September 18, 2009

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
1700 G Street, NW
Fourth Floor
Washington, DC 20552

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

Dear Mr. Pollard:

The Mortgage Bankers Association (MBA)[1] appreciates the opportunity to respond to the Federal Housing Finance Agency's (FHFA) Advance Notice of Proposed Rulemaking (ANPR) seeking comments regarding the duty of the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac to serve underserved markets.[2] The Housing and Economic Recovery Act of 2008 (HERA)[3] authorizes the FHFA to issue regulations for evaluating whether and the extent to which the GSEs have complied with this duty, and for rating the extent of such compliance. The FHFA seeks comments on the characteristics and types of transactions and activities that should be considered, and how to evaluate and rate the GSEs' duty to serve underserved markets (duty).

MBA's comments address the ANPR as it relates to the current statutory and regulatory framework while the GSEs are in conservatorship. However MBA also has developed comprehensive recommendations regarding the post-conservatorship role of the government and private sector in the secondary mortgage market, including mission-related obligations.

Background

Pursuant to HERA, the GSEs are required to provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families with respect to manufactured housing, affordable housing preservation, and rural markets. Additionally, HERA requires the FHFA to evaluate, rate and report to Congress annually on the GSEs' performance relative to this duty.

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

[2] 74 Fed. Reg. 148, 38572-38576, Aug. 4, 2009.

[3] Pub. L. 110-289, 122 Stat. 2654 (July 30, 2008).

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MBA Position

MBA requests the FHFA take a measured approach to adopting regulations governing the GSEs' duty to serve underserved markets. MBA believes it is possible for the GSEs to enhance the availability and affordability of financing for manufactured housing, affordable housing preservation and rural housing. However, we are mindful that current funding channels for all real estate financing sectors are unusually scarce. We therefore urge the FHFA to adopt rules that encourage the GSEs to pursue their HERA-mandated duty in a safe and sound manner that does not constrain the support the GSEs provide to funding channels for other real estate market sectors.

MBA's comments relative to specific questions posed in the ANPR follow.

Manufactured Housing

The ANPR seeks comment on the safety and soundness considerations associated with the GSEs purchasing or guaranteeing loans secured by manufactured home parks, land-home and real estate manufactured housing loans, and loans in jurisdictions where manufactured homes are financed as personal property loans.

MBA believes manufactured homes offer an important affordable housing option. According to a 2007 study by the Government Accountability Office, monthly manufactured housing costs are typically lower than for other housing types.[4] Underwriting standards for financing manufactured housing properties have improved considerably since the 1990's when loan performance reached its nadir. However, there is still uncertainty about the industry's lending due to a lack of historical data demonstrating improvements in performance. Regardless, studies have shown that manufactured home borrowers that owned the land defaulted at a rate less than half of those that did not.

For these reasons, MBA recommends establishing a regulatory framework in a way that recognizes the lower risk of manufactured housing on a permanent foundation on fee simple land but also encourages support for manufactured housing on rented pads in manufactured home parks. MBA also recommends encouraging the GSEs to collect, analyze and share data on manufactured home loans so that underwriting guidelines can be refined to more appropriately serve this market.

Regarding manufactured home parks, currently the GSEs differ markedly in their approach to this market with one GSE not purchasing any loans of this type and the other providing only limited support. MBA believes that because manufactured housing is a major component in affordable homeownership, a regulatory framework should be established that encourages:

1) Standards permitting the financing of qualifying 3-star parks as well as 4-star parks, to provide for affordable communities—not merely retirement and luxury parks.
2) Longer amortization periods of not less than 30 years, as the assets being mortgaged are land and infrastructure that do no depreciate at an accelerated pace.
3) No restrictions on the percentage of single-wide homes as these are generally the most affordable. Underwriting should focus on the history of the park, stability of the tenant profile, market acceptance/standards and the housing needs of the area.

[4] Federal Housing Administration Agency Should Assess the Effects of Proposed Changes to the Manufactured Home Loan Program. GAO-07-879; August 2007.

4) Financing of resident-owned communities (e.g. cooperatives) as well as more traditional ownership structures.

Affordable Housing Preservation
The ANPR notes that a number of the assisted housing programs enumerated in the statute are voucher, capital advance or grant programs that "may fall outside of their traditional role of purchasing, securitizing, and guaranteeing mortgage loans."[5] MBA does not believe that the GSEs need to expand beyond their current roles in order to serve this market. The GSEs can assist in the refinancing of currently assisted properties which will help to preserve them as affordable housing. For example, MBA believes that the GSEs should offer underwriting standards that match the risks of the loans, including those covering debt service coverage and loan to value ratios. The GSEs should also explore allowing more substantial repairs and rehabilitation on these types of properties as part of the refinance process.

Rural Areas
MBA also urges the FHFA to proceed with prudence in setting the parameters for defining the term "rural area." MBA points to the difficulties experienced by the Department of Housing and Urban Development (HUD) in estimating the size of the market considered "affordable" to low and moderate income families for the purposes of setting housing goals levels for the GSEs. At the time, MBA expressed concern that HUD's overestimates would trigger disruptions to the housing markets. MBA appreciates that FHFA has since "right sized" the relevant goals.

Evaluation of Performance
MBA supports the ANPR's proposed approach to rating the GSEs' performance of their duty using a method similar to that used by federal banking regulators to evaluate the Community Reinvestment Act compliance of institutions under their supervision. Furthermore, MBA believes overall assessment ratings of "Outstanding," "Satisfactory," "Needs to Improve," or "Noncompliance" for each underserved market appears to be a viable system. MBA supports a flexible approach that addresses each of the market segments independently, each of the four tests differently and including both effort and effectiveness as factors in the GSEs' ratings.

Conclusion
MBA appreciates the multitude of new regulations the FHFA must issue in accordance with HERA while simultaneously performing its conservatorship duties over the GSEs in an economic climate never before experienced. MBA, however, supports the overall approach of the FHFA in implementing the duties to serve under HERA in a manner that is more qualitative than quantitative and that balances safety and soundness with the need to serve underserved markets. MBA requests that you consider the modifications suggested above, and look forward to addressing any questions you may have.

Regards,

John A. Courson

John A. Courson
President and Chief Executive Officer

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[5] 74 Fed. Reg. 148, 38574, Aug. 4, 2009.