NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

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July 26, 2012

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA49, Affordable Housing Goals
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street SW
Washington DC 20024

Dear Mr. Pollard:

The National Community Reinvestment Coalition (NCRC) is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. NCRC member organizations have witnessed first-hand the devastation of reckless lending and foreclosures and believe that the affordable housing goals, if implemented rigorously, can play an important role in recovering from the foreclosure crisis.

The affordable housing goals are a key policy component for promoting the recovery of the nation's housing markets, particularly those in minority and modest income communities. As the Federal Housing Finance Agency (FHFA) documents, Fannie Mae and Freddie Mac (the Enterprises) are the largest issues of mortgage-backed securities (MBS), guaranteeing approximately 72 percent of MBS issued in the United States. Therefore, if the Enterprises are financing safe and sound lending in substantial volumes for underserved communities, these communities have improved chances for rebuilding and recovering from the foreclosure crisis.

The goal setting for the low-income home purchase goal must be more robust, a subgoal must be established for modifications as part of the low-income refinance goal, the multifamily goals need to be strengthened, CRA-like reviews must be a component of evaluating Enterprise performance under the goals, fair housing objectives need much greater emphasis in the goal setting, and stronger responsible lending safeguards must be established.

NCRC emphasizes that now more than ever, the Enterprises need to increase the percentage of purchases of loans for low- and moderate-income borrowers. Low- and moderate-income borrowers face substantial barriers to access to credit in a financial marketplace choking on foreclosures and the risky lending of the past. The Enterprises need to prove their worth as arms of the government by easing access to credit for hard working and creditworthy modest-income families and individuals. It is especially imperative for the FHFA to revise its proposed benchmark for the low-income home purchase goal, both to provide increased homeownership opportunities for modest income borrowers and to relieve stress on the Federal Housing Administration (FHA).

Single Family Housing Goals

Low-Income Home Purchase Goal

NCRC acknowledges and appreciates the change that FHFA made to the low-income definition to conform to the Community Reinvestment Act (CRA) definition of 80 percent of area median income (AMI). In previous years, the Enterprises cherry picked borrowers, focusing on the segment that was 80 to 100 percent AMI since the goals defined low-income as up to 100 percent AMI. The Enterprises' violation of the spirit of the goals, which was focusing on low- and moderate-income, was made possible by the income definitions used by the Department of Housing and Urban Development (HUD). The FHFA's change in the income definition stopped the regulatory arbitrage practiced by the Enterprises.

The low-income home purchase goal is the only single family goal for which the proposed benchmark is considerably lower than previous years' percentages of both the Enterprises and the primary market (lenders). The three year average during 2008 through 2010 was approximately 25 percent and 27 percent of all home purchase loans for low-income borrowers (up to 80 percent area median income (AMI)) for the Enterprises and lenders, respectively. Yet, the FHFA forecasts only about 20 percent of home purchase loans for low-income borrowers financed by the Enterprises in future years and thus sets the proposed benchmark at 20 percent for 2012 through 2014.

The contrast is stark between the low-income home purchase goal and the other single family goals. For example, the proposed benchmark for the very-low income home purchase goal is 7 percent for 2012 through 2014, which is commensurate with the 7 to 8 percent of all mortgages for very low-income borrowers financed by lenders and the Enterprises in recent years. The same trend of closeness between past performance, FHFA forecasts, and the FHFA proposed benchmark occurs in the low-income areas home purchase subgoal and the low-income refinance goal.

FHFA predicts that falling unemployment rates and rising interest rates will cause affordability to fall and will thus decrease the number and percentages of low-income families buying homes. The FHFA also states that the expiration of the First Time Homebuyer Tax Credit negatively impacts the number of low-income homebuyers. The FHFA, therefore, used the bottom range of forecasts for the years 2012 and 2013 in setting the low-income home purchase goal.

The puzzling aspect of the FHFA low-income and very-low income home purchase benchmarks is that the FHFA is forecasting more shrinkage in the percentage of borrowers with incomes between 50 to 80 percent of the AMI than lower income borrowers with incomes up to 50 percent of AMI. This is counter intuitive since falling unemployment should enable the higher end of the low income borrowers to buy more homes.

The FHFA must revisit the proposed benchmark for the low-income home purchase goal and should consider other forecasting techniques in addition to its econometric state space methodology. In addition, the FHFA should consider using the middle range, instead of the bottom range, for the proposed benchmark for the low-income home purchase goal.

If a proposed benchmark is set too low, the entire market can then under-perform since the Enterprises currently finance half or more of the mortgages in the United States. If a proposed benchmark is set too high, the Enterprises and lenders may engage in risky underwriting and lending to reach a certain percentage. In this case, NCRC strongly believes the low-income home purchase goal is set too low and that the FHFA can comfortably adjust it upwards while maintaining prudent underwriting.

