



Manufactured Housing Association for Regulatory Reform

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VIA FEDERAL EXPRESS

Hon. Jeb Hensarling
Chairman
Financial Services Committee
U.S. House of Representatives
Room 2129
Rayburn House Office Building
Independence Ave. & South Capitol St., S.W.
Washington, D.C. 20515

Hon. Maxine Waters
Ranking Member
Financial Services Committee
U.S. House of Representatives
Room 2129
Rayburn House Office Building
Independence Ave. & South Capitol St., S.W.
Washington, D.C. 20515

Re: Written Testimony of the Manufactured Housing Association for Regulatory Reform On “Oversight of the Federal Housing Finance Agency’s Role as Conservator and Regulator of the Government Sponsored Enterprises”

Dear Chairman Hensarling and Ranking Member Waters:

The following testimony is submitted on behalf of the member-manufacturers of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade organization representing the views and interests of producers of manufactured housing 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.) as amended by the Manufactured Housing Improvement Act of 2000. MHARR was founded in 1985. Its members include independent manufactured housing producers from all regions of the United States. MHARR hereby requests that this document be included in the official record of the above-referenced hearing.

Federally-regulated manufactured housing is the nation’s most affordable source of non-subsidized homeownership. According to a study published by HUD, “the cost of manufactured housing, even for recent movers, is much lower than other alternatives, including renting.” (Emphasis added).¹ As a result, manufactured housing is a significant source of homeownership for many lower and moderate-income Americans who might not otherwise be able to afford a home of their own. Indeed, as characterized in a September 2014 report by the Consumer Financial

¹ See, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, “Is Manufactured Housing a Good Alternative for Low-Income Families? Evidence from the American Housing Survey” (December 2004), at p. 6.

Protection Bureau (CFPB), “Certain consumer segments are disproportionately represented among owners and renters of manufactured homes, in particular older consumers ... households with relatively low income and households with relatively low net worth.”² Even with these significant purchase price advantages, however, federally-regulated manufactured housing, in recent years, has accounted for just six percent, approximately, of all occupied housing in the United States.³

Recognizing that manufactured housing can and should play a much larger role in providing affordable, non-subsidized homeownership -- not only for lower and moderate-income Americans, but for all Americans, at every rung of the economic ladder -- and further understanding that a severe shortage of available purchase-money consumer financing for potential manufactured home purchasers was (and still is) a significant limiting factor and constraint on the manufactured housing market, Congress, in the Housing and Economic Recovery Act of 2008 (HERA), established a “Duty to Serve Underserved Markets” (DTS) on the part of the Government Sponsored Enterprises (GSEs) with respect to federally-regulated manufactured housing. In relevant part, DTS directs Fannie Mae and Freddie Mac to “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.”⁴ Moreover, to ensure that the term “mortgages” is not misconstrued in the unique context of manufactured housing to limit the scope of DTS to manufactured home real estate “mortgage” loans, the same section of HERA expressly provides that “in determining whether an Enterprise has complied” with DTS, the Federal Housing Finance Agency (FHFA) – as the GSEs’ federal regulator – “may consider loans secured by both real and personal property.” (Emphasis added).⁵

This express authorization and directive by Congress to incorporate securitization and secondary market support for manufactured home personal property (i.e., “chattel”) loans as part of DTS, is (and continues to be) the single most significant aspect of DTS with respect to the manufactured housing market, for the simple reason that, according to the most recent data available from the U.S. Census Bureau, at least 80% of manufactured housing placements utilize chattel-based consumer financing. Chattel placements, moreover, represent an expanding segment of the overall manufactured housing market according to the same data sources, having increased from 64% of all manufactured housing placements in 2007, to 80% of all placements by 2015 – a 25% increase.⁶

Clearly then, chattel financing is the primary, crucial, and, indeed, indispensable means by which the vast majority of American consumers gain access to manufactured housing and to all of the economic and societal benefits that are attendant to homeownership. It is specifically with respect to chattel financing, however – again, at least 80% of the manufactured housing market -- that the DTS final rule adopted by FHFA in 2016,⁷ and the so-called DTS “implementation” plans

² See, Consumer Financial Protection Bureau, “Manufactured Housing Consumer Finance in the United States,” (September 2014) at p. 13.

