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NAHB

July 26, 2012

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, SW
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RE: Proposed Rule - RIN 2590-AA49
2012-2014 Enterprise Housing Goals

Dear Mr. Pollard:

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I would like to submit comments on the above-referenced proposed rule, which establishes affordable housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2012, 2013 and 2014. NAHB is a Washington-based trade association representing members involved in building single family and multifamily housing, including participants in the Low Income Housing Tax Credit program, remodeling, and other aspects of residential and light commercial construction. NAHB is affiliated with more than 800 state and local associations.

<u>Background</u>

The Housing and Economic Recovery Act of 2008 (HERA) amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) to require the Federal Housing Finance Agency (FHFA) to establish, monitor and enforce annual housing goals for the Enterprises effective for 2010 and each year thereafter. HERA made significant changes to the original housing goals provisions in the Safety and Soundness Act, which were implemented by FHFA in a final rule published on September 14, 2010. Those changes included: lowered income definitions; separate purchase goals for home purchases and refinance mortgages; separate single family and multifamily goals; elimination of the overall goals for single-family and multifamily combined; single family goals based on the number of goal-qualifying mortgages rather than units; and multifamily goals based on numbers of units rather than dollar volume. In addition, certain mortgages were excluded from counting toward the goals: units financed by mortgages in private label securities purchased by the Enterprises; loans on manufactured housing; home equity conversion mortgages (HECMs);

and second liens.

The new housing goals established by FHFA's final rule in 2010 thus included four goals and one subgoal for single family owner-occupied housing and one goal and one subgoal for multifamily housing. The single family goals target:

- Purchase money mortgages for low-income families (up to 80 percent of area median income (AMI))
- Purchase money mortgages for very low-income families (up to 50 percent of AMI)
- Purchase money mortgages for families that reside in low-income areas:
  - Home purchase mortgages for families in low-income census tracts, defined as tracts with median family income no greater than 80 percent of AMI
  - Home purchase mortgages for families with incomes no greater than 100 percent of AMI who reside in minority census tracts, defined as tracts with minority population of at least 30 percent and a median family income less than 100 percent of AMI
  - Home purchase mortgages for families with incomes no greater than 100 percent of AMI who reside in federally declared disaster areas (regardless of the minority share of the population in the tract or the ratio of tract median family income to AMI)
- Refinancing mortgages for low-income families

The multifamily goal and subgoal target:

- Multifamily units affordable to low income families
- Multifamily units affordable to very-low income families

FHFA states that, while the Enterprises are in conservatorship, all activities, including those in support of affordable housing, must be conducted in a safe and sound manner, per the requirements of HERA. If FHFA determines that the housing goals cannot be met consistent with such requirements, it may suspend the goals until they can be achieved.

FHFA is proposing to continue with the existing structure of the housing goals, including the market-based approach that was adopted for 2010 and 2011, with new benchmark levels in place through 2014.

NAHB agrees that Fannie Mae and Freddie Mac must continue to meet their affordable housing mission during conservatorship. The Enterprises' support to this market segment is critical, perhaps even more so now given the continuing instability of the housing finance system. NAHB generally supports the proposed housing goals rule. NAHB's specific comments and recommendations follow.

Proposed Single Family Housing Goals for 2012-2014

FHFA necessarily is looking forward with regard to the Enterprises' participation in the housing industry and balancing the role they have played in the past with the uncertain future they are facing today. While there has been much discussion among housing industry organizations and policymakers on Capitol Hill about the future of the housing finance system, there has not been any significant movement toward a transition from Freddie Mac and Fannie Mae to a new secondary mortgage market system. Until there is a concerted focus on housing finance reform, the Enterprises will continue to play an enormous role in making mortgage credit available.

As conservator, FHFA has an obligation to intercede in the Enterprises' activities if they are not consistent with the safety and soundness requirements of conservatorship. However, until such a determination is made related to the housing goals, both entities must proceed to meet their public missions as outlined in their Charters. Both charters state specifically that the Enterprises must provide for support of affordable housing through activities related to mortgages on housing for low- and moderate-income borrowers and access to mortgage credit nationwide including in central cities, rural areas and underserved markets.

As per HERA's amendment to the Safety and Soundness Act which required the Director of FHFA to establish new housing goals effective for 2010 and beyond, FHFA made some structural changes to the goals, as mentioned previously, and introduced the market-based approach of assessing achievement of the goals.

