Duty to Serve Rulemaking
Proposed Rule (80 Federal Register 79182 (Dec. 18, 2015))

Roundtable Between the Federal Housing Finance Agency (FHFA) and Manufactured Housing Industry Stakeholders
April 26, 2016
Constitution Center, 400 7th St., S.W., Washington, D.C.
1:00 p.m. – 3:00 p.m. Eastern Standard Time

Attendees (in-person):

FHFA staff: Peter Brereton, Janell Byrd-Chichester, Matt Douglas, Jim Gray, Nina Griffith, Carrie Johnson, Sharon Like, Alfred Pollard, Mike Price, Jeannine Schroeder, Mitzie Smith-Mack, and Danielle Walton

George Allen (Community Owners Business Alliance (COBA7))
Jim Ayotte (Manufactured Housing Institute)
Susan Brenton (Manufactured Housing Communities of Arizona)
Mike Cappaert (Manufactured Housing Association for Regulatory Reform)
Richard Ernst (Financial Marketing Associates, Inc.)
Danny Ghorbani (Manufactured Housing Association for Regulatory Reform)
Lesli Gooch (Financial Marketing Associates, Inc.)
JD Harper (Arkansas Manufactured Housing Association)
Ron Haynie (Independent Community Bankers Association)
Tom Heinemann (Manufactured Housing Institute)
Brent Irvin (National Association of Federal Credit Unions)
Marc Lifset (Clayton Homes)
Scott MacFarlane (HAS Capital, LLC)
Dylan Magoun (National Association of Federal Credit Unions)
Dan McPheeters (Mortgage Bankers Association)
Cody Pearce (Mortgage Bankers Association)
Matt Webb (Clayton Homes)
Mark Weiss (Manufactured Housing Association for Regulatory Reform)

Summary: On April 26, 2016, FHFA staff identified above met with the above-referenced manufactured housing industry stakeholders representing varied manufactured housing industry market interests, in connection with FHFA's 2015 Duty to Serve (DTS) proposed rule. The purpose of this meeting was to provide the stakeholder attendees, who had previously submitted written public comments to FHFA on the proposed DTS rule, with an opportunity to discuss those comments, express their views on the comment letters submitted by others, or provide views on clarifying questions from FHFA regarding the comments. The following is a summary of the attendees' discussions at the meeting and reflects solely the views of the attendees as captured by FHFA staff. The term "Enterprise" refers to Fannie Mae or Freddie Mac.

Manufactured Housing Community (MHC) Tenant Pad Lease Protections

Some attendees stated that the laws of some states provide sufficient tenant pad lease protections that should be adequate for eligibility under FHFA's DTS regulation, without the need for any certifications about tenant pad lease protections by the manufactured housing community owner. The same attendees recommended that for states that lack adequate protections, the rule should specify certain requirements the manufactured housing community owner would certify to. Attendees discussed the existing significant pad lease protection laws for MHC tenants in Florida and Arizona.

Attendees supported tenant lease protections that provide more flexibility for unit owners in MHCs to sell their units in place.

Some attendees opposed the proposal to provide MHC tenants with a right to receive at least 120 days advance notice of a planned sale or closure of their MHC, within which time they could match any bona fide offer for sale. Attendees said that providing residents with 120 days advance notice could scare the tenants, slow down the sale process, and possibly lose the potential buyer of the MHC.

Small MHCs

One attendee stated that there are 50,000 MHCs in the country, of which 85 percent are small MHCs. The attendee said that 96 percent of larger MHCs are in one of 500 portfolios. The average size portfolio is 20 properties and the average size MHC is 220 sites.

One attendee opposed the rule's proposed Regulatory Activity for Enterprise support for financing of small MHCs (MHCs with less than 150 pads) on the basis that small MHCs do not need capital support. Other attendees opposed the proposed Regulatory Activity on the basis that financing of small MHCs does not encourage homeownership for very low-, low-, and moderate-income households and would take away focus from chattel lending, where they said the real affordable housing need is.

Manufactured Housing Units Titled as Real Estate

One attendee stated that land-home lending comprises 25-30 percent of lending to households buying manufactured homes.