³ Id. at p. 4.

⁴ See, 12 U.S.C. 4565(a).

⁵ See, 12 U.S.C. 4565 (d)(3).

⁶ See, U.S. Census Bureau, Cost and Size Comparison: New Manufactured Homes and Single-Family Site-Built Homes (2007-2015).

⁷ See, 81 Federal Register, No. 250, December 29, 2016 at p. 96242, et seq.

submitted by Fannie Mae and Freddie Mac – and wrongly approved by FHFA in 2017 – utterly fail to provide any type of market-significant securitization or secondary market support.

Specifically, after a baseless and indefensible delay of nearly a decade, the final so-called DTS “implementation” plan submitted by Freddie Mac and “approved” by FHFA pursuant to its final DTS implementation rule, does not and cannot “effectively” implement DTS in a timely and market-significant manner. That plan, which is long on excuses and rationalizations for its near-total inaction, would provide, at most, for a conditional, token chattel financing “pilot” program for manufactured housing in the “out” years of the three-year plan, “if approval is obtained” beforehand from FHFA,⁸ which is not assured. (Emphasis added). In relevant part, Freddie Mac’s DTS plan states: “Freddie Mac does not currently purchase chattel loans. We do not have the requisite systems in place to purchase chattel loans, nor do we have historical data on chattel loan performance that would allow us to make determinations about whether the purchases of these loans can be made in a safe and sound manner. *** Freddie Mac intends to conduct a systematic and incremental review to develop a product before entering the chattel market.”⁹ If, then, and presumably only-if such information and approvals are obtained, Freddie Mac apparently plans to purchase “200-500” manufactured home chattel loans in year-two of its plan (2019) “to help inform future product design to build out capabilities for flow path,” and another “600-1,500” chattel loans in plan-year three (2020), for the same ostensible purpose.¹⁰

Meanwhile, Fannie Mae, in its final FHFA-approved DTS “implementation” plan, conditions its own, “out-year” DTS chattel pilot program not only on the development of additional chattel loan market and performance information after ten years of unexplained delay, but also on “FHFA approval to develop a chattel pilot ... and internal approval to purchase chattel loans.”¹¹ Consequently, the Fannie Mae “pilot” chattel program is subject to at least three conditions precedent – i.e.: (1) development of “sufficient” chattel loan performance information, the sufficiency of which is not defined or described in the plan itself and is, therefore, totally subjective and arbitrary; (2) FHFA approval; and (3) “internal” Fannie Mae” approval, based on unstated and undefined criteria and considerations – which may never be satisfied, and at least two of which rest within the exclusive, subjective and potentially arbitrary control of Fannie Mae. If – and only if – these and other conditions precedent are met, Fannie Mae’s DTS implementation plan indicates that it will purchase 1,000 manufactured housing chattel loans in plan-year two (2019) and another 1,000 chattel loans in plan-year three (2020).

To place these meager chattel loan “pilot” programs in proper perspective, with 92,902 HUD Code manufactured homes produced in 2017, even if no market growth were assumed during the years covered by the three-year DTS plans (i.e., 2018-2020), that period would see retail sales of approximately 279,000 HUD Code manufactured homes, with approximately 223,000 (i.e., 80%) of those homes financed through chattel loans, again, assuming no change in the composition or economic characteristics of the overall manufactured housing market.

⁸See, Freddie Mac Final DTS Implementation Plan at p. MH25.

⁹Id. at p. MH21.

¹⁰Id. at p. MH25.

¹¹See, Fannie Mae Final DTS Implementation Plan at p. MH30.

