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July 22, 2010

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

Attention: Comments/RIN 2590-AA27

Dear Mr. Pollard:

The Independent Community Bankers of America¹ (ICBA) welcomes the opportunity to comment on the notice of proposed rulemaking by the Federal Housing Finance Agency (FHFA) regarding Enterprise Duty to Serve Underserved Markets.

Section 1129 of the Housing and Economic Recovery Act of 2008 (HERA) amended section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to establish a duty for Fannie Mae and Freddie Mac (the GSEs or Enterprises) to serve three specified underserved markets—manufactured housing, affordable housing preservation and rural markets—in order to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for very low-, low-, and moderate-income families in those markets. The FHFA is seeking comments to establish a method for evaluating and rating the two GSEs performance in each underserved market for 2010 and each subsequent year. In addition, the proposed rule would set forth transactions and activities that would be considered for the duty to serve.

Rural Housing

Underwriting rural residential mortgages for the secondary market has long been a problem for community banks serving rural areas. Residential mortgage lending in rural America is very

¹ *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

different from that in urban areas. The secondary market, including underwriting standards was developed for the urban market and does not always work well in rural areas. The property or its location may have unique characteristics. Appraisal problems are common. Often, the credit histories for rural residents do not look like those of urban residents because of seasonal income. Residences in rural areas are not the “cookie cutter” properties that are best suited for current secondary market underwriting standards. While properties are primarily residential, not agricultural, there maybe outbuildings that suggest otherwise. These properties may include more land than is typical for an urban or suburban property, due to zoning requirements or the borrower’s wish for space. These differences often result in difficulties obtaining comparable property information for appraisals. More appraisal valuation adjustments are likely needed. Even in strong housing markets, sales are fewer than in urban areas because there are simply few properties that are comparable. In many rural areas, particularly western states, appraisers may need to travel 50 miles to find suitable comparables. Community bankers commonly find that these special circumstances make underwriting these properties for current secondary market standards difficult or impossible. By not being able to sell many of these loans, community banks are limited in their ability to keep residential mortgage credit flowing in their communities. We strongly support the FHFA’s statement that it expects the Enterprises to thoroughly review their underwriting guidelines to ensure they are appropriate for rural markets.

The ICBA has worked with Fannie Mae, Freddie Mac and Farmer Mac to help community banks gain better access to the secondary markets. While progress has been made, much more is needed. When the Department of Housing and Urban Development proposed goals for mortgage purchases by Fannie Mae and Freddie Mac, the ICBA has urged the agency to make the rural goal broad so more of the GSEs’ business would be focused in rural America. Over ten years ago, ICBA worked with Fannie Mae to address misunderstandings about rural properties and their ability to be underwritten for the secondary market. This effort resulted in the development of Fannie Mae’s *Underwriting Rural Properties* guidance that was published in 1996. This clarified many underwriting issues and greatly helped community banks sell their mortgages. But in the last several years, community banks once again faced the same underwriting issues. Thus, it is not enough that underwriting standards be flexible, this flexibility must be communicated to and understood by all parties in the transaction. It seems too often the flexibility contained in the underwriting standards is forgotten or is not used. Existing flexibilities in underwriting standards may not be fully understood by lenders, appraisers, or poolers and securitizers. Thus, we think it would be useful for the Enterprises to also review the communication of the standards as they relate to properties in underserved markets, particularly rural areas.

Definition of Rural

The FHFA proposes to define rural areas generally in accordance with the definition set forth in the Housing Act of 1949. Under the Housing Act definition, “Rural area” means any open country or any town, village, city or place that is not part of or associated with an urban area, and that (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000 and (A) is not contained within a standard metropolitan statistical area and (B) has a serious lack of mortgage credit for lower and moderate income families.

In a comment letter responding to the Advance Notice of Proposed Rulemaking published in 2009, ICBA supported the use of alternative definition 1 because we viewed it as being the most

suitable among three suggested definition for identifying underserved rural areas and relatively easy to use. We would support the use of this new definition in the proposed rule because it is well used by community banks and others serving rural areas. However, we ask the FHFA to consider including in the final rule a clarification that the definition does not include “Urban Clusters” to exclude loans in communities that have relatively small census populations but are densely settled.

Manufactured Housing

ICBA has long urged the GSEs to do more to find ways to support the financing of manufactured housing because it is such an important source of affordable housing in many communities across the country, particularly in southern states and rural areas. Providing a secondary market for manufactured housing loans is certainly challenging and a once functioning market has all but disappeared. Some community banks are providing loans for manufactured housing and keeping the loans on their books because of the importance of this housing alternative to their community.

The proposed rule would consider only manufactured homes titled as real property for purposes of the duty to serve the manufactured housing market. Neither of the GSEs currently purchase personal property loans on manufactured housing on a flow basis. ICBA believes that there needs to be a viable secondary market for both types of loans and both should be ultimately counted toward the duty to serve to encourage the GSEs to develop these markets in a safe and sound manner.

Congress charged these congressionally chartered entities to do more to support financing for manufactured housing. In the preamble to the proposed rule, the FHFA notes that Section 1335(d) of the Safety and Soundness Act provides that in determining whether the Enterprises have complied with the duty to serve the manufactured housing market, “the Director may consider loans secured by both real and personal property.” Yet, the FHFA proposes that only loans titled as real property be considered towards the duty to serve; loans to finance manufactured housing classified as personal property (chattel) and land-home packages are excluded. The FHFA goes on to say that purchasing or guaranteeing chattel loans would require each Enterprise to develop operational capacities and risk management processes not currently in place. To ensure that such lending was done responsibly, each Enterprise would need to develop an extensive set of consumer protection requirements. We agree that if the Enterprises were to move forward to serve this segment these steps would need to be taken. In our view, this is exactly the sort of activities that Congress envisioned in imposing the duty to serve requirement and specifying that it may be applied to both real and personal property. ICBA is not suggesting that the two Enterprises be required to immediately start purchasing a certain amount of personal property or land-home loans financing manufactured housing. But they can make significant progress in developing an underserved market plan that includes activities that would fall under the proposed assessment factors, such as assessing the market and homeowner needs, working toward developing suitable loan products, conducting outreach efforts to participants in this market segment and considering pilot programs. This importance of this affordable housing option warrants this level of attention and coverage by the duty to serve regulation.

Summary

ICBA believes that Fannie Mae and Freddie Mac can and should play an important role in developing a more viable, reliable secondary market for mortgages to underserved rural areas, manufactured housing and the preservation of affordable housing.

We appreciate the opportunity to comment on this notice of proposed rulemaking regarding duty to serve underserved markets. If you wish to discuss our comments further, please contact the undersigned at 202-659-8111 or email at ann.grochala@icba.org.

Sincerely,

/s/

Ann M. Grochala
Vice President
Lending and Accounting Policy