Housing Finance
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U.S. Department of the Treasury
Attention: Office of Capital Markets
1500 Pennsylvania Avenue NW
Washington, DC 20220
Re: TREAS-DO-2026-0529 and RIN 1505-AC96

Re: Restrictions on Large Institutional Investor Purchases of Single-Family Homes

Dear Sir/Madam:

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I appreciate the opportunity to provide comments in response to the Notice of Proposed Rulemaking (proposed rule or proposal) issued by the U.S. Department of Treasury regarding Restrictions on Large Institutional Investor Purchases of Single-Family Homes.

NAHB is a Washington DC-based trade association representing, among others, companies involved in the development and construction of for-sale and build-to-rent (BTR) single-family homes, including homes for first-time and low- and moderate-income (LMI) home buyers, as well as the production and management of affordable multifamily housing.

On July 11, 2026, the 21st Century ROAD to Housing Act (ROAD Act) was enacted into law following strong bipartisan passage in both the House and Senate. This was a significant step towards easing the nation's housing affordability crisis. Included in the law is a prohibition on large institutional investors (LII) purchasing single-family homes. NAHB worked extensively with Congress to secure an exemption for purpose-built single-family rentals, thereby preserving this important source of housing supply.

Background

Enactment of the ROAD Act was a significant accomplishment that will expand the nation's housing supply by reducing regulatory barriers and encouraging local governments to reform the zoning and land use policies that have limited home building. NAHB worked with House and Senate lawmakers on more than 50 sections covering housing supply, financing, disaster recovery and other priorities that increase single-family and multifamily production and support more remodeling.

NAHB also worked with Congress to ensure that provisions to restrict LIIs from buying single-family homes did not impact purpose-built single-family rentals. NAHB believes that restrictions on purpose-built single-family rental housing would severely curtail investment in this market, potentially leading to a decrease in new rental units by as much as 40,000 units per year. Reducing the supply of new rental housing will have an overall negative impact on housing affordability. Additionally, single-family rentals play an important role in the housing supply ecosystem, allowing families an opportunity to live in homes and neighborhoods that meet their financial and family needs.

Immediately after enactment of the ROAD Act, NAHB began working with Treasury to ensure that implementation honors Congress' intent to exempt purpose-built single-family rentals. This is especially important because policy concerns were among the reasons cited by market participants for a 16% decline in

estimated build-to-rent starts over the last four quarters, to 63,000 from 75,000 in the prior four-quarter period.[1]

Proposed Rule

On October 22, Treasury issued a proposal to implement Section 1001 of the ROAD Act. Under Section 1001 beginning on January 7, 2027, a large institutional investor generally may not purchase, or enter into a contract to purchase, a single-family home unless the purchase qualifies as an "excepted purchase" under the ROAD Act. The Act defines a large institutional investor by reference to, among other things, whether an entity is engaged in the business of investing in, owning, renting, managing, or holding single-family homes and has direct or indirect investment control over at least 350 such homes. The Act permits several categories of excepted purchases, including purchases made pursuant to build-to-rent programs, renovate-to-rent programs, homeownership programs, and programs to boost homeownership.

Treasury also noted in the proposed rule that the ROAD Act authorizes Treasury, in consultation with the Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, and the Chair of the Securities and Exchange Commission, to issue regulations to carry out the purposes of section 1001, including regulations to "(i) minimize market disruptions upon identifying a risk of material negative impact on the housing market, including an impact on the ability of market participants to dispose of single-family homes in an orderly fashion; and (ii) mitigate, to the extent possible, negative impacts on consumers and communities."[2]

Treasury also notes that they intend to take a phased rulemaking approach and that the proposed rule is the first phase, focusing on issues that Treasury believes would be beneficial to address as soon as possible to provide clarity and minimize market disruptions. Treasury expects to consider engaging in future rulemakings to address other aspects of section 1001 of the ROAD Act, such as other statutory excepted-purchase categories, compliance procedures, reporting and recordkeeping, and enforcement actions.

