



MORTGAGE BANKERS ASSOCIATION

February 26, 2018

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500

RE: Regulatory Review of Manufactured Housing Rules [Docket No. FR-6075-N-01]

Dear Secretary Carson:

The Mortgage Bankers Association (MBA)¹ would like to thank the U.S. Department of Housing and Urban Development (HUD) for reviewing its existing and planned manufactured housing rules. This review is consistent with Executive Order 13771 entitled, "Reducing Regulation and Controlling Regulatory Costs," and Executive Order 13777 entitled, "Enforcing the Regulatory Reform Agenda," as well as the efforts of HUD's Regulatory Reform Task Force. According to the Manufactured Housing Institute, approximately 22 million Americans reside in manufactured housing,² and MBA commends HUD for its commitment to protecting consumers and ensuring that the nation meets its affordable housing needs, particularly for low- to moderate-income families. MBA's recommendations, set forth below, focus on safely and appropriately expanding consumer eligibility, eliminating unnecessary industry burdens, and lowering costs for both lenders and consumers.

HUD's review has the potential to ensure more Americans have access to a fair and efficient market that fosters the provision of affordable, high-quality manufactured housing. The affordability of factory-built homes enables first-time homebuyers, families, and retirees—often but not exclusively in rural areas—to obtain low-cost housing that is in many cases cheaper than renting or purchasing a site-built home. Also, due to technological

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mba.org.

² MHI, "2017 Manufactured Housing Facts: Industry Overview," page 2. Available at: <http://www.manufacturedhousing.org/wp-content/uploads/2017/10/2017-MHI-Quick-Facts.pdf>.

advancements, manufactured housing has undergone significant improvements in terms of quality and production times, which then reduces labor costs and helps combat housing supply shortages. However, several relevant HUD requirements are outdated, have increased compliance costs, and have created unnecessary burdens for lenders, suppliers, and builders. These issues have led to additional costs being passed onto consumers.

MBA offers the following recommendations to further improve HUD's manufactured housing requirements, with the objective of making these requirements more effective and sustainable.

Relocation

- To be eligible for Federal Housing Administration (FHA) insurance as a Single Family Title II Mortgage, all manufactured housing must have been directly transported from the manufacturer or the dealership to the site on which the unit will be insured and have not been installed or occupied previously at any other site. This requirement is unnecessarily restrictive, as lenders can obtain a structural engineer's report to ensure the foundation meets the necessary guidelines. The engineer would alert the lender if there was a potential issue with the structural integrity of the dwelling or if the structural integrity was compromised by the move. This requirement should be revised to remove the "one-time move" restriction, as it currently excludes manufactured homes that have been safely moved from their original set-up site to a new site. Removing this restriction and replacing it with an engineer's foundation and structural inspection following the move would provide access to existing manufactured homes that borrowers cannot currently purchase through FHA loans. Such a change would also be beneficial for owners of manufactured homes that have been moved more than once. ***MBA recommends that HUD eliminate the one-time move restriction and replace it with a requirement for an inspection following a move.***

Tiered Pricing

- The current Tiered Pricing rule dis-incentivizes lenders from originating smaller-balance loans and should be eliminated. Since 1994, lenders have been prohibited from originating a mortgage with a Mortgage Charge Rate that varies more than two percentage points from the lender's reasonable and customary rate for insured mortgages for dwellings located within the area. An average sales price of a manufactured home is currently \$70,600, with single-section homes averaging \$46,700 and multi-section homes averaging \$89,500.³ The relatively low balances on these loans are often inadequate to support reliable production given the relatively high fixed origination costs for lenders, which now average over \$8,000 per loan (across all types of loans).⁴ If lenders are not allowed greater flexibility in the Mortgage Charge Rate to counter these tight margins, it will remain difficult for them

³ MHI, "2017 Manufactured Housing Facts: Industry Overview," page 7. Available at: <http://www.manufacturedhousing.org/wp-content/uploads/2017/10/2017-MHI-Quick-Facts.pdf>.

⁴ MBA, "Quarterly Mortgage Bankers Performance Report." Available at: <https://www.mba.org/2017-press-releases/november/independent-mortgage-bank-production-profits-down-in-third-quarter-2017>.

to provide the necessary financing for smaller-balance manufactured housing loans. ***MBA recommends that the Tiered Pricing structure be eliminated and that lenders be allowed greater flexibility with respect to the Mortgage Charge Rate.***

Engineer's Certification for Foundation

- In the manufactured housing production process, the cost associated with obtaining the engineer's certification is higher than necessary due to a lack of efficiency, as well as a lack of harmonization across markets. There are likely a number of options for reducing this cost without jeopardizing the safety of the properties or the borrowers residing within them.

