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September 18, 2009

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Attention: Comments/RIN 2590-AA27
Fourth Floor
1700 G Street, NW
Washington, DC 20552

Dear Mr. Pollard:

The American Bankers Association is pleased to comment on the Advance Notice of Proposed Rulemaking regarding the Duty to Serve Underserved Markets for Fannie Mae and Freddie Mac. The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.3 trillion in assets and employ over 2 million men and women.

The Housing and Economic Recovery Act of 2009 (“HERA”) established an affirmative obligation by Fannie Mae and Freddie Mac (“the Enterprises” or “GSEs”) to serve three specified underserved markets, in order to increase the liquidity of mortgage investments and improve the distribution of investment capital. The three specified markets are: manufactured housing; affordable housing preservation; and rural markets. ABA agrees that these are traditionally underserved markets, particularly in regard to support for lending from the secondary market. The Advance Notice of Proposed Rulemaking seeks comment on a number of issues arising from this statutory obligation.

In General

The events of the last year have transformed the landscape of mortgage lending in general, and the secondary market in particular. Key events - including the placement of both Fannie Mae and Freddie Mac into conservatorship, the extension of significant lines of credit by the Treasury to the GSEs, the ongoing Treasury purchases of MBSs issued by the GSEs, and the major role under taken by the GSEs in the foreclosure prevention efforts of the Administration - have all led to a secondary market which is both controlled and funded by the federal government. This situation is likely to be unsustainable for the long term, yet it remains necessary for the immediate future.

In such an environment it is difficult to state with any certainty what role the GSEs should play in supporting underserved markets. Without the aforementioned extraordinary intervention and support, the entire secondary market might be underserved. We believe that it will be necessary to address the future role of the GSEs as secondary market providers, including what level of support is provided by the federal government, before more targeted rules for support for underserved markets can be fully developed. Nevertheless, we appreciate the FHFA's request for comments, and offer the following broad views with regard to the specific areas of manufactured housing, support for affordable housing preservation, and rural areas. We would note at the outset that, in addition to the new underserved requirement, the GSEs retain a requirement to meet affordable housing goals. ABA has long held that the Affordable Housing Goals should be brought more in line with the Community Reinvestment Act (CRA) requirements imposed upon the banking industry. We hold the same view with regard to meeting these new underserved market requirements.

Manufactured Housing

The ANPR requests comment on the relative advantages and disadvantages to borrowers of the various loan products used to finance the purchase of manufactured housing. ABA would note that the type of loan used to finance manufactured housing varies depending upon a number of factors, including applicable local and state laws, whether the manufactured home is located on leased or fee-simple land and other factors. Rather than opine on the merits of one type of loan or another, we would simply observe that the Truth in Lending Act (TILA) which governs consumer loans, including both personal property and real estate loans, generally treats loans made for the purchase of manufactured housing as "residential mortgage transactions." We would encourage similar treatment from the FHFA and from the GSEs with regard to their purchase of such loans. Such treatment should allow for streamlined purchase (including on a flow basis) of manufactured housing loans.

Affordable Housing Preservation

The ANPR notes that the statute requires the GSEs to develop loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low, low- and moderate- income borrowers including housing projects which provide rental and voucher subsidized housing. The ANPR also notes that a number of the housing preservation programs delineated in the statute are voucher, capital advance or grant programs and that assistance from the GSEs may fall outside of their traditional role of purchasing, securitizing and guaranteeing mortgage loans. As a general rule, ABA believes that the GSEs should adhere closely to their charters in all activities. While statutory directives to assist underserved markets cannot be ignored, the assistance should be achieved in measurable ways consistent with the charter limitations imposed upon Fannie Mae and Freddie Mac. Therefore, we believe that assistance made toward preservation of existing affordable rental housing and housing assistance programs should be

achieved through the purchase and guaranteeing of primary market loans to the maximum extent possible. A strong secondary market is needed for construction and redevelopment of multifamily rental properties. Often the financing of such properties is multilayered and very complicated. Fannie and Freddie can and should play an important role in ensuring that a liquid market exists for these loans. We encourage the FHFA to develop a rule which encourages the GSEs to support both the construction and redevelopment of such properties, which are both consistent with the statutory intent and the GSEs' charter limitations.

Rural Housing

The ANPR requests comment on which definition of "rural area" the FHFA should use to determine eligibility for consideration of activities by the GSEs. ABA has long supported a general rule that "rural areas" be considered those with communities of less than 2,500 persons. The first definition delineated in the ANPR is substantially congruent with the ABA position. That definition is that a "rural area" is classified as "all territory located outside of urbanized areas (areas with a core population density of 1,000 persons per square mile and adjoining areas with at least 500 persons per square mile) and urban clusters (areas with at least 2,500 persons but less than 50,000 persons)." This is a relatively simple, coherent definition which is based upon U.S. Census determinations and not subject to regulatory or other misapplication – an ongoing concern of ABA and our members, as other GSEs which are not confined to the secondary market seek to expand their lending base.

Tribal Lands

The ANPR also notes that the proposed definitions of rural area would cover most but not all Tribal lands and requests comment on whether the definition of "rural areas" should include all Tribal lands. While ABA believes that Tribal lands are underserved areas, we do not think it wise to expand the definition of rural area to include all Tribal lands regardless of whether they fit the definition adopted by the FHFA. Including all Tribal lands in the definition of rural area could create an anomaly where a community which far exceeded the 2,500 person cutoff for a definition of rural area could still be considered rural due to the land's Tribal status. Instead, we note that FHFA has authority to include Tribal lands in the separate affordable housing goals established for the GSEs, and encourage FHFA to use the Affordable Housing Goals to further GSE activity on Tribal land.

Evaluation of Performance

The ANPR requests comment on methods for FHFA to evaluate and rate each of the GSEs performance in meeting the goals of serving these underserved markets using four specific tests: the Loan Product Test, the Outreach Test, the Purchase Test, and the Grants Test. ABA does not have specific suggestions on how to develop these tests, but urges the FHFA to look to the Community Reinvestment Act evaluations conducted by the federal bank regulatory agencies for a possible

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model. ABA has long held that the GSEs' Affordable Housing Goals should be brought more in line with CRA requirements and we hold a similar view with regard to serving these underserved areas. To the extent possible, the GSEs service to underserved areas should be measured against the service to those areas by the primary market and measure how well they support that primary market.

Conclusion

The American Bankers Association supports efforts to ensure that the GSEs provide a strong level of support for the secondary market in these specific underserved areas. We believe that, much as the Affordable Housing Goals of the GSEs should be brought into line with the CRA requirements imposed upon banks, the underserved requirements should be reflective of, and consistent with, CRA requirements placed on the primary market. The ABA notes, however, that the role, structure and relationship to the federal government of the GSEs are likely to be reconsidered in the relatively near future. Given the likelihood of change in all of these areas, it may be necessary to reconsider the approaches taken by the GSEs in many areas, including support for affordable housing and underserved markets. We stand ready to work with the FHFA to address both the current requirements and any changes to those requirements in the future. Should you wish to discuss any of these issues in greater detail, please do not hesitate to contact ABA Vice President Joseph Pigg, at 202-663-5480 or JPigg@aba.com. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Davis". The signature is written in a cursive, flowing style.

Robert R. Davis