The proposed rule includes the following:

- Establish standards for purchases made pursuant to build-to-rent programs that promote continued investment in new housing;
- Clarify the requirements for homeownership programs and programs to boost homeownership, including providing safe harbors for large institutional investors that provide meaningful financial support towards their renters' purchase of a home;
- Clarify that an entity is engaged "in the business of" investing in, owning, renting, managing, or holding single-family homes when it does so for the purpose of receiving income or financial gain, and not incidentally to a different business;
- Define when an entity may qualify as a passive investor in another entity that owns a home because it does not share directors or officers with the other entity and does not have a property control right over the underlying homes; and
- Clarify the calculation of the maximum civil penalty where a single prohibited purchase involves more than one large institutional investor.

[1] NAHB Eye on Housing: Second Quarter Declines for Single-Family Built-to-Rent, Aug. 21, 2026
[2] 42 U.S. Code § 19521(b)(4)(A)(i).

Build-to-Rent Program (Proposed § 36.5)

Under the proposed § 36.5 a build-to-rent program is a program pursuant to which purchased single-family homes (i) have not been occupied by an owner-occupant before being purchased, (ii) are purchased within 18 months of the single-family home receiving its certificate of occupancy (or equivalent); and (iii) are, after the purchase, first occupied by renters, whether as part of a community made up exclusively of renter-occupied single-family homes or as part of a community made up of single-family homes that are both owner- and renter-occupied. The proposed rule interprets "newly constructed" as excluding homes previously occupied by an owner-occupant and "to be managed as a rental property" as requiring initial rental use, and proposes the 18-month certificate-of-occupancy criterion as an administrable line for applying those statutory standards.

NAHB Comments on Build-to-Rent Program

NAHB urges Treasury to treat a purchase as made pursuant to a build-to-rent program if the home was originally constructed to be rented and has remained rented. This is the alternative Treasury considered and rejected in the proposal. At a minimum, Treasury should revise proposed § 36.5 so that purpose-built rental homes are not disqualified by the passage of time or by the stage at which they are acquired, as Congress did not establish a time period requirement.

Congress Intended Purpose-Built Rentals to Be Excepted

The ROAD Act's build-to-rent exception reflects a deliberate choice by Congress. It restricts large institutional investors from competing with families for existing homes, while preserving capital for housing that is built to be rented. The statute's structure shows this. Congress created separate exceptions for build-to-rent and renovate-to-rent programs, treating newly built rental housing and rehabilitated existing housing as distinct categories. In that structure, "newly constructed" separates homes built for a rental program from existing homes bought and converted to rentals, which is the activity the prohibition targets. It does not separate a rental home built next year from one built several years ago, and the statute sets no deadline for acquiring a home after construction.

Treasury reasons that "newly constructed" and "originally constructed" are not equivalent, so adopting the latter would render the former meaningless. NAHB respectfully disagrees. A rule covering homes originally constructed to be rented and kept as rentals still gives "newly constructed" full effect. It excludes homes built for sale, homes previously occupied by an owner-occupant, and existing homes converted to rentals, which are the homes that compete with aspiring home buyers. A home "newly" built and operated as a rental from the start was never available to a family seeking to buy and treating it as outside the exception would not advance the statute's purpose. As House Financial Services Committee Chairman French Hill stated during the House floor colloquy on May 19, 2026, "Leveling the playing field between individual buyers and large institutional investors is the goal." Purpose-built rentals do not undermine that goal and reading the exception this way is also consistent with Treasury's authority to issue regulations that minimize market disruptions and mitigate negative impacts on consumers and communities. In addition, the final law does not include the seven-year forced-sale requirement for build-to-rent homes that was considered earlier in the legislative process. That omission confirms that Congress intended this housing to continue to be owned and financed as rental housing.

Not Using "Originally Constructed" Will Disproportionately Limit Small Investors

If Treasury does not adopt a standard that clearly exempts all build-to-rent housing ("originally constructed") standard, the small investors who build rental homes over time will be hurt the most, because the rental homes

they build may not be saleable to LIIs. Small and mid-sized builders rarely plan to hold a rental community indefinitely. Instead, they build and lease homes in phases, and when the community is stabilized, they sell it to an owner with the permanent capital to hold it. In many cases, the buyers with that capital are LIIs. Under the proposal, an LII could buy those homes only if the purchase met the build-to-rent conditions in proposed § 36.5, including the requirement that the purchase occur within 18 months of each home's certificate of occupancy.