The market-based approach allows FHFA to declare an Enterprise has met a goal if its mortgage purchases in that goal category exceed the benchmark level or if the Enterprise has purchased a percentage of mortgages in that goal category equal to the percentage of mortgages in that category originated by the overall market (market share.) Market share is based on FHFA analysis of data reported by primary mortgage market lenders in accordance with the Home Mortgage Disclosure Act (HMDA.) An Enterprise will be found to have failed a goal if its performance falls below both the benchmark level and the actual market share for a goal category.

Considerations for Setting the Goals

FHFA must consider seven factors in setting the single family housing goals: (1) national housing needs; (2) economic, housing, and demographic conditions; (3) performance and effort of the Enterprises towards achieving previous years' housing goals; (4) ability of the Enterprises to lead the industry in making

mortgage credit available; (5) other reliable mortgage data as may be available; (6) size of the conventional mortgage market; and, (7) maintaining sound financial condition.
FHFA examined each of the seven components above and determined to adjust the benchmark single family housing goals for 2012-2014 based on the past performance and effort of the GSEs; reliable mortgage data; size of the conventional mortgage market; and the need for the Enterprises to remain safe and sound. In particular, FHFA's analysis for setting the benchmark for each single family housing goal relied heavily on the prediction of the size of the conventional mortgage market. Market size was determined by examining the effects of the Federal Housing Administration's (FHA) expected market share, unemployment, tighter underwriting conditions, level of refinancing, elimination of manufactured housing loans, interest rates, housing prices, the overall housing market and the market outlook.

Generally speaking, FHFA expects FHA's market share to remain high thereby reducing the availability to the Enterprises of conventional goal-qualifying mortgages. To the extent that high unemployment tends to impact low-income wage earners more than high-income wage earners, the continuation of relatively high unemployment also could reduce the level of mortgage originations by goal-qualifying borrowers, according to FHFA.

Rigid underwriting standards by both Enterprises and mortgage insurers also could continue to impact credit availability within the conventional mortgage market. When setting the benchmark goals, FHFA took into account that strict underwriting guidelines could result in fewer acquisitions by the Enterprises of goal-qualifying mortgages.

As shown in the tables below, for years 2012-2014, FHFA proposes to lower the benchmark goals for home purchase mortgages for low-income families, very low-income families and families in low-income and high minority census tracts (subgoal.)

FHFA proposes to keep the refinancing goal the same. Qualifying permanent modifications under the Administration's Home Affordable Modification Program (HAMP) are counted toward the refinance goal.

The overall goal for low-income areas has not been determined due to the fact that it includes home purchase mortgages that qualify for the federally-designated disaster areas portion of the goals and a market estimate is not yet available.

FHFA has set each benchmark goal below its forecasted level of the market share of each goal category – with the exception of the total low-income areas goal that has yet to be determined.

Single Family Housing Goal Benchmark Levels
Past and Proposed

	Low-Income Purchase	Low-Income Refinance	Very Low-Income Purchase	Low-Income Areas*	Subgoal Low-Income & High Minority Census Tract
2012-2014	20%	21%	7%	TBD**	11%
2010-2011	27%	21%	8%	24%	13%

* Low-income Areas Home purchase goal includes: 1) Home purchase mortgages in census tracks in which the median family income does not exceed 80% of area median income (AMI); 2) Home purchase mortgages for families with incomes no greater than 100% of AMI that reside in minority census tracts, defined as tracts with minority population of at least 30% and a median family income of less that 100% of AMI; 3) Home purchase mortgages for families with incomes no greater than 100% of AMI who reside in federally-declared disaster areas.
** This goal includes home purchases mortgages that qualify for the designated disaster areas portion of the goal. A market estimate is not available, but will be provided to the Enterprises in January 2012 for 2012-2013.

FHFA has considered the same components, except for underwriting standards, when forecasting levels of market share for each goal category.

Single Family Housing Goal Forecast Levels

	Low-Income Purchase	Low-Income Refinance	Very Low-Income Purchase	Low-Income Areas*	Subgoal Low-Income & High Minority Census Tract
Market Forecast 2012	22.4%	21.2%	7.5%	N/A	11.9%
Market Forecast 2013	19.6%	24.1%	7.3%	N/A	11.8%

* This goal includes home purchases mortgages that qualify for the designated disaster areas portion of the goal. A market estimate is not available, but will be provided to the Enterprises in January for 2012-2013.

