FINMARK
Financial Marketing Associates, Inc.

Mr. Jim Gray
Director, Duty to Serve Program
Federal Housing Finance Agency
400 7th St. SW
Washington, DC 20024

March 1, 2017

Re: Chattel Pilot RFI

Pursuant to FHFA's request for Input regarding the Chattel Pilot being contemplated by the Government Sponsored Enterprises (Fannie Mae and Freddie Mac) please accept the comments below as submitted by Richard Ernst, President of Financial Marketing Associates, Inc.

I have spent virtually all my career (45 years) in the finance and consulting field of the Manufactured Housing Industry. Some of my proudest accomplishments are:

- Representing a regional Midwestern bank in the origination and servicing of FHA, VA and Conventional Manufactured Housing Loans and originating over $300 million in loan volume.
- Creating a private loan conduit between a private financial services entity (The Associates Finance) and the Independent Community Bankers Association. This conduit resulted in over 400 community banks joining the program across the county, even including Alaska. Community banks could offer their customers longer term fixed rate loans for the purchase of manufactured housing with or without land. Once the loan was originated the banks would then sell their loans to Associates on a non-recourse basis and generate fee income for the bank. Further, the bank not only served a customer they otherwise would not have served and generated revenue for the bank, they also then could claim Community Reinvestment Act credit since these loans would be qualifying loans.
- Created a wholly owned finance subsidiary for Palm Harbor Homes that originated manufactured home loans with land and without land and negotiated loan sale agreements with 3rd party sources.
- Created a joint venture mortgage operation between three manufactured housing manufacturers and Wells Fargo Home Mortgage. This JV provided a

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consistent source of Construction Loan and permanent mortgage financing for the retailers and their customers.

- With the passage of the SAFE Act created 3rd Party Service Provider Platform that delivered compliant loan origination and servicing for loans previously made and funded by land lease community operators.
- Provided consulting services to land lease communities across the country on the SAFE ACT, Dodd Frank Mortgage Lending rules and determined the best course of action in compliance with those new regulations.
- Served as Interim President of the Manufactured Housing Institute
- Served 3 terms as Chairman of the Financial Services Division of MHI
- Served as the Industry Spokesperson in an interview with PBS

Because of this lengthy career and independence, I trust my comments will reflect that independence and understanding of serving my clients, the borrowers and investors so that all receive value from my efforts.

I would like to preface my responses to the requested information by saying that all current funding of chattel loans is done by private dedicated finance entities and or financial depositories. There is very limited public data available since no Asset Backed Securities have been done for chattel loans since 2007-2008. The last two companies to have done ABS deals were Origen Financial and Country Place Mortgage. Therefore, my responses will be from my overall knowledge and awareness of how the industry has handled their financing.

Sources of Chattel Financing

1. Current sources of Financing. National Lenders- **21st Mortgage (largest)** (A Berkshire Hathaway Company); **Vanderbilt Mortgage (2nd Largest)** (A Berkshire Hathaway Company); **Triad Financial (3rd Largest)** (A private finance entity that originates and sells loans to community banks; credit unions and state or regional banks. **CU Factory Built Housing (4th Largest)** (A division of San Antonio Federal Credit Union). **Cascade Financial** recently purchased by Champion Homes has just started offering chattel financing. **US Bank** was a national lender until Dodd Frank rules were implemented causing them to withdraw from the market.

   Regional Lenders- **Country Place Mortgage; CSL Financial; Oxford Bank; Clayton Bank and Trust; Golf Savings Bank; Peoples Bank; Midwest MHC Finance LLC; Dealer Services; Tamac Corporation; First Credit Corporation**

   Some community banks and credit unions offer financing in their respective market area and generally offer balloon loans to avoid interest rate risk.

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Geographic or regional differences in funding sources- The primary distinction in funding sources is in sun belt states where 5 star 55+ land lease communities are primarily located. In those states, there tends to be more local bank or credit union financing available because the borrower credit profiles are generally so much stronger; higher down payments and often borrowers that have enough assets that they could generally pay cash if they wanted to. Other differences geographically show that the top states for sales tend to be dominated by the top national lenders.

