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1700 G Street, NW
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RE: Proposed Rule - RIN 2590-AA26
2010-2011 Enterprise Affordable Housing Goals:
Enterprise Book-Entry Procedures

Dear Mr. Pollard:

On behalf of the more than 175,000 members of the National Association of Home Builders (NAHB), I would like to submit comments on the above-referenced Notice, which establishes new affordable housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2010 and 2011. 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.

Background

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 provide for the establishment, monitoring and enforcement of new affordable housing goals for the Enterprises effective for 2010 and annually thereafter. HERA made significant changes to the original housing goals provisions in the Safety and Soundness Act, including:

- Elimination of overall goals for all mortgages (single family and multifamily combined);
- Separate single family and multifamily goals;
- Single family goals based on number of goal qualifying mortgages, rather than units, expressed as a percent of total single family mortgage purchases;
- Within the single family category, separate goals for home purchase and refinance mortgages;

- Multifamily goals expressed in terms of number of units, rather than dollar volume; and,
- Lower income definitions.

NAHB was a strong proponent of the housing goals provisions during consideration of HERA and is pleased that the Federal Housing Finance Agency (FHFA) has promulgated rules to implement these mandates even while the Enterprises are in conservatorship. NAHB agrees with FHFA 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. However, as discussed below, we have concerns particularly with respect to the multifamily goals. NAHB's specific comments and recommendations follow.

<u>Proposed Single Family Housing Goals for 2010-2011</u>

HERA requires FHFA to establish three single family owner-occupied purchase money mortgage (PMM) goals and a single family refinancing mortgage goal. To ensure clarity and consistency with the new goals, the proposed rule also requires FHFA to revise and update the current rules for counting affordable housing mortgages. FHFA continues to have the responsibility of ensuring the Enterprises are operating in a safe and sound manner.

The Safety and Soundness Act, as amended by HERA requires FHFA to 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) need for the Enterprises to maintain sound financial condition.

Pursuant to HERA, the proposed 2010-2011 low-income PMM and refinance goals target households with incomes no greater than 80 percent of Area Median Income (AMI). This is different from the past low and moderate income goals which targeted families with incomes up to 100 percent of AMI. The proposed very low-income PMM goal targets households with incomes no greater than 50 percent of AMI. The proposed low-income area goal targets families that reside in a census tract or block numbering area where the median income does not exceed 80 percent of AMI and includes families in minority census tracts with incomes greater than 100 percent AMI. Minority census tract is defined as a tract with a minority population of at least 30 percent of the tract’s population.

Table 1 below shows FHFA's 2010 - 2011 housing market estimates and the proposed single family affordable housing goals for the three PMM goals and the one refinance goal.

Table 1

Enterprise Housing Market Estimates and Proposed Goals 2010-2011

	Low-Income Borrower PMM Goal			Very Low-Income Borrower PMM Goal			Low-Income Area PMM Goal			Low-Income Borrower Refinance Goal		
Year	**Estimate**		**Goal**	**Estimate**		**Goal**	**Estimate**		**Goal**	**Estimate**		**Goal**
2010	28.2%	+/- 2.2%	27%	8.3%	+/- 1.0%	8%	12.2%	+/- 1.6%	13%	24.9%	+/- 5.5%	25%
2011	27.1%	+/- 2.8%	27%	7.6%	+/- 1.3%	8%	13.1%	+/- 2.3%	13%	26.1%	+/- 6.6%	25%

FHFA explains that in calculating the market estimates and the proposed goals it took into account the current turmoil in the housing and mortgage markets, which has contributed to less than favorable mortgage market conditions for the families targeted by the single family goals. These adverse conditions include: tightened credit underwriting practices; increased standards for private mortgage insurance (MI); increased role of FHA in the marketplace; collapse of the private label mortgage securities market; and, increasing unemployment. FHFA concludes that these developments will lower the number of single family loans likely to qualify for goals credit.

Pursuant to HERA, FHFA also analyzed Home Mortgage Disclosure Act (HMDA) and Enterprise loan level data for each of the targeted groups for the years 2001-2008. However, given the unprecedented changes in the market during this time period, including swings in mortgage interest rates, home prices and credit availability, FHFA chose to focus on the experience of the 2009 market. FHFA analyzed the Enterprises performance in 2009 using proprietary data for the first three quarters of the year.

FHFA assumes that the 2009 single family market experience is likely to extend into 2010 with modest improvement in 2011. FHFA's market outlook anticipates continued low mortgage rates (5 - 6 percent), modest economic growth, continued high unemployment, and low inflation. Most significantly, FHFA expects FHA's market share to continue to be about 30 percent which will depress the Enterprises' share of lower income mortgages. Since the Enterprises cannot purchase loans with a loan-to-value (LTV) ratio greater than 80 percent without MI, stresses in the MI market, which FHFA expects to continue, will keep borrowers without substantial downpayments dependent on FHA programs.

Based on this analysis, FHFA established the benchmark single family goals levels shown in Table 1. In determining each Enterprise's performance under each goal, FHFA will measure performance relative to the benchmark as well as to goals qualifying shares, which will generally be measured using HMDA data.

