October 25, 2021

Sandra L. Thompson
Acting Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

Dear Acting Director Thompson:

The Mortgage Bankers Association (MBA)[1] thanks the Federal Housing Finance Agency (FHFA) for the opportunity to comment on the proposed rule pertaining to the 2022-2024 housing goals for Fannie Mae and Freddie Mac (the Enterprises).[2] The Enterprises are required by statute to promote access to mortgage credit throughout the nation and provide assistance to the secondary market to support housing for low- and moderate-income families, and the housing goals are an important component of the framework by which FHFA can measure the Enterprises' progress.[3]

The 2022-2024 housing goals are comprised of single-family and multifamily goals consistent with the Federal Housing Enterprises Financial Safety and Soundness Act (the Act).[4] The Act requires goals for low- and moderate-income families, very low-income families, and families in low-income areas. Under the proposed rule, FHFA would require moderate increases in the single-family benchmark levels relative to the current goals, as well as new approaches to the single-family benchmarks associated with low-income and minority census tracts.

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 people in virtually every community in the country. Headquartered in Washington, D.C., 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 more than 1,900 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

[2] FHFA, "2022-2024 Enterprise Housing Goals," 86 Fed. Reg. 47398 (Aug. 25, 2021). Available at: https://www.federalregister.gov/documents/2021/08/25/2021-18008/2022-2024-enterprise-housing-goals.

[3] 12 U.S.C. § 4561(a); 12 C.F.R. part 1282.

[4] Federal Housing Enterprises Financial Safety and Soundness Act of 1992, H.R. 6094, 102nd Cong. (1992). https://www.congress.gov/bill/102nd-congress/house-bill/6094/text

## Single-Family Goals

Low-income and very low-income goals

MBA finds FHFA's proposed single-family goals to be reasonable in relation to the market forecast.[5] The low-income and very low-income purchase goals are proposed to be set slightly above the midpoint of the projected confidence interval in the market forecast. By setting the benchmark levels above the midpoint but within the confidence interval, the Enterprises will be encouraged to expend significant effort and execute thoughtful strategies in order to meet meaningful yet attainable goals. The low-income refinance goal is set slightly below the midpoint of the confidence interval in the market forecast. This proposed benchmark level also is appropriate, given the greater volatility in refinance projections and the fact that the 26 percent benchmark level represents a sizable increase from the current 21 percent benchmark level. All three of these goals should lead to robust Enterprise activities to support low-income and very low-income households.

Area-based subgoals

MBA supports the establishment of new area-based subgoals, including a subgoal specific to low-income households in minority census tracts. FHFA's inclusion of this new subgoal provides a thoughtful mechanism by which to focus Enterprise efforts on low-income borrowers and to address the minority homeownership gap.

The low-income areas home purchase subgoal previously combined two different categories of loans into one purchase subgoal. These categories were a) home purchases made to borrowers in census tracts with tract median income no greater than 80 percent of area median income (AMI) and b) home purchases to borrowers with income no greater than 100 percent of AMI in census tracts where the tract income is less than 100 percent of AMI and minorities comprise at least 30 percent of the tract population.

In the proposed rule, the overall benchmark level for the area-based subgoals remains unchanged at 14 percent, but the proposed rule allots 10 percentage points directly to the new minority census tracts subgoal. As a result, a substantial portion of the area-based subgoals must be met through loans made to low-income households in minority census tracts. In the absence of the new minority census tracts subgoal, the area-based subgoals could be met entirely through loans in low-income census tracts for which the borrower earns income above 100 percent of AMI. MBA supports this emphasis on both low-income borrowers and on minority homeownership – objectives that are worthy of direct

[5] FHFA, "The Size of the Affordable Mortgage Market: 2022-2024 Enterprise Single-Family Housing Goals" (Aug. 3, 2021). Available at: https://www.fhfa.gov/PolicyProgramsResearch/Research/PaperDocuments/Market-Estimates_2022-2024.pdf

and purposeful efforts by the Enterprises. The restructured subgoals appropriately limit the ability of the Enterprises to meet these subgoals through purchases of loans to higher-income borrowers, but, recognizing the benefits of investment in low-income communities, do not remove all credit for such loans.

