CANICCOR

AN INTERFAITH COUNCIL ON CORPORATE ACCOUNTABILITY

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30 March 2010

Alfred M. Pollard, General Counsel
Attention: Comments
Federal Housing and Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, DC 20552

Re: RIN # 2590-AA26
12 CFR Parts 1249 and 1282

Dear. Mr. Pollard,

I am writing in regard to the Proposed Enterprise Affordable Housing Goals because I serve as a consultant to a number of institutional investors which have social concerns in addition to investment concerns. Over the past year we have had 13 meetings with eight major servicers of residential housing loans handling about two thirds of all U.S. housing loan servicing. Our concern has been that these servicers provide loan modifications to keep as many troubled borrowers in their homes as possible and thus prevent price declines and community deterioration while still providing the maximum return to the owners of the loans.

Previous to the present economic crisis, our main focus was the provision of adequate housing lending for low-income and minority households. This concern includes the GSEs and extends back for more than 15 years as exemplified by my testimony on the GSEs performance before the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises of the House Committee on Banking and Financial Services on 24 July 1996. That testimony concerned not only the overall performances in lending to low-income and also minority borrowers but also the variations between geographic regions in the U.S. See also my letter sent to Congressman Baker on 29 July 1996 with the paper *Fannie Mae and Freddie Mac Portfolio by Supplier* of 8 April 1996, which provides performances by supplier category.

I also published a major study in consultation with the GSEs for Investors in 2000 entitled *Social Performances of the Government Sponsored Enterprises Fannie Mae and Freddie Mac for the years 1996 – 1998.*, which covered both single family and multifamily loans.

As a consultant to investors, I have participated in dialogues with Freddie Mac over many years through 2007.

General Comments

Before I comment on specific items on which the FHFA asked for comments, I would like to make some overall comments about these revised goals under HERA;

1. The provision of four separate goals for single family purchases and two for purchases of multifamily mortgages as required under the Safety and Soundness Act of 2008 is a significant improvement over the HUD goals, especially with the separate goals for home purchase loans and refinance loans. The fact that the refinance volume can vary from less than that of home purchase mortgages to over three times their volume, depending upon interest rates, makes a combined goal rather unworkable. The reason is obvious, since with low interest rates more lower income borrowers can qualify for loans, but they tend to be overwhelmed in numbers by more upper income borrowers refinancing.

2. Counting toward the housing goals only conventional conforming loans with full documentation and exclusive of high rate spreads of 300 basis points or more and exclusive of HOAPA loans is excellent. The old HUD goals had forced the GSEs into purchasing or guaranteeing subprime and other poorer quality loans in order to meet the goals. Freddie Mac did guarantee some subprime loans in about 2000 but quickly shifted to buying them and holding them in portfolio because of their poor quality.

3. The setting of these goals annually, based upon the most recent data is a great improvement over the HUD projection of 5 or so years into the future. The monthly survey required in the Safety and Soundness Act of 2008 Section 4544(c) will provide a more timely and in depth addition to the HMDA data, which lag by a year or more.

4. I applaud the multifamily housing focus on the underserved smaller properties of 5 to 49 or 50 units as specified by the Section 4563(a)(3). In my own analysis of multifamily housing loans, I estimate the unit size from HMDA loan amount and calculate the performance of a lender by the proportion of multifamily lending to this small structure sector. This is a very crude method since it is based upon the loan amount and the local area single family housing prices that are scaled for multiunit properties. I remember a meeting with a major lender where the CRA staff were totally surprised by my report that included multifamily housing. They did not think the bank originated any multifamily loans. These loans were all very large and originated by a commercial lending division unconnected to the community reinvestment group. However, I do wish that FHFA could devise a better method of estimating the multifamily goals under section 4563. Since the GSEs can count multifamily securities not counted under HMDA, this complicates the analysis. **However, a lower bound could be calculated from the HMDA data by the methods similar to those that I use.** For a further discussion see Comment 2 below.

Housing Goal Comments

1. **Comment on using sustainability of single family mortgages as an alternative to estimating the single family housing market** While I believe it would be good to do this analysis, it is a trailing indicator and would be useful in a rather stable mortgage market, unlike the one we have just experienced. Obviously such analysis is why Freddie Mac got out of the subprime guarantee market in the early part of this past decade and just purchased them to satisfy its HUD housing goals. I am also concerned about the adequacy of the survey (sec, 4544(c)(2)) both in the extent of the market

covered and in the depth of the information gather on each mortgage transaction. Estimating the market is less uncertain since the survey can be retrospectively checked to a large extent through the HMDA data. It might even be possible to have further HMDA legislation which would provide a least preliminary HMDA information on a quarterly basis, since so much of this information is now computerized.