<u>NAHB's Comments on the Proposed Single Family Housing Goals</u>

NAHB believes it is appropriate for the Enterprises to continue to have housing goals that help ensure they meet the component of their public mission that requires them to provide access to mortgage credit for traditionally underserved home buyers and in underserved areas. The Enterprises continue to dominate the conventional mortgage market in the absence of any meaningful participation by private lenders. With a now-explicit government guarantee, NAHB would argue they have an enhanced responsibility to support a market for borrowers whose home purchase and refinance mortgages qualify under the housing goals guidelines, as long as this support can be maintained without a negative impact on the safety and soundness of the entities.

In acknowledgement of the view by some that the single family affordable housing goals were somewhat responsible for the recent financial difficulties of the Enterprises and the ultimate broad market collapse, NAHB cautions that the issue of setting future housing goals cannot be taken lightly and must be done with careful consideration. NAHB believes FHFA has exercised an appropriate level of deliberation in proposing the single family housing goals for 2012-2014.

As proposed, NAHB believes each of the benchmark levels for the single family housing goals is set at a suitable and realistic level. NAHB agrees with FHFA's basic analysis of the factors it has considered to determine the proposed goal levels. Lowering each of the goals from the 2010-2011 benchmark levels, with the exception of the low-income refinance goal, acknowledges FHFA's expectations of zero or slow growth by the single family mortgage market in 2012-2013 and continued uncertainty about the impact of other economic and housing market factors on originations in the conventional market. Lowering the goals also may be an acknowledgement by FHFA that the Enterprises' inability to meet their 2010 benchmark goals was due to the broad market environment which shows little indication of improvement in enough areas to warrant the same or higher goals for 2012-2014 than those set for 2010 and 2011.

Each single family goal appears to track closely with FHFA's forecasted market share for originated mortgages that would meet the requirements for each goal category. This demonstrates to NAHB that FHFA recognizes the secondary market cannot purchase more goal-qualifying mortgages than the primary market originates. This realization also is evident in FHFA's market-based approach to assessing the Enterprises' performance toward meeting the goals - an approach NAHB continues to support.

Proposed Multifamily Housing Goals for 2012-2014

HERA changed the structure of the multifamily housing goals for 2010 and beyond by expanding the scope of the goal to cover units affordable to all low-income families, regardless of property location. In addition, HERA requires FHFA to establish requirements for the purchase of mortgages on multifamily housing that finance units affordable to very low-income families.

Considerations for Setting the Multifamily Goals

HERA requires FHFA to consider six factors in establishing multifamily housing goals: (1) national multifamily mortgage credit needs and the Enterprise's ability to provide additional liquidity and stability to the multifamily market; (2) performance and effort of the Enterprise in making multifamily mortgage credit available in previous years; (3) size of the multifamily market for housing affordable to low-income and very low-income families, including the size of multifamily markets for smaller size housing; (4) ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for low-income and very low-income families; (5) availability of public subsidies; and, (6) need to maintain the sound financial condition of the Enterprise.

The following tables show the proposed multifamily goals levels for (1) the multifamily low income goal, which targets housing affordable to families with incomes no greater than 80 percent of AMI; and, (2) the multifamily very-low income subgoal, which targets housing affordable to families with incomes no greater than 50 percent of AMI.

Multifamily Low Income Goals 2012-2014
Number of Units

	Fannie Mae	Freddie Mac
2012	251,000	191,000
2013	245,000	203,000
2014	233,000	181,000

Multifamily Very-Low Income Subgoals 2012-2014
Number of Units

	Fannie Mae	Freddie Mac
2012	60,000	32,000
2013	59,000	31,000
2014	53,000	27,000

FHFA explains that, although traditional participants in the multifamily mortgage finance market have slowly started to return, the Enterprises remain the largest sources of multifamily capital, comprising just over 60 percent of originations in dollar terms in 2011 (although this is down from its peak of 87 percent in 2009). FHFA does expect the Enterprises to have falling shares of the market in 2012 to 2014, although the overall multifamily mortgage market should grow as the economy recovers. That the overall market will grow is evidenced by falling vacancy rates, increasing rents and rising property prices. Additionally, low interest rates and increased demand for rental housing should spur an increase in multifamily construction. FHFA estimates that the volume of multifamily originations will grow from $65 billion in 2011 to approximately $75 billion in 2012 and $80 billion in 2013 and 2014.

Following past practice, FHFA is proposing to set goal levels lower for Freddie Mac than for Fannie Mae. Freddie Mac has relied more heavily on purchasing CMBS to obtain goals-eligible units than Fannie Mae, but multifamily units financed through CMBS are no longer goals eligible. The higher goal for Fannie Mae also reflects its larger portfolio and the opportunity to refinance loans back into its portfolio.