Against this baseline, the chattel loan programs envisioned by Fannie Mae and Freddie Mac combined – even at maximum projected capacity -- would serve 4,000 purchasers, or a mere 1.43% of the entire manufactured housing market through 2020 (or 1.79% of all projected manufactured home consumer chattel loans) – more than a decade after the enactment of DTS. Chattel loan purchases at these levels, would constitute a microscopic portion – far less than one-one-hundredth of one percent -- of the total mortgage portfolios of both Fannie Mae and Freddie Mac, representing: (1) a blatant, continuing failure by the GSEs to serve the manufactured housing market contrary to law; (2) a continuation of blatant, baseless discrimination against the lower and moderate-income Americans who rely on affordable, non-subsidized manufactured housing the most; (3) a continuing abuse of – and failure to comply with – Fannie Mae and Freddie Mac’s mission and role as prescribed by their respective Charters; and (4) a flagrant failure by FHFA, as the GSEs’ regulator and conservator, to enforce full compliance with the statutory DTS mandate; which (5) continues to force low and moderate-income manufactured homebuyers into the arms of a small number of industry-dominant lenders with higher-cost loans, exactly the opposite of the relief that Congress clearly sought to provide through DTS.

To rationalize this pathetic, totally inadequate level of support for the nation’s most affordable non-subsidized housing resource in direct violation of the DTS mandate and at a time when the U.S. Department of Housing and Urban Development’s 2017 Worst Case Housing Needs report to Congress shows a resurgence in “worst case” housing needs (i.e., Americans “who pay more than one-half of their income to rent, [or] live in severely inadequate conditions, or both”) to near-record levels, Fannie Mae and Freddie Mac both cite, again, a lack of recent, relevant “data and information” concerning the performance and other characteristics of manufactured housing chattel loans – data that is held by the same companies that provide such higher-cost loans and stand to benefit from the de facto non-implementation of DTS.

The Enterprises, then, as MHARR has stressed before, effectively seek to avoid their mandatory “duty” to comply with DTS (in a market-significant manner) by citing a lack of data that flows directly from their own previous (and ongoing) failure – in violation of their respective Charters -- to serve the manufactured housing market, which DTS was designed to remedy. Put differently, the GSEs, for ten years – and potentially indefinitely into the future – seek to avoid any market-significant compliance with the remedy for their failure to serve the manufactured housing market, by relying on the very failure to serve that market which DTS seeks to remedy.

This ongoing failure and, indeed, refusal¹² to fully implement DTS with respect to manufactured housing by FHFA, Fannie Mae and Freddie Mac, harms American consumers, harms the smaller and medium-sized independent manufactured housing producers which MHARR represents, and, more broadly, harms the economy and the additional American workers across the nation’s heartland who could be employed in a properly-served manufactured housing market. This is simply unacceptable for American families and the American manufactured housing industry and should also be unacceptable to Congress.

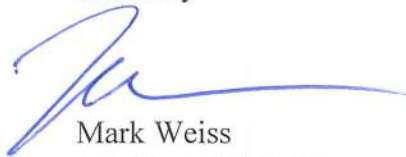
¹² FHFA, among other things, has thus far failed to substantively respond – in any manner – to an April 6, 2018 MHARR Freedom of Information Act (FOIA) request seeking specified categories of documents pertaining to DTS and its alleged implementation.

Congress should not tolerate such blatant defiance of its statutory directives by a recalcitrant, defiant bureaucracy apparently determined to “run out the clock” and delay any meaningful implementation of DTS to the manufactured housing market for decades or, potentially, forever. Instead, as part of its oversight of FHFA, Congress must demand full accountability for a baselessly-delayed, glacially-paced and fatally-deficient DTS “implementation” process, and should, in addition, take all necessary steps to ensure that the market-significant implementation of DTS with respect to all elements of the manufactured housing market – but most particularly the 80% market segment represented by chattel-financed homes – is made an immediate priority for FHFA, Fannie Mae and Freddie Mac.

MHARR will continue to press for the full implementation and application of DTS to manufactured home personal property (chattel) loans and will continue to address, through all necessary means (including Congress and the Administration) the ongoing failure of FHFA, Fannie Mae and Freddie Mac to implement DTS in a timely and market-significant manner, thereby depriving lower and moderate-income Americans of the full access to affordable, non-subsidized manufactured homeownership that Congress sought to provide through DTS.

MHARR and its members thank you for the opportunity to submit this testimony to the Financial Services Committee.

Sincerely



Mark Weiss
President and CEO

cc: Hon. Donald J. Trump
Hon. Ben Carson
Hon. Ann Wagner
Hon. Al Green
Manufactured Housing Industry Members and Consumers