Impact of the PSPAs

While the newly proposed housing goals appear reasonable, MBA remains concerned that other limits on the Enterprises' businesses could adversely impact their ability to provide ample liquidity for loans to historically underserved populations. Certain provisions of the January 2021 amendments to the Enterprises' Senior Preferred Stock Purchase Agreements (PSPAs), in particular, were misaligned with the housing goals. The limits on purchases of loans with multiple risk factors, for example, likely would impede the Enterprises' ability to meet the housing goals. While these provisions were recently suspended, MBA urges FHFA to pursue any future safety-and-soundness provisions of this nature through its supervisory processes rather than through the PSPAs. The enforcement of such provisions through the PSPAs would prove inflexible, difficult to adjust based on changing market conditions, and challenging to implement without significant disruption in the housing market.

Potential for qualitative goals and other improvements

MBA further suggests, as in previous communications regarding the Enterprises' housing goals, that FHFA consider the addition of qualitative goals to this framework. Credit could be given, for example, for Enterprise participation in stakeholder efforts to promote affordable and sustainable housing, such as MBA's CONVERGENCE initiative. FHFA could find additional opportunity to develop qualitative goals as it assesses pathways forward in relation to the Enterprises' Equitable Housing Finance Plans[6]. MBA suggests that qualitative efforts could serve as a factor in determining the extent of any penalty that may arise for an Enterprise missing a quantitative goal. As such, the qualitative goals would not replace the quantitative goals as the primary mechanism for assessing the Enterprises' compliance, but rather serve as a factor in FHFA's determination of the appropriate remedies for any noncompliance.

FHFA could consider additional opportunities to link the housing goals with other regulatory frameworks to promote affordable lending. FHFA and the Enterprises should explore, for example, linkages between the housing goals and mortgage loans that receive credit under the parameters of the Community Reinvestment Act (CRA). A revised set of housing goals could provide the Enterprises with credit towards the housing goals

[6] FHFA, "Enterprise Equitable Housing Finance Plans: Request for Input" September 7, 2021. Available at: https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Equitable-Housing-Finance-Plans-RFI.pdf

when they purchase CRA-eligible loans. This option likely would require further analysis to determine appropriate benchmarks, the type of credit the Enterprises would receive, and other important considerations.

## Multifamily Goals

This proposed multifamily affordable goals and subgoals for 2022-2024 are "a substantial increase" over the current goals,[7] as is reflected in the table below.

| Components of Enterprise Multifamily Goals | 2018-2021 (units) | 2022-2024 (units) | # Increase | % Increase |
|---|---|---|---|---|
| Low-Income Goal (rent below 80% AMI) | 315,000 | 415,000 | 100,000 | 32% |
| Very Low-Income Subgoal (rent below 50% AMI) | 60,000 | 88,000 | 28,000 | 47% |
| Small Multifamily (5-50 units) Low-Income Subgoal (rent below 80% AMI) | 10,000 | 23,000 | 13,000 | 130% |

The proposed multifamily goals raise the following three fundamental questions: (1) is the proposed level of goals appropriate; (2) should the Enterprises be subject to three separate multifamily affordable standards; and (3) should the multifamily goals cover the full period of 2022-2024?

Is the proposed level of the multifamily goals appropriate?

We agree that the goals should be a challenge and that, given past performance, the proposed levels of the goals are understandable. Even looking just one year out, however, the absolute nature of the caps means that the appropriateness of the goals will depend significantly on the Enterprises' allowable and achieved business volumes. As noted below, therefore, we recommend FHFA consider adjusting the structure and form of the goals to make them clearer and more actionable.

[7] 86 Fed. Reg. at 47414.

Should the Enterprises be subject to three separate multifamily affordable standards?

The Enterprises currently are subject to three multifamily affordable standards:

- Multifamily housing goals and subgoals established by regulation under FHFA's statutory housing goals authority,[8]
- Appendix A to FHFA's Conservatorship Scorecard, as modified year to year,[9] and
- Section 5.13 of the PSPAs of each Enterprise, which currently is suspended.

We suggest that FHFA instead could consolidate all multifamily affordable housing goals into a single set of standards, leveraging FHFA's statutory housing goal authority.

