



January 8, 2021

Mr. Alfred Pollard  
General Counsel  
Federal Housing Finance Agency  
400 7<sup>th</sup> Street, SW, 8<sup>th</sup> Floor  
Washington, DC. 20219

**RE: Prior Approval for Enterprise Products (RIN 2590-AA17)**

Dear Mr. Pollard,

The Manufactured Housing Institute (MHI) is pleased to provide comments to the Federal Housing Finance Agency (FHFA) in response to FHFA's proposed rule on the prior approval for new products offered by Fannie Mae and Freddie Mac (the "Enterprises").

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include home builders, suppliers, retail sellers, lenders, installers, community owners, community operators, and others who serve the industry, as well as 49 affiliated state organizations. In 2019, our industry produced nearly 95,000 homes, accounting for approximately 10 percent of new single-family home starts. These homes are produced by 34 U.S. corporations in 135 plants located across the country. MHI's members are responsible for close to 85 percent of the manufactured homes produced each year.

MHI appreciates FHFA's desire to have a formal process to ensure that Fannie Mae and Freddie Mac only engage in activities that comply with their charter and that further their charter responsibilities to increase liquidity, provide stability, and promote affordability in the home mortgage market, for both single family and rental housing.

However, MHI wants to register our concerns that this Prior Approval Process not unduly interfere with or slow down the critically important development and modification of loan products and activities that serve affordable housing, including manufactured housing, particularly with respect to activities conducted pursuant to the Enterprises' statutory Duty to Serve responsibilities.

Therefore, MHI makes two recommendations for revisions to this proposed rule:

- (1) Exempt activities conducted pursuant to the Enterprises' Duty to Serve Plans from the Prior Approval Process.
- (2) Limit the criteria for determining which products and activities are subject to the Prior Approval Process – and limit its implementation in practice – to only truly new products and activities.

### **Duty to Serve Activities**

The 2008 Housing and Economic Recovery Act (HERA) made major reforms to Fannie Mae and Freddie Mac. One of the most important reforms was to address the prior failure of the two Enterprises to adequately serve underserved markets that are critically important to single family and multi-family housing. Specifically, HERA established on the part of the Enterprises a Duty to Serve manufactured housing, low-income housing preservation, and rural housing.

Under Duty to Serve, Fannie Mae and Freddie Mac are required to “*provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families*” for manufactured housing, as one of the three Duty to Serve categories.

Specifically, the Enterprises are required to engage in and be evaluated with respect to the following requirements with respect to each of the three Duty to Serve categories for: (A) “*the development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing,*” (B) “*the extent of outreach to qualified loan sellers,*” (C) “*the volume of loans purchased,*” and (D) “*the amount of investments and grants.*”

Pursuant to these statutory responsibilities, Fannie Mae and Freddie Mac are required to develop – and have developed – detailed Duty to Serve Plans that identify how they are going to carry out their Duty to Serve responsibilities. As part of this process, FHFA must approve these Plans.

Therefore, in light of the high priority Congress placed in statute for carrying out activities under Duty to Serve, and in light of the fact that FHFA reviews and approves of the actual Duty to Serve Plans, MHI recommends that the proposed rule exempt from the new Prior Approval Process any products or activities carried out pursuant to the Enterprises’ Duty to Serve Plans.

### **Criteria for Being Subject to the Prior Approval Process**

The proposed rule establishes criteria for determining whether an Enterprise is engaging in a new activity or a new product, which in turn makes such product or activity subject to a process to determine whether such activity or product is consistent with the Enterprises’ statutory authority.

MHI appreciates that at times Fannie Mae and Freddie Mac have strayed from their primary mission of providing liquidity for our mortgage markets, particularly in the period before they entered into conservatorship. However, we have concerns that the criteria proposed pursuant to the rule are unduly vague and general – and if used indiscriminately, could slow down or interfere with the development and modification of critically important lending Enterprise mortgage products and modifications.

The ability for the Enterprises to act quickly to develop and implement innovations or product enhancements is particularly important during times of economic crisis or need – an example of which is the current economic and mortgage impact from the COVID-19 crisis. In periods of economic stress, it is critically important that families have access to affordable mortgage credit, particularly for low and moderate income families that, for example, want to live in the most affordable homeownership option of manufactured homes.

For example, under the proposed rule, minor product changes could result in a determination that the change is “an enhancement, alteration or modification to an existing activity” and might require “a

new . . . process infrastructure, policy or modification.” Notably, FHFA might determine that a minor product change meets the standard for public notice and comment as a new product under public interest factors simply because it “is being or could be supplied by other market participants” and “could result in less competition,” or involve other factors the Director deems appropriate.

MHI appreciates that criteria to determine whether a product or activity meet a threshold for consideration under the Prior Approval Process is inherently subjective. However, in the interest of ensuring that important mortgage product enhancements or innovations are not unduly delayed or impeded, we would request that the criteria be more sharply delineated in the final rule to exclude what are minor product enhancements or innovations.

In addition, in the application of this new prior approval regime, MHI suggests that FHFA should be selective in applying this process, so that it is limited to products and activities that clearly meet a high threshold of truly being a new product or activity.

We appreciate your consideration of these comments and recommendations.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is written in a cursive, flowing style.

Lesli Gooch, Ph.D.  
Chief Executive Officer