Under proposed § 36.5, several problems arise. The 18-month clock runs from each home's certificate of occupancy, so homes in early phases can age out before the final phase is built and leased. If the first phase of the rental community was finished prior to the 18-month threshold, the development would not be eligible for sale to an LII under Treasury's proposal. Delays in construction, lease-up or financing, which are common challenges in new construction, can disqualify a purchase that would otherwise qualify, creating a significant disruption in the market.

The problems with the definition proposed in §36.5 are most acute for homes constructed before the ROAD Act was enacted. Those homes were planned, financed, and built as rentals when no purchase restriction existed, and their owners could not have timed construction, lease-up, or a sale to fit an 18-month window that did not yet exist. Many of these homes already received certificates of occupancy more than 18 months ago, and others will pass that point before the prohibition takes effect on January 7, 2027. Those homes would be unable to qualify as build-to-rent purchases, even though every one was built to be rented, was first occupied by a renter, and has never been owner-occupied. A small investor with a pre-enactment rental community would therefore lose a significant group of buyers since LIIs would be prohibited from purchasing these rental units from a small investor, and small investors would have to accept a smaller pool of buyers and potentially a lower price, or hold the homes longer than planned.

Large institutional investors do not face the same result, because they can sell to one another under a separate excepted purchase. An "originally constructed" standard would avoid this outcome by asking whether a home was built to be rented, not how long ago it was completed. It would keep the exception closed to homes built for sale, homes previously occupied by an owner, and existing homes converted to rentals.

The proposed 18-month window is more limiting to small investors than large institutional investors, because the two groups have different ways to exit a rental community. A large institutional investor that builds and holds rental homes can sell them to another large institutional investor under a different excepted purchase, without meeting the build-to-rent conditions in proposed § 36.5: "Purchases from Another Large Institutional Investor (Proposed § 36.11)". A small investor has no comparable alternative. If its buyer is a large institutional investor, the sale must satisfy proposed § 36.5 as written. The narrow definition therefore leaves the largest market participants with other exits while narrowing the market for the smaller investors the statute was not meant to disadvantage. Closing off these exits would also disrupt the housing market, which Section 1001 directs Treasury to minimize, including any impact on the ability of market participants to dispose of single-family homes in an orderly fashion. Small investors whose homes age out of the 18-month window would face a smaller pool of buyers and could be forced to hold homes longer than planned or sell at discounted prices. An "originally constructed" standard would give small developers and investors access to the same pool of buyers without opening the exception to existing homes, and it is consistent with Treasury's authority to minimize market disruptions and mitigate negative impacts on consumers and communities.

The same limit on exits also affects financing. Lenders weigh a developer's exit when underwriting construction loans, and a small developer's exit to institutional buyers would be restricted by the proposed build-to-rent test. Smaller developers should therefore expect less available and more costly construction credit. Many NAHB

members have expressed concern that the 18-month requirement will discourage capital from investing in new build-to-rent construction. That is the very outcome Congress sought to avoid when it revised the ROAD Act to preserve this housing.

Constraints on New Development Going Forward

Build-to-rent is a meaningful source of much-needed new housing supply. Yet, policy uncertainty can have a direct negative impact on housing development, and the data demonstrates this impact. NAHB's analysis of Census Bureau data shows approximately 63,000 single-family build-for-rent starts over the four quarters ending in the second quarter of 2026. That is a 16 percent decline from 75,000 in the prior four-quarter period, with policy concerns among the factors cited. Build-for-rent accounts for just under 7 percent of single-family starts, but these figures exclude homes built for sale to another party for rental purposes, which NAHB estimates may represent another 3 to 5 percent of single-family starts. NAHB and the Urban Institute previously estimated that a mandate forcing the sale of build-to-rent homes could reduce single-family rental production by 40,000 to 72,000[3] homes each year. That estimate shows how sensitive new supply is to restrictions on the capital that finances it. Because smaller developers have fewer alternative sources of permanent capital, NAHB expects a disproportionate share of any further decline in new development to fall on them.

NAHB Recommendations on Build-to-Rent Program

NAHB strongly recommends that Treasury define a build-to-rent excepted purchase to include any single-family home that was originally constructed to be rented. Treasury should treat a purchase as made pursuant to a build-to-rent program if the home was originally constructed to be rented and has remained rented. This is the alternative Treasury considered and rejected in the proposal. At a minimum, Treasury should revise proposed § 36.5 so that purpose-built rental homes are not disqualified by the passage of time or by the stage at which they are acquired, as Congress did not establish a time period requirement.