While FHFA proposes an increase in goals for both Enterprises compared to 2010 and 2011, the proposed 2012 – 2014 goals are actually lower than what the Enterprises achieved in 2011. Additionally, the goals decline over the three-year period (with the exception of 2013 for Freddie Mac's low income goal). This is a reflection of FHFA's expectation that the Enterprises' share of the market will decline over the next few years as traditional competitors return to the market.

FHFA discusses the availability of public subsidies and how that affects the Enterprises' ability to meet its goals. FHFA points to the recovery of the Low Income Housing Tax Credit (LIHTC) market, stating that the Office of Management and Budget estimates that an average of $7.8 billion per year in equity will be raised during 2013 to 2017. This is in contrast to the estimated $4.5 billion raised in 2009, and closer to the 2007 pre-recession level of about $9 billion. FHFA states that with LIHTC investment levels increasing, there will be more opportunities for the Enterprises to finance LIHTC properties, and therefore, goals-eligible units should increase.

FHFA states that it has taken a conservative approach to setting the multifamily goals for 2012-2014 because of the difficulty of predicting changes in the market. FHFA also states that it may adjust the goals at a later date if market conditions so require.

Past Performance – Low Income Goal

FHFA notes that the Enterprises played a major role in funding multifamily units for low income families in the past, citing an average of 346,00 annually over the 2006-2009 period for Fannie Mae and an average of 226,000 units over this period for Freddie Mac. However, FHFA set the low income goal for Fannie Mae and Freddie Mac for 2010 and 2011 at only 177,750 units and 161,250, respectively.

These goal levels were based on FHFA's forecast that the multifamily market would not change significantly over the 2010-2011 period due to continued uncertainty in the markets. It also cited steep declines in property values, which meant many properties would not be eligible to refinance with the Enterprises. Further, another limiting factor cited was the relatively small dollar amount of loans maturing in the Enterprises' portfolios in 2010 and 2011.

In spite of these constraints, Fannie Mae surpassed its low income goal, financing 214,997 low income units in 2010 (121 percent of its goal), while Freddie Mac financed 161,500 such units (100.2 percent of its goal). While not included in the proposed rule, FHFA's annual report on the Enterprises to Congress indicates that preliminary 2011 performance for Fannie Mae shows it also exceeded its 2011 low income goal, financing 301,224 low income units (169 percent of its goal), with Freddie Mac exceeding its 2011 goal as well, financing 229,001 low income units (197 percent of its goal).

Past Performance - Very-Low Income Subgoal

FHFA reports that, on average, Fannie Mae financed 83,000 very-low income units during the period 2006 -2009, and Freddie Mac financed 39,000 such units during that period. However, the subgoals were set much lower than the average achieved during that period: 42,750 units for Fannie Mae and only 21,000 units for Freddie Mac for 2010 and 2011. Both Enterprises surpassed their very-low income housing subgoal in 2010: Fannie Mae financed 53,908 units (126 percent of its goal) and Freddie Mac financed 29,656 such units in 2010 (141 percent of its subgoal). According to the FHFA annual report to Congress, both Enterprises also exceeded their 2011 very-low income subgoal, with Fannie Mae financing 84,244 units (197 percent of its goal) and Freddie Mac financing 35,471 units (169 percent of its goal).

Multifamily Low Income and Very-Low Income Goals and Performance 2010 and 2011

	Annual Low Income Goal for 2010 and 2011	# Units Achieved for 2010 and Estimated 2011*	Annual Very-Low Income Goal for 2010 and 2011	# Units Achieved for 2010 and Estimated 2011*
Fannie Mae	177,750	214,997 301,224	42,750	53,908 84,244
Freddie Mac	161,250	161,500 229,001	21,000	29,656 35,471

*2011 counts are not included in the proposed rule but are provided as reported by the Enterprises in their respective March 2012 *Annual Housing Activities Report.*

Financing of Low-Income Units in Small Multifamily Properties

HERA requires that FHFA obtain an annual report from the Enterprises on their purchases of mortgages on small (five to 50 units) multifamily housing that is affordable to low-income families. FHFA reports that both Enterprises decreased their purchases of such properties due to lack of CMBS issuances for sale and a decline in the overall volume of small multifamily loans available to the Enterprises for purchase. Freddie Mac's activity was almost nonexistent, as it financed only 459 such units compared to Fannie at 12,460 units.