Describe the current sources of financing for owner-occupied and for investor-owned chattel loans in the secondary market.....

2. Current sources for owner occupied and investor owned chattel loans. All the lenders mentioned above do owner occupied as their primary business. 21st Mortgage; Triad Financial; Clayton Bank and Trust; Country Place Mortgage all offer third party service provider platforms primarily to larger community operators. There is no active secondary market for these loans. All lenders mentioned are portfolio lenders.

Do manufactured housing communities fund their community-financed chattel loans?

3. Loans are underwritten and originated in a compliant manner. Loan servicing is usually performed by the lender offering underwriting and origination services but the ownership of the loan goes back to the community owner or an investor partner. In some instances, the community will service the loans they own but only if the number of loans is less than 100.

What type of financing providers do not participate in the chattel market and what is the appropriate role that the Enterprises could play in broadening that market?

4. National Banks, National Mortgage Companies, Community Banks, Regional Mortgage Companies, Credit Unions do not participate in the chattel lending markets. Creation of a chattel loan purchase market would provide a strong reason to consider entry. Potential barriers would be volume and lack of experience and expertise. The most significant risk is having "named" national or regional lenders enter the market without guidance, or expertise.

What role do manufactured home dealers and manufacturers currently have in financing purchases of manufactured homes?

5. Dealer Financing and Community Owner Financing is done sparingly and only by those that have spent the time effort and money to become properly licensed as a finance entity and have origination and servicing software. The cost and liabilities in most cases outweighs the benefits. Interest rates offered must be competitive and the borrower has to be provided disclosure and acknowledge

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the related party nature of the transaction and be offered or advised of other lenders serving that market.

Origination of Chattel Loans

Describe currently available home purchase and refinance chattel loan products……………

6. Home purchase finance – New homes depending on the amount to finance 15 to 25 years fixed rate financing; fully amortizing; credit score requirements; in limited cases minimum of 580 FICO but with higher down payments of up to 30%. Bulk of financing is 625 to 750 FICO. Down payments for higher credit scores 5% but generally a minimum of 10% with the industry average running probably 15%-17%. Depositories generally have higher credit standards with a 650 minimum FICO. Preowned homes usually have a loan term of 7-15 years. Low balance loans of $25,000 or less the term could be as low as 5 years. Portfolio lenders will not generally offer financing for any home more than 15 years old, which in my view is very problematic in that valuations on preowned homes over 15 years old are hurt severely because of the lack of financing. As an industry, probably 65% of loans made are QM with the other loans being non-QM, largely on the DTI side having 45-46% DTI. Many lenders also run a disposable income analysis and have minimum standards that vary. All the lenders I am familiar with follow the "ability to repay" rules; DTI limits and follow Appendix Q for verifications and documentation. Lenders will evaluate the risk with homes on private property given the potential for increased loss in the event of default. They may require higher equity from the borrower.
I am not aware of any refinancing availability without a secondary market. Performance on chattel loans varies by lender based on their underwriting requirements and their servicing ability. Lenders offering financing on the 580 to 650 customers may experience a higher default rate in that category but often mitigate that risk and loss through higher equity requirements or other mitigation techniques.
Statistical data on delinquencies, defaults and recoveries must come from the individual lenders. I have a good sense of the range on those categories but it would be anecdotal.

Should the Enterprises value chattel-financed homes using an appraisal, the manufacturers invoice plus cost of appurtenances……….

7. My personal view is that the Enterprises should make field visits to NADA's offices and Datacomp Appraisal Systems (the 2 primary sources used by the industry for valuing new and preowned homes) and fully understand how they determine values. Both companies have developed methods for determining values on new homes without land based on either a cost approach or a market comparable sales approach. Rather than try to explain each company in fairness the Enterprises should request a visit to each and sign an NDA since each

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company has business interests to protect. All direct costs associated with a home should be considered which would include, transportation, set-ups utility hook ups optional equipment purchased with the home such as A/C, decks, awnings, carports etc.