However, because HMDA data are not available until approximately nine months after the end of the year, FHFA will begin conducting a survey of single family mortgage originations in 2010 and will use the survey data to monitor the Enterprises' performance under the goals.

Under the proposed rule, an Enterprise can satisfy a particular goal if it exceeds the benchmark goal level or if the Enterprise's business in that goal category is equal to the category's share of the overall market. An Enterprise will be found to have failed a goal if its performance falls below both the benchmark and the actual market share for a goal category. However, if an Enterprise meets the benchmark it will be found to have achieved the goal even if the actual market share is higher.

NAHB Comments on the Proposed Single Family Housing Goals

NAHB is generally supportive of FHFA's methodology to establish the single family affordable housing goals for the Enterprises. Due to the unprecedented market turmoil of the last several years, we concur with FHFA that the mortgage market experience of 2009 is an appropriate benchmark for the establishment of 2010-2011 goals.

However, NAHB notes that market conditions and loan level performance continue to cause the Enterprises to tighten their underwriting standards. Changes in mortgage underwriting standards, particularly for affordable products, have a direct impact on the housing market. Adding to the tightening credit are the sharply increased standards of the private mortgage insurance companies resulting in reduced availability of mortgage insurance for high LTV or lower credit score borrowers who have historically used high LTV loans as an affordable entry into homeownership. Since tighter underwriting standards and lower LTVs will result in fewer goal-qualifying loans, NAHB is concerned that prospects for tighter underwriting standards have not been fully factored into the determination of the proposed goals.

NAHB fully supports FHFA’s proposed two-prong approach to determining compliance with the goals based on market benchmarks and actual market experience. NAHB believes this approach to determining the Enterprises' compliance with the goals is a significant improvement from the previous HUD goals which were solely based on prospective multiyear benchmarks. In light of recent market turmoil which resulted in significant divergences from benchmark goals and actual experience, NAHB finds that FHFA's proposal is appropriate and consistent with Congressional intent that provided FHFA authority to adjust goals to reflect changing market conditions.

NAHB also supports FHFA's plan to conduct a monthly survey of single family mortgage originations to provide timely assessments of the Enterprises performance as compared to the actual share of the market. This real-time information will also serve as a valuable tool for the Enterprises allowing them to monitor their progress and enabling them to make strategic adjustments to ensure their success in obtaining their affordable housing goals. However, NAHB is concerned that the survey will not be available in 2010 and that having to wait for HMDA data, which will become available in late summer of 2011, could put attainment of the 2010 goals in jeopardy as the Enterprises would not have the ability to take remedial actions this year.

<u>Proposed Multifamily Housing Goals for 2010-2011</u>

HERA changed the structure of the multifamily housing goal for 2010 and beyond by expanding the scope of the goal to cover units affordable to all low-income families, regardless of property location. HERA also requires FHFA to establish additional requirements for the purchase by each Enterprise of mortgages on multifamily housing that finance units affordable to very low-income families. Finally, the multifamily goals are now established separately from the single family housing goals and are expressed as number of units, not dollar volume.

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.

Accordingly, FHFA proposes to establish two multifamily goals: (1) the multifamily special affordable housing goal, which targets housing affordable to low-income families (incomes no greater than 80 percent of AMI); and, (2) the multifamily special affordable housing subgoal, which targets housing affordable to very low-income families (no greater than 50 percent of AMI). The proposed goal levels are shown in Table 2 below.

Table 2

	Annual Multifamily Low-Income Goal for 2010 and 2011	**Annual Multifamily Very Low-Income Subgoal for 2010 and 2011**
Fannie Mae	237,000 units	57,000 units
Freddie Mac	215,000 units	28,000 units

FHFA explains that estimates of Enterprise multifamily purchase volume in 2009 were used as a proxy for 2010 volumes. FHFA believes that market size will remain relatively unchanged in 2010 as compared to 2009, and the dollar amount of multifamily loans financed in 2010 will be similar to 2009, approximately $40 to $45 billion. FHFA is also estimating that volume for 2011 will be about the same as 2010, due to continued uncertainty in the markets, although that could change if the magnitude of distressed properties that require restructuring is significantly higher than expected.

FHFA states that the proportion of affordable units available for financing in 2010 and 2011 will be below historical levels due to weakness in the multifamily housing market. FHFA expects that the percentage of very low-income multifamily purchases in 2010 for Freddie Mac will be below its average for the period 2004-2008. Fannie Mae is expected to have a very low-income purchase volume near its average for the past several years.

FHFA cites as a reason for this forecast the fact that steep declines in property prices have caused significant losses of equity for owners, which means they can no longer qualify for Enterprise financing. FHFA cites as another limiting factor the relatively small dollar amount of loans maturing in the Enterprise portfolios in 2010 and 2011. Additionally, Freddie Mac can no longer rely on Commercial Mortgage Backed Securities (CMBS) and structured deals to meet its affordable housing goals, as it has in the past.