If Treasury determines that it is necessary to keep a time limitation, the 18-month proposal is inadequate. First, it must be measured from the issuance of the last certificate of occupancy in a development, and the period must be extended to no less than 24 months since it can take several years to complete a project. Housing is a cyclical market. Communities are planned and financed years before they are completed, and when demand softens or credit tightens, lease-up slows and buyers become scarce. A fixed 18-month window can close through no fault of the builder. Small and mid-sized builders would be hurt most. They build and lease homes in phases and sell to an institutional owner once the community has stabilized. A clock that runs from each home's certificate of occupancy lets early-phase homes age out before the final phase is leased, and these builders, unlike large institutional investors, have no other excepted purchase to use as an exit. The housing market is cyclical, and the final regulations must account for all market and economic conditions.

Question 27: Should the final rule adopt one of the alternative interpretations described below?

Yes. NAHB urges Treasury to adopt the alternative it considered that treats a purchase as made pursuant to a build-to-rent program when the single-family home was originally constructed to be rented and has remained rented. Treasury's concerns about this alternative are inconsistent with the statute's text and purpose, as the proposed 18-month test would exclude many of the homes Congress meant to protect.

[3] Urban Institute, March 2026 "The Senate's Surprising Move to Dissuade Investors from Building Rental Housing"

"Newly constructed" and "originally constructed" are not identical, but adopting an originally constructed standard does not make "newly constructed" meaningless. A home that was built to be rented and remains a rental still must have been newly constructed as a rental. The standard continues to exclude homes built for sale, homes previously occupied by an owner-occupant, and existing homes bought and converted to rentals.

The statute's own structure confirms this distinction. Congress created separate exceptions for build-to-rent and renovate-to-rent programs, so "newly constructed" is what separates a home built for a rental program from an existing home that is acquired and converted. It does not separate a rental built next year from one built several years ago, and the statute sets no deadline for acquiring a home after construction. Congress also did not include the seven-year forced-sale requirement for build-to-rent homes that was considered earlier in the legislative process, which shows that it expected purpose-built rentals to continue to be owned and financed as rentals.

The originally constructed standard is also consistent with the ROAD Act's goal of increasing housing supply. A home built to be rented is new supply from the day it is completed, and it was never available to a family looking to buy. A subsequent sale of that rental home from one owner to another leaves the number of homes available to owner-occupants unchanged. This standard keeps the homes once available for purchase by individuals and families that Congress sought to protect outside the exception. Treating purpose-built rentals as "pre-existing" because they have been rented for years also penalizes the very investment that adds to supply. Builders and lenders finance rental construction based on a future sale to permanent capital, and NAHB estimates that restrictions on that capital could reduce new rental construction by as much as 40,000 units per year. Estimated build-to-rent starts have already fallen 16 percent, to 63,000 from 75,000, with policy concerns among the reasons cited. A restrictive definition would further disrupt the built-to-rent market, which would also be inconsistent with the statute.

Treasury's concern about homes that have been "renter-occupied for potentially decades" is addressed by the conditions of the standard itself: the home must have been built to be rented, must never have been owner-occupied, and must have remained a rental. A home that meets all three has never been a for-sale home and was never part of the market that the purchase restriction protects. The 18-month window disqualifies genuine rentals that happen to be older, and it falls hardest on small and mid-sized builders and rental property owners with less than 350 single-family rental homes. They build and lease homes in phases and sell to institutional owners once a community has stabilized, but they cannot sell to another large institutional investor under a separate exception as larger investors can. Of particular concern, the proposed rule as drafted favors LIIs over small investors. The problem is most acute for homes built before the ROAD Act was enacted. Those homes were planned, financed, and leased as rentals when no purchase restriction existed, and many have already passed 18 months from their certificates of occupancy.

Question 32: Are the proposed conditions for no prior owner-occupancy and purchases within 18 months appropriate and administrable indicators for determining whether a home is newly constructed? What alternatives should Treasury consider to either or both of these factors?

The no-prior-owner-occupancy condition is appropriate and administrable. It tests whether a home was ever available to an owner-occupant, which is the question the statute cares about, and it can be documented through occupancy and lease records.

