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March 17, 2016

The Honorable Melvin L. Watt
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

RE: Enterprise Duty to Serve Underserved Markets

Dear Director Watt:

I am writing on behalf of the over 1.1 million members of the National Association of REALTORS® (NAR) to provide comments to the Federal Housing Finance Agency (FHFA) on its proposal to establish a Duty to Serve responsibility for Fannie Mae and Freddie Mac (the government-sponsored enterprises or Enterprises). NAR is America's largest trade association, including our eight affiliated Institutes, Societies and Councils, five of which focus on commercial transactions. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

REALTORS® believe that, as conservator, it is critical that FHFA ensures the continued availability of affordable mortgage credit to all qualified borrowers. NAR supports FHFA's implementation of the Duty to Serve standards that will support the important affirmative obligation of the Enterprises to facilitate the financing of affordable housing for low- and moderate-income families that are consistent with sustainable homeownership. NAR believes that the FHFA doesn't need to compromise safe and sound lending standards in order for the Enterprises to support fair and affordable mortgages to a full range of qualified households in the market. Though it will not come as a surprise, REALTORS® still believe sound public policy that supports homeownership leads to stronger communities and social stability, all while driving the national economy. Though the country experienced great pains during the recession, as a nation we collectively learned that we are all responsible for ensuring sustainability. Keeping the American Dream in reach is at the very heart of Duty to Serve standards, and is an opportunity for leadership on this important issue.

FHFA's Proposed Regulatory Activities for Manufactured Housing Appropriately Addresses Duty to Serve Objectives

NAR has long been supportive of enhancements to federal housing programs that encourage financing of manufactured housing. Facilitating further liquidity for manufactured housing would benefit the millions of Americans who call manufactured housing "home." NAR has worked with a number of different stakeholders to create and provide information to REALTORS® on how manufactured housing is financed and sold both initially and upon resale. Financing, particularly on resales, remain difficult for these homes that are affordable for homebuyers. Manufactured housing properties are often a more accessible and affordable way for many people to buy their own home; therefore, REALTORS® believe it is important for the Enterprises to further develop financing options for these borrowers. In many areas of the country, particularly rural communities, manufactured homes are the only type of quality affordable housing available.

EQUAL HOUSING OPPORTUNITY

FHFA has proposed two Regulatory Activities which NAR believes will go a long way to enhancing the availability of financing for manufactured housing. As proposed, the Enterprises will receive Duty to Serve credit for:

1. Mortgages on manufactured homes titled as real property under the laws of the state where the home is located; and
2. Mortgages on manufactured housing communities provided that:
    i. The community has 150 pads or less;
    ii. The community is government-, nonprofit-, or resident-owned; or
    iii. The community has certain minimum specified pad lease protections for tenants.

FHFA notes that different ownership, titling, and financing structures are available for manufactured housing, and this has a major impact on loan origination, servicing, and securitization requirements and practices. By providing leadership in standardizing some of these practices through underwriting guidelines, and facilitating the development of a secondary market for mortgages on manufactured housing, NAR believes the Enterprises will fulfill the expected objectives of furthering financing options for millions of borrowers. As noted, this can also include a pilot program to further study the standardization of lending terms and requirements for chattel loans on borrower owned land. Having a pilot initiative would provide the Enterprises an opportunity to gather more data on chattel financing while also assisting the market to become familiar with the requirements of origination, servicing, and consumer protection that would be required for any permanent chattel financing initiative.

Understanding that the Enterprises will not have to reach quantitative targets, it is prudent to evaluate an Enterprise's past performance in purchasing manufactured housing loans relative to the volume of manufactured housing loans the Enterprise actually purchases in a given year, pursuant to its stated objective. Having the data will allow policymakers and stakeholders to understand the important gains made through the Duty to Serve proposal.

Preservation of Affordable Rental Housing

NAR supports a strong secondary mortgage market for affordable rental housing. Rental housing for low and moderate income families remains in high demand across the country and development continues to lag behind. Federal programs to incentivize construction in this market are critical to creating and maintaining an adequate housing stock.

NAR believes the Enterprises can have a positive impact on the development of affordable housing if they re-enter the market for the purchase of Low Income Housing Tax Credits (LIHTC). In many communities, tax credits are helping with the development of affordable housing. But in other, often less urban areas, the value of the LIHTC is less desirable and financing new housing becomes difficult. By re-entering and targeting these underserved markets, the Enterprises could help preserve and develop more housing for needy families.

Much of the rental housing market is served by small properties. According to the National Multifamily Housing Council, more than 12 million units (of the total 18 million nationwide), are in buildings with less than 24 units. NAR believes strong support for this market, and Duty to Serve credit for small multifamily rental properties would help expand lending in this market, and will provide more housing opportunities for low and moderate income families.

Interpretation of Preserving Affordable Homeownership Opportunities Should Include Disposition Efforts That Impact Affordable Housing Options for Homebuyers [Question 27]

REALTORS® have long supported the safety and soundness of the Enterprises and their commitment to providing homeownership opportunities. To that end, NAR believes that the Enterprises' loss mitigation policies should incorporate a Duty to Serve objective for affordable housing preservation that ensures that institutional investors aren't given an advantage over new owner occupant families in GSE disposition strategies. NAR applauds FHFA's efforts to broaden opportunities for consumers to refinance as well as encouraging the GSEs to take every feasible action to keep families in their homes with a loan modification. These home retention initiatives both mitigate losses to the GSEs and taxpayers, and provide stability to local housing markets.