2. **Comment on the implementation of a multifamily sub-goal for very-low income families.** The setting of this sub-goal suffers from the same problem as the setting of the overall multifamily goals, since there appears to be no convenient measure of the market.

   If the market is separated into two property sizes with the division at 50 units or $5 million loan amount, as proposed in section 4563(a)(3), **one could assume that essentially all of the lending on the smaller sized properties is done by depositories and reported under HMDA so that HMDA lending of $5 million or less would set this market size. The large property funding then arises from some large HMDA reported loans plus funding by insurance companies and other institutions that do not report under HMDA.** This total funding volume can be estimated. Thus with these assumptions, the overall size of the two multifamily markets can be estimated in dollars.

   Regarding setting goals for the volume of units for low- and very low-income families for large unit properties, the funding of the large unit properties is usually on housing for higher income renters, and their funders do not usually participate in lower income housing units unless these are projects with government support and tax credits. Since information on government subsidies and tax credits is available, this information could be used to set goals for units affordable to low and very low income families for large properties.

   The goals of units affordable by lower income families for smaller sized multifamily properties are more difficult to set because the HMDA data provide neither the number of units nor the unit rental prices. In my own analyses[1] which is attached, I must use as proxies the scaled local single family housing prices and an estimate of the ratio of the average renter income to average home purchase borrower income to estimate the probable number of units available to low-income renters. This use of proxies results in only "ball park" estimates, but such estimates are better than nothing. FHFA might also consider organizing some surveys similar to its single family survey or do a more detailed analysis of the current decennial census data. The problem for very low income family units may be solved, since only the larger sized properties may be available out of the need for government subsidies.

   These smaller sized properties should be a major focus for the GSEs, since they are an underserved segment of the multifamily market. If fact smaller sized properties are becoming more underserved as the traditional savings institutions are being absorbed by bank holding companies, for example the largest multifamily lender reporting under HMDA, Washington Mutual, is now absorbed by J.P. Morgan Chase, which has no interest in multifamily lending.

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[1] John E. Lind, *Multifamily Housing Performance Analysis*, CANICCOR, April 2007.

3. **Comment on Freddie Mac virtual exit from multifamily financing.** .If Freddie Mac is not really set up to handle small sized multifamily housing loans, perhaps it could focus on the large sized properties and their goals for units suitable to low- and very low-income families, using the available local government data on subsidies, tax credits, etc See also Comment 5 below.

4. **Comment on proposed changes of definitions under section 1282.1.**

   - The redefining of **very low-income** is good because it makes the definition consonant with that used by the bank regulatory bodies under the community reinvestment act.

   - **Families in low-income areas** is somewhat differently defined from the HUD used geographically targeted housing tracts. The redefinition of tract areas from the median family of 90% of the AMI or below to 80% is good and makes this part of the definition consistent with the banking regulators. The lowering of the maximum family income in a minority census tract from 120% of the AMI to 100% is also reasonable and is consistent with the new definition of designated disaster areas. I do think that an upper limit for borrower income should be set even for these areas at 120% or 150% of AMI so as to obviate the problems of gentrification in the latter part of the decade after the decennial census.

   - **Mortgages with unacceptable terms or conditions** covers the seven basic areas of concern including the exclusion of HOEPA type loans. The definition does not exclude subprime loans but the size of the market (1282.12 (b)) excludes them by excluding loans with rate spreads of 300 basis points or more. Also excluded in the mortgage markets definition are explicitly flagged HOEPA loans and mortgages with missing documentation.

   - The clear definition of **contract rent** is very good.

5. **Comment on proposed exclusion of private label securities (PLS) of mortgages for counting toward the mortgage goals.** Since the GSE single family housing goals will be defined in terms of essentially the conventional conforming mortgage, this definition would exclude the bulk of all private label securities. On the other hand, there may be a place for Freddie Mac to purchase CMBS of large multifamily properties, if these include properties with units suitable to low- and/or very low-income families. I have not examined this market sufficiently to have any expertise to know if such loans are securitized.

6. **Comment on the fact that purchase of charter compliant 2nd lien mortgages and HECMs are not precluded but are not counted toward the housing goals.** At the present time, the origination volume of closed-end seconds is minimal, but a number of large banks are providing significant volumes of HELOCs, which may be serving a similar purpose. Thus it appears that mortgage insurance will play a diminished role because the lenders see increased income through the use of HELOCs and at a later date more closed-end second liens. Thus I do not see any reason for the GSEs to purchase HECMs and 2nd liens toward their goals, but I do think it would be good if the loan purchases of these seconds could be counted in the denominator for the calculation

of the goal percentage, since they are consuming assets that could be used toward their goals.