The 18-month condition is not appropriate. It is not in the statute, and it is not an indicator of whether a home is newly constructed. A purpose-built rental does not become an existing home simply because it was sold after 18

months. The condition also creates practical problems. Because the clock runs from each home's certificate of occupancy, early-phase homes can age out before the final phase of a community is built and leased. The housing market is also cyclical, and when demand softens or credit tightens, lease-up slows and buyers become scarce, so a fixed window can close through no fault of the builder. These effects fall hardest on small and mid-sized builders, who build and lease in phases and depend on selling to institutional buyers once a community stabilizes. Unlike large institutional investors, they cannot sell to another large institutional investor under a separate excepted purchase. Finally, the condition is unworkable for the many rentals built before enactment. Those homes were planned and financed when no window existed, and many already received certificates of occupancy more than 18 months ago.

NAHB recommends that Treasury replace the 18-month condition with an "originally constructed to be rented and has remained rented" standard.

Question 34: Is 18 months after the certificate of occupancy (or equivalent) an appropriate period of time for determining whether a single-family home is newly constructed?

No. The statute sets no deadline, and a purpose-built rental does not become an existing home simply because it was sold after 18 months. NAHB recommends an "originally constructed to be rented and has remained rented" standard. If Treasury must keep a time limit, it should run from the last certificate of occupancy in a development and be extended to at least 24 months or longer, because builders need time to build, lease, and stabilize a phased community and sell it as a single asset, and delays in construction, lease-up, or financing should not disqualify a sale through no fault of the builder and Treasury must account for housing market cycles. Treasury would also have to clarify that existing build-to-rent housing is compliant with the Act, since the arbitrary timeline would create uncertainty of how these properties can be sold.

Passive Investor Definition (Proposed § 36.16)

Proposed § 36.16 would clarify when one entity is a "passive investor" in a second entity. The proposal notes the ROAD Act specifies that a large institutional investor generally includes an entity that has direct or indirect investment control of not less than 350 single-family homes, and "investment control" is defined to include owning or controlling more than 25 percent of any class of equity interests of the entity that owns the single-family home, "unless such entity is a passive investor." In other words, an entity that holds a significant equity interest in another entity that owns single-family homes may avoid being considered a large institutional investor if it is a passive investor. Importantly, an entity that is a passive investor may meet other criteria in the "large institutional investor" definition, in which case the entity could nonetheless be a large institutional investor.

Under the proposal, passive-investor treatment would be available only if each of two conditions is met: (i) no director, officer, employee, or designee of the first entity, or of any entity controlled by the first entity, is a director or officer of the second entity; and (ii) the first entity does not have a property control right (as defined in proposed § 36.2) with respect to single-family homes over which the second entity has direct or indirect investment control. The proposed rule uses the term "first entity" and "second entity" to refer, respectively, to the potential passive investor and the entity in which it owns or controls equity interests.

These two proposed conditions are intended to provide administrable criteria that reflect common understandings of passivity, and to exclude investors with rights, employees, or designees that provide an ability to make, direct, or prevent decisions related to single-family homes.

Under proposed § 36.16(a), for a first entity to qualify as a passive investor in a second entity, no director, officer, employee, or designee of the first entity, or of any entity controlled by the first entity, can be a director or officer of the second entity. This condition is intended to prevent passive-investor treatment where the investor's representatives participate in the governance or management of the entity that owns or controls single-family homes.

Under proposed § 36.16(b), for a first entity to qualify as a passive investor in a second entity, the first entity must not have a property control right (as defined in proposed § 36.2) with respect to single-family homes over which the second entity has direct or indirect investment control. This condition is intended to ensure that an investor will not be treated as passive if it has a right to make, direct, or prevent decisions, directly or indirectly, related to the purchase, sale, holding, leasing, renovation, or management of a single-family home. An investor that can require, block, or condition decisions regarding single-family homes would not be passive even if it lacks formal management authority.

NAHB Comments on Passive Investor Definition

NAHB urges Treasury to revise the passive investor definition in proposed § 36.16 before it is finalized. The ROAD Act excludes a "passive investor" from the 25 percent equity test for investment control so that capital can continue to flow into housing without the investor becoming a large institutional investor. The two conditions in proposed § 36.16 would narrow that exclusion well beyond what the statute requires and would put at risk the private capital that finances the purpose-built rentals Congress chose to preserve. NAHB recommends instead that Treasury revise the final rule to state clearly that lenders and joint venture partners are excluded from the large institutional investor definition by reason of their financing and investment roles.