The three existing standards measure performance in three different ways (*i.e.,* in terms of numbers of multifamily units vs. percent of overall multifamily purchase volume per calendar year or per 52-week period – with a percentage subgoal and multiple applicable definitions). The three existing standards also differ in fundamental measures, including the inclusion of high-cost areas and green mission-focused standards in the caps and not in the housing goals, and including subgoals targeting 50 percent of AMI in the multifamily housing goals and 60 percent of AMI in the multifamily caps. These unaligned performance requirements can create interactions across standards that could result in unintended and unexpected impacts on the Enterprises' multifamily businesses.

In addition, each of the multifamily cap regimes is a poor fit for the eventual exit of the Enterprises from conservatorship. The conservatorship cap would, of course, not apply outside of conservatorship. The PSPA caps similarly would be problematic outside of conservatorship. FHFA entered into the PSPAs, and has amended them, on behalf of each Enterprise in FHFA's role as conservator. FHFA, therefore, is not a party to those contractual agreements. As a result, post-conservatorship, the PSPAs will be contractual agreements solely between Treasury and each Enterprise, and FHFA no longer will have a contractual role in enforcing or modifying the PSPA multifamily caps.[10]

We believe that consolidating Enterprise multifamily affordable housing standards into a single housing goal regulation – and doing so in a way that harmonizes all applicable measures of performance – could address these issues.

[8] See 12 U.S.C. § 4561 et seq.

[9] See Appendix A: Multifamily Definitions (revised Oct. 14, 2021).

[10] For this and other reasons, we recommend that FHFA and Treasury amend the PSPAs to remove the multifamily caps.

Should the multifamily goals cover the full period of 2022-2024?

To support the alignment described above, and in recognition of the difficulty in matching the current absolute number thresholds with changing market conditions, we recommend FHFA consider issuing the proposed goals to cover only the one-year period of 2022.

Multifamily housing goals necessarily are based on a variety of factors, including projected estimates of future conditions, as well as prior Enterprise performance.[11] Those projections include projected estimates of national multifamily credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market; projections as to the size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size; projections of the future ability of each Enterprise to lead the market in making multifamily mortgage credit available; and projected available subsidies.[12]

As with any projections, these estimates necessarily are subject to uncertainty. The proposed 2022-2024 multifamily goals, most notably, also are subject to the uncertain impacts of the interaction between the proposed multifamily housing goals and the multifamily caps and their combined impacts on Enterprise multifamily activity. This includes uncertainty as to the multifamily purchase volume that may be necessary to meet the proposed 2022-2024 unit-based multifamily goal. This also includes uncertainty around the impacts that the purchase volume necessary to meet the multifamily housing goals will have on Enterprise multifamily activity under the volume-based multifamily caps and the percent-of-volume-based multifamily caps.

We note, for context, that the multifamily housing goals for 2018-2020 covered a three-year span, but FHFA established only a one-year multifamily housing goal for 2021 because “uncertainty over public health and over the economic impacts of the COVID–19 pandemic has caused significant disruption in both the single-family and multifamily housing markets since March 2020.”[13] We believe current circumstances similarly warrant a one-year set of multifamily housing goals for 2022.

While FHFA retains statutory authority to adjust the goals as necessary to respond to unexpected changes in market conditions,[14] FHFA could avoid the need to rely on that authority by establishing only a one-year 2022 set of multifamily goals. At a minimum, FHFA should closely monitor for unintended impacts the goals might have on the

[11] See 12 U.S.C. § 4563(4).

[12] Ibid.

[13] 85 Fed. Reg. 82881 (Dec. 21, 2020).

[14] 12 U.S.C. § 4564.

Enterprises' multifamily businesses over the three-year period when the multifamily goals are in effect.

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MBA appreciates FHFA's consideration of our comments regarding the 2022-2024 Enterprise housing goals and the broader objective of promoting market liquidity for affordable housing. We look forward to our ongoing efforts and collaboration with FHFA and the Enterprises on these important matters.

Should you have questions or wish to discuss these comments, please contact Bruce Oliver at (202) 557-2840 and boliver@mba.org with respect to the multifamily goals or Hanna Pitz at (202) 557-2796 and hpitz@mba.org with respect to the single-family goals.

Sincerely,

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