MORTGAGE BANKERS ASSOCIATION

August 15, 2016

VIA ELECTRONIC SUBMISSION

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs; Notice of Proposed Rulemaking
Docket No. FR–5855–P-02

Ladies and Gentlemen:

The Mortgage Bankers Association[1] appreciates the opportunity to comment on the Department of Housing and Urban Development's Notice of Proposed Rulemaking ("Notice") with regard to Small Area Fair Market Rents ("SAFMRs").[2]

MBA values HUD's efforts to strengthen opportunities for Section 8 Housing Choice Voucher holders (voucher holders) who wish to move into areas that potentially have better access to jobs, transportation, services and educational opportunities. Enhancing mobility and access to areas of opportunity for voucher holders is an important policy objective. HUD's tenant based rental assistance in the Housing Choice Voucher program is proposed to serve some 2.2 million households including families with children (48 percent), elderly (24 percent) and non-elderly disabled (36 percent) with an average gross income of approximately $13,138 per year in FY2016.[3] The program is substantially and critically important to all who are served nationwide, which under the current program structure, serves approximately 9,100 households in Washington, D.C. alone.

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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 280,000 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 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 over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit: www.mba.org.

[2] Docket No. FR-5855-P-02.

[3] HUD's Housing Choice Voucher Program Tenant Characteristics, HUD FY2016 Proposed Budget.

We note that changes expected as a result of the Notice would be extensive and fundamentally different to the current well-understood process used by over two million American households, 700,000 property owners and 2,000 public housing authorities. It would replace the Fair Market Rents (FMRs) payment standard that is calculated on a metropolitan wide basis with new SAFMR rent limits for voucher holders calculated on a zip code basis which varies drastically within a metropolitan area. In response to MBA's question on the scope of the rule at HUD's June 30 presentation on the proposed rule, Kurt Usowski, Deputy Assistant Secretary, said 28 percent of all voucher holders are expected to be affected by the SAFMR rule if adopted as proposed. We confirm that HUD's proposal would not and should not affect or adjust the project-based Section 8 program in which rental assistance *contracts* between the federal government and property owners are relied upon to secure financing for multifamily properties providing long-term affordable housing.

Potential unintended impacts from using SAFMRs should be considered.

HUD should prevent harm to current voucher holders in the current Section 8 program. The use of SAFMRs as proposed may result in reduced rental assistance payments in certain zip codes. For example, the proposed rule, if adopted as proposed, may reduce assistance by millions of dollars in high poverty areas of Washington, D.C. alone. HUD should guarantee current voucher rents based on FMRs even where they are higher than the SAFMRs that may eventually prevail -- in order to support stability for voucher holders. HUD should also explore the need to fund supportive services, including counseling, in order to educate current and prospective voucher holders on the differences between the FMR program and SAFMR program.

Many Low Income Housing Tax Credit properties and other affordable housing resources are located in areas where high rent burdened, low-income households reside so as to serve their housing needs in the community. It is critical that HUD anticipate and analyze the impact of disinvestment in these areas, including existing LIHTC properties where many voucher holders may choose to remain. While we recognize that increasing allowable rents in higher-rent neighborhoods means greater opportunities for voucher holders to find apartments in those areas, reducing allowable rents in lower-rent neighborhoods could be a direct disinvestment in the affected areas. Declining FMRs could mean fewer funds available for maintenance and other essential property expenses, possibly leading to blighted neighborhoods. It could also lead to markedly lower property values. The change in neighborhood economics could lead to disinvestment in communities that can least afford it, and significant disincentives to existing or prospective investors who otherwise might be willing to deploy capital in those areas.

HUD should also recognize the very strong demand for multifamily units at this time that is likely to impede mobility for households that need subsidies. These families or individuals will compete for units with potential tenants who can pay market rate rents without subsidies. HUD must ensure that it has tested to confirm real housing availability at SAFMR rent levels for tenants with subsidies in areas of opportunity. In MBA's latest multifamily data for First Quarter 2016,[4] the national average apartment vacancy rate was 4.5 percent and has hovered near a ten year low vacancy rate for the last three years.

Given the friction and confusion that could occur with such a massive change from a long-standing process using FMRs, any SAFMR proposal, including the existing SAFMR demonstration program[5], should be data-driven and informed by holistic policy and an understanding of the effects of the transition on the affected neighborhoods. Providing voucher holders with educational information is an absolute must. By way of example, in reviewing SAFMR information for markets near HUD's Washington DC headquarters, we note that based on proposed 2016 SAFMRs published by HUD[6], large percentages of voucher households will see allowable rents decline, totaling millions of dollars in reduced subsidies that would otherwise flow to these communities. Also, per HUD's data on Housing Choice Voucher Tenants for FY2016[3], 60 percent of voucher holders for FY2016 are elderly or non-elderly disabled tenants who may need support in making the significant life changes that may result from the SAFMR policy.

Considerations distinct from, but fundamentally connected to, housing should also be considered. Particular services may be necessary to assist households who may need to consider moving. Counseling services may be necessary in helping households that want to relocate by providing practical moving choices, such as locating an apartment and planning for job, transportation, school and/or medical provider changes. Conversely, we recommend consideration of voucher holders who need access to important place-based services for extremely low income households (defined as less than 30 percent of Area Median Income) who are approximately 75 percent of voucher holders. These services often are located in particular geographic areas.

Finally, while SAFMRs would establish significant differences in rent and subsidy limits within the same metropolitan housing market, it would not address the fundamental issue of FMRs that may not be at a level to allow the voucher program to work as intended within a market area.[7] We urge HUD to engage in further analysis and to wait until there is robust data available from HUD's partners. HUD should conduct additional dialogue with stakeholders in

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[4] MBA's Commercial/Multifamily Quarterly Databook, Q12016, June 2016, page 24.

[5] "The Small Area FMR Demonstration", found in HUD's 2013 *Cityscape* (Volume 15, Number 1), notes the current SAFMR demonstration was not fully operational until September 2014, and it runs through 2016. The HUD SAFMR demonstration results should be analyzed and strategies deployed to address operational considerations learned through the demonstration.

[6] http://www.huduser.org/portal/datasets/fmr/smallarea/index.html (in Washington, D.C., approximately 8,600 households, almost 95 percent of voucher households, would see allowable rents decline between $220 and $350 per month, an average decline of approximately 21 percent)

[7] See, e.g., Multifamily Coalition September 12, 2014 letter on Proposed Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program and Other Programs [SAFMRs] Fiscal Year 2015, see page 3. Docket No. FR-5807-N-01.

an effort to form the most informed, holistic policies possible to provide efficient and effective rental assistance to those in need. In response to the specific question asked in the proposed Notice, MBA recommends against codifying this policy until further analysis is conducted and there is conclusive evidence from years of experience that the SAFMR policy works.

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Thank you for your consideration of our comments. We look forward to engaging HUD in further discussions on these important matters. If you have any questions, please contact Eileen Grey at egrey@mba.org or 202-557-2747.

Sincerely,

Robert Warren
Chair, MBA FHA Committee

cc: Thomas Kim, MBA