MORTGAGE BANKERS ASSOCIATION

December 5, 2016

VIA ELECTRONIC SUBMISSION

Attention: Colette Pollard, Reports Management Officer
QDAM
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: 60-Day Notice of Proposed Information Collection: Energy Benchmarking
Docket No. FR–5913-N-27

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 Information Collection ("Notice") for Energy Benchmarking.[2]

MBA applauded HUD's 2016 action to reduce mortgage insurance premiums (MIPs) for energy efficient ("green") multifamily properties. The lower MIPs have been a positive, voluntary and successful incentive for borrowers to increase energy efficiency in their properties and have generated green FHA multifamily financings. Additionally, many multifamily borrowers and lenders independently pursue energy efficiency without an overlay of government reporting requirements. MBA supports these less prescriptive approaches and recommends reconsideration of the proposed data collection. In particular, the proposed mandatory energy data collection by borrowers on proposed or existing market rate (unassisted) multifamily properties being considered for FHA-insurance should be changed to voluntary reporting.

Collection of utility data from municipalities or utility companies is likely to be a time-consuming process that can take two months or more to complete. Alternatively, a borrower could hire a contractor as HUD has suggested and estimates of this cost were $1,000 to $4,000 for one property. These cost and time estimates probably do not take into consideration having a substantial percentage of the 30,000 thousand properties in the HUD multifamily asset portfolio plus the entire pipeline of FHA multifamily insured applications suddenly need such services. Also, many apartment units are sub-metered, so borrowers would have to work extensively to educate tenants in order to acquire the data. The cumulative impact of these proposed requirements could push potential borrowers away from FHA Insurance due to increased processing timelines which expose borrowers to additional interest rate risks.

For areas where the municipality or utility company already provides easy access to energy benchmarking data, it could be appropriate for HUD to require borrowers to request the data. As a protection for the

[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-5913-N-27

borrower or lender, MBA recommends that a record be kept by the borrower/lender of the request for the energy data from a municipality or utility. If there is no response in 30 days, the borrower should be free to proceed.

An unintended burden due to the proposed information collection could occur when borrowers acquire existing properties. Existing multifamily apartments may have older appliances or structures that could score poorly with Energy Star, making these projects less attractive to acquire if energy benchmarking is mandated for all FHA-insured properties. This could undermine the value of FHA programs for important preservation and capital investment in older housing stock. MBA recommends applying the energy benchmarking information collection requirement only prospectively for FHA insured new construction or substantial rehabilitation projects. HUD should continue to encourage "green" thinking as borrowers and lenders review financing options.

In its development of the CNA e-Tool, MBA encourages HUD to carefully review the data points being submitted in order to ensure their uniformity, and consider certain issues that will upend benchmarking data such as the utility benchmarking of mixed-use, commercial-residential properties that include a ground-floor restaurant tenant versus a retail store with varying impacts on utility usage which could negatively impact the energy score and eliminate the potential of a lower MIP for green financing.

In summary, MBA would support voluntary data and energy benchmarking on FHA market rate insured new construction and substantial rehabilitation loans. Although we understand that HUD is choosing to activate the CNA e-Tool, MBA maintains that it should not be launched or required for lender use until it has been proven to be more efficient and more reliable than the current process. We also note that the potential effective date of April 15, 2017 for the proposed information collection on FHA insured loans is too soon and, if the information collection is finalized, should be clarified to grandfather the entire pipeline of FHA insured multifamily loan applications if/when it becomes required. Also, the estimated burden of 30 minutes (Section III.A.) for this new reporting for properties that are not already mandated to report is extremely understated and should be revised. We encourage HUD to work closely with stakeholders in an effort to create the most efficient data submission process possible and to reduce the regulatory burden on lenders and borrowers as much as possible.

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

Sincerely,

Sarah Garland

Sarah Garland
FHA Committee Chair
Mortgage Bankers Association

cc: Eileen Grey, MBA
Thomas Kim, MBA