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Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Washington, DC

Submitted via www.regulations.gov and E-mail to RegComments@fhfa.org

RE: RIN 2590-AA27
Duty to Serve Underserved Markets for Enterprises

Dear Mr. Pollard,

CFED, the Corporation for Enterprise Development, is pleased to submit comments to the Federal Housing Finance Agency (FHFA) on Fannie Mae's and Freddie Mac's (the enterprises) duty to serve underserved markets. The establishment of the enterprises' duty to serve obligation recognizes the important role they play in establishing affordable and responsible homeownership and housing opportunities for all Americans.

CFED is a national nonprofit dedicated to expanding economic opportunities for low- and moderate-income families. Innovations in Manufactured Homes (I'M HOME) is a CFED initiative that works to ensure that families who choose manufactured homes receive the same benefits of homeownership as owners of site-built homes. I'M HOME works to address lingering problems in the manufactured housing industry, as well as to expand the supply of good-quality, affordable housing. Our network of 35 local and regional nonprofits represents urban and rural areas nationwide.

Manufactured housing represents a significant share of the nation's stock of unsubsidized affordable housing. Most manufactured homes are located in rural areas and are occupied by low-income owners, rather than renters. According to the Government Accountability Office (GAO), manufactured homes offer an affordable housing option to 17 million Americans and are an economical and viable path to homeownership for many low-income individuals and families. If we excluded manufactured homes, the nation's home ownership rate would fall five percent.

CFED's comments on duty to serve criteria and evaluation focus on the underserved market of manufactured housing, though manufactured housing comprises a significant share of rural housing, and thus, also relate to that underserved market. CFED recognizes that in addition to serving underserved markets, the government-sponsored enterprises also have an obligation to operate in a safe and sound manner. Thus, CFED's comments offer reasonable guidelines for serving low-income owners of manufactured homes in a safe and responsible way that takes into account the homeowners, the enterprises, FHFA, the industry and taxpayers.

I. Underserved Markets: Manufactured Housing

Manufactured housing is an important source of affordable housing for families across this country. While the homes themselves have improved in quality with enactment of national standards and improvements in building technology and the manufacturing process, the manufactured housing marketplace continues to exist in the model developed during the travel trailer infancy of the industry. This is a primary reason why it is the underserved housing market it is today.

A. Manufactured Home Parks (Communities)

Approximately one-third of owners of manufactured homes live in a manufactured home community (mobile home park.) Community living offers economic, social and environmental benefits to homeowners and the broader community. Higher density and economies of scale mean that for lower costs, communities can meet the infrastructure needs and amenities for a larger number of homeowners than traditional subdivisions. Moreover, higher densities can result in environmental and energy conservation benefits. Perhaps most importantly, communities offer homeowners social networks and support that many low-income and elderly homeowners rely on. Nationally, manufactured home communities are closing at record speed and few new communities are being developed. This loss of affordable housing is affecting communities nationwide as low-income homeowners have few choices outside of subsidized housing if they lose their manufactured home.

The great drawback of manufactured home communities, however, is their instability. If the owner of the community decides to continually increase rents, defer maintenance or convert the community to some other use, it will no longer be a source of affordable housing; dozens or hundreds of families may be displaced. These are likely to be the very low, low, or moderate income homeowners intended to be served by the duty to serve legislation. Many of the displaced families will be unable to relocate their manufactured homes, so will lose their primary asset. Even if the homes are not displaced, increased rents chip away at affordability and the homeowner's equity, and may make it impossible for the homeowner to maintain and improve the home. When these factors are combined with community infrastructure neglect, the result is the almost uniform experience of manufactured housing as a depreciating asset when not sited on fee simple land. Developing a manufactured home community that then closes, displacing the families that relied on the existence of the community, does not promote the duty to serve intent.