Is there an industry standard used to value a used chattel-financed home, and should resales of chattel-financed homes be excluded from a chattel loans pilot?

8. The industry generally follows the Valuation and Appraisal rules established by the Dodd Frank regulations. QM loans do not require a valuation but non-QM loans do. Loans less than $25,000 do not require an appraisal. In my opinion I think an appraisal makes sense. The home should be thoroughly inspected, with any deficiencies noted and comparable sales should be identified which would further reflect the market value. Sales of pre-owned homes should definitely be included in the chattel pilot.

Should a chattel loan pilot allow for the refinancing of existing chattel-financed homes……….

9. A chattel program should provide for refinancing of existing chattel loans and those refinance requests should have an inspection and appraisal requirement.

Describe current chattel loan and collateral documentation and variations…..

10. Question 10 is best answered by active lenders. I will comment that with the SAFE Act and Dodd Frank the Enterprises will find many similarities with the mortgage finance business.

Are there typical warranties or other add-ons (e.g., insurance) provided by dealers that increase the purchase price of chattel financed homes?

11. Warranties and Insurance vary by company. Some companies (manufacturers) offer extended warranties up to 7 years on their homes, others provide the 1 year warranty. Since most manufactured home loans are considered "high price" they are required to provide for escrow of insurance and taxes. Many lenders finance the first year of insurance and collect 2 additional monthly payments to "seed" the escrow account so there will be sufficient funds near expiration to pay the renewal.

Under what circumstances, if any should housing counseling be required as a condition for receiving a chattel loan to be purchased by an Enterprise?

12. If the Enterprises could more precisely identify the definition of what constitutes a low, low to moderate and moderate income borrower I think it could be helpful with those borrowers. Borrowers having higher credit scores should not be required if the enterprises do not require if for site built borrowers.

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Tennant Protections

13. Whether the Real Estate Settlement Procedures Act ("RESPA") applies to a loan, FHFA should require compliance with Regulation X's consumer protections for chattel loans to be eligible for DTS credit. Those protections are:

RESPA Section 8 Prohibition Against Kickbacks and Other Unearned Fees [Section 1024.14];

Mortgage Servicing Transfer Provisions [Section 1024.33];

Escrow Account Requirement [Sections 1024.17 and 1024.34];

(1) Error Resolution Procedures [Section 1024.35];
(2) Requests for Information [Section 1024.36];
(3) Forced Placed Insurance Protections [Section 1024.37];
(4) General Servicing Policies, Procedures and Requirements [Section 1024.38];
(5) Early Intervention Requirements [Section 1024.39];
(6) Single Point of Contact [Section 1024.40]; and
(7) Loss Mitigation Procedures [Section 1024.41 other than the foreclosure sale provisions in 41(g), the loss mitigation appeals in section 41(h) and the 120-day enforcement moratorium in 41(f) and (j)].

An "itemization of amount financed" as prescribed by the Truth in Lending Act ("TILA") would be provided to the borrower, unless the new integrated TILA-RESPA disclosures are provided. (All other TILA requirements would remain as-is.) The MLO Compensation Rule[1] insures that consumers will be offered the best loan terms available. TILA also contains many other protections put in place after the 2008 housing crisis, such as the Ability to Repay standards and the ban on pre-dispute arbitration agreements.

Requiring a Notice of Default and Right to Cure, both before and after repossession, together with the Regulation X protections described above, will result in chattel loans servicing in compliance with the same protections as real estate loans.

1. *What tenant protections are appropriate and workable for chattel loans when the home is in a manufactured housing community as compared to when it is located on privately-owned land?*

The lease term must be for a minimum of one year and renewable absent good cause;

There must be at least 30 days advance written notice of a rent increase;

There must be at least a five-day grace period for rent payments, and tenants also must have a right to cure defaults on rent payments;

[1] 12 C.F.R. § 1026.36(d).