Conversely, NAR is concerned about alternative asset disposition programs that actually seem to contribute to reducing affordable home purchase opportunities for owner occupants. Therefore, REALTORS® strongly believe that every effort should be given to avoid bulk sales, in the form of Real Estate Owned (REO) assets or note sales, which seemingly reduce the available supply of housing inventory. Rather, disposition efforts that preserve affordable housing options should be prioritized under the Enterprises Duty to Serve responsibilities.

NAR has noted many times the need to minimize investor gains, who benefit from the discount purchase on non-performing note sales, at the expense of taxpayer dollars. NAR is concerned that the bulk sale of mortgage notes by both Enterprises to large investors could potentially unsettle the recovery of neighborhoods. This is particularly concerning for those neighborhoods most affected by the recent housing crisis. It is important that policymakers and stakeholders understand how these transactions, without expectations or restrictions, blunt the opportunity for homebuyers to aid a recovery in the broader housing market and certainly seems to go against the idea of affordable housing preservation.

Though there is limited information available about this program, we are concerned that the properties will end up as rentals thus limiting the supply of affordable housing inventory available for purchase. NAR's concern is that this reduction in affordable inventory will prevent first time homebuyers from entering the housing market, limiting growth and hurting the overall health of these local economies. The GSEs, with FHFA's guidance, have an opportunity to lead an effort to provide first-time homebuyers with greater purchase opportunities through sensible disposition strategies which certainly makes sense in achieving the preservation of affordable homeownership opportunities.

Duty to Serve Entails Providing Broad Access to Financing – Not Maximizing Profits

NAR has long supported the idea that the fees charged by the Enterprises need to adequately protect the Enterprises and taxpayers from credit losses. However, NAR believes that the fees charged by the Enterprises are pushing substantially more underserved and first-time borrowers, who would most benefit from the Enterprises leadership in the space, to FHA and other lending programs.

Preserving access to affordable housing must be accomplished within the confines of safety and soundness and the goals of conservatorship. However, it is possible for the Enterprises to have robust underwriting guidelines without having a similarly robust, singular focus on desired economic returns or substantial profitability. As NAR has continually reiterated, and the Enterprises' financial reports have demonstrated, both Fannie Mae and Freddie Mac have experienced sizable returns and enormous profits, at the direction of FHFA, based on charging borrowers substantially higher fees than the actual risk those borrowers present.

Current fees and pricing do not reflect the reduced credit losses the Enterprises have experienced throughout 2015, thus resulting in substantial profits for their credit guarantee businesses. Instead of focusing on economic returns or profitability requirements of Wall Street investors wanting to participate in risk sharing transactions, FHFA should follow through with the mission of ensuring mortgage financing for the marketplace.

It is important that FHFA not continue to encourage policies that target substantial private sector returns for companies serving a public mission while in conservatorship and overcharge consumers in order to generate billions of dollars of profits.

Meeting the Housing Finance Needs of Rural housing Markets

NAR believes it is vital to ensure that our rural citizens continue to have access to financing appropriate to their needs. Though we continue to pursue broader opportunities, prospective homebuyers nationwide have found significant barriers to obtaining mortgage financing in rural areas. Credit standards remain very tight, and those wishing to purchase a home – especially first-time buyers – are facing many obstacles to finding a safe, affordable home loan.

Rural citizens face unique challenges finding access to credit. Almost 20 percent of the U.S. population lives in rural areas or small towns and nearly all of the counties with the highest poverty rates in America are rural. NAR recognizes the uniqueness of rural communities and the key role that housing plays in building strong communities. REALTORS® who live in and serve these communities also understand the need for specialized programs to meet the needs of Americans living in rural areas. To this end, NAR is supportive of Enterprise Underserved Markets Plan Activities that increase their rural loan purchases and further develop strategies for extending outreach to small and rural lenders and other entities, (including nonprofit and for-profit organizations) to better serve the rural marketplace.

To ensure that rural borrowers have access to affordable mortgage financing, NAR has long supported providing communities with the opportunity to be designated as "rural" areas. NAR suggests that FHFA follow the Consumer Financial Protection Bureau (CFPB) determinations on its recently announced acceptance of "rural" designation application requests from areas that are outside of rural counties and census blocks. Doing so will ensure that all truly rural communities are adequately served. The CFPB had previously provided an even more granular "rural" definition in its rules that designated rural areas on a county-to-county basis. The definition was later extended to include census blocks that the U.S. Census Bureau defines as being outside of urban areas.

Support the Public Submission of Underserved Markets Plan
(Question 9)

NAR is supportive of the implementation of a public input process that would bring transparency and input to the Underserved Markets Plan process. Soliciting public input will help the Enterprises to develop information about underserved market needs and how they might be met so that the Enterprises can make better judgments in formulating their Underserved Markets Plan Activities and Objective.

Conclusion

NAR appreciates the opportunity to comment on FHFA's proposal to establish a Duty to Serve responsibility for Fannie Mae and Freddie Mac. The benefit from the standardization, stability, and confidence provided by secondary mortgage market investment ensures that all creditworthy consumers have reasonable access to mortgage capital. Millions of Americans will benefit from the leadership provided by the Enterprises in developing and facilitating a secondary market for mortgages in these underserved markets, which is an important step in improving the cost of mortgage credit and facilitating the return of private sources of capital to the housing finance system.

Thank you for your time and consideration of this timely issue. NAR looks forward to working with you. If I may be of any assistance to you, please do not hesitate to contact me or Charlie Dawson, NAR's Managing Director for Regulatory Policy and Industry Relations, at 202.383.7522 or CDawson@REALTORS.org.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®