Manufactured Housing Association for Regulatory Reform

1331 Pennsylvania Avenue, NW • Suite 508 • Washington, DC 20004 • 202-783-4087 • Fax 202-783-4075

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VIA ELECTRONIC SUBMISSION AND FEDERAL EXPRESS

Hon. Clinton Jones
General Counsel
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, D.C. 20219

Re: Comments -- Enterprise Duty to Serve Underserved Markets – RIN 2590-AB64

Dear Mr. Jones:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade association representing the views and interests of independent producers of manufactured housing: (1) regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.) (1974 Act) as amended by the Manufactured Housing Improvement Act of 2000 and (2) designated as an underserved housing market (for purposes of consumer financing) by the Duty to Serve Underserved Markets (DTS) provision of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 4565) (HERA). MHARR was founded in 1985. Its members include independent manufactured housing producers from all regions of the United States.

I. INTRODUCTION

On June 24, 2026, the Federal Housing Finance Agency (FHFA) published a Notice of Proposed Rulemaking (NPR) in the Federal Register,[1] seeking public comment on a proposed rule to amend certain aspects of its existing regulations regarding implementation of the statutory "Duty to Serve Underserved Markets" mandate as set forth in HERA.[2] Under the proposed amendments,

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[1] See, 91 Federal Register, No.120 (June 24, 2026), "Enterprise Duty to Serve Underserved Markets – Notice of Proposed Rulemaking," at p. 37848, et seq.

[2] DTS provides , in relevant part, that each "enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families." See, 12 U.S.C. 4565 (a)(1)(A). The same section further provides that: "In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(1), the [FHFA] Director may consider loans secured by both real and personal property." See 12 U.S.C. 4565 (d)(3).

as examined in greater detail below, certain provisions of the DTS regulations affecting the consumer financing market for HUD-regulated manufactured homes would be amended or repealed. Insofar as the NPR, by its express terms, supports and seeks to advance securitization and secondary market support by the Government Sponsored Enterprises (GSEs) for mainstream HUD Code manufactured homes – which has been ignored or rejected by the GSEs for nearly two decades under the existing FHFA regulations -- MHARR supports the proposed rule. Nevertheless, MHARR has certain concerns and reservations regarding the relatively lax structure of the new proposed DTS implementation regulations and the possibility – if not likelihood – of continuing GSE resistance and refusal to fully and properly serve the manufactured housing consumer financing market in a market-significant manner, in direct violation of the statutory DTS mandate. Accordingly, while MHARR generally supports the proposed rule, it seeks a specific regulatory mandate in any final rule adopted by FHFA, for the full and immediate implementation of DTS within the manufactured housing market – specifically including personal property or "chattel" consumer loans -- in accordance with the policies expressed in the NPR preamble.[3]

II. COMMENTS

1. ANY FINAL RULE ADOPTED PURSUANT TO THE NPR MUST INCLUDE- A SPECIFIC PROVISION MANDATING CHATTEL DTS SUPPORT

Under the proposed rule set out in the June 24, 2026 NPR -- as is explained in the preamble -- FHFA proposes, essentially, to:

> "[R]emove prescribed activities and instead … permit each Enterprise to take any 'eligible action,' meaning any action that is consistent with carrying out the statutory Duty to Serve and has not been determined to be ineligible by FHFA, by regulation or after review."

(Emphasis added).[4] While the proposed rule, then, would remove specific "product"-based goals and criteria from the DTS regulations, it would instead authorize and direct the GSEs to "innovate[e] with respect to the activities identified by statute as beneficial," and simultaneously re-set FHFA's DTS "evaluation and rating process to better focus on whether [each] Enterprise met the needs of each underserved market, rather than whether it met its self-identified Plan goals." (Emphasis added).[5]

Notwithstanding this change in regulatory structure, the NPR makes it unmistakably clear that FHFA – as the Enterprises' federal regulator and the federal agency responsible for the full and proper implementation of DTS -- expects both Fannie Mae and Freddie Mac to begin properly serving the manufactured housing consumer chattel financing market – which they have ***totally***

[3] See, e.g., 91 Federal Register, supra, at p. 37857: "FHFA expects the Enterprises to develop and implement robust, responsible [manufactured housing] chattel financing initiatives and will assess them on their progress in expanding liquidity, supporting sustainable credit and enhancing consumer choice in the manufactured housing market." (Emphasis added).

