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Subject: Public Comments on Proposed Rule: *Enterprise Duty to Serve Underserved Markets* (RIN 2590-AB64 / 12 CFR Part 1283)

Executive Summary

The Federal Housing Finance Agency (FHFA) have made significant modernization effort to its existing Duty to Serve (DTS) regulations under 12 CFR Part 1282 (Subpart C) by establishing a new framework under a dedicated 12 CFR Part 1283. This modernization effort made strides designed to streamline administrative overhead and foster market innovation, key provisions of proposed Part 1283 erode public accountability, need improvement to align with statutory affordability mandates, and evaluate critical operational costs borne by vulnerable borrowers and renters of manufactured housing.

Specifically, this submission challenges three major policy decisions in proposed Part 1283:

1. **The Unsubstantiated "Presumption of Affordability" for Manufactured Housing Communities (§ 1283.7(b)(3)):** Replaces empirical income and rent verification with an unvetted presumption, opening Enterprise liquidity to institutional investors without requiring affordable pad rents or enforceable tenant lease protections.
2. **The Complete Rescission of Energy and Water Efficiency Directives:** Disregards the direct impact of escalating utility costs on the Total Cost of Occupancy (TCO) and default risks for low- and moderate-income (LMI) households.
3. **The Restriction of Public Oversight and Transparency (§§ 1283.4(c) & 1283.5(b)):** Curtails meaningful public participation by compressing the effective 3-year Plan review window to 45 days and eliminating public quarterly performance reporting.

I. Deficiencies in the "Presumption of Affordability" for Manufactured Housing Communities (§ 1283.7(b)(3))

1. Need to Account for Market Financialization and Lot Rent Escalation

Proposed § 1283.7(b)(3) dictates that for Enterprise purchases of blanket loans on manufactured housing communities (MHCs), *"unless otherwise determined by FHFA, homes in the community shall be presumed as affordable for very low-, low-, or moderate-income families."* This replaces the existing census-tract income analysis and affordability documentation requirements with an automatic regulatory presumption.

This blanket presumption ignores a well-documented structural transformation in the manufactured housing sector: the widespread acquisition of MHCs by institutional private equity funds and consolidation entities. Over the past decade, institutional owners have aggressively acquired MHC properties, executing value-add strategies that involve steep pad-rent increases, shifting utility maintenance costs onto residents, and imposing arbitrary administrative fees.

Because residents in manufactured housing communities typically own their physical structure but lease the underlying land, they are functionally captive tenants. Relocating a manufactured home costs between $5,000 and $10,000+—a cost-prohibitive barrier for most LMI households. Providing Enterprise-backed, subsidized wholesale liquidity to park owners based on an unverified presumption allows institutional landlords to leverage low-cost GSE execution while simultaneously driving up living costs for vulnerable residents.

> **Statutory Defect:** Under 12 U.S.C. § 4565(a)(1)(A), the Enterprises have an affirmative duty to facilitate a secondary market for mortgages on housing *affordable to very low-, low-, and moderate-income families*. Awarding Duty to Serve credit to MHC blanket loans without verifying lot rent affordability or mandating basic tenant protections violates this statutory requirement by subsidizing transactions that actively destabilize low-income housing.

2. Regulatory Fix

FHFA must eliminate the automatic presumption in § 1283.7(b)(3) or condition the availability of Duty to Serve credit for MHC blanket loans on two mandatory, enforceable standards:

- **Lot Rent Verification:** The Enterprise must verify that lot rents do not exceed 30% of Area Median Income (AMI) for the applicable county or non-metropolitan area.
- **Mandatory Tenant Duty to Serve Protections:** The Enterprise must require MHC borrowers to execute enforceable Tenant Protection Lease Terms (e.g., minimum 1-year leases, 60-day advance notice of rent increases, a 30-day grace period for rent payments, the right to sell the home without landlord interference, and the right to cure defaults).

II. Arbitrary Removal of Utility, Energy, and Water Efficiency Directives

1. Disregarding Total Cost of Occupancy (TCO) in Housing Affordability

FHFA proposes to remove all Regulatory Activities related to energy and water efficiency improvements, citing alignment with Executive Order 14394. In doing so, the Agency asserts that green standards create unnecessary administrative burden.

This rationale fails to account for the **Total Cost of Occupancy (TCO)** borne by LMI renters and homeowners. For low-income households, utility bills represent one of the most volatile and severe cost burdens, frequently exceeding 15% to 20% of total household income. In aging affordable rental housing and manufactured homes, un-retrofitted heating, cooling, and plumbing systems lead directly to escalating monthly expenses, higher default rates, and physical property deterioration.

By eliminating efficiency directives, FHFA removes structural incentives for the Enterprises to originate green preservation products or finance energy-saving capital improvements. Lowering nominal mortgage underwriting friction at the cost of higher monthly utility bills directly impairs long-term preservation and borrower sustainability.