Therefore, we recommend that loans secured by manufactured housing communities should be considered under the duty to serve for Fannie Mae and Freddie only if they include certain provisions, including:

1. Rent formulas with flow-through expenses that allow for reasonable rent increases tied to a published, third-party index.
2. Rights as an intended third party beneficiary of a purchase option for homeowner associations and/or right of first refusal granted to the residents as a collective to purchase the property as part of an affordable housing/housing preservation project. A reasonable approach would be to require all lot leases entered into during the term of the insured loan to include a right of first refusal for any sale of the community made during the loan term. A reasonable alternative is to include an option to purchase.
3. The right to sell a home in place to persons of a home seller's choosing allowing for a free market for home sales (no community owner option, applicants not unreasonably denied).
4. The right to form resident associations and conduct resident meetings. The owner should place no restriction on the operation of resident associations. No owner should be threatened with loss of rent space for organizing activities.
5. Proper engineering studies and Capital Improvement Plans and reserves to protect the residents' equity during the term of the lease, thus ensuring a sufficient maintenance plan that protects equity for both homeowners and lenders.

Moreover, loans secured by resident–owned communities should receive additional credit toward meeting the duty to serve requirements. Resident ownership is the surest way to help low-income owners of manufactured homes who cannot afford to buy their own land to attain stability and promote asset-building. Resident ownership dovetails perfectly with the duty to serve goals and safe and sound lending practices. Resident ownership builds and preserves the manufactured home community as a healthy neighborhood: when residents own a manufactured home community they improve it, their civic engagement increases and the community at large is ensured of a long-term, stable source of affordable housing. **The enterprises should encourage this solution by developing a new loan product that enables residents to purchase their communities; such loans should be counted toward the duty to serve**. In doing so, the enterprises need to encourage the methods of resident-ownership designed to meet the needs of low and very low-income homeowners through low share prices and universal participation as part of a preservation effort.

B. Personal Property Loans (Chattel Lending)

As stated in our June 1, 2009 letter to Mr. Edward DeMarco, chattel lending is contrary to the spirit of duty to serve; instead, it provides low-income families with higher rates, less optimal terms and reduced consumer protections, as compared to a mortgage loan. We understand that the law provides that FHFA ***may*** consider loans secured by personal property when evaluating enterprise performance in meeting their duty to serve. In fact, in certain states where titling of manufactured homes as real estate is not yet possible, we understand that chattel lending may be the only option. We therefore strongly recommend that in order for chattel loans to count toward duty to serve, they not be used in situations where a real estate loan is viable—for example homes titled as real estate. Where chattel loans are necessary, we strongly recommend that that they include fair and accurate underwriting and reasonable, not predatory, loan terms. Below are ten criteria for chattel loans that are to count toward the duty to serve; these criteria are the most effective way to protect low-income homeowners, their lenders, the enterprises and tax payers.

1. APR must be no more than 3.5 points above the prime rate.
2. Loans may not have prepayment penalties.
3. No loans with yield spread premiums allowed.
4. Chattel loans must comply with all RESPA requirements.
5. Chattel loans on a home currently titled as real property and eligible for mortgage financing should not qualify.
6. Homes must have a lease term of five years beyond the loan term and lease should be renewable in the absence of just cause.
7. Loans made in residential communities must have a lease that permits the formation of resident associations and a right to associate and organize.
8. Eligible loans must include a lease with language which preserves the right of residents to form a homeowners association and the association's right to present competing purchase offer prior to the sale or closure of the community.
9. Homes must be priced under $300,000.
10. Chattel loans in land lease communities must be made in communities with project approval by the enterprise in accordance with standards adopted which are consistent with, and adapted from, current condominium and cooperative approval standards, including zoning, infrastructure and capital reserves review.