Many thanks for the opportunity to comment on these proposed Enterprise Affordable Housing Goals. They are an important step forward over the previous set used by HUD.

Sincerely yours

John E. Lind, Ph.D.
Executive Director

Enclosure:
J. Lind, "Multifamily Housing Performance Analysis", CANICCOR April 2007.

cc:

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Multifamily Housing Performance Analysis

by
John E. Lind, Ph.D.
CANICCOR
April 2007

The basic analysis is performed at the MSA/MD level or portion thereof, if the area is divided between assessment and non-assessment areas, and then aggregated to any higher levels.

To calculate the loan amount attributable to a single unit of multifamily housing, the median amount of single-family single-unit purchase loans is divided by 3.5 to account for the lower unit cost for multifamily units and the lower LTVs permitted on multifamily loans. The basic cost ratio was derived from building permit data. The median amount of the single-family single-unit housing loans is computed as follows:

1. If in the current year, there were at least 20 single-family purchase loans originated in the tract of the multifamily loan and if the census data show more than 50% of the single family houses were singe unit, the median loan amount of the single family purchase loan is used to compute the unit amount by dividing by 3.5.

2. If the conditions in 1 are not met, then the weighted average loan amount of median single-family purchase loans from all tracts of the tract income category of the multifamily loan is used for the computation. Where the tract income categories are low-moderate, lower middle, upper middle and upper, and the weighted average median loan amount is the average for of the median loan amounts of each tract weighted by the number of loans in each tract.

Once the cost of a single multifamily unit has been estimated, the number of units financed by the multifamily housing loan can be computed by dividing the loan amount by the unit cost.

Once the number of units financed by the multifamily loan is computed, then the fraction of these units that are affordable to low-moderate income renters must be estimated. The 1980 census had income distributions of renters and owners separately given and generally in tracts where the renters were of low-moderate income the owners were at about 120% of the MSA median area income. See the appendix for details. Thus in this report the fraction of purchase loan borrowers with incomes below 120% of the MSA/MD median income is taken as the fraction of renters that are of low-moderate income, and this fraction is then applied to the total number of units finance by the loan to yield the number of affordable units.

With these two single-family purchase loan proxies, the number of units affordable to low-moderate income renters can be computed. Next, are these ratios applied to all multifamily loans or only to specific sub-sectors? Including multifamily loans in upper income areas would tend to include retired borrowers with formerly higher incomes and with wealth, which are of less concern because of their wealth. Thus two sub-sectors were chosen by CANICCOR:

1. Multifamily loans in tracts with median family incomes up to the MSA/MD median family income. This is a reasonable sector because many low-moderate income households without wealth rent in lower meddle income areas, so the limit is not so constrictive as limiting the loans to only low-moderate income tracts.

2. A second reasonable choice is the definition used by HUD of geographically targeted tracts. These include all low-moderate income tracts and all other tracts with 30% or more minority population and tract incomes of less than 120% of the MSA/MD median family income.

Once the numbers of units and the numbers of units affordable to low-moderate income renters have been computed, the industry level can be computed by summing those units for all HMDA reporters to yield the industry level. The social performance is then computed at the MSA-MD level by scaling the industry total to the same number of units as the lender's total and taking the ratio of the lender's units affordable to the low-moderate renters to that of the scaled industry's units affordable to low moderate renters. Performances at the MSA-MD level can then be aggregated to any higher level by adding the lenders units affordable and the scaled industry units affordable to low-moderate income renters and taking the ratio.

Because structures of less than 50 are usually underserved, because of the need to know local conditions. CANICCOR computes separate performances based upon lender and industry loans to the follow sectors of estimated structural size: 50 units financed or more, 20 units financed to under 50 units financed, 5 units financed to 20 units financed, under 5 units financed.