Legal Question: Under *State Farm*, an agency changing course must provide a reasoned explanation for discarding its prior factual findings. In FHFA 2016 rulemaking, the agency explicitly established that energy and water retrofits are vital to preserving affordable housing stock and reducing operational costs. The proposed rule offers no empirical counter-analysis showing that utility expenses no longer impact LMI housing stability, relying instead on high-level deregulatory E.O. mandates.

Suggested Regulatory Fix

FHFA must retain energy and water efficiency retrofits as recognized, credit-eligible initiatives within the Affordable Housing Preservation market (§ 1283.3 / § 1283.7), ensuring the Enterprises maintain dedicated secondary market liquidity for energy-saving capital improvements.

III. Suggestions to Retain Transparency and Procedural Safeguards

1. Compression of the Public Review Window for 3-Year Plans (§ 1283.4(c))

Under proposed § 1283.4(c)(1)–(3), FHFA establishes a fixed regulatory schedule requiring Enterprises to submit proposed Plans by June 30, launching public input around July 15, and forcing Enterprises to resubmit final Plans by October 1.

This fixed timeline bounds the public comment period to approximately **45 days** (down from the traditional 60-day window). Three-year DTS Plans are dense, technical strategic documents governing billions of dollars in mortgage liquidity. Community-based organizations, non-profit housing developers, CDFIs, and rural advocacy coalitions operate with limited analytical capacity. Compressing the review window by 25% disadvantages public interest groups while favoring well-resourced institutional market participants.

2. Discontinuance of Public Quarterly Performance Reporting (§ 1283.5(b))

Proposed § 1283.5(b)(2) continues to mandate quarterly progress reports *to FHFA*, but proposed § 1283.5(b)(1) **eliminates the public publication of quarterly reports**, requiring only an Annual Report published directly on the Enterprises' individual websites by March 30.

Suppressing quarterly public disclosures deprives housing advocates, lenders, and regional stakeholders of real-time operational oversight. Under an annual-only framework, if an Enterprise underperforms or abandons a critical market segment in Quarter 1, the public will not learn of the deficit until March 30 of the *following calendar year*—up to 15 months later—when corrective feedback is impossible. Furthermore, delegating publication exclusively to the Enterprises fragments data oversight and removes central FHFA accountability.

> **Legal Defect:** APA § 553 requires a "meaningful opportunity to comment" and monitor regulatory performance. Restricting real-time operational data while compressing public input windows impairs the public's statutory role in evaluating whether the Enterprises are fulfilling their affirmative Duty to Serve.

Suggested Regulatory Fix

- **Please restore a 60-Day Comment Window:** Explicitly mandate a minimum 60-day public input period for proposed 3-Year Duty to Serve Plans in § 1283.4(c)(2).
- **Maintain Centralized Public Quarterly Dashboards:** Amend § 1283.5(b) to require FHFA to host a centralized, public-facing web dashboard updated quarterly with standardized, non-proprietary performance metrics for both Enterprises.

V. Summary of Agency Action

To satisfy its obligations under the Administrative Procedure Act and 12 U.S.C. § 4565, FHFA need to address each identified suggestions and provide explicit written responses in the Final Rule docket:

Item #	Regulatory Section	Identified Legal / Operational Defect	Mandatory Agency Action / Evidentiary Demand
1	**§ 1283.7(b)(3)** *(MHC Affordability)*	Automatic presumption of affordability subsidizes institutional park owners without verifying actual pad rents or tenant rights.	Strike the automatic presumption OR condition DTS credit on mandatory pad rent AMI limits and baseline tenant lease protections.
2	**Part 1283** *(Energy & Water)*	Rescinding efficiency incentives ignores utility cost burdens, directly increasing total cost of occupancy and LMI default risks.	Re-integrate utility efficiency retrofits as an explicit, credit-eligible activity under Affordable Housing Preservation.
3	**§ 1283.4(c)**	Fixed schedule compresses the Plan review window to ~45 days, limiting community and non-profit engagement.	Retain the mandated 60-day public comment period for proposed

	(Public Input)		3-Year Duty to Serve Plans in § 1283.4(c)(2).
4	**§ 1283.5(b)** *(Quarterly Reporting)*	Eliminating public quarterly reports prevents real-time oversight and delays detection of Enterprise underperformance by up to 15 months.	FHFA continues to host quarterly, public-facing data dashboards tracking Enterprise loan purchases and investments.

VI. Conclusion

Streamlining regulatory text must not come at the expense of statutory intent, consumer protection, or public oversight. As drafted, proposed 12 CFR Part 1283 risks converting the Duty to Serve framework into an unverified program that channels Enterprise liquidity to corporate landlords while obscuring performance data from the public.

FHFA should modify proposed Part 1283 to require strict MHC affordability verification, preserve energy-efficiency incentives, and maintain robust, 60-day public transparency channels.