C. Land-home and Real Estate Manufactured Home loans

Mortgage lending on fee-simple manufactured homes is moribund. As housing industry leaders, the enterprises are in the best position to address the obstacles to a robust conventional manufactured housing mortgage market. The primary issue is providing for conventional mortgage lending on manufactured homes that meet all the standards of site-built homes, such as placement on fee-simple land. We recommend that the industry develop a set of criteria for manufactured homes on fee-simple land and if such criteria are met, then the mortgage would be underwritten just like any mortgage on a site-built home – similar to the goals of Fannie Mae's MH Select product. Depreciation is a concern for the mortgage industry. However, under the right circumstances, there is no inherent reason why manufactured housing would not appreciate similarly to a comparable site-built home. According to a February 2003 Consumers Union Study, these circumstances include land ownership, location, purchase price and maintenance expenditures. **Land tenure and access to conventional financing are two key components that could be integrated in underwriting criteria by the enterprises and would advance the entire manufactured housing industry. Moreover, the enterprises should also take a leadership role on three key industry obstacles**:

1. Titling homes as real estate;
2. Widely accepted appraisal standards; and
3. Promoting a market for previously-owned manufactured homes.

The criteria we outline above (in particular, long-term land security, conventional financing and titling homes as real estate) decrease the likelihood of default, protect the home's value as collateral and go further to ensure the home brings the true benefits of asset-building through homeownership to its owner. Ultimately, these criteria protect homeowners, lenders and tax payers and provide standardization and liquidity for the market. Moreover, the importance of flexible underwriting factors were raised by the United States Government Accountability Office (GAO) Report to Congressional Requesters, Federal Housing Administration: Agency Should Assess the Effects of Proposed Changes to the Manufactured Home Loan Program dated August 2007, GAO-07-879, with regard to FHA Title I loans. It recommended that the agency "develop detailed proposed changes to its underwriting requirements that account for unique attributes of manufactured housing and the characteristics of FHA's targeted borrower population." We believe that our above listed criteria account for the unique attribute of this segment of the housing market.

II. Evaluation of Performance

A. Evaluation Criteria

1. Loan Product Test

The enterprises should receive credit toward their duty to serve obligation for providing loan products, loan guidelines and other innovative approaches to financing manufactured housing that benefits very low- to moderate-income owners of manufactured homes. Examples of such loans, guidelines and approaches include:

- Loans secured by resident-owned manufactured homes communities;
- Loans secured by investor-owned manufactured home communities that offer long-term land security for homeowners, as well as protections of fundamental freedoms, such as protection from no-cause evictions and the right to organize;
- Personal property loans (chattel loans) that meet the ten criteria listed in section I.B. of this letter;
- Underwriting criteria that set national guidelines for manufactured housing to be underwritten the same as site-built homes, such as proper installation and permanent foundation, long-term land security and titling as real estate;
- A national campaign on developing and implementing appraisal standards for manufactured homes that moves beyond the currently-used, but inadequate, N.A.D.A. Appraisal Guides; and
- Loan products for the most underserved segments of the manufactured housing industry, such as previously-owned homes and energy-efficient single-wide manufactured homes.

2. Outreach Test

There are a number of activities that the enterprises could engage in to promote conventional financing for the manufactured housing industry. First, the enterprises should list manufactured home loans in their seller guides and actively promote the availability of such products to loan sellers. For example, Freddie Mac's Leasehold Estate Mortgage Program resulted in many states enacting statutes for converting a manufactured home from personal to real property. This program is an innovative product that continues to be available, however, has not been included in Freddie Mac's seller guide or promoted by the enterprise. Second, the enterprises should conduct outreach to owners of manufactured homes to make them aware of conventional lending options. For example, the enterprises could form partnerships with dealers that provide incentives for dealers to inform homebuyers of conventional loan options instead of steering them toward predatory loan products.