Low-Income Refinance Goal

In response to overwhelming community needs to alleviate the foreclosure crisis, the FHFA must formally incorporate loan modifications by establishing a new subgoal for modifications under the low-income refinance goal. The FHFA states that permanent modifications executed as part of the Home Affordable Modification Program (HAMP) count under the low-income refinance goal. In addition, the FHFA presents statistics that approximately 68 to 70 percent of the HAMP modifications executed by the Enterprises currently count under the low-income refinance goal.

Since HAMP is already a rich area for the low-income refinance goal, elevating the importance of modifications is feasible as well as desirable. NCRC strongly recommends a modification subgoal under the low-income refinance goal. The FHFA could also weight the modifications more heavily that are most effective in preventing re-defaults and keeping families in their homes. For example, the OCC's mortgage metrics publications document regularly that modifications with deeper reductions in monthly loan payments have lower re-default rates. The FHFA should therefore provide more goals credit for modifications with deeper reductions in monthly payments. In addition, the FHFA should provide more goals credit for modifications that have been accompanied by housing counseling since these types of modifications exhibit low re-default rates.

The Home Affordable Refinance Program (HARP) should also be formally incorporated into the low-income refinance goal with more weight given to HARP refinances that are more sustainable and have lower default rates. Last fall, the FHFA announced significant changes to HARP including lifting the loan-to-value limit of 125 percent. Since those changes, HARP volumes have surged. Incorporating HARP into the low-income refinance goal and providing incentives for the most sustainable types of HARP refinances would maximize the benefits of the increases in HARP volumes. In addition, the FHFA should incorporate other new programs and initiatives of the Administration and the Attorney General settlement such as foreclosure reviews and refinances for servicemembers.

Multifamily Goals

NCRC appreciates that the FHFA has increased the number of units required in the multifamily goals but asks the FHFA to adjust its proposed benchmarks for 2014. For 2010, Fannie Mae and Freddie Mac easily exceeded the FHFA benchmark for the low-income multifamily goal. Since the FHFA anticipates increased need and production of multifamily housing, particularly for modest income populations, the FHFA is significantly and appropriately increasing the low-income multifamily proposed benchmarks for 2012 and 2013. However, the FHFA is proposing reduced benchmarks for the Enterprises in 2014. NCRC believes that the need for 2014 will remain significant and asks the FHFA to either adjust the 2014 benchmark upwards or to propose new benchmarks in late 2012 or early 2013 when the FHFA has more robust data for forecasting.

The FHFA proposed benchmarks for the very low-income multifamily subgoal is relatively modest compared to the low-income multifamily goal. NCRC asks that these be adjusted upwards and/or the 2014 proposed benchmark be revisited in late 2012 or early 2013. Since policymakers are placing renewed emphasis on rental housing for low-income populations, the multifamily affordable housing goals must be robust to adequately support decent rental housing as a viable option for modest-income families and households.

CRA-Like Evaluations

The process of establishing affordable housing goals is an imperfect evaluation tool for judging Enterprise performance. Forecasting Enterprise performance and establishing proposed benchmarks is a difficult exercise. Over the years, NCRC has observed that the FHFA and HUD established benchmarks that were too low, contributing towards a tendency for banks to offer a higher percentage of prime and prudent loans to modest income and minority communities than the Enterprises. A CRA-like evaluation avoids the difficulties of assessing future performance by comparing and rating the Enterprises on their past performance and directly comparing their performance to that of their peers.

A CRA-like evaluation should accompany the FHFA's evaluation of whether the Enterprises have successfully responded to housing needs. When the FHFA evaluates compliance with the affordable housing goals, the FHFA should simultaneously conduct an evaluation, similar to a CRA exam, that evaluates the Enterprises against each other and lending institutions regarding the percentage of loans they finance under each of the goals. The Enterprises responsiveness to various housing needs and the performance context of demographic and economic conditions should also be factors in the evaluation. A CRA-like evaluation could also include factors like the flexibility of underwriting and investments and grants that help meet the needs of traditionally underserved markets. After considering all the factors, the FHFA should then assign ratings to the Enterprises.

Per the statutory requirement of the Housing and Economic Recovery Act (HERA) of 2008, FHFA must evaluate the Enterprises' performance in serving the manufactured housing market, the affordable housing preservation market, and the rural market. The FHFA also must assign ratings to the Enterprises. To date, the FHFA has not finalized the rule it proposed in the summer of 2010 to implement this HERA requirement. Thus, the FHFA has an opportunity to not only finalize the underserved areas rule but to expand the concept of a CRA evaluation to all aspects of Enterprise performance.

