From: Paul Haaland [phaaland@naahl.org]
Sent: Monday, April 12, 2010 4:49 PM
To: !FHFA REG-COMMENTS
Subject: RIN 2590-AA26

Attachments: CIC Fannie Mae Letter February 2010.pdf
Please find enclosed NAAHL's comments on FHFA's proposed rule for 2010-2011 Enterprise Affordable Housing Goals; also find attached a letter from the Community Investment Corporation that we refer to in our comment letter.

N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

April 12, 2010

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA26
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552
RegComments@fhfa.gov

Dear Mr. Pollard:

We welcome the opportunity to comment on the proposed rule regarding Fannie Mae and Freddie Mac's 2010-2011 Affordable Goals. NAAHL's members, including the nation's leading CDFIs and other high-performing mission-driven nonprofit lenders, play a significant role in financing affordable rental housing in the United States. These primary lenders help to revitalize low- and moderate-income (LMI) communities, and provide apartments LMI families are proud to call home.

As you know, Fannie Mae and Freddie Mac were authorized by Congress in 1992 to "take less than the return earned on other activities" to assist "mortgages on housing for low- and moderate-income families," in order to replenish primary lenders' funds so they could make more loans. However, over the past 18 years, the GSEs did not bring the benefits of a government-sponsored secondary market to responsible mortgages on affordable rental housing. Rather, over the past few years it appears that the companies violated both the spirit and the letter of their charters by financing predatory loans and predatory landlords, under the guise of "affordable housing".

The Housing and Economic Recovery Act of 2008 (HERA) reinforced the GSEs' responsibilities to provide capital market access to affordable housing. It revised the income targets, implementation, and regulatory oversight of Fannie Mae and Freddie Mac's charter responsibilities for affordable housing to ensure a secondary market for primary lenders' mortgages on affordable properties. **Unfortunately, the proposed rule sets the bar too low to realize HERA's objectives.**

GSEs Need to Do More

FHFA says "while obtaining multifamily credit is difficult for most owners, demand for new multifamily housing credit has also waned". In fact, Main Street loan demand has increased from the Ma and Pa landlords and other small businesses that drive the economies of our local communities and successful mission-driven nonprofit lenders are struggling to find needed capital and liquidity to meet multifamily loan demand, both in urban and rural markets.

With nonprofit lenders facing their worst liquidity crisis ever because of the ongoing credit crunch, the production and preservation of affordable housing in the U.S. is stymied. It is truly a "perfect storm", with single-family foreclosures destabilizing communities across the country, and our economic recovery requiring more construction activity and more affordable rental housing in most places. Yet the lenders best positioned to meet this need are restricted in their ability to make more good loans because the GSEs ignore their responsibility to bring their government-sponsored benefits to conventional mortgages on affordable rental housing.

With loan purchases by Fannie Mae and Freddie Mac, **just 25 of our nonprofit lenders could finance at least twice as many "shovel ready" construction projects in 2010 as they financed in 2009**. In addition, based on a statistical multiplier developed by the National Association of Home Builders (NAHB), if each of these lenders financed just 100 apartments more, the one-year impacts of these activities on economic recovery would be:

- **$198 million in local income;**
- **$21 million in taxes and other revenue for local governments, and;**
- **3,050 local jobs**

For-profit and nonprofit lenders and investors, developers, community leaders, and government at all levels, have all learned to collaborate as partners in devising new solutions and creative strategies for financing multifamily affordable rental housing that people are proud to call home in thousands of communities across the U.S. Fannie Mae and Freddie Mac should be part of this collaborative effort, not on the sidelines, or at cross-purposes to it.

GSEs Are Actually Doing Less

FHFA curiously perpetuates the myth that the GSEs finance multifamily mortgages that are at the center of affordable rental housing: "in 2009, they not only led the multifamily market, they effectively were the market". Purchasing CMBS and huge mortgages on once-affordable properties, and supporting private equity funds' investments in predatory landlords, do not constitute the entire multifamily market, but only the most lucrative parts of that market. The GSEs remain missing in action on "small" multifamily mortgages ($2-3 million and less) and properties affordable to low income tenants, both of which are key to Community Development.

As inconceivable as it seemed two years ago when HERA was signed into law, **Fannie Mae and Freddie Mac are actually doing even less** to finance legitimate, affordable rental housing now than they were then. For example, NAAHL member Community Investment Corporation (CIC) has provided $1 billion for affordable housing since 1984. Its funds come from a pool of 45 investors, which had, since 1993, included Fannie Mae. While every other major investor has chosen to renew its commitment, Fannie Mae recently said that its participation in the CIC lending consortium no longer fits Fannie Mae's current business model.

As CIC President Jack Markowski wrote in a letter (which is included as part of NAAHL's submitted comments) to Fannie Mae's chief executive officer in response to this decision, "We cannot understand why Fannie Mae has chosen to cease its participation in the CIC loan pool when an investment in CIC furthers Fannie Mae's mission, reaches an important market not

otherwise served by Fannie Mae products, and delivers financial returns far in excess of Fannie Mae's other investments. There seems to be a disconnect between the commitment of the federal government to preserve Fannie Mae's financial viability and the failure of Fannie Mae to apply its resources to 'Main Street' development in Chicago."

The New York Times has documented how the GSEs actually helped to finance the purchase of very large, "affordable" apartment complexes in New York City by private equity firms which intended to force out lower income tenants in favor of wealthier occupants. The Wall Street Journal also chronicled how a number of public pension funds also invested in such "predatory equity" real estate deals, including the California Public Employees' Retirement System (Calpers).

Nonetheless, the proposed rule sets the bar very low for financing affordable rental housing. It also appears to undermine HERA's legislative intent that the GSEs' effectiveness in meeting the credit needs of LMI persons should be evaluated relative to the primary market's activity.

HERA Requires More, Not Less

FHFA's conservatorship of the GSEs could and should provide the leadership needed to increase credit availability on Main Street and help spur the recovery. Even before the conservatorship, HERA made clear FHFA's responsibility and flexibility to ensure that the GSEs support affordable rental housing. The Federal law:

- Makes the GSEs' housing mission co-equal with the companies' safety and soundness
- Aligns the GSEs' mortgage purchase goals with banks' Community Reinvestment Act (CRA) income targets (for the first time), so Fannie Mae and Freddie Mac should now be looking for all the good CRA business they can find
- Provides FHFA with the discretion to give full, partial, or no credit for transactions the GSEs call "affordable housing". This discretion is intended to provide FHFA the authority to gauge the value added by the GSEs in purchasing mortgages

With very little effort, FHFA could and should be part of the solution in overcoming the GSEs' biases that work against affordable rental housing**. Yet the FHFA "targets" for 2010 and 2011 multifamily affordable units are only 50-60 percent of what the GSEs actually financed in 2008.** Now more than ever, FHFA should be pressing the GSEs to alleviate the liquidity crisis in preserving and building affordable rental housing.

Some Recommendations

The final rule should require Fannie Mae and Freddie Mac to expand significantly purchases of good quality loans on affordable rental housing from banks and mission-driven lenders with strong track records. Ways to accomplish that include:

- "Mini Delegated Underwriter/Servicer" designations for mission-driven multifamily lenders that permit primary lenders to originate and be confident of selling qualifying loans to the GSEs on a "flow" basis
- Appropriate pricing for underwriting, originating, and servicing "small" loans (under $1, 2, and 3 million) that are the lifeblood of affordable rental housing
- Investments in multi-bank consortia
- Annual reports, publicly available by state, designed to clearly show how the companies are meeting their affordable housing goals
- Certification requirements by the GSEs' CEOs for any loans submitted for affordable housing credit
- Covenants requiring lenders to repurchase multifamily loans on properties that might adversely affect current tenants and affordability

FHFA also has discretion to take more actions:

- HERA provides FHFA with the authority to set additional requirements for the purchase by each enterprise on properties affordable to households with incomes at or below 50 percent of AMI and under $5 million. Smaller sized properties affordable to LMI are the most underserved segment of the multifamily market, in large part because of the absence of the government-sponsored secondary market. The rule should incorporate goals for under $1, 2 and 3 million dollar mortgages, and require the same reports.

- FHFA should make a special effort to size more accurately the market for smaller sized LMI property loans and loans benefiting "very low income". Existing HUD and bank regulatory reports also consistently understate actual originations by nonprofit lenders. In addition, the rule appears to allow the GSEs to count private label securities backed by multifamily mortgages, although not those backed by single family mortgages. If counting CMBS continues to be permitted, FHFA should recognize that these CMBS also include those not counted under HMDA.

- FHFA should focus on developing a tenant protection screen for GSE purchases that prevents predatory landlords from accessing GSE benefits. The multifamily prohibitions should be at least as strong as the proposed rule on Single Family mortgages with unacceptable terms.

We look forward to working with you to increase the flow of private capital to financing affordable rental housing, bringing Wall Street credit to Main Street's economic activity.

Sincerely,

Judith A. Kennedy
President and CEO

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N A A H L

February 4, 2010

Mr. Michael J. Williams
President and Chief Executive Officer
Fannie Mae
3900 Wisconsin Avenue, NW
Washington, DC 20016-2892

Dear Mr. Williams:

Last year, as you assumed leadership of Fannie Mae, I was pleased to accept your invitation to meet with you in Chicago – part of your effort to reach out to Fannie Mae partners across the country and assure them of your continued commitment to their efforts. I am sorry to report, however, that despite your assurances, after many months and many meetings, it has become clear that Fannie Mae no longer intends to participate in the Community Investment Corporation (CIC) multifamily lending consortium in Chicago.

As you know, CIC is the leading multifamily rehab lender in Chicago. Originally created by Chicago based financial institutions, CIC has provided $1 billion for affordable housing and community development since 1984. Our funds come from our pool of 45 investors, which, since 1993, has included Fannie Mae. Our current agreement with our investors expires at the end of this year, and we are in the process of securing $400 million in commitments to extend our loan pool for another five years.

Except for Fannie Mae, every other major investor has chosen to renew their commitment. This includes Bank of America, Chase, Citibank, Northern Trust, Harris Bank, and others. Unfortunately, we have been told that continued participation in the CIC lending consortium does not fit Fannie Mae's current business model.

This is particularly disappointing for a number of reasons:

- Over the past two years, CIC has originated record levels of loans as we have stood virtually alone in providing vitally needed credit for affordable multifamily rental housing in low-moderate income communities throughout the Chicago area.

- Despite continuing to lend in the face of a difficult and declining economy, CIC has continued its **remarkable record of 26 consecutive years of positive returns to our investors. There has been no investor loss on *any* loan since 2001.**

- Created by the US Government, Fannie Mae's chartered mission is "to increase the amount of funds available in order to make homeownership and rental housing more available and affordable." Fannie Mae has been provided with billions of

taxpayer dollars to ensure the availability of capital for housing throughout the country.

- Other than a lending consortium such as CIC, **Fannie Mae has no other product that serves our market niche – the small business entrepreneurs who own up to 80% of the rental housing in the US** and are the economic backbone of many communities. If you choose not to continue your investment in CIC, I assume that you will also decline to participate in lending consortia throughout the country, who are pooling investor risk to meet today's vital credit needs.

We cannot understand why Fannie Mae has chosen to cease its participation in the CIC loan pool when an investment in CIC furthers Fannie Mae's mission, reaches an important market not otherwise served by Fannie Mae products, and delivers financial returns far in excess of Fannie Mae's other investments. There seems to be a disconnect between the commitment of the federal government to preserve Fannie Mae's financial viability and the failure of Fannie Mae to apply its resources to "Main Street" development in Chicago. I regret that your original assurances of cooperation and partnership have failed to materialize.

As a taxpayer and as a person on the front line of lending for affordable housing and community development, I look forward to your response to this letter. I would welcome the opportunity to count Fannie Mae among CIC's continuing investors.

Sincerely,

Jack Markowski
President

cc: Ed DeMarco, Director, Federal Housing Finance Agency
Shaun Donovan, Secretary, Department of Housing and Urban Development
Timothy Geithner, Secretary, Department of Treasury
Senator Richard Durbin
Senator Christopher Dodd
Congressman Barney Frank
Mayor Richard M. Daley
Congressman Luis Gutierrez
Michael Barr, Assistant Secretary, Financial Institutions, Department of Treasury
Raphael Bostic, Assistant Secretary for Policy Research and Development, HUD
Bill Apgar, Senior Advisor to the Secretary, HUD
Peter Swire, Special Assistant to the President for Economic Policy, NEC
Carol Galante, Deputy Assistant Secretary, Multifamily Housing Programs, HUD
Erika Poethig, Deputy Assistant Secretary for Policy Development, HUD
Jeffrey Hayward, SVP, Housing and Community Development, Fannie Mae