FHFA expresses concern about Freddie Mac’s performance levels related to financing low-income multifamily housing. Freddie Mac has lagged Fannie Mae by a wide margin since 2008, due in part to Freddie Mac’s reliance on CMBS and structured purchases from banks and thrifts. FHFA states that, while in conservatorship, FHFA expects Freddie Mac’s board of directors and new senior management team to assess Freddie Mac’s business model with respect to multifamily housing.

Given these factors, to set the annual goals, FHFA decided to use the average percentage of the low-income and very low-income purchases in 2008 for both Enterprises. FHFA choose 2008 rather than the average for 2004-2008, because 2008 performance more closely reflects current market conditions. Multifamily loan purchase volumes for 2010 were estimated using 2009 part-year volumes. The average low and very low- income origination rates were multiplied by the expected origination volumes for 2010 and 2011 to derive low- and very low-income unit volumes for the Enterprises.

In contrast to the single family housing goals, FHFA notes that compliance will not be assessed by reference to actual market data. Rather, because the availability of the necessary market data is less certain for the multifamily market, the goals are set in a prospective manner, but the goals remain subject to the statutory provisions enabling them to be adjusted or providing relief from enforcement, if market conditions so require.

NAHB Comments on the Proposed Multifamily Housing Goals

NAHB agrees that there remains considerable uncertainty in the national multifamily market. NAHB, for purposes of setting the multifamily affordable housing goals, does not object to FHFA's assertion that the Enterprises constitute the market at this time. With the disappearance of CMBS, insurance companies and conduits from the multifamily market, the Enterprises and FHA are the bulk of the market. NAHB agrees that FHA has capacity constraints, although FHA is working to address some of those concerns.

However, we would like to note that a major reason for the difficulty in obtaining new mortgage credit has been the ever-tightening underwriting requirements set by the Enterprises. Neither Enterprise has been engaged in construction lending, and without the presence of other major providers of credit, it is not surprising that multifamily starts dropped so significantly from September 2008 to December 2009 and that FHFA expects no significant difference in market size from 2009 to 2010 and 2011.

FHFA acknowledges that the Enterprises have "relatively conservative underwriting standards" and that they have enhanced their credit standards to reduce risk exposure; thus, only the strongest performing properties can obtain credit from lenders selling to the Enterprises. FHFA also acknowledges that the Enterprises have very low multifamily default rates.

NAHB suggests that, given the low default rates in both multifamily portfolios and the fact that both Enterprises are enjoying profitable multifamily business, the Enterprises' underwriting standards go well beyond that needed to maintain safety and soundness. NAHB shares the concern about Freddie Mac's performance and suggests that FHFA should not only direct Freddie Mac to assess its business model for multifamily, but direct Freddie Mac to implement new policies to address this issue sooner rather than later.

It is difficult to determine whether the proposed unit goals are reasonable. FHFA does not report the average percentages of the low-income and very low-income purchases for either Enterprise for 2008, which is being used as the basis to set the goals for 2010 and 2011, nor does FHFA report the total volume for either Enterprise in 2008. FHFA also does not report its expected multifamily total loan volume for 2010 and 2011. Tables 7 and 8 in the Proposed Rule present units and dollar volumes for low-income and very low-income units, but total volume is not provided, nor are the number of units presented as percentages of total volume.

NAHB observes that Fannie Mae's proposed goal of 237,000 low-income units for each of 2010 and 2011 is far below the number of such units achieved in any year during the 2001 to 2008 period (with the lowest total being 316,133 units in 2004). Similarly, the proposed low-income goal for Freddie Mac, 215,000 units, is far below the number of such units achieved in any year during the 2001 to 2008 period (with the lowest total being 255,947 units).

The proposed very low-income goals for each Enterprise are also far below that achieved in any year during the 2001-2008 period. The proposed goal of only 57,000 units for Fannie Mae is almost 15,000 units less than Fannie's worst performing year (71,318 in 2001). Freddie Mac's very low-income goal of 28,000 is 21,000 units less than Freddie Mac's worst-performing year (49,862 units in 2002).

Based on these observations, NAHB is very concerned that FHFA's proposed goals for 2010 and 2011 are far lower than appropriate. However, because FHFA has not presented the data needed by commenters to make a judgment as to the appropriateness of the proposed goals, NAHB recommends that FHFA publish such data immediately and re-open the comment period so stakeholders can submit additional comments on the multifamily affordable housing goals.

Proposal to Establish a Small Multifamily Low-Income Subgoal

FHFA invites comment on whether it should set additional requirements for small multifamily low-income properties. NAHB strongly supports the establishment of a subgoal for small multifamily low-income properties. NAHB believes that 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 that Freddie Mac virtually exited this market in 2008, having provided financing for only 2,078 such units that year (compared to 48,970 units by Fannie Mae). NAHB notes the high number of such units 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 consider 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.

NAHB appreciates the opportunity to comment on the proposed Enterprise housing goals for 2010 - 2011. If you have any questions regarding these comments, please feel free to contact Claudia Kedda, NAHB's Director of Multifamily Finance, at 202-266-8352 or ckedda@nahb.org.

Best regards,

David L. Ledford

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