[4] See, 91 Federal Register, supra, at p. 37852, col.1.

[5] Id.

and completely failed to do under DTS for nearly two decades. The NPR first cites Executive Order 14394, "Removing Regulatory Barriers to Affordable Home Construction," (EO) issued by President Trump on March 13, 2026.[6] That EO specifically states in relevant part:

> "… [T]he Director of the Federal Housing Finance Agency (FHFA) shall … consider eliminating unduly burdensome rules and reforming programs that constrain residential development and impede housing affordability … including: *** (iv) … FHFA's guidelines and regulations regarding chattel lending for manufactured housing …."

(Emphasis added).

Consistent with EO 14394, the NPR then quantifies and emphasizes the crucial importance of consumer chattel lending within the manufactured housing market:

> "The manufactured housing market is inherently affordable, but significant financing hurdles prevent many borrowers from entering the market. Borrowers, particularly those seeking personal property (chattel) loans, face a 65.6% denial rate compared to just 8.8% for site-built homes. Even when approved, these borrowers are often subject to higher interest rates – averaging 9.24% for personal property loans versus 6.63% for traditional mortgages – creating a "financing gap"[for manufactured home purchasers]."

(Emphasis added). Just as important is the fact that chattel financing is the market-dominant form of consumer purchase financing within the manufactured housing market, representing 70-80% of all sales and production annually according to U.S. Census Bureau data. Moreover, it is the lack of a fully-competitive manufactured home chattel financing market that has helped to drive elevated interest rates for such loans and the exclusion of potentially millions of lower and moderate-income Americans from the manufactured housing market. This has led to a decades-long suppression of industry production and has also helped fuel, in part, the nation's multi-million-unit affordable housing shortage.

Significantly, these exact points have been asserted and stressed by MHARR repeatedly in comments to FHFA regarding the GSEs nearly twenty-year failure to implement DTS within the predominant manufactured home chattel consumer financing market. As MHARR has emphasized continually since the inception of DTS, the absence of GSE support for manufactured home chattel loans – which serve the vast bulk of the manufactured home consumer financing market as a whole – has had two primary impacts, both leading to a singular market result. First, the absence of GSE support means that manufactured home chattel lenders must maintain all chattel loans in portfolio. Because such lenders are unable to off-load risk via the secondary market – but instead retain that risk – interest rates on manufactured home chattel loans are necessarily and significantly ***higher*** than they would be **if** securitization and secondary market support by the GSES were available. Second, because of the greater market risk and exposure resulting from the lack of GSE support, the manufactured home chattel lending market lacks the full and robust competition of a fully-

[6] See, 91 Federal Register, No. 52 (March 18, 2026), Executive Order 14394, "Removing Regulatory Barriers in Affordable Home Construction," at p. 13207.

competitive market and is, instead, largely dominated by just a handful of portfolio lenders. The singular impact of these market conditions – for consumers – is unnecessarily high interest rates on such loans, i.e., rates that are significantly higher than would exist in a fully-competitive lending market with GSE support.

Put differently, by excluding chattel loans from DTS, Fannie Mae and Freddie Mac have forced lower and moderate-income manufactured home purchasers to go to higher-rate lenders, which many potential purchasers simply cannot afford. This, in turn, excludes millions of potential purchasers from the market and denies them all of the benefits of home ownership. Accordingly, MHARR has consistently maintained that the Enterprises' total failure to serve the manufactured housing chattel lending sector under DTS is tantamount to a complete failure by the GSEs to implement DTS within the manufactured housing market.

In accordance with the above-referenced observation, the NPR then stresses that FHFA expects the GSEs, under the new proposed regulatory structure, to begin fully serving the critical chattel sector in a "robust" manner. The NPR thus states:

> "It would be particularly timely and appropriate for the Enterprises to focus more attention on chattel lending: today approximately 70 to 80 percent of new manufactured homes are titled as personal property, which makes chattel loans the predominant financing option for manufactured homes, *** FHFA **expects** the Enterprises to develop and implement robust, responsible chattel financing initiatives and will asses them on their progress in expanding liquidity, supporting sustainable credit, and enhancing consumer choice in the manufactured housing market."

