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March 17, 2016

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th St SW, Eighth Floor
Washington, D.C. 20219

Re: Proposed Rule; Enterprise Duty to Serve Underserved Markets; RIN 2590-AA27

Dear Mr. Pollard:

The Independent Community Bankers of America (ICBA) appreciates the opportunity to provide comments on the Federal Housing Finance Agency (FHFA) proposed rule regarding Enterprise Duty to Serve Underserved Markets. Fannie Mae and Freddie Mac, collectively known as the Enterprises, are mandated by the Housing and Economic Recovery Act of 2008 (HERA) and the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) to establish a duty to serve three specified underserved markets: manufactured housing, affordable housing preservation, and rural markets. This duty to serve requires the Enterprises 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 regarding eligible Enterprise activities that would facilitate a secondary market for manufactured homes titled as real property, blanket loans for certain categories of manufactured housing communities, preserving affordable housing for renters, and housing in rural markets. The proposed rule includes 90 specific questions regarding various provisions of developing a secondary market for the categories mentioned above. ICBA will provide comments on certain selected questions.

¹ The Independent Community Bankers of America®, the nation's voice for more than 6,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.6 trillion in assets, \$2.9 trillion in deposits, and \$2.4 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org

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Safety and Soundness

The purpose of this proposed rulemaking is to fulfill a statutory requirement of both HERA and the Safety and Soundness Act. ICBA recognizes that regulators are empowered with certain levels of discretion when implementing laws, and may adjust the timing, and certain requirements based on market conditions and other factors to ensure the rule when implemented is as effective as possible and produces the desired results. The implementation of these particular provisions of HERA and the Safety and Soundness Act were delayed due to the financial crisis and the placement of the Enterprises into conservatorship in 2008. Market conditions have since improved and are likely more conducive to a successful implementation of the proposals included in this proposed rule. However, the Enterprises themselves are still in conservatorship and thus are not operating in a safe and sound manner as described in HERA or the Safety and Soundness Act. This seems to be in conflict with Section 1102 of HERA as noted below.

SEC. 1102. DUTIES AND AUTHORITIES OF THE DIRECTOR.

‘(a) Duties-

‘(1) PRINCIPAL DUTIES- The principal duties of the Director shall be--

‘(A) to oversee the prudential operations of each regulated entity; and

‘(B) to ensure that--

‘(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

‘(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);

‘(iii) each regulated entity complies with this title and the rules, regulations, guidelines, and orders issued under this title and the authorizing statutes;

‘(iv) each regulated entity carries out its statutory mission only through activities that are authorized under and consistent with this title and the authorizing statutes; and

‘(v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest.

ICBA strongly urges the FHFA, as the sole safety and soundness regulator of the Enterprises, to ensure compliance with Section 1102 of HERA completely. Only then should the FHFA move forward with expanding the Enterprises activities into new, higher risk, capital intensive lending products and programs.

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Specific Comments – Manufactured Housing; Questions 10-15

ICBA supports the continued development of a robust secondary market for mortgage loans on manufactured homes which are titled as real property. This should be a “regulatory activity” as defined in the proposed rule, and compliance by the Enterprises should be measured by number of units financed. Manufactured housing titled as real property is a significant portion of the housing stock in rural and small town markets, and community banks actively make loans to consumers for these properties. While the Enterprises will purchase these loans today, a lack of mortgage insurance options, along with constraints regarding the amount of additional costs, such as the cost for transport, unit set-up, and site prep, that can be included in the amount financed make it difficult for these loans to be originated as conventional loans and sold to the Enterprises. The result is many of these loans end up being originated as FHA or USDA Rural Housing loans which are typically not sold to the Enterprises. However, even those programs have constraints that make it difficult to finance these units. Community banks do make loans on manufactured homes and retain them in portfolio; however, they are typically balloon payment loans or mortgage loans with shorter maturities of 15 years or less, not long term fixed-rate loans which are offered through the Enterprises. ICBA encourages the FHFA to direct the Enterprises to work with mortgage insurers to develop MI products that are reasonably priced and provide adequate credit protection for the Enterprises and to broaden outreach to originators regarding the availability of Enterprise programs for manufactured housing.

ICBA does not support the Enterprises developing programs to purchase loans on manufactured housing which are financed as “chattel” loans. As noted in the proposed rule, chattel loans are a form of financing where the manufactured home unit is titled as personal property similar to vehicle financing. These loans are typically originated by manufactured home dealers, and generally carry higher interest rates similar to unsecured consumer loans. While these loans may not carry many of the consumer protections as traditional real estate loans, they are typically easier for the consumer to qualify for and generally the consumer avoids most of the settlement costs associated with traditional home mortgage loans. Because these loans are easier for consumers to qualify for, and the consumer can take delivery of the unit more quickly in some cases, chattel financing tends to dominate the manufactured home market. These loans tend to experience higher defaults and losses when compared to traditional home mortgage loans. ICBA believes that if the Enterprises can improve their existing programs for manufactured home lending as described above, the level of chattel lending would decline, since better qualified consumers would choose to title the units as real property. ICBA does not support the Enterprises moving into chattel lending as it would likely lead to increased losses for the Enterprises.

Specific Comments-Rural Area Question 70

ICBA agrees with FHFA’s proposal for the Enterprises to use the USDA’s Rural-Urban-Commuting-Area codes (RUCA) in identifying and tracking initiatives targeted towards rural communities. The FHFA believes the USDA-RUCA provides the Enterprises operational efficiencies not found with other sources. However, ICBA is concerned the USDA-RUCA codes may include different areas than the USDA website which is generally used by lenders that originate USDA –Rural Development (RD) loans and adds (yet) another definition of “rural” which lenders may need to be mindful of. ICBA recommends the FHFA attempt to align its rural definition as closely as possible to the USDA website that lenders use for Enterprise programs so as to reduce confusion within the industry.

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ICBA appreciates the opportunity to provide comments regarding the FHFA proposed rule on the duty of the Enterprises to serve underserved markets. As stated earlier, we urge the FHFA to fully comply with section 1102 of HERA before directing the Enterprises to comply with the proposed rule on duty to serve. We look forward to working with FHFA on these initiatives. Please contact the undersigned with any questions regarding this comment letter.

Sincerely,

Ron Haynie Senior Vice President- Mortgage Finance Policy

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