

December 17, 2004

Regulations Division
Office of the General Counsel
Room 10276
Department of Housing and
Urban Development
451 Seventh Street, SW
Washington, DC 20410-0500

**Attention: Docket No. FR-4960-A-01
HUD's Regulation of the Federal National Mortgage Association (Fannie Mae)
and the Federal Home Loan Mortgage Corporation (Freddie Mac): GSE
Housing Goals – Advance Notice of Proposed Rulemaking**

Dear Sir or Madam:

Members of the National Association of Affordable Housing Lenders (NAAHL) appreciate the opportunity to comment on how the U.S. Department of Housing and Urban Development (HUD) might add a regulatory provision that accommodates a high refinance environment under the 2005-2008 housing goals for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

NAAHL represents America's leaders in moving private capital to those in need. Our nearly 200 member organizations include 75 insured depository institutions, 50 of the nation's top non-profit providers, GSEs, insurance companies, pension funds, foundations and others committed to increasing private capital lending and investing in low- and moderate-income (LMI) communities.

Over the past 20 years, primary market lenders, both non-profit and for-profit, have made enormous progress in increasing lending and investing in LMI communities. This progress is all the more remarkable given their limited access to the secondary market benefits the GSEs have brought to other prime market financing and borrowers.

We strongly support HUD's continued effort to close the existing gaps by designing affordable housing goals that would result in the GSEs leading the market for financing affordable rental housing and homeownership. Increased liquidity for mortgages on affordable homes could dramatically increase the resources available to provide more housing.

Our comment letter to you dated July 7, 2004 recommended that:

HUD should establish an industry advisory board to review the impact of the GSEs on lending and investing in low- and moderate-income communities.

Because the GSEs are a duopoly, there is concern among our primary market lenders that the GSEs could demand that lenders deliver specified mortgages to the GSEs to meet their housing goals, whether or not the lender can achieve better secondary market execution elsewhere, such as with the Federal Home Loan Banks or Ginnie Mae. Similarly, given the GSEs' concerns about the size of the market HUD has estimated and/or economic conditions, it would be important for the GSEs and HUD to have the opportunity to consult with non-profit and for-profit primary market lenders, and perhaps others involved in LMI communities, on a regular basis. In these discussions, the participants can assess what actual economic, demographic and market conditions have materialized during the period, discuss what challenges have been presented in meeting the higher goal levels, and review the extent to which GSE secondary market benefits are being provided on LMI loans.

The process that we recommended is the appropriate regulatory mechanism for addressing material changes.

Concerns about meeting the goals in high volume refinance years could be addressed by aligning primary and secondary market responsibilities for helping to meet the credit needs of underserved populations. Existing law and regulations continue to ignore the disconnect between the GSEs' and primary market responsibilities. Under the Community Reinvestment Act, banks are expected to meet the credit needs of their communities, including those of persons whose incomes are less than 80% of area median income (AMI).

However, GSEs are only required to have some percentage of business that is affordable to those whose incomes are 120% of AMI, or any income if their home is in a minority area.

This policy difference probably accounts for primary market participants' frustration that Fannie Mae and Freddie Mac leave much too much good business on the table when it involves homes affordable to those under 80% of AMI. It probably also contributes to the GSEs' anxieties about goals that merely encourage them to try to catch up to the primary market.

Studies done by the Federal Reserve, the U.S. Treasury, and others over the past 5 years have all confirmed the effectiveness of the Community Reinvestment Act in increasing private capital lending and investment for affordable housing and community development. The law simply requires insured depository institutions to meet the credit needs of their communities, including the needs of low- and moderate-income borrowers and communities. Unfortunately, this primary market

success has not been accompanied by comparable secondary market support for meeting the credit needs for affordable housing in low- and moderate-income communities.

This will list some possible options for addressing that very real market need.

(1) CONFORM GSE GOALS TO CRA REQUIREMENTS OF PRIMARY LENDERS

NAAHL's mission is to support increased private capital lending and investment in low and moderate income communities. As we wrote to HUD during their review of GSE affordable housing goals in year 2000,

"the secondary market for community reinvestment loans is still very much in its infancy, (and) we believe that it would be much easier to set goals and measure GSE achievements if the goals were better aligned with requirements of primary market lenders under the Community Reinvestment Act (CRA). Alignment of GSE and primary lenders' responsibilities would provide a more consistent framework for evaluation, avoid duplications or inefficiencies, enhance liquidity, and thereby lower costs to LMI borrowers and communities. As a result, we strongly support changes which conform GSE goals to CRA requirements of primary lenders..."

Both bank and non-profit lender members of NAAHL report that the market need for a new policy solution that we described nearly 4 years ago still exists. The CRA structure is simple, verifiable and data from CRA examinations and Home Mortgage Disclosure Act compliance are publicly available on regulator websites.

(2) BUILD ON WHAT WE KNOW WORKS: UPDATE CREDIT CRITERIA

Over the past 15 years, the primary market has evolved into a very sophisticated manager of credit risk in low and moderate income borrowers and communities. Insured depository institutions and their non-profit partners have forged new paths to financing housing affordable to low and moderate income households. To finance affordable rental housing, these partnerships and risk-sharing structures have dramatically increased the supply of affordable homes with de minimis losses and decent returns. The secondary market has not kept pace with these developments in low and moderate income communities, and their credit criteria for loan purchase appear very outdated.

(3) FINANCING INITIATIVES

---In order to expand the universe of qualified sellers from whom the GSEs buy mortgages, so that it better reflects the non-profit lender expertise that has developed over the past 15 years, NAAHL provided Fannie Mae with several opportunities for increasing GSE involvement with affordable multifamily housing. We would be happy to brief you on safe and sound initiatives that would increase secondary market access for these loans.

Members involved in multifamily affordable housing have suggested that the GSEs' underwriting and servicing criteria do not yet reflect the experience of the past decade. The primary market has evolved into a very sophisticated manager of credit risk for LMI borrowers and communities. Insured depository institutions and their non-profit partners have forged new paths to financing housing affordable to LMI

households. These partnerships and risk-sharing structures have dramatically increased the supply of affordable homes with de minimis losses and decent returns. The secondary market has not kept pace with these developments in LMI communities. Strengthening GSE goals should encourage the GSEs to update their underwriting criteria and purchase mortgages from successful lenders, both for-profit and non-profit, whose track records confirm that the GSEs have been leaving a lot of good business on the table.

Sincerely,

Judith A. Kennedy
President