(Emphasis added).[7]

Based on this statement and the policies stressed in both EO 14394 and the NPR preamble, as cited above, MHARR supports the action proposed in the NPR to finally move the GSEs off of their entrenched nearly 20-year refusal – under the current regulatory structure – to fully and properly serve the manufactured housing chattel financing market under DTS. That refusal – in blatant defiance of Congress and applicable law – is unacceptable, is extraordinarily harmful to American consumers of affordable housing, and must be ended through an appropriate regulatory structure and rigorous oversight by both FHFA and Congress.

That said, while MHARR generally supports the policy direction stressed by the NPR with respect to manufactured home chattel loans, and supports the regulatory changes proposed by the NPR in view of the utter failure of the GSEs to serve the manufactured home chattel financing market under the current regulatory structure, that support is conditional. Specifically, it is conditional on the inclusion, in any final rule,[8] of language that would specifically and expressly direct the GSEs to begin serving the manufactured housing chattel market under DTS, in a market-significant manner – and to do so without delay.

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[7] See, 91 Federal Register, supra, at p.

[8] I.e. within the final replacement regulation itself, as opposed to precatory language in a final rule preamble.

If *anything* is proven by the history of DTS and its "implementation" by Fannie Mae and Freddi Mac, however, it is that the Enterprises have no interest in serving – and will not serve – the manufactured housing market in full and particularly its market-dominant (with nearly 80% of all sales and production annually) chattel consumer financing sector, without a ***specific mandatory directive from FHFA to do so***. Put differently, while MHARR concurs with and supports the statements set forth in the NPR with respect to the importance of chattel consumer lending within the manufactured housing market and the urgent need for the GSEs to support such lending under DTS, ***the established multi-decade track record of the GSEs*** demonstrates that they will ignore any such directive unless it is:

(1) **mandatory;**
(2) **incorporated in the DTS implementation regulations;** and
(3) **subject to enforcement by FHFA with *meaningful penalties*** in the event of non-compliance.

Any failure to incorporate such a mandatory directive via regulation is predictably likely to be met by the GSEs with continued institutional defiance.

The evidence supporting the absolute necessity of a regulatory chattel DTS directive is palpable and overwhelming. The DTS statute itself, in addition to directing Fannie Mae and Freddie Mac to begin serving the mainstream affordable manufactured housing market, specifically authorizes FHFA (and the GSEs) to include and serve the manufactured home chattel consumer financing market. The DTS statute thus states:

> "In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(1) [i.e., the Duty to Serve], the [FHFA] Director may consider loans secured by both real and personal property."

(Emphasis added).[9] Clearly, if Congress had not designed DTS to encompass and embrace both chattel and real estate-based consumer lending within the manufactured housing market, it would not have included this provision. Obviously, then, support for the manufactured home chattel consumer financing market under DTS was contemplated and expected by Congress.

The GSEs, however, for the entire history of DTS, since it was first adopted in 2008 – nearly two decades ago -- have treated this provision not as an expression of Congress' expectation that they would serve both sectors of the manufactured housing lending market under DTS (i.e., the full manufactured housing market), but as an excuse **not** to serve the chattel sector **at all.** Thus, since the inception of DTS, the Enterprises have not offered securitization or secondary market support **for any** manufactured home chattel loans even though, as FHFA itself points out in the NPR, chattel lending is THE dominant financing mode for the vast bulk (i.e., 70-80%) of all manufactured homes sold in the United States. By thus excluding the vast bulk of manufactured home consumer lending – including the industry's most affordable homes – from DTS support, the GSEs have served only a tiny sliver of the manufactured home market and by any reasonable,

[9] See, 12 U.S.C. 4565 (d)(3).

market-based standard, have effectively not served the mainstream manufactured housing market at all.

Given this track record of defiance and active obstruction,[10] it is entirely predictable that the Enterprises will either continue to refuse – under the new regulations and despite the precatory language of the NPR preamble – to serve manufactured home chattel loans at all, or will delay (as they have been) and wait out the end of the Trump Administration and the lifespan of EO 14394. Thus, it is essential that FHFA include, in any final regulation adopted pursuant to this NPR, an express directive regarding DTS support for manufactured home chattel loans. While such a directive can – and should have been -- included in the 21st Century ROAD to Housing Act (ROAD Act) recently enacted by Congress, the subject of DTS refinement and strengthening was ignored, notwithstanding proposed amendment language proffered by MHARR.