In 2010, FHFA invited comments on whether it should set additional requirements for small multifamily low-income units. The 2012-2014 proposed rule does not include any goals for small multifamily low-income units, although as noted above, it does report on the Enterprises' performance in this regard.

<u>NAHB Comments on the Proposed Multifamily Housing Goals</u>

NAHB generally agrees with FHFA's assessment of the multifamily market and its likely direction over the next several years. While we agree that the Enterprises' share of the market is likely to continue to fall as traditional competitors return, NAHB believes that the Enterprises will continue to be the leaders for some time, certainly over the next several years.

The CMBS market has not regained its footing in any significant way, and other competitors such as insurance companies and pension funds do not invest heavily in units affordable to low and very-low income units. FHA has not solved its problems with timely loan processing, and its new pilot program to streamline LIHTC loans is limited in scope, which also will favor the Enterprises.

NAHB also agrees with FHFA that the LIHTC market is healthy, and demand for credits remains strong. Sources of soft financing, however, have become more difficult to procure, which may require developers to downsize projects. A looming issue that will affect the LIHTC market is the expiration of the "fixed" nine percent credit, which, unless Congress extends or makes permanent, will result in the need for more soft funding for projects, further downsizing, or both.

FHFA was very conservative in setting the multifamily goals for 2010 and 2011 and is even more conservative in its approach to the 2012 to 2014 goals. NAHB believes that FHFA's proposed low income and very-low income multifamily goals are too low. Both Enterprises surpassed the 2010 and 2011 goals by wide margins (with the exception of Freddie Mac in 2010 for its low income goal), and yet FHFA proposes 2012 – 2014 goals at significantly lower levels than both Enterprises achieved in 2011.

Given the improved market conditions and the expectation that the market will continue to improve, as well as NAHB's belief that the Enterprises will continue to lead the market for the next several years, we strongly urge FHFA to set higher low and very-low income goals for both Enterprises. It is important that the Enterprises' goals are challenging but reasonably so. Both Enterprises' multifamily businesses have done very well financially, unlike their single family businesses. Setting the goals at lower than achieved levels under the current and expected market conditions undermines the affordable housing mission of the Enterprises. Additionally, we believe that it is unlikely that FHFA would take steps to increase the goals after they have been put into effect, even if the Enterprises' performance in the interim warranted an increase.

Small Multifamily Low-Income Units

As mentioned above, in 2010 FHFA invited comment on whether it should set additional requirements for small multifamily low-income properties. NAHB, in its comments on the 2010-2011 goals, strongly supported the establishment of a subgoal for small multifamily low-income properties. The provision of mortgage credit for small multifamily properties continues to be a problem, especially for those in rural areas. As FHFA notes, small multifamily properties constitute a large segment of the multifamily market and are important sources of affordable housing.

NAHB is very concerned about the poor performance of the Enterprises related to providing market liquidity for small multifamily loans. Freddie Mac has virtually exited this market, having provided financing for only 459 units in 2010. Fannie Mae financed 12,460 such units in 2010, which is a small increase over its performance in 2009. NAHB notes that a higher number of such units was financed by both Fannie Mae and Freddie Mac when HUD's favorable goals counting treatment was in effect during the 2001-2003 period. NAHB recommends that FHFA reconsider implementing a similar incentive to spur the Enterprises to do more in this area. NAHB also recommends that the Enterprises work with state housing finance agencies to develop efficient and economic ways to finance small multifamily properties

<u>Conclusion</u>

NAHB appreciates that FHFA is moving forward with revised goals for the 2012-2014 period for the Enterprises. As NAHB wrote in its comments on FHFA's strategic plan for the Enterprises in years 2013-2017, FHFA is in the unusual position of ensuring the safety and soundness of two entities critical to the current housing finance system, but whose future is uncertain at best. With their charters still in effect, the Enterprises' affordable goals also must remain in effect until such time as FHFA determines they are having a negative impact on the safety and soundness of the Enterprises.

NAHB thanks FHFA for the opportunity to comment on the proposed Enterprise housing goals for 2012-2014. If you have any questions regarding these comments, please feel free to contact Claudia Kedda, Senior Director, Multifamily and Affordable Housing Finance, at 202-266-8352 or ckedda@nahb.org or Rebecca Froass, Director, Financial Institutions and Capital Markets, at 202-266-8529 or rfroass@nahb.org.

Sincerely,

David L. Ledford

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