July 25, 2012

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590–AA49
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street SW.
Washington, DC 20024

Re: Comment on Enterprise housing goals, RIN 2590–AA49

Dear Mr. Pollard,

The National Housing Conference appreciates the Federal Housing Finance Agency's (FHFA) revision and enforcement of the housing goals for Fannie Mae and Freddie Mac (the Government Sponsored Enterprises or GSEs) during this interim period as we await Congressional action on mortgage finance reform. Families and individuals of modest means struggle with burdensome housing costs nationwide, both as owners and renters.[1] The benefits of an efficient secondary market in mortgage finance should reach all in America.
From that perspective, we offer several comments on the proposed rule. In brief, we suggest:

1. Move beyond simple numerical housing goals and toward an economically sustainable, ongoing business commitment to reach the underserved.
2. Implement the goals and Duty to Serve, while remaining open to adjustment. Specifically for multifamily, raising the goals per the proposed rule is appropriate.
3. Encourage the GSEs to facilitate preservation of existing affordable housing. The evaluation of the statutory Duty to Serve should encourage GSEs to facilitate recapitalization of existing properties with their portfolio of Housing Credit investments.
4. Allow no credit for multifamily conversion loans goals for any transaction where the underwriting assumes the conversion from goals-qualified to non-goals qualified units, such as through elimination of state or federal affordability restrictions on rents. In practice limiting underwriting to current rents is a reasonable regulatory proxy given the inherent complexity.

I. About the National Housing Conference

The National Housing Conference (NHC) represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to a balanced national housing policy. Since 1931, NHC has been dedicated to ensuring safe, decent and affordable housing for all in America—that commitment bringing together our broad-based membership

[1] "Housing Landscape 2012" from the Center for Housing Policy describes how severe housing cost burdens have expanded for owners and renters even during this period of home price declines.
http://www.nhc.org/media/files/Landscape2012.pdf

has earned us a reputation as the **United Voice for Housing** engaging in nonpartisan advocacy on housing issues. This comment was prepared with the advice of NHC's Housing Mortgage Working Group (see attachment 1), which assembles policy experts and practitioners within our members to address the pressing challenges of mortgage finance.

II. Make affordable housing a central part of mortgage finance reform

We recognize that existing statute provides only limited opportunity to move beyond simple unit-counting housing goals, despite useful steps in that direction with the addition of the Duty to Serve. We offer comments here to assist you in implementing current law, but we hope you remain focused, as we do, on making affordable housing a central objective of the mortgage finance system yet to be created.

Our comments in later sections speak to the specific questions posed by the proposed rule about how to implement the existing housing goals regime. As a nation, we face the much broader question of how to assure stable and efficient finance of housing so that affordable rental or owned homes are available to all in America. Congress has only just begun to grapple with the complex policy questions involved, with much more work yet to be done.

NHC has previously offered principles to guide that work (available at http://www.nhc.org/media/files/NHC_Housing_Finance_Policy_Principles_FINAL1.pdf). Those principles remain relevant, and policymakers have begun acting on some of them, such as improved disclosures for borrowers.

When we view the current proposed rule against the backdrop of overall mortgage finance reform, it is clear that access to affordable housing must inform the entire system, not just the goals of some providers. A well-regulated system of housing finance creates business opportunities for private participants, including those without government backing. All participants in that market, therefore, should have some obligation to serve those left out. Participants who receive larger benefits, such as explicit government backing, should bear a greater obligation to pilot new approaches, design new products, and otherwise demonstrate economically sustainable ways to address underserved market segments. The obligation to make sure that the benefits of an efficient secondary market extend broadly to all in America goes beyond a simple unit-counting goals approach to one that encourages an economically sustainably, ongoing business commitment to reach the underserved. In the interim, FHFA should renew and enforce the current goals and Duty to Serve regime, even as we collectively work to improve mortgage finance.

III. Implement the goals and remain open to adjustment

The proposed would renew and enforce the affordable housing obligations of the GSEs—a necessary and valuable step. The existing goals regime was put in place in 2008 with the Housing and Economic Recovery Act, but enforcement was disrupted by conservatorship soon thereafter. Although the GSEs remain in conservatorship some four years later, they also remain an essential part of housing finance. Renewing and enforcing the GSEs' obligations to finance affordable housing is critical during this longer-than-expected interim period.

The existing goals regime asks the GSEs to at least match the overall market in its support for affordable housing—a reasonable approach, and one the proposed rule continues. NHC appreciates the work of FHFA in preparing this rule and encourages the agency to move forward with implementation. We observe that the proposed rule sets goals for FY 2012, which is already more than half over. Since the goals appear achievable given the GSEs' current trajectory, the timing is not problematic in this instance, but it could be so in the future, so we encourage FHFA to address goals earlier in the cycle. Beyond that, although many housing stakeholders could propose revisions to the goals regime, those proposals are best left to the broader mortgage finance reform discussion (discussed briefly above). During the interim, FHFA should make sure the existing goals regime is enforced, including the Duty to Serve enacted in the 2008 Housing and Economic Recovery Act.

