NMHC National Multi Housing Council®
Apartments: Smart Communities, Smarter Living

NAA National Apartment Association

April 12, 2010

Alfred M. Pollard, General Counsel
Office of the General Counsel
Fourth Floor
Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

RE: Attention Comments RE: RIN 2590-AA26
2010-2011 Enterprise Affordable Housing Goals; Enterprise Book-Entry Procedures

Dear Mr. Pollard:

On behalf of the membership of the National Multi Housing Council (NMHC) and the National Apartment Association (NAA), we are pleased to submit our comments on the affordable housing goals for Fannie Mae and Freddie Mac for 2010-2011. The mission of Fannie Mae and Freddie Mac to serve the housing needs of all families seeking affordable rental and for-sale housing is critical to our economy.

As you are aware, and noted in the February 26, 2010 Federal Register, (12 CFR Parts 1249 and 1282), there is great uncertainty in the housing finance market, including the market for multifamily housing finance. NMHC and NAA strongly endorse your decision to, "align the Enterprises' affordable housing goals with safe and sound practices and market reality." As the Government Sponsored Enterprises (GSEs) are the primary source of mortgage capital to the multifamily industry, it is imperative to establish their goals at levels commensurate with both market realities and to ensure that firms continue a strong commitment to serving workforce and affordable housing.

Market Impact on Multifamily Lending
Our expectation is for moderate improvement in market conditions in 2010 with continued improvement in 2011. There is expectation for increased investment as buyers and sellers narrow the gap on property valuation, but we expect this to be limited to very strong markets and new, high-quality properties. In light of expanding maturity default risk among all multifamily capital sources and the impact of continued soft market conditions, we expect 2010 to be challenging with limitations on overall multifamily loan originations and refinancing opportunities for Fannie Mae and Freddie Mac. Further, we believe that their own portfolios of maturing loans will present challenges that will require added attention as many loans will not be able to meet the capital requirements and loan terms for new debt. As such, the proposed goal level will present a challenge to the two firms, especially due to valuation issues and the need to take on higher than expected credit risk for older, more affordable multifamily properties.

Loan Modifications and Extensions
Given the market challenges and the need to manage the maturity default issue, we encourage FHFA to treat loan modifications as purchases, including, but not limited to: reductions in interest rates; extensions of payments and amortizations of 12-36 months; and deferrals of payments or payment reductions for a period of not less than 12 months, as a new or refinanced loan in 2010 and 2011.

As a result of falling property values and stress on rental income due to the extreme economic and employment issues faced by apartment owners, many owners will not be able to refinance their loans. With few mortgage sources in the market, existing GSE borrowers will have few refinancing options, which in turn will challenge Fannie Mae and Freddie Mac to be creative in how they respond to maturities and loan distress in their portfolios. As a result, it is important to encourage Fannie Mae and Freddie Mac to seek alternatives that prevent loan defaults, that otherwise would force a borrower into bankruptcy and foreclosure. Therefore, we encourage FHFA to include such mortgage modifications on multifamily properties toward the affordable housing goals.

Affordable Housing Production Issues
Opportunities to serve the development and preservation of low- and moderate-income rental housing will also face challenges in 2010 and 2011. The high cost of development, limitations on investments through low-income housing tax credits, disruptions in the bond markets and limitations by the regulator/conservator on liquidity risk on tax-exempt bond credit enhancements together will make it more difficult for the two firms to serve the targeted markets. This will have the greatest impact on their ability to meet the very low income housing goals.

Freddie Mac Multifamily Business Model
The regulation highlights the difference in production models between Freddie Mac and Fannie Mae multifamily programs--especially the material difference in loan purchase activity volume and in the area of mortgage purchases for properties that serve low-income families. FHFA has an expectation that Freddie Mac, through actions by senior management and the Board of Directors, will assess the multifamily business model, but we encourage your agency to call on Freddie Mac to submit specific recommendations to address perceived shortcomings. We do not advocate that the two firms have identical models - as there are benefits to each program - but we agree that they should be more balanced in their production across the spectrum. We would encourage Freddie Mac to evaluate its limitations on geographic coverage, expand the delegation program and continue to expand its efforts to serve more moderate- and low-income families.