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If the tenant defaults on rent payments, the tenant must have the right to:

- Sell the tenant's unit without having to first relocate it out of the community, allowing a reasonable time, such as ninety (90) days, after an eviction to sell the home in the community, provided (1) the home meets minimum set up requirements; (2) all prospective residents apply for residency and meet reasonable resident approval criteria, and (3) when the home is sold, the homeowner pays all outstanding site rent.
- Sublease or assign the lease for the unexpired term to the new buyer of the tenant's unit without any unreasonable restraint, if all prospective residents apply for residency and meet reasonable resident approval criteria;
- Allow "For Sale" signs not greater than 24"x18" in the window of the home and not in the front yard;

Tenants must receive at least 120 days' notice of a planned change in land use within which time the tenants, or an organization acting on behalf of a group of tenants, may match any bona fide offer for sale. The community owner shall consider the tenants' offer and negotiate with them in good faith.

14. When homes are placed on private land I believe the protections should be Lender protections such as Landlord waivers for recovery in the event of default or other forms that borrowers should consider if they default.

Credit Enhancements, Standardization, and Risk Sharing

15. Third party credit enhancements could be in the form of a comparable to PMI; Lender loss sharing; loss reserves held by an insured depository or custodian that is funded with a "Credit Insurance front end premium and a defined amount deposited monthly like the FHA Insurance premiums on Title 1." Loan level price adjustments; Lender recourse on a fixed % of unpaid principle balance. I have structured many of these without engaging a PMI company. My concern with PMI companies is that they not only have to price for risk but factor overhead and profit also which drives the premiums up to sometimes an unworkable level.
16. I would prefer working with the Enterprises on a confidential basis rather than lay it all out publicly.
17. Best answered by active lenders and based on their technology capabilities.

Chattel Loan Servicing

18. Loss mitigation falls into two distinctly different areas. Since this is in the Chattel Servicing area, it is presumed that FHFA is not asking what mitigation techniques are currently used in structuring a program to mitigate lender or Enterprise loss. Active Lenders are more suited to respond to mitigating risk during the servicing of the loan or after default.
19. Lenders best suited to respond

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20. Disposition is determined by the location of the collateral. If a home is in a land lease community most often the community owner will allow the home to stay in place at no cost; assist in repairs as necessary; remarket and resell the home generally for a market rate condition. This is a very effective method of disposition. If the home is on private property, most often the home is removed from the private site, taken to a retailer (generally the selling retailer) for repair, remarketing and resale.

What should a chattel program look like?

I believe the Enterprise's Chattel Pilot Program should include the following features:

- Eligible homes; new and pre-owned (post 1976) single section and multi-section homes
- Eligible placements- Land lease communities offering prospective tenants protections as listed in this document and privately owned or leased sites With appropriate recovery protections for the lender.
- Loan terms- fully amortizing fixed rate loans with maturities of 5-25 years based on the amount of loan.
- Programs- Eligible New Homes- must have an independent third party valuation with product documentation that supports the amenities considered in the valuation.
- Pre-owned homes must have a valuation or appraisal with an inspection performed by an independent third party where the valuation is based on both the cost approach and comparable homes sales approach. All valuations must be signed by a licensed manufactured housing appraisal specialist.
- Refinancing- All refinancing requests must contain a valuation exactly like the pre-owned homes above.
- Maximum loan- New- 95% of valuation with lender recourse, loss sharing, loss reserves or PMI (or combination of two or more of these loss mitigations provided between a lenders demonstrable recovery rates and the maximum loan. Loans meeting ability to repay; debt to income and appendix Q but having credit scores between 580 and 650 should be restricted to 90% LTV.
- Preowned and refinance loans should be limited to 90% maximum LTV with lender discretion to reduce that maximum to 80% with lower credit scores (sub 640).
- Loan documentation could easily be standardized, as well as underwriting and loan documentation.

Clearly there are many program details but the above addresses the aspects of a loan sale program that will produce sufficient loan volume to consider it an

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effective program in serving the very low; low and moderate income borrowers that are the subject of the duty to serve rule.

Respectfully submitted,

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