Specifically for the single-family goals, the proposed rule attributes the decrease in goals-qualified loans to tightening of underwriting standards in the market generally and at the GSEs specifically. That overly tight credit box is not exogenous to FHFA's regulatory purview. As conservator, you can direct the GSEs to moderate what we believe to be an over-correction in underwriting standards. To illustrate the dramatic tightening, the average FICO score for a borrower receiving a new GSE loan is nearly 760, while the comparable score for an FHA borrower receiving a purchase loan is 696 (710 for refinance), according to data provided by the Mortgage Bankers Association. This is significantly tighter than even pre-boom levels.

Specifically for the multifamily goals, the proposed rule would raise the goals for finance of affordable apartments. Given the GSEs strong performance in exceeding the goals by wide margins in recent years, the proposed increase is achievable. We recognize, as the proposed rule describes, that the GSEs have played an outsized role in multifamily mortgage finance in the past several years. That role was essential, because the GSE multifamily business kept the secondary market operating effectively during the flight of private capital. If the market balance were to shift so that private capital sources resumed finance multifamily properties, adjustment of the goals may be appropriate.

IV. Encourage the GSEs to facilitate preservation of existing affordable housing

Both Fannie Mae and Freddie Mac have large investments in multifamily affordable housing properties that were financed in part with the Low income Housing Tax Credit (the Housing Credit). As investors, they do not generally get involved with day-to-day management or ownership of the properties, but they do exercise some control over decisions to sell or refinance the properties. Many of these properties are at or near the Year 15 expiration of compliance restrictions, and most will need some form of recapitalization for capital repair and improvement. This affordable housing is a valuable part of the multifamily housing stock that needs to be managed well for the long term.

The Enterprises, as investors in the properties, can encourage the preservation of these properties by facilitating the sale or refinancing transactions needed to bring in new capital, and in some cases, new mission-oriented affordable housing owners who will be effective stewards for the long term. If the Enterprises facilitate preservation of affordable housing properties with timely consent, donation of interests, or similar actions, FHFA should credit those actions toward fulfillment of their Duty to Serve.

Preservation transactions generally arise after the tax credits have been delivered, so decisions by the GSEs to transfer their interests or approve transactions should not affect federal revenues. The intention is to have the Duty to Serve be a constructive part of GSEs' decision-making when presented with a preservation transaction, one that encourages better affordable housing policy outcomes.

V. No goals credit for multifamily conversion loans

The proposed rule requests comments about whether the Enterprises should receive goals credit for multifamily transactions that convert properties to no longer serve the goals-qualifying rent levels affordable to residents at 60% of area median income. From an affordable housing perspective, the immediate answer is generally, "No, they should not receive credit for actions that reduce the stock of affordable housing." That, however, is not easy to implement.

Consider several hypothetical examples that illustrate the complexity:

1. A property with no affordability restrictions plans to refinance, reposition itself in the market, and raise rents 15%. The loan application anticipates a significant equity distribution to the owner as part of the refinancing. The loan is sized to the new, higher, rents. This should not receive credit under the goals.
2. A property with no affordability restrictions but serving residents at 60% of area median income (AMI) applies for a loan. The loan application relies on a proposed rent increase of 5%, in line with market, and still affordable to residents at 60% of AMI. Does the rent increase make the property ineligible for goals credit?
3. A property with a project-based rental assistance contract plans a recapitalization to make necessarily repairs. The loan application relies on a renewal of the rental assistance at increased rents, although affordability to residents would not be affected. Does the rent increase make the property ineligible for goals credit?
4. A property with project-based Section 8 rental assistance plans a renewal through Mark Up to Market, which increases rents to market levels to encourage owners to remain in the affordability program rather than convert to market rate. The renewal requires a five-year commitment. At the end of the five years, the owner may choose to opt out of the Section 8 program. Would that decision make the property ineligible for goals credit retroactively? Would the possibility of opt-out preclude goals credit initially?

Prohibiting goals credit for any transaction which results in higher rents would exclude many valid and essential preservation transactions. Instead, we propose prohibiting goals credit for any transaction where the underwriting assumes the conversion from goals-qualified to non-goals qualified units, such as through elimination of state or federal affordability restrictions on rents. A transaction that replaced one affordability commitment with a different form could therefore still receive goals credit.

The current practice at both GSE multifamily operations is to underwrite to current rather than projected rents. In practice, this will serve to eliminate goals credit for many transactions where properties operating at affordable rent levels raise rents, potentially displacing residents, since such transactions typically look for maximum proceeds based on less conservative underwriting. However, this is not sufficiently precise for goals measurement. Explicitly prohibiting goals credit for conversion transactions, carefully defined as we propose, would be a useful clarification.

VI. Conclusion

We offer these comments to assist FHFA in its implementation of the existing goals and Duty to Serve requirements, but also to encourage your attention to the challenge of providing affordable housing. Mortgage finance reform provides an opportunity to channel the great efficiencies of capital markets to the difficult but essential mission of ensuring access to safe, decent, and affordable housing for all in America.

Respectfully,

Ethan Handelman
Vice President for Policy and Advocacy

Attachment 1
NHC's Housing Mortgage Working Group

NHC's Housing Mortgage Working Group (HMWG) brings together housing finance practitioners from our broad membership to develop policy for the finance of affordable housing. Members participate based on their own expertise and with NHC's mission at the forefront rather than as representatives of particular organizations.

Members of the group who helped to develop this comment letter:

David Abromowitz, Senior Fellow, Center for American Progress
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