Some attendees asserted that appraisal difficulties make determining accurate valuations of manufactured homes titled as real estate problematic, resulting in less manufactured housing financing. These difficulties include finding comparable home sales and lack of appraiser expertise in manufactured housing products. Attendees pointed out that home sales listed in the Multiple Listing Service (MLS) are used to conduct manufactured home appraisals, but the listings may not be adequate "comparables" because they could be sales of manufactured homes from several years ago or in distant locations, or could be sales of site-built homes. It was noted that private, contracted sales are not included in the MLS.

An attendee suggested that the Enterprises could help with these appraisal difficulties by collecting loan and sales data from different sources and build the valuation on the subject property based on new home sales data, rather than on seven, eight or nine year old data. The attendee suggested that the Enterprises could build a public database for this data.

One attendee stated that affordability of mortgages on units financed as real estate is a problem, specifically mentioning the 50 basis point loan level price adjustment assessed by the Enterprises. The attendee indicated that there is no Federal Housing Administration/Department of Veterans Affairs rate adjustment for manufactured housing titled as real estate. One attendee said that using a Ginnie Mae execution could result in manufactured home loans that perform comparably to site-built homes. The attendee said that it could originate loans for manufactured homes titled as real estate that perform comparably to site-built homes.

Chattel Financing

Chattel Loans Market Overview. Most attendees recommended that the rule provide DTS credit for Enterprise support of chattel lending, which they said would provide manufactured home borrowers with a more affordable option for financing than real estate-titled loans. One attendee said that many people choose to purchase homes titled as chattel because they do not have to make improvements and this saves money. They also do not have to close with a title company.

An attendee said that taxes are lower on chattel-financed homes than on homes titled as real estate. The attendee also stated that if the home is titled as real estate and there is a foreclosure, the household faces a higher judgment and the lender has to overcome the associated higher costs by charging higher interest rates to borrowers.

An attendee asserted that there is a movement to steer potential borrowers from chattel loans to real estate-titled loans and that the consumer loses on this. The attendee stated that "home only" loans are covered by Truth in Lending Act protections. Another attendee said the Consumer Financial Protection Bureau (CFPB) prohibits dealerships from steering borrowers to chattel.

One attendee said that most borrowers understand the difference between chattel and real estate-titled loans. The statistic from the CFPB White Paper that 65 percent of manufactured home borrowers own the land under their homes yet receive chattel financing was discussed. An attendee cited several possible reasons why borrowers may obtain chattel financing rather than real estate mortgages on their manufactured homes: (i) borrowers who own the land beneath the home may not want to encumber, or further encumber, that land; or (ii) the home would be placed on family-owned land and the family member(s) do not want the land mortgaged or subject to a lease agreement. It was noted that divided unit and land ownership interest could be problematic.

One attendee said that 90 percent of manufactured homes in Mississippi are chattel financed, and another attendee said that approximately 80 percent of manufactured homes in Florida are chattel financed.

An attendee stated that captive financing within the manufactured housing industry grew out of necessity but is a shrinking market. The attendee said that regardless of who originated the loan, the borrower must meet Ability-to-Repay requirements. The attendee was uncertain how Enterprise support for chattel financing might affect the captive financing market. The attendee said that homes with low mortgage balances are going into captive financing because lenders cannot afford to originate them and they do not want to be considered "high cost" lenders. The attendee stated that captive financers can originate riskier loans because they know the borrower. It was stated that new Home Mortgage Disclosure Act reporting requirements will include reporting on MHCs originating more than 25 manufactured home financing transactions a year.

Chattel Loan Performance. According to one attendee, a Berkshire Hathaway annual report indicates the foreclosure rate on a $12.4 billion portfolio consisting of both chattel and real estate-titled manufactured home loans (2015 report; 2.64 percent foreclosure rate[1]).

One attendee provided data on chattel loan performance aggregated from two unnamed national lenders (Attachment 1). The lenders hold some manufactured housing loans on their own portfolio and sell others. The data do not include captive financing or loans originated by brokers. The data are for borrowers with credit scores of 640 or higher. The average down payment for the loans was 10-15 percent. The attendee attributed the improvement in performance shown in the data from 2010 to 2015 to federal Ability-to-Repay requirements and stricter underwriting.