Given the structure of DTS under 12 U.S.C. 4565, however, FHFA can, should – and must – include such an express directive in the final regulations promulgated under the NPR. Accordingly, MHARR asks that FHFA include the below provision (or a provision with the same objective and effect) in its final, revised DTS regulations. That provision should state:

> "Each Enterprise shall – within 90 days of the publication of this final rule -- develop loan products and flexible underwriting guidelines to facilitate a secondary market for consumer loans on manufactured homes for very low-, low-, and moderate-income families. Such loans shall include loans secured by manufactured homes titled as real property and by manufactured homes titled or financed as personal property."[11]

MHARR believes that such express language, with corresponding enforcement provisions, is essential to ensure that the Enterprises fully comply with the directive of both the President and FHFA, that they fully serve all segments of the manufactured housing market in a market-significant manner without any further or additional delay.

Accordingly, MHARR supports the adoption of new DTS regulations consistent with the NPR provided that any such final regulation includes a mandatory DTS-chattel directive.

2. THE REGULATORY DEFINITION OF "MANUFACTURED HOME" MUST NOT BE DILUTED BY INCLUDING OTHER TYPES OF HOMES

In addition to the primary issue raised by the NPR and addressed above, the NPR also states:

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[10] The GSEs dismal track record on manufactured home chattel lending also includes active deception. At multiple stages, the GSEs have proposed or proffered chattel "model" programs, demonstration programs, or other limited experiments to supposedly test the market and gain allegedly needed information, but have consistently failed to do even that much.

[11] Given the GSEs consistent track record of delay and obfuscation regarding DTS chattel support, MHARR believes that a specific, strict regulatory deadline is essential. Whether that deadline is 90 days or some other timeframe, full compliance within a specific timeframe must be mandatory.

> "The Agency requests comment on whether the definition of *manufactured home* should be expanded to include a broader array of non-site-built homes such as modular homes, panelized homes, and other types of factory-built homes that are subject to state or local building codes."[12]

With respect to this issue, MHARR ***strenuously opposes*** any modification to the DTS definition of "manufactured home" to include types of single-family homes that are not regulated by HUD pursuant to the 1974 Act and that are subject, instead, to state and local building codes.

MHARR's opposition to any such change is based on both statutory and practical bases. First, "manufactured home" is already a defined term under federal law,[13] and that definition does not include modular, panelized, or other factory-built structures subject to state and local building codes. Adopting a different definition of "manufactured home" within the DTS regulations would invite – and result in -- confusion and negative unintended consequences. Second, any regulatory dilution of the term "manufactured home" would be an irresistible incentive to the GSEs to serve the market for such larger and more costly structures under DTS – in lieu and instead of inherently affordable, mainstream manufactured homes – while claiming, for purposes of FHFA evaluation, that they are nevertheless serving the "manufactured housing" market. Put differently, such a change would be an open invitation for further subterfuge, defiance and tacit alteration of the statutory DTS directive by Fannie Mae and Freddie Mac. Again, given the GSEs' miserable track record in serving the ***mainstream, affordable,*** federally-regulated manufactured housing market under DTS, they should not be provided with a regulatory "off-ramp" to serve other higher-cost forms of housing while continuing their failure to support mainstream, affordable manufactured homes and the lower and moderate-income Americans who rely on them for affordable homeownership. Any new DTS regulations should focus on ensuring the GSEs compliance with the **core mission** of DTS, to serve the affordable, mainstream of the HUD-regulated manufactured housing industry, specifically including chattel loans.

III. CONCLUSION

For all of the foregoing reasons, MHARR supports the action proposed in the NPR on the specific condition that FHFA include a specific DTS-chattel directive, such as that set forth above, in any final rule adopted pursuant to the NPR. Further, MHARR objects to the proposed modification of the definition of a "manufactured home" to include residential structures that are not manufactured homes as already defined by 42 U.S.C. 5402(6) and 24 C.F.R. 3280.2.

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[12] See, 91 Federal Register, supra, at p. 37855, col.1 and p. 37866, col.3.

[13] See, 42 U.S.C. 5402(6) and 24 C.F.R. 3280.2.

Sincerely,

Mark Weiss
President and CEO

cc: Hon. Donald J. Trump
Hon. Bill Pulte
Hon. Scott Turner
Hon. Scott Bessent
Hon. Russell Vought