Third-Party Capital Finances New Home Development and Renovation of Existing Housing

New home development and the renovation of existing housing are financed with third-party capital. Construction, bridge, and permanent lenders fund the work, and joint venture partners, such as pension funds, insurers, and other institutional equity providers, invest alongside the builders, developers, and operators that build and manage the homes. Most builders, and small and mid-sized builders in particular, cannot fund a rental community or a substantial renovation from their own balance sheets. A lender or joint venture partner provides capital and will stay engaged in the project to protect its investment. It does not build, lease, or manage the homes, and it does not compete with families for existing homes.

As Drafted, Proposed § 36.16 Leaves Lenders and Joint Venture Partners Exposed

Lenders and joint venture partners customarily hold rights that protect their capital, including security interests, loan covenants, consent rights over major decisions, and remedies on default. Equity investors and lenders also commonly require a board or observer seat so that they can oversee their investment. Proposed § 36.16 is silent on lenders and does not expressly address joint venture partners. Instead, it would deny passive status to an investor that can "prevent," "block," or "condition" decisions about a home, or whose representative serves as a director or officer of the entity that owns it. As drafted, those conditions could reach the ordinary terms of a construction loan or a joint venture agreement, and the director and officer condition would treat a board seat held to oversee an investment as disqualifying. Without an express exclusion, a party cannot be sure of its own status, or whether it or the venture it finances would be a large institutional investor subject to the Act's

purchase prohibition and to civil penalties of up to the greater of $1 million per violation or three times the purchase price.

Uncertainty Would Reduce New Construction and Renovation

Faced with that exposure, lenders and joint venture partners can be expected to tighten credit, demand more restrictive terms, or invest elsewhere. Small and mid-sized developers, who have the fewest alternative sources of capital, would feel it first. The effect would fall on the housing that Congress chose to preserve through its build-to-rent and renovate-to-rent exceptions. Renovation of older homes depends on the same capital, and those homes often need more investment than an individual owner-occupant can finance. A clear exclusion would protect that financing and is consistent with Treasury's authority to minimize market disruptions and mitigate negative impacts on consumers and communities.

NAHB Recommendations on Passive Investor Definition

NAHB recommends that Treasury revise proposed § 36.16 to state clearly that lenders and joint venture partners are not large institutional investors by reason of their financing and investment roles. Specifically, Treasury should:

1. Provide expressly that a lender, including a construction, bridge, mezzanine, or permanent lender and its affiliates, does not have investment control over single-family homes, and is not a large institutional investor, by reason of its loan, its security interest (including a pledge of equity interests), its covenants, or its exercise of remedies on default.
2. Provide expressly that a joint venture partner that contributes capital to a venture in which a builder, developer, or operator manages the homes is a passive investor in that venture.
3. Confirm that customary protective rights, such as consent rights over the sale of all or substantially all assets, the incurrence of debt, amendments to governing documents, affiliate transactions, and the removal of a manager for cause, are not "property control rights" and do not defeat passive status.
4. Revise the director and officer condition in proposed § 36.16(a) so that an investor does not lose passive status because its designee serves on the board of the entity that owns the homes, or attends as an observer, to oversee the investment and protect the investor's capital. Investors and lenders routinely require this oversight as a condition of providing capital, and it should not be treated as participation in managing the homes.

Renovate-to-Rent Program (Proposed § 36.6)

Proposed § 36.6 would clarify when a renovate-to-rent program meets the requirements for an excepted purchase under section 1001(a)(2)(C) of the Act. That statutory provision states that a purchase of a single-family home is an excepted purchase if it is made "pursuant to a renovate-to-rent program that (i) substantially rehabilitates single-family homes that do not meet structural or core system elements of local building codes; and (ii) makes improvements in an aggregate dollar amount of not less than 15 percent of the purchase price of the single-family home."

As proposed, a renovate-to-rent program is a program (as defined in proposed § 36.3) pursuant to which the large institutional investor (i) substantially rehabilitates (including by resolving all material deficiencies in) single-family homes that do not meet structural or core system elements of local building codes at the time of purchase; and (ii) makes improvements, including those made to resolve such deficiencies