It is important to remember that an engineer's certification can be required at the underwriter's discretion, when called for by the appraiser, or when the appraiser notes additions or alterations to the manufactured housing unit and the state does not employ inspectors. The FHA Single Family Housing Policy Handbook (Handbook) already requires that the appraiser must examine the foundation for readily observable evidence of safety or structural deficiencies that may require repair. If a deficiency is noted, the appraiser must describe the nature of the deficiency and report necessary repairs, alterations, or required inspections in the appraisal where physical deficiencies or adverse conditions are reported.

As a general rule, an installer must follow the approved manufacturer's installation instructions for those items covered by the Model Standards. However, variations may be made to the instructions. For example, such variations can occur for site conditions that are not covered by the instructions. Even in those instances, an installer must first attempt to obtain alternate Design Approval Primary Inspection Agency (DAPIA)-approved designs and instructions from the manufacturer. If those designs and instructions are not available from the manufacturer, the installer must use an alternate design prepared and certified by a professional engineer or registered architect that has been approved by the manufacturer and DAPIA prior to installation.

The alternative designs must not take the home out of compliance with the Construction Standards. These designs may also be subject to more stringent or supplementary local code requirements. According to the Part 3285 Supplementary Information, the engineer or architect need not be licensed in the state in which the home is to be installed, although a state that operates an approved installation program may require that the engineer or architect be licensed in that state.

As is set forth in detail in HUD's Manufactured Home Installation Program requirement, an installer is required to certify that an installation was completed in compliance with either the manufacturer's instructions or with one of the alternatives discussed above.

A foundation system based on other than pier and anchor configurations may be used but must be verified by engineering data and designed in accordance with the requirements for alternative foundation systems and consistent with the design loads

of the Construction Standards.

These various rules and requirements can likely be streamlined in a way that reduces costs while maintaining appropriate safeguards for the structural integrity of the home. As such, HUD should convene a stakeholder group to address the process by which the engineer's certification is obtained, with the goal of simplifying this process, clarifying requirements for lenders, and harmonizing requirements across markets. ***MBA recommends that HUD streamline the process by which the engineer's certification is obtained, thereby reducing costs for lenders and consumers.***

Title Evidence Required for Conveyance

- HUD requires the manufactured home to be converted to realty in accordance with applicable state law. The originator must provide documentation that evidences that the manufactured home is attached to the land, is classified and taxed as real estate, and meets state and local requirements for purging of title. Unfortunately, this process is not completed at closing in many instances, and thus creates multiple problems post-closing. HUD should require all manufactured home title evidence to be completed at closing and make that process a condition of closing so that it is completed properly at that time. Where state law does not have a process in place, HUD should specify the precise events that must occur to satisfy its requirement that the property be converted to real estate so that this is known and accomplished at closing. ***MBA recommends that HUD require all manufactured home title evidence to be completed at closing and make that process a condition of closing so that it is completed properly at that time.***

Flood Elevation

- The Handbook requires that the finished grade level beneath the manufactured home must be at or above the 100-year return frequency flood elevation. FHA has similar requirements for other types of new construction, but does not have the same requirement for the dwelling to be at or above the 100-year flood elevation for other types of existing construction. This guideline is therefore more restrictive for existing manufactured homes compared to other types of existing construction. To increase homeownership opportunities, when any portion of the residential improvements to an existing manufactured home is determined to be located within a Special Flood Hazard Area, its financing should be allowed provided that insurance under the National Flood Insurance Program can be obtained. ***MBA recommends that flood elevation requirements on existing manufactured homes be harmonized with those of other types of existing construction.***

As noted above, opportunities exist to improve HUD's procedures and requirements for manufactured housing, which in turn should benefit both homebuyers and lenders. MBA applauds HUD's ongoing review and its consideration of recommendations from a wide variety of stakeholders. Should you have questions or wish to discuss MBA's recommendations, please contact Andrea Oh, Policy Advisor, at (202) 557-2922 or aoh@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is fluid and cursive, with a prominent initial "P" and a trailing flourish.

Pete Mills
Senior Vice President
Public Policy and Member Engagement