Small Multifamily Loans
The reporting requirements for small multifamily loans (5-50 units) are appropriate for both overall production and loans that meet targeted affordable housing. We would not encourage the setting of production goals for either category at this time. We recommend that FHFA evaluate and issue a separate assessment of the production activities by the GSEs and others, identify the issues and barriers to expanding liquidity to this market segment and submit the assessment for review and comment. Expansion of small loans requires thoughtful program development that looks at the appropriate roles for the secondary market, the linkages to the primary market and the most effective way to distribute the capital to this market. We would also encourage FHFA to host meetings with the industry and the GSEs to explore the options and opportunities, and to include the banking sector in such meetings as a means to focus on program and tactical issues as opposed to just policy. The regulator should be more engaged in this loan product before establishing goals or targets for the GSEs. The GSE multifamily programs cannot just “ramp-up” the small multifamily property loan volume. The GSE origination network does not have the localized geographic coverage to reach the small apartment property borrower community, and is not compensated to expand their origination and servicing to meet the market needs. Therefore we need greater emphasis on how to create an effective origination network that has the financial incentives to develop a more effective secondary market execution.

FHFA should conduct an analysis of past performance by examining the geographic coverage, borrower information (structure, financial capacity), property and loan information, and look at the cost of origination and servicing by loan size. Production of small loans requires specialized production platforms that can originate loans cost-effectively. Fannie Mae has made an effort to develop an origination process using lenders to originate the loans, while Freddie Mac has relied upon structured transactions with banks. Both approaches have expanded liquidity, but both have fallen short of the intended goal of making long-term mortgage finance available to the owner or developer of smaller properties, especially in secondary markets and rural areas. The major contributors to this gap between expectations and performance are: the origination network; the risk profile for the loan servicer; the cost to originate the loans; and the return on the loan to the capital source.

We further encourage FHFA to provide incentives for the government to work with the GSEs to jointly share risk to develop a program that is cost-effective for rate and fees and with limited recourse to this market segment. This would allow for greater effort by the GSEs to develop the needed origination in a more cost-effective way and to develop more direct relationships with regional and local banks and others that have the network to originate the loans.

Commercial Mortgage-Backed Securities (CMBS)
The use of CMBS purchases to meet affordable housing goals has been debated as long as the Enterprises have engaged in such activities. Their participation in the market has expanded liquidity to the apartment sector and, therefore, we support their purchase of CMBS for multifamily properties or CMBS that include a significant percentage of multifamily mortgages. The credit for affordable housing goals should be commensurate with the risk taken in the investment, as purchasing an AA- to AAA- rated security does not present the same level of risk as guaranteeing the purchase of a mortgage. There is subordination protection to the purchaser and the cost of special servicing activities is not borne out directly by the bond holder. The incentives for capturing affordable housing goals should be weighed against the level of risk associated with the purchase. We recommend that a reduced percentage of units be allocated to such investment activities.

FHFA Actions to Support Affordable Housing Production Goals
FHFA can enhance the ability of Fannie Mae and Freddie Mac to meet the affordable rental housing needs of low- and moderate-income families by extending permission for the two firms to serve as liquidity providers for tax-exempt variable-rate multifamily mortgage bonds. As investors come to the market, it would be prudent to increase the ability of Fannie Mae and Freddie Mac to provide credit enhancement on these bond instruments, thereby providing needed mortgage financing. FHFA should work with the firms to develop a reasonable market response to providing liquidity.

We also encourage FHFA to call for HUD and the Enterprises to look at how their risk-sharing activities can be implemented in a way that would benefit both HUD and the Enterprises in improving market liquidity. HUD has become hamstrung by its limited capacity, while the Enterprises have demonstrated their capability to purchase mortgages in the volumes needed to support the market.

We appreciate the opportunity to comment. Should you need further information or have any questions, please contact David Cardwell, NMHC Vice President of Capital Markets and Technology at (202) 974-2336 or dcardwell@nmhc.org.

Sincerely yours,

Douglas M. Bibby
President
National Multi Housing Council

Douglas S. Culkin, CAE
President
National Apartment Association