Accompanying the evaluation of the Enterprise performance under the affordable housing goals with a CRA-like evaluation will compensate for the weaknesses inherent in goal setting under the affordable housing goals and will also provide a more holistic and comprehensive evaluation of how well the Enterprises are responding to community needs.

Housing Counseling: An Imperative

In previous years, the Enterprises employed their foundations and other programs to provide grants and other support for housing counseling agencies. The counseling ranged from first time homebuyer to foreclosure prevention counseling. This counseling was instrumental for goal attainment since it prepared low-income populations for sustainable homeownership.

The current corporate support for counseling is inadequate because it is fee based and the fees for foreclosure prevention are too small to support viable foreclosure prevention programs. An important objective for the FHFA would be to provide incentives for the Enterprises to resume their critical funding for housing counseling. As mentioned above, CRA exams with factors that assess investments and grants supportive of the goals would motivate increased funding for housing counseling which is especially needed now as a response to the foreclosure crisis.

Fair Housing Considerations to be Incorporated into Goal Setting and Evaluation

For several years, NCRC has advocated a minority goal for the Enterprises, which would be established in a manner similar to the low-income home purchase goal. The current goals include just one criterion for assessing performance to minority communities as a subpart of the low-income areas home purchase subgoal.

The imperative of a new minority borrower goal has always been clear but is even more pressing now in the wake of the foreclosure crisis that has disproportionately impacted minorities. A recent *Washington Post* article has documented the disproportionate damage wrought by reckless lending and the foreclosure crisis to minorities' creditworthiness. In addition, the recent Department of Justice settlements against the largest banks in the country is one more piece of the large body of evidence and research documenting pervasive price discrimination and other abusive behavior targeted to minorities.

NCRC recommends that a home purchase and a refinance goal specifically target minority borrowers in addition to the focus on minority neighborhoods in the low-income areas goal. Our nation stands a better chance of reducing disparities in access to credit and the repairing the damage to minority communities if the largest and most powerful financial institutions are asked to focus attention on providing sound credit to minority communities.

In addition, a fair housing audit must accompany FHFA evaluations of Enterprise compliance with the affordable housing goals. Significant policy issues must be included in their fair lending reviews. For example, the Enterprises' loan level price adjustments include price increases for various combinations of loan-to-value ratios and credit scores deemed riskier by the Enterprises. The fair access questions involve whether the premium increases are justified by the added risk of lower credit scores and higher loan-to-value ratios or whether the increases are beyond those necessary to cover the added risk. If the increases are beyond those that are necessary to cover added risk, do the increases unduly make loans too expensive or unavailable to modest income or minority borrowers? If these increases are unduly restrictive, is there another method for the Enterprises to cover risk that does not have disparate impacts? A fair housing audit accompanying goal evaluation would penalize the Enterprises if the Enterprises were engaged in policies with disparate impacts that lacked business justification.

Loan Terms and Conditions

The FHFA must establish criteria for safe and sound lending for the affordable housing goals. Over the years, NCRC has been a fervent and strong advocate of insisting upon robust responsible lending standards in the affordable housing goals since only responsible and sustainable lending with low default rates truly meet credit needs.

The FHFA is often one step behind in the effort to enforce responsible lending standards in the affordable housing goals. For example, in a previous goal setting proposal during 2010, the FHFA proposed using outmoded interagency guidance on responsible lending from 2006 and 2007 although the more recent Federal Reserve update on Regulation Z in 2008 was available for incorporation into the affordable housing goals.

In this rulemaking, the FHFA is not even proposing lending standards, although the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act are available for incorporation into the affordable housing goals. In particular, the FHFA could prohibit any loan from counting towards the goals if the loan contains terms and conditions that are prohibited in qualified mortgages (QM) by Dodd-Frank. For example, a qualified mortgage cannot exhibit negative amortization or lack documentation of income or assets, and must be underwritten based on the maximum rate in the first five years. Congress enacted these prohibitions based on years of experience by various stakeholders combating abusive lending. It would seem that the FHFA would also want to contribute to safe and sound lending by adopting these QM standards for the affordable housing goals.

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Conclusion

NCRC appreciates that the FHFA changed the definition of low-income to conform to CRA definitions and that the FHFA increased the multifamily goals. NCRC urges the FHFA to make it a priority to strengthen the low-income home purchase goal. In addition, the FHFA must approach the affordable housing goals in a more holistic manner which would include fair housing audits and CRA-like evaluations that would motivate the Enterprises to increase funding for housing counseling as well as bolstering their sustainable modifications of distressed loans.

Thank you for this opportunity to comment on this important matter. Please feel free to contract us on 202-628-8866 and ask myself or Josh Silver, Vice President of Research and Policy, any questions.

Sincerely,

John Taylor
President and CEO