSEs and FHFA are continuing to cater to the special interests of the industry's largest producers and their captive finance companies, the

---

[7] The negative impact of the failure of the GSEs and FHFA to implement DTS in a market-significant manner on the manufactured housing industry is also addressed by Cavco Industries, Inc. in its September 28, 2019 Form 10Q filing: "Expansion of the secondary market for lending through the GSEs could support further demand for [manufactured] housing, as lending options would likely become more affordable to home buyers. Although some progress has been made in this area, meaningful positive impact in the form of increased home orders has yet to be realized. See, Cavco September 28, 2019 Form 10Q at p. 37. (Emphasis added).

[8] Incredibly, Fannie Mae seeks to justify gutting the loan purchase goal for its own program by alleging "a lack of meaningful support from industry trade groups." While MHARR has, in fact, strongly opposed the diversion of DTS support from mainstream, affordable, manufactured housing to more costly site-built-like homes under MH Advantage, it attempted to warn Fannie Mae in particular, that the MH Advantage program – being similar to and apparently based on Fannie Mae's failed 2009 "MH Select" program -- would also fail. See, Exhibit 2 hereto, June 5, 2018 MHARR letter to Jonathan Lawless, Fannie Mae Vice President, pointing out that MH Select failed to produce even one origination.

following statement from the Fannie Mae proposal regarding the MH Advantage program is telling: "first loans were purchased through homes in a subdivision development and all of the top 3 manufacturers are making this a priority in 2020 and beyond." (Emphasis added) (Id.). This shows – as MHARR has consistently maintained -- that MH Advantage was established to help the industry's largest producers sell more costly manufactured homes outside of the mainstream manufactured housing market; that it disregards the market-segment served by smaller and medium-sized independent producers; that it therefore fails to serve the vast bulk of the manufactured housing market and the vast bulk of the manufactured housing real estate sub-market; and that it is a diversion from and avoidance of the legitimate purposes of DTS, which allows the GSEs to claim that they are implementing DTS when, in fact, they are not and are simultaneously leaving the mainstream manufactured housing market and lower and moderate-income American homebuyers nearly entirely unserved.

As MHARR has noted previously, the alleged "implementation" of DTS by Fannie Mae and Freddie Mac is a misleading charade and shell-game by entities with no interest in actually serving the mainstream HUD Code manufactured housing market and the lower and moderate-income American homebuyers that Congress specifically sought to help. As such: (1) all of Fannie Mae's proposed DTS Plan revisions should be rejected by FHFA; (2) all elements and all aspects of the sham DTS "implementation" process should be investigated by the U.S. Congress; and (3) both Houses of Congress should conduct full-scale hearings to hold to account all those responsible for the virtual gutting of DTS for 11 years. In light of this unacceptable failure by the GSEs, MHARR will pursue this matter further with both Congress and the Trump Administration.

Very truly yours,

Mark Weiss
President and CEO

cc: Hon. Mick Mulvaney
Hon. Ben Carson
Hon. Mark Calabria
Hon. Michael D. Crapo
Hon. Maxine Waters

Cost & Size Comparisons:
New Manufactured Homes and New Single-Family Site-Built Homes
(2018 - 2014)

	2018	2017	2016	2015	2014
New Manufactured Homes					
All[1]					
Avg. Sales Price	$ 78,500	$ 71,900	$ 70,600	$ 68,000	$ 65,300
Avg. Square Feet	1,438	1,426	1,446	1,430	1,438
Avg. Cost per Sq. Ft.	$ 54.59	$ 50.42	$ 48.82	$ 47.55	$ 45.41
Single					
Avg. Sales Price	$ 52,400	$ 48,300	$ 46,700	$ 45,600	$ 45,000
Avg. Square Feet	1,072	1,087	1,075	1,092	1,115
Avg. Cost per Sq. Ft.	$ 48.88	$ 44.43	$ 43.44	$ 41.76	$ 40.36
Double					
Avg. Sales Price	$ 99,500	$ 92,800	$ 89,500	$ 86,700	$ 82,000
Avg. Square Feet	1,747	1,733	1,746	1,713	1,710
Avg. Cost per Sq. Ft.	$ 51.26	$ 53.55	$ 51.26	$ 50.61	$ 47.95
Housing Starts vs. MH Shipments *(Thousands of units)*					
New Single Family					
Housing Starts	876	849	782	715	648
Percent of Total	90%	90%	91%	91%	91%
Manufactured Home Shipments					
Shipped	97	93	81	71	64
Percent of Total	10%	10%	9%	9%	9%
Total	973	942	863	786	678
New Single-Family					
Site-Built Homes Sold (Home and Land Sold as Package)					
Avg. Sales Price	$ 385,000	$ 384,900	$ 360,900	$ 352,700	$ 347,700
Derived Average Land Price	$ 87,253	$ 91,173	$ 82,491	$ 80,246	$ 84,444
Price of Structure					
Avg. Square Feet	2,602	2,645	2,650	2,724	2,707
Avg. Price per Sq Ft. (excl. land)	$ 114.43	$ 111.05	$ 105.06	$ 100.02	$ 97.25
Manufactured Home Shipments					
Total	96,555	92,902	81,136	70,544	64,331
Single-Section	44,979	46,305	38,944	32,210	30,218
Multi-Section	51,576	46,597	42,192	38,334	34,113
New Manufactured Homes Placed *(for Residential Use)*					
Located in Communities	37%	32%	34%	34%	33%
Located on Private Property	63%	68%	66%	66%	67%
Titled as Personal Property	77%	76%	77%	80%	80%
Titled as Real Estate	17%	17%	17%	14%	13%

[1] Includes manufactured homes with more than two sections.