One attendee who serves high credit score borrowers said that its delinquencies on manufactured home chattel loans were five times better than delinquencies on loans on site-built homes in the Enterprises' prime portfolios, and that the attendee's chattel loans had low repossession rates.

One attendee said that chattel loans have few prepayments in their first five years.

An attendee said that if lenders were certain that the Enterprises would establish a secondary market for chattel loans, the lenders would share chattel loans performance data with the Enterprises. It was also stated that if mortgage insurers were certain that the Enterprises would support chattel loans, the mortgage insurers would develop a mortgage insurance product for chattel loans.

An attendee said that with past originations of chattel loans, no verification of borrower income was performed but that income is now required to be verified. The attendee stated that employment should be verified. The attendee asserted that if chattel loans are verified and seasoned, there is no reason why they would not perform.

An attendee stated that a number of credit enhancements could mitigate chattel financing risk. For example, higher Enterprise guarantee fees (G-fee) could be charged. The G-fees could be charged on a sliding scale, depending on the chattel loan's loan-to-value (LTV) ratio. If the LTV

[1] See Berkshire Hathaway, Inc – 2015 Annual Report, 9 (Feb. 27, 2016), *available at* http://www.berkshirehathaway.com/2015ar/2015ar.pdf.

ratio is higher, then the G-fee would be higher. If the LTV ratio is 80 percent or lower, then there would be no G-fee.

An attendee said that the cost of servicing is higher in manufactured housing generally. A normal servicing fee for a chattel loan is about 125 to 150 basis points. Several attendees said that high-touch servicing is needed when dealing with very low-, low-, and moderate-income borrowers. One attendee said that keeping all servicing of its manufactured home loans in-house has resulted in better loan performance. The attendee indicated that it sells manufactured home loans, loans on condominiums, and loans on site-built homes into a single loan pool.

Several attendees asserted that if the Enterprises created a credit box and lenders had "skin in the game," this would open up lending beyond loans that would be eligible for sale to the Enterprises, including sales to private investors. An attendee said that having "skin in the game" is a risk mitigant. It was also recommended that DTS credit be given for expansion of products, even if the Enterprises are not the ones purchasing them.

According to one attendee, since Fannie Mae's purchase of the Greentree Financial private label security in about 2000, changes in federal regulatory law have affected dispute resolutions. The loans collateralizing that transaction performed poorly, but the attendee cautioned against inferring too much from a 16-year old transaction.

One attendee opposed Enterprise support for chattel financing on the basis that it is a higher risk product for lenders and Enterprises, lenders depend on the Enterprises, and the Enterprises do not have the financial condition to support it. The attendee said that by the time an Enterprise chattel loans pilot could roll out, the Enterprises would have zero capital unless circumstances change. The attendee indicated less concern about the Enterprises' taking on such risk if they were fully capitalized. This attendee stated that given the Enterprises' financial condition, taxpayers and the government should not be exposed to the risks of chattel lending. Another attendee responded that chattel loans could be priced sustainably so that they do not erode the Enterprises' capital.

<u>Secondary Market for Chattel Loans</u>. An attendee said that the number one problem in the manufactured housing industry is the lack of a secondary market for chattel loans. The attendee stated that many big banks would be interested in chattel financing if there were a secondary market for the loans. The attendee said that if such a secondary market existed, more banks would engage in chattel financing and the resulting increased competition would lower chattel interest rates to borrowers and lower default rates.

An attendee said that when interest rates fall, owners of site-built housing typically refinance and this is the reason for the robust mortgage market. The attendee said that this does not happen in manufactured housing because there is no secondary market for refinanced chattel loans. The attendee stated that consumers who are vulnerable – very low-, low-, and moderate-income consumers – should not be denied the opportunity to refinance their chattel loans and improve their lot in life when interest rates fall.

One attendee said that it is buying as many chattel loans as it can. It bought $400 million of chattel loans from a mortgage company, with the intention to create a private securitization market for these loans. The attendee said that there is a lot of interest because of the spread that can be made. According to the attendee, there is world-wide investor demand, with investors from six to eight countries interested.

Last 6 years portfolio performance stats.
2010-2015

	Delinquency 30+	Default	Recovery
2015	1.74%	1.07%	52.49%
2014	2.00%	1.09%	49.56%
2013	2.12%	1.57%	44.19%
2012	2.59%	1.63%	44.16%
2011	2.70%	1.67%	43.63%
2010	2.56%	1.64%	41.04%

Total Portfolio 29,027 Loans
$ 1.4 B

COBA7® presents…

One Man's View of Today's Manufactured Housing Industry
&
the evolution of his vertically-integrated firm, from direct home-only lender, to federally regulated mortgage company, to now partnering with a national lender qualified as an approved lender.

Following quotations are from Alvan L. Schrader's recent autobiography,

***'No Respect At All…'*, a PATH TO MILLION$**, 2015,

available from PMN Publishing via Official MHIndustry HOTLINE: (877) MFD-HSNG or 633-4764, for only $25/book – with $20.00 donated to the RV/MH Hall of Fame!

"My main concern regarding the industry is the lack of overall growth on a national basis. At one time, back in the early 70s, manufactured homes represented one out of every four new homes built in this country. That ratio has slid recently to an all time low of one out of every 20 new homes. An even greater danger has been the lack of a positive image in the eye of the American pubic. How many times are the down trodden, hard luck, poverty stricken, low life shown living in an old rusty trailer in a bad trailer park, in a Hollywood movie or television show. We can't seem to get away from this image which is shared by the general public, but is far from the truth and represented by over 15 million people living in this form of housing in the US today. The lack of development of new modern manufactured home communities is a main reason for this image problem, in part caused by increasingly prohibitive zoning laws, fostered in the 80s and 90s.

I truly think the industry is, in many ways, its own worst enemy. Many of the old crowd like to keep things the way the are, and resist change in every way. The lack of an industry wide image campaign is a prime example. Other trade groups have promoted their product with national television campaigns, and have changed images and promoted growth and sales. It takes big money, but it also takes great leadership, which has been sadly lacking in Washington, D.C., for years.

For instance, we're an industry which provides quality housing for low income Americans, and have never taken any form of subsidy from the Federal Government!

Further, there are no Government-sponsored loan programs to help finance manufactured homes in land-lease-lifestyle communities. Compare that with all other forms of government-favored housing, and you can quickly see why this industry is not growing."

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"For the past few years, prior to Federal intervention, we had survived the financing crunch by financing homes with personal money. At one time, we had over 400 actual loans with several million dollars outstanding. We found several buyers who had been hurt in the residential housing mess, and had a foreclosure on their record, but were still good people with the rest of their credit satisfactory. We made many loans in this category of buyers and have been well-rewarded for the decision. Where else can you get a 12% return on your money, while increasing sales and filling vacant lots? Further, we only have a 7% repossession rate, plus we resold every repossession and seldom lost a dime.

Upon reviewing the new regulations of the C.F.P.B., we decided to try to qualify for all the requirements necessary to become a mortgage company. Mike (Al's son) passed both the State and Federal licensing tests and things appeared to favor going ahead with the new company. After the C.F.P.B. came out with their revised set of rules, we decided the reporting paperwork, bonding, and personal liability were too much, and that we had to find a simpler way to continue to finance our homes. Once again, the Federal government, in its' zeal to protect the American consumer, did just the opposite and created regulations that eliminated loans for the very people they were supposed to protect. I would venture to say, thousands of low income people have been denied the right o own a home because of these misguided regulations.

As of January 1, 2014, we stopped making direct home loans. Instead, we affiliated with a national lender who is qualified as an approved lender. The lender handles all our applications and makes the credit decision regarding the ability of the borrower to qualify for a national bank loan. If the applicant does not qualify for some reason, but still is an acceptable risk in our eyes, and satisfies all the Federal requirements, the lender processes and closes the loan,. We then purchase the loan as an investor and put it in the A.L.S. Properties portfolio No. 2.The lender retains the servicing of the loan for a fee.

This arrangement has allowed us the flexibility to still be competitive by offering all levels of loans, and at the same time, meets all the governmental requirements while increasing our investment in our loan portfolio."

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