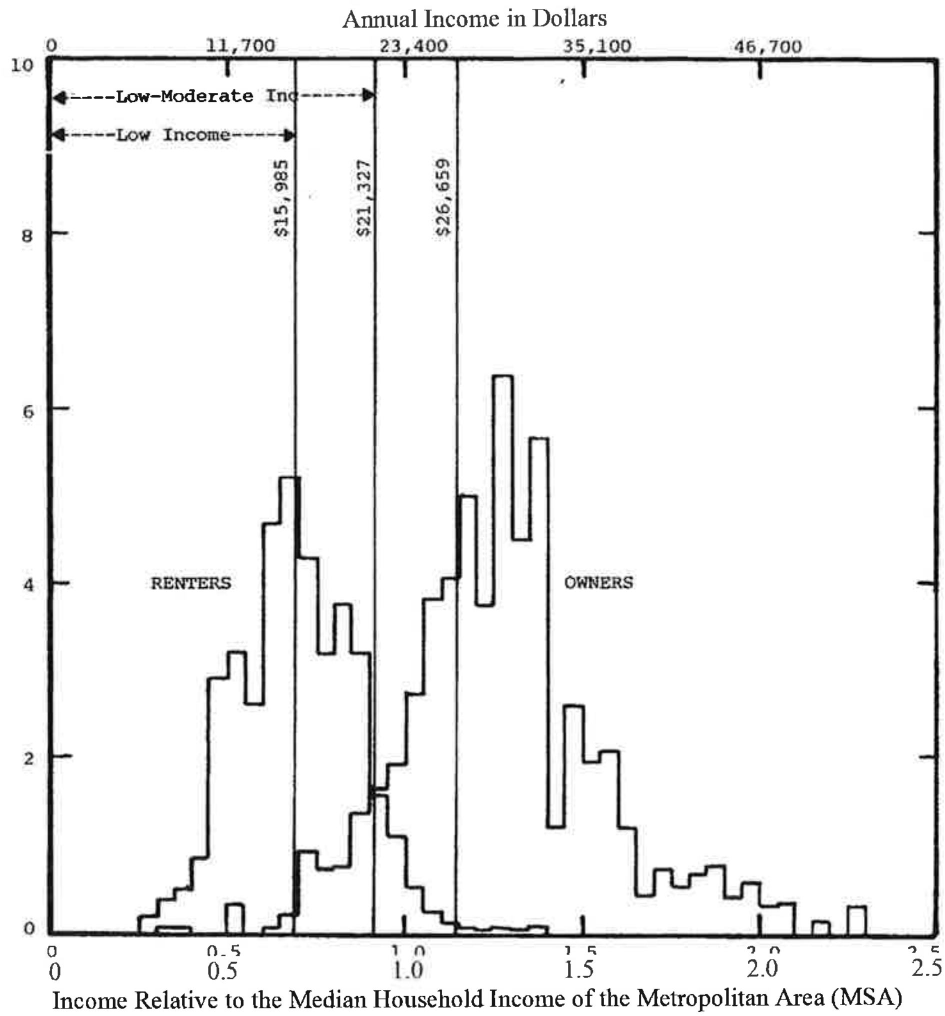
In the CANICCOR investor summary analysis, the loans of 50 or more units financed are ignored and performances of the other structural sizes are aggregated into a single performance.

While these proxies for units and low-moderate income renters are not at all exact, they are useful because they provide a correction for the three-fold variation of housing prices in different parts of the country and for gentrification or its reversal during the decade after the census, which merely analyzing the dollar amount of loans can not provide. Although the number of units computed by this method may not be very exact, it does provide a valid inter-comparison between lenders, since the same estimates are applied to all lenders.

APPENDIX

The 1990 Study by Lind and Koistinen of the housing lending in Santa Clara, CA, used the 1980 census, which provided separate income distributions for owners and renters as shown in figure A1. Unfortunately, none of the more recent census have provided this break down.

Figure A1. Distribution of Incomes of Owner and Renter Households in the San Jose MSA, i.e. Santa Clara County (CA), from the 1980 Census as a Percentage of All Housing Units.[2]



The gap between owner and renter incomes was relatively constant in each census tract at an average difference of $11,040. The root mean square difference of $12,617 shows the consistency of this difference. This difference is equivalent to 41% of the median family income of the MSA, which was $26,659 in 1979.[3] Note that the median family income is noted by a vertical line in the figure and is 14% higher than the median household income of $23,369.

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[2] Lind, J.E. and Koistinen D.J., "Mortgage Lending in Santa Clara County (CA) by Savings and Loans: A Preliminary Study", p. 3, CANICCOR, July 1990

[3] *ibid.* foot notes 5 and 6 on page 16.

Thus for a census tract where the average renter had an income of 80% of the median family income of the MSA, the average owner would have an income 121% of the median family income. This result suggests CANICCOR's use of the percentage of owner buyers of 120% or less of the median family income for the estimate of the number of renters with incomes below 80% of the median family income.

A cautionary note to this analysis is that it uses the census data which include both renter and owner income of residents not household currently moving into the units, and thus with inflation and possibly rental price controls these averages are biased down ward from the current housing prices and affordability.