3. Purchase Test

Only new loan products or new types of participants should count toward the purchase test. A reasonable way to measure for this test is to include a credit per dollar amount volume. We would support additional credit (1.5x) for purchase of manufactured home located in resident owned communities and for multi-family lending on resident-owned communities. These are relatively unusual purchases and may require more innovation and flexibility in the beginning but have a higher pay off in affordable housing and manufactured housing goals. In setting a baseline quantitative figure, the regulator should consider the size of the market and opportunities for the GSEs to make purchases. We would discourage the FHFA from using a percent change or increase as the measure because the enterprises would begin with such a low baseline that any increase, even a small one, would appear significant. Specifically, if federal legislation to replace pre-1976 mobile homes with ENERGY STAR units is enacted as expected, we would want to see the GSEs purchasing at least 25% of those loans.

4. Grants Test

Affordable housing has long been seen as a public good that has enjoyed various degrees of public, private and nonprofit support. As the largest source of unsubsidized affordable housing, manufactured housing has rarely benefitted from the support enjoyed by the broader affordable housing field. The enterprises can make an important contribution to supporting the manufactured housing market so that it better meets the needs of very low- to moderate-income homeowners. Specific grant-making activity that would benefit the enterprises, homeowners and the broader industry include grants for:

- National networks of regional and local nonprofits that promote the use of quality manufactured housing as an affordable housing solution, including infill and subdivision development;
- National networks of regional and local nonprofits that provide technical assistance and assistance in securing financing to homeowners to organize, purchase and manage their communities;
- Research to provide comprehensive data on the status of manufactured housing as an affordable housing solution, from fee-simple lots to land-lease communities across the country;

- Policy advocacy and research – on issues such as titling conversion statutes, opportunity to purchase and fundamental freedoms – to foster a federal and state policy framework that supports consumer protections, homeowner rights, a sound manufactured housing finance market and an environment that promotes wealth creation for low-income homeowners; and
- Activities that promote peer-learning and industry knowledge on innovative and promising practices on the development of new products and activities that promote a sound and efficient marketplace for manufactured housing finance.

B. Sizing the Market

The manufactured housing market is poorly measured and tracked. The U.S. Department of Housing and Urban Development's Manufactured Housing Census tracks the number of new homes placed by region and various private firms track the number of manufactured home communities by state – most with inconsistent and incomplete records. Approximately 22 states have a public listing of manufactured home communities, but only a handful conduct regular surveys to ensure accuracy. The size of the market should take into account all 17 million Americans who live in manufactured housing and duty to serve evaluation should measure whether the enterprises are fully serving this entire market of homeowners. Duty to serve is intended to serve low- to moderate-income homeowners and not the industry so a focus of evaluation should be impact on these homeowners and not purely on outputs such as units.

III. Definition of Rural

As was noted at the beginning of this letter, manufactured housing is an important source of affordable housing, in particular in rural areas, including on Indian Reservations. According to the 2005 American Housing Survey, rural areas contain less than one quarter of the nation's housing units, but more than six out of 10 manufactured homes are located in rural areas. In many remote areas, site-built construction is not feasible or cost-effective, meaning that manufactured housing is the only affordable housing in many rural markets.

Defining rural is not as straight forward as it may seem. CFED is in agreement with the Housing Assistance Council (HAC) that for duty to serve purposes, USDA's Rural Development (RD) definition of eligible areas for affordable housing and community development programs' eligibility is the most appropriate. In addition, CFED agrees with HAC that all federally-designated tribal areas within USDA eligible areas be specifically included within the duty to serve rural areas definition. This definition is more precise than those suggested in the request for comments because it does not rely on county or tract boundaries that can vary widely by region of the country. Moreover, it is an established definition that many practitioners and rural developers are familiar with and understand. While the USDA definition may be harder to identify because it does not neatly fall within standard political or jurisdictional boundaries, it is the most accurate definition of rural for duty to serve goals.

I'M HOME is dedicated to promoting the use of good quality manufactured housing as one of many mechanisms to cost-effectively increase the supply of affordable housing and promote asset building. We welcome the opportunity to provide FHFA with guidance and access to information on our initiative. We appreciate your leadership on this issue and look forward to being a resource to FHFA as you move forward on implementation of the enterprises' duty to serve.

Sincerely,

Andrea Levere

Andrea Levere
President