MORTGAGE BANKERS ASSOCIATION

June 28, 2024

The Honorable Janet Yellen
Secretary
United States Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The Honorable Adrianne Todman
Acting Secretary
United States Department of Housing and Urban Development
451 7th St., S.W.
Washington, D.C. 20410

Dear Secretary Yellen and Acting Secretary Todman:

We are writing to express our concern about the Biden administration's continued focus on the Federal Financing Bank (FFB) Risk-Sharing Program. The FFB program creates direct and unfair competition with private sector lenders that participate in the Department of Housing and Urban Development's (HUD) multifamily accelerated processing (MAP) program and may discourage their participation in the market in the future. The Administration should instead focus its efforts to increase supply on changes to the FHA MAP program and allow MAP lenders to access the FFB.

MBA[1] and its members are committed to increasing the supply of affordable rental housing, and we want to ensure FHA's highly successful MAP program continues to work as efficiently as possible to help support the production of multifamily rental housing across the nation. Since 2021, the MAP program has produced or preserved approximately 463,000 units[2] of rental housing financed by approximately 70 different MAP-approved lenders. These lenders have deep expertise in underwriting and originating high-quality FHA-insured multifamily loans. To continue to encourage participation in the MAP program, a level playing field must exist in the FHA-insured multifamily market.

FHA offers two mortgage insurance programs, one via the FFB program for state and local housing agencies (HFAs or Risk-Share Lenders) and one via the MAP program for approved

[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] https://www.hud.gov/program_offices/housing/comp/mf_fhasl_active

private sector lenders. The HFAs share a portion of the risk in each loan they originate and set some of their own underwiring rules and requirements. MAP lenders must follow all FHA underwriting requirements, which are often stricter. The 955-page MAP guide is designed to hold MAP lenders accountable for their due diligence and underwriting. We want to ensure that FHA's successful MAP program continues to be available to developers of affordable housing. MAP lenders and the HFAs can both work together in the market, but the market should be open and fair. A borrower should select a lender based on pricing and quality of service, not an unfair advantage given to one lender.

MBA offers the following concerns with the FFB program and urges the Biden administration to address them:

Improve HUD Oversight of FFB Program Lending

FFB program loans often have far less rigorous underwriting standards than MAP loans. We urge HUD to enforce the same underwriting standards for HFAs that they enforce for MAP lenders. Some HFAs:

- Do not test rents, expenses, demand, and construction costs against the market;
- Enforce Davis-Bacon wages unfairly, such as changing timing of application or not requiring split wages;
- Enforce historic and environmental requirements loosely, including not following all the requirements of the HUD Environmental Review Online System (HEROS) program; and
- Inflate servicing fees, which are then added to the debt interest rate.

Apply HUD Requirements for Davis-Bacon Wage Rules to FFB Program Debt

The application of Davis-Bacon wage rates under the FFB Program is delegated to the HFAs. Some HFAs have suggested "lower" Davis-Bacon rates when advertising their program. The FFB program must not circumvent the application of Davis-Bacon wages. If HUD enforces split wages, for example, on MAP loans, HUD should enforce split wages on FFB Program loans.

Prohibit Tying FFB Program Debt to Financial Benefits

We are aware of instances where borrowers using FFB program financing are more likely to be awarded Low-Income Housing Tax Credits (LIHTC). The Blue Book (Joint Committee on Taxation explanation) for the 1986 Tax Reform Act (at p. 171) specifically established that, in administering tax credit allocations, "Credit allocating agencies may not condition the allocation of credits to the source of financing for a low-income building." HFAs that do not comply with these requirements should be disqualified from participation in the FFB program.

To ensure a full understanding of this requirement, we recommend that HUD add the following section to all FFB program agreements:

> *For projects using Low-Income Housing Tax Credits (LIHTC), other tax credits, "soft money," or other financing elements allocated by a Housing Finance Agency (HFA), the HFA shall ensure that the project's LIHTC or other allocations of financing elements are not conditioned, explicitly or implicitly, on the HFA's providing debt financing for the project under the Risk-Share program.*

Prohibit Inflated Interest Rates

Some HFAs add excessive markups to the FFB rates. The benefits of the FFB program are not passed along to the developer but rather become income to the HFA. A higher debt rate reduces the first lien debt, which must be covered by more tax credits and soft money, defeating the purpose of the FFB loan.

Other Considerations

- **Forward commitments.** We suggest that HUD take a close look at whether it is appropriate for the FFB to fund forward commitments. FFB has no capacity to hedge interest rate risk.
- **Subordination.** We suggest that HUD apply the same subordination requirements for FFB risk-sharing loans that it requires for MAP program loans.

Improvements To FHA MAP Lending

The current, and growing, requirements of the highly successful HUD MAP program make FHA multifamily loans one of the most expensive loans in the market. Since HUD is dedicated to producing quality rental housing, it should do all it can to make it one of the least expensive loan programs.[3] There are several things HUD can do now to help ease the cost burden:

- **Reduce Regulatory Burdens:** HUD should revise Housing Notice 2010-11. This Notice, issued in response to the Great Financial Crisis, revised underwriting standards and increased Loan-to-Value (LTV) and Debt Service Coverage Ratio (DSCR) parameters. According to HUD's most recent production data, the multifamily portfolio's overall default rate is 0.16%. The risk to the taxpayer is very low, and the return to the Treasury is high. HUD should reinstate the previous LTV and DSCR parameters. Such a change would result in lower equity requirements for transactions limited by debt service coverage due to high interest rates. All the remaining underwriting requirements of Notice 2010-11 would remain, limiting any risk.
- **Eliminate Unnecessary and Duplicative Fees and Charges:** The Administration continues its push to crack down on "junk fees" to consumers. We support these efforts to eliminate unnecessary charges – but this also applies to the fees the FHA charges to borrowers and lenders. From the application to the multitude of third-party fees, FHA should review the costs of its loans and work to reduce those charges that are simply too high and are slowing the production of housing units.
- **Reduce Mortgage Insurance Premiums:** During the last 12 years, FHA has insured $170 billion of multifamily loans, incurred a loss of only $27 million, and collected premiums of $3 billion from FHA multifamily borrowers. The premium rate far outweighs the risk to the taxpayer.

Allow FHA MAP Lenders to Access the FFB

The current FFB Risk-Share program is only available for qualified state and local Housing Finance Agencies. HUD's 67 approved MAP Program lenders have proven expertise in

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[3] https://www.mba.org/industry-resources/resource/mba-letter-to-hud-on-fha-multifamily-loans-fees-ancost

financing multifamily housing. Why not provide them with access to the FFB? Access to the FFB is important because high interest rates in today's Ginnie Mae market cause many projects to stall. The lower FFB rates would allow market rate housing to attract required equity investment and would allow HUD-insured affordable projects to go forward with less gap financing. More market rate units would create more competition and lower rents. MAP lenders have already met strict requirements and have been approved by HUD. They should have the same access to the FFB, to expand access to quality housing.

Today, housing providers face significantly increased costs in labor, construction materials, and interest rates. FHA charges significant fees, despite the strong performance of its loan portfolio. Reducing the cost of FHA financing would have a direct, positive impact on the ability of multifamily borrowers and developers to add units and increase the nation's multifamily housing stock.

We appreciate your time and attention to these issues, and we look forward to continuing to work together for the success of multifamily development across the country.

Sincerely,

Robert D. Broeksmit, CMB
President and Chief Executive Officer
Mortgage Bankers Association