Source: These data are produced by the U.S. Commerce Department's Census Bureau from a survey sponsored by the U.S. Department of Housing and Urban Development.

Manufactured Housing Association for Regulatory Reform

1331 Pennsylvania Avenue, NW • Suite 512 • Washington, DC 20004 • 202-783-4087 • Fax 202-783-4075 • mharrdg@aol.com

June 5, 2018

VIA FEDERAL EXPRESS

Mr. Jonathan Lawless
Vice President
Fannie Mae
3900 Wisconsin Avenue, N.W.
Washington, D.C. 20016

Re: MH Advantage Initiative

Dear Mr. Lawless:

Thank you for your letter dated June 4, 2018 regarding the impending implementation of Fannie Mae's "MH Advantage Initiative," as part of its "Duty to Serve Underserved Markets" (DTS) Plan, as approved by the Federal Housing Finance Agency (FHFA). Naturally, as you request, we will provide these materials to any and all of our MHARR members that may wish to participate. That said, however, the MH Advantage Initiative, both in its underlying concept and premise, is in fundamental conflict with the DTS mandate – and suffers from other fatal defects – which render it wholly unacceptable to MHARR.

In relevant part, your June 4, 2018 letter states: "MH Advantage homes [will] have design features – developed after consultation with a range of manufacturers – more often associated with site-built homes." (Emphasis added). The purpose of DTS, however, is not to change the fundamental character of HUD-regulated manufactured housing to be more like site-built homes, or to funnel DTS-based financing to higher-cost homes that are not in the mainstream of affordable HUD Code manufactured housing production. The DTS mandate, rather, as MHARR has noted on multiple occasions, was enacted by Congress as: (1) a congressional finding that Fannie Mae (and Freddie Mac) have not -- and still do not -- properly serve the manufactured housing market and manufactured housing consumers, despite existing Charter obligations to support homeownership opportunities for very low, low and moderate-income Americans, as well as (2) a remedy for that specific failure.

Two fundamental corollaries necessarily derive from this mandate. First, DTS was not enacted by Congress as an exercise in meaningless tokenism. DTS, rather, was meant, designed, directed and intended by Congress to materially increase Fannie Mae's participation in the HUD Code manufactured housing market. Second, and even more importantly, DTS was meant, designed, directed and intended by Congress to materially increase that participation with respect to existing, mainstream types of manufactured homes that are designed to – and do, in fact --

provide inherently affordable non-subsidized homeownership for lower and moderate-income Americans, not a new type of significantly more costly HUD Code–site-built hybrid, as your description (i.e., citing "design features … more often associated with site built-homes") implies.

As the abject failure of the earlier Fannie Mae "MH Select" program should make (and should have made) absolutely clear (resulting, according to available information, in exactly zero loans), the manufactured housing market is centered upon homes that are inherently affordable for lower and moderate-income American families that – in many, if not most instances – would not otherwise be able to buy and own a home of their own, not higher-income purchasers who, as you state, "might otherwise consider only site-built homes." Indeed, the fact that it has taken ten years to get even this far, after decades of failing to serve the manufactured housing market (as determined by Congress), shows that Fannie Mae has no real intent to comply with DTS as established and designed by Congress.

Instead, prejudice, discrimination and outright bias against those prospective homebuyers – who the GSEs were formed to serve and DTS was specifically enacted to serve and benefit – has been the hallmark of Fannie Mae (and Freddie Mac) policy for decades, leading to the DTS mandate in the first place and now, through the "MH Advantage Initiative," to a brazen ploy by Fannie Mae to divert DTS away from mainstream, existing manufactured homes and manufactured housing consumers, toward more well-heeled borrowers of a sort that Fannie Mae would prefer to deal with, in defiance of Congress and the law. As such, this program does not constitute a legitimate implementation of DTS as much as a diversion, "bait and switch," and illegitimate end-run around the consumers and policies that DTS was enacted in order to advance.

This circumvention of the purposes and objectives of DTS, moreover, does not even begin to address other significant competition-based concerns regarding the specifics of the MH Advantage Initiative, including compliance criteria that were developed behind closed doors, in closed proceedings accessible only to select participants (as determined by Fannie Mae); and -- according to information available to MHARR, onerous energy requirements that have been advanced by the largest industry manufacturers from both a marketing and regulatory perspective, and specifically favor those manufacturers. Nor does any of this even begin to address the possible intersection between the MH Advantage Initiative and a secretive "new class" of manufactured homes being advanced by the same large manufacturers – and their trade organization, the Manufactured Housing Institute (MHI) – which supposedly was "well received by Fannie Mae and Freddie Mac."

The "MH Advantage" Initiative, therefore, is less about implementing DTS for its intended beneficiaries than avoiding the type of market-significant securitization and secondary market support for mainstream, affordable manufactured housing that DTS was designed and intended to produce. As such, it violates DTS and is wholly unacceptable to MHARR.

Sincerely,

Mark Weiss
President and CEO

cc: MHARR Manufacturers
Hon. Ben Carson
Hon. Mick Mulvaney
Hon. Melvin Watt
Hon. Mike Crapo
Hon. Sherrod Brown
Hon. Jeb Hensarling
Hon. Maxine Waters