Manufactured Housing Association for Regulatory Reform

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VIA FEDERAL EXPRESS

Alfred M. Pollard, Esq.
General Counsel
Attn: Comments/RIN 2590-AA25
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, D.C. 20552

Re: Proposed Rule -- RIN 2590-AA25
74 Federal Register No. 83, May 1, 2009, Page 20236
2009 Enterprise Transition Affordable Housing Goals

Dear Mr. Pollard:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR) in response to a proposed rule to establish 2009 Enterprise Transition Affordable Housing Goals published by the Federal Housing Finance Agency (FHFA) in the Federal Register on May 1, 2009. MHARR is the only national trade association dedicated exclusively to representing the views and interests of producers of manufactured housing regulated by the Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. MHARR was founded in 1985. Its members include manufactured housing producers from all regions of the United States and many smaller and medium-sized producers that have been severely impacted by the economic recession and related declines in production and sales of manufactured homes.

Because, as explained in greater detail below, manufactured housing provides affordable, non-subsidized home-ownership for millions of lower and moderate-income Americans, MHARR opposes FHFA's proposed reduction of the GSEs' low and moderate-income housing goal from the 2008 level of 56% to 51% for 2009, and the proposed reduction of the low and moderate-income home purchase sub-goal from 47% to 40% (although it does support the proposed exclusion of conforming jumbo loans from counting toward the 2009 goals).

The manufactured housing industry is today suffering from an unprecedented decline that is due, in significant part, to the virtual unavailability of private financing for manufactured home purchases. And because HUD-regulated (i.e., HUD Code) manufactured housing is the nation's leading source of affordable, non-subsidized home ownership, this decline is having a serious ongoing impact on American consumers of affordable housing and especially on lower and moderate-income families. Since 1998, manufactured home production and sales have declined by nearly 78 percent and, in 2008, fell below the 100,000-home benchmark for the first time since 1961. Even worse, projections for 2009, based on first quarter results, show an accelerating deterioration of the market. At present, 2009 HUD Code manufactured home shipments (i.e., units shipped from manufacturers to dealers for retail sale) are forecast to fall short of 50,000 homes. This magnitude of this contraction threatens not only the availability of affordable housing for Americans, but also the very survival of the HUD Code manufactured housing industry.

In large measure, the unavailability of private purchase-money financing that has fueled this unprecedented decline, is due to policy decisions implemented earlier this decade by the two Government Sponsored Enterprises (GSEs) -- Fannie Mae and Freddie Mac -- which effectively discriminate against HUD Code manufactured homes and manufactured housing consumers. As a consequence of these policies, manufactured housing obligations -- which had long been a minimal component of the GSEs' portfolios notwithstanding sustained growth in the broader housing economy -- have now been drastically reduced to less than one percent of the total business portfolios of both GSEs. This has not only constricted the availability of liquidity necessary to support an economically viable level of private financing for manufactured home purchases, but is also relevant to the GSEs' failure to meet their affordable housing goals for 2008, as documented by FHFA in its preamble to the present proposed rule (see, 74 Federal Register No. 83, May 1, 2009 at p. 20242).

Discrimination by the GSEs against manufactured housing and manufactured housing consumers is also inconsistent with federal housing policy as expressed by Congress in the Manufactured Housing Improvement Act of 2000. That legislation provides, in relevant part, that one of its primary goals is to "facilitate the availability of affordable manufactured homes and to increase home ownership for all Americans." (see, 42 U.S.C. 5401(b)(2)). The promise of affordable manufactured housing for American families, however, means little if the private financing necessary to purchase a HUD Code home is either unavailable, or its availability is severely and unreasonably restricted.

Consequently, while MHARR acknowledges the challenging market conditions and related factors cited by FHFA in support of the proposed reductions, the difficulties facing the entire housing market and the broader economy make proper GSE support for affordable housing even more important. With historically high foreclosure rates, significant unemployment and reductions in family income, more Americans, not fewer, will need and will be seeking home-ownership and housing opportunities -- such as those provided by manufactured housing -- that are inherently affordable. Given this growing demand for truly affordable housing, now is not the time to relax strictures requiring the GSEs to ensure necessary liquidity for low and moderate-income purchasers. The GSEs were formed to -- and statutorily charged with -- providing such liquidity. That mission, in the current economic climate, is more important than ever. Reducing the GSEs' lower and moderate-income housing goals and sub-goals, however, tells the GSEs that they can legitimately retreat from that mission. This sends the wrong message to the GSEs, to their lending partners and to Americans in need of affordable housing.

More importantly, going forward, it is essential that FHFA distinguish between the goals addressed by this proposed rule, which broadly relate to all types of housing, and the specific congressional mandate established by the "duty to serve underserved markets" (DTS) provision of the Housing and Economic Recovery Act of 2008 (HERA). Under that provision (enacted July 30, 2008), Congress, recognizing that the GSEs were not properly serving and not fulfilling their mission to HUD Code manufactured housing consumers, directed the GSEs to "develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families." (Emphasis added).

DTS thus represents a finding and declaration by Congress -- independent of the broader housing goals addressed by the present proposed rule -- that the GSEs have not and are not doing enough to serve the manufactured housing market, as well as a remedy, directing Fannie Mae and Freddie Mac to do more. Given this specific congressional mandate and directive, the analyses and considerations underlying the current proposed rule, as explained in its preamble, are inapposite to the formulation of appropriate regulations to implement DTS, and FHFA should note this in connection with the publication of a final rule in this docket.

Moreover, in order to avoid unintended consequences flowing from the proposed rule, given the GSEs' continuing reluctance to serve the manufactured housing market, MHARR urges FHFA to act expeditiously to develop and publish proposed regulations to implement DTS that will significantly expand the role of the GSEs in providing necessary liquidity to support private financing for HUD Code manufactured housing purchases. This will assist the GSEs in meeting their own goals, provide much needed relief for consumers who cannot currently obtain private financing, and help turn the industry (and the thousands of Americans it employs) toward economic recovery.

We hope that these comments are helpful for purposes of the present docket and will help lead to the proper and expeditious implementation of separate DTS regulations.

Sincerely,

Danny D. Ghorbani
President

cc: Mr. James B. Lockhart (FHFA)
Mr. Edward J. DeMarco (FHFA)
Hon. Christopher Dodd
Hon. Richard Shelby
Hon. Barney Frank
Hon. Spencer Bachus
Manufactured Housing Producers and Retailers