



July 19, 2010

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

RE: RIN 2590-AA27 – Enterprise Duty To Serve Underserved Markets

Dear Mr. Pollard:

The Mortgage Bankers Association (MBA)¹ appreciates the opportunity to respond to the Federal Housing Finance Agency's (FHFA) proposal to implement statutory requirements regarding the duty of the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac to serve underserved markets (Proposal).²

MBA's comments address the Proposal as it relates to the current statutory and regulatory framework while the GSEs are in conservatorship. However, MBA believes it is important to address the larger set of questions about the roles of the federal government and private capital and how the efforts of both can be synchronized to repair the housing finance system. While the Proposal addresses important yet underserved housing sectors, its relevance is undermined somewhat by the uncertainty around that larger debate. In fact, MBA has developed comprehensive recommendations about the future structure of the housing finance system in response to the request for comments by the Department of Treasury and Department of Housing and Urban Development.³

Background

The Housing and Economic Recovery Act of 2008 (HERA)⁴ requires the GSEs to provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families with respect to manufactured housing, affordable housing preservation, and rural markets. HERA also authorizes the FHFA to issue regulations for evaluating whether and the extent to which the GSEs have complied with this duty, and for rating the extent of such

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

² 75 Fed. Reg. 108, 32099-32117 (June 7, 2010).

³ 75 Fed. Reg 77, 21146-21147 (Apr. 22, 2010).

⁴ Pub. L. 110-289, 122 Stat. 2654 (July 30, 2008).

compliance. As conservator of the GSEs, the FHFA has an obligation to maintain the GSEs in a safe and sound financial condition and to help assure performance of their public purpose mission. In furtherance of this obligation, the Proposal is limited to the GSEs' core business activities.

FHFA proposes that the GSEs' performance be evaluated under four assessment factors:

1. Loan products with underwriting criteria that can increase the access to capital in the underserved markets;
2. Outreach to others that can play a role alongside the GSEs to bring credit to underserved markets;
3. A relative loan purchase requirement based on residential lending activity during the period of assessment; and
4. Investments and grants the GSEs might make to advance any of these strategies.

MBA Position

MBA appreciates the measured approach taken by the FHFA by limiting the Proposal to activities performed by the GSEs in furtherance of their existing core business and taking actions necessary to advance the goals of their conservatorships. MBA believes that even in conservatorship, it is possible for the GSEs to support the availability and affordability of financing for manufactured housing, affordable housing preservation and rural housing. We believe the Proposal's standards for measuring the GSEs' responses are appropriate because of the high levels of risk associated with these market segments. We would also want FHFA in its role as conservator to ensure that these activities are not in conflict with the agency's primary mission of protecting taxpayers by conserving the GSEs' assets.

MBA's comments relative to specific questions posed in the Proposal follow.

Manufactured Housing

The Proposal seeks comment on FHFA's proposed framework for focusing the GSEs' duty to serve the market for manufactured housing. Specifically, FHFA is proposing that only loans titled as real property be considered towards the duty to serve. MBA supports this approach.

However, we also urge FHFA to continue to explore ways to encourage the GSEs to provide support for manufactured housing on rented pads in manufactured home parks. MBA believes that because manufactured housing is a major resource in affordable homeownership, a regulatory framework should be established that encourages:

- 1) Standards permitting the financing of qualifying 3-star parks as well as 4-star parks, to provide for affordable communities—not merely retirement and luxury parks.
- 2) Longer amortization periods of not less than 30 years, as the assets being mortgaged are land and infrastructure that do not depreciate at an accelerated pace.
- 3) No restrictions on the percentage of single-wide homes as these are generally the most affordable. Underwriting should focus on the history of the park, stability of the tenant profile, market acceptance/standards and the housing needs of the area.
- 4) Financing of resident-owned communities (e.g. cooperatives) as well as more traditional ownership structures.

MBA also recommends encouraging the GSEs to collect, analyze and share data on manufactured home loans so that underwriting guidelines can be refined to systematically

develop investor interest and more appropriately serve this market. Attracting capital and liquidity to these submarkets and products will require performance information on the asset classes. Fannie Mae and Freddie Mac should be charged with publishing performance data usable by investors to estimate risks. Ultimately this will expand the markets for these assets, improve liquidity and lower costs to borrowers.

Affordable Housing Preservation

The GSEs already play an important role in preserving affordable multifamily properties by offering owners refinancing alternatives to the Federal Housing Administration (FHA), and state and local financing programs. Therefore, MBA does not believe that the GSEs need to expand beyond their current roles in order to serve this market. The GSEs also can assist in the refinancing of currently assisted rental properties which will help to preserve some of them as affordable housing. For example, MBA believes that the GSEs could offer underwriting standards that match the risks of the loans, including those covering debt service coverage and loan to value ratios. The GSEs could also explore allowing more substantial repairs and rehabilitation on these types of properties as part of the refinance process.

MBA also supports FHFA-mandated efforts to promote collaboration between Fannie Mae and Freddie Mac to advance efforts to make preservation deals financeable. The GSEs' programs have achieved significant results bringing affordable capital to existing rental properties. Nevertheless, the demand for preserving the country's aging stock of quality units grows. We request the FHFA to explore opportunities for the GSEs to collaborate with each other while their legacy of experience, intellect and commitment – not to mention the wealth of operating data – is still intact.

MBA believes the GSEs' institutional resources could be brought to bear in the following areas:

- Developing underwriting best practices, investments in Low Income Housing Tax Credits (LIHTC), particularly now that the LIHTC program faces challenges attracting new investors;
- Evaluating the potential to develop securitization to bring capital to rural markets;
- Collaborating with FHA to make multifamily underwriting standards more accommodative. HERA requires FHA to enhance their underwriting in order to make their multifamily insurance programs more relevant to the marketplace. More recently, HUD has articulated a series of initiatives to link leverage and rental assistance that we believe could benefit from input from the GSEs.

Evaluation of Performance

MBA supports the proposed approach to rating the GSEs' performance of their duty using a method similar to that used by federal banking regulators to evaluate the Community Reinvestment Act compliance of institutions under their supervision. Furthermore, MBA believes overall assessment ratings of "In compliance," or "Noncompliance" for each underserved market appears to be a viable system. MBA supports a flexible approach that addresses each of the market segments independently, each of the four tests differently and including both effort and effectiveness as factors in the GSEs' ratings.

The loan products assessment should get points for increasing the robustness of the products serving the underserved markets – product design, underwriting, plus asset management and quality control. Risk assessment, proactive asset management, and loss mitigation are underappreciated but critical factors in the products' long-term viability and in attracting liquidity.

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Conclusion

MBA supports the overall approach of the FHFA in implementing the duties to serve under HERA in a manner that is more qualitative than quantitative and that balances safety and soundness with the need to serve underserved markets. MBA requests that you consider the modifications suggested above, and look forward to addressing any questions you may have.

Regards,

A handwritten signature in cursive script that reads "John A. Courson". The signature is written in black ink and is positioned below the "Regards," text.

John A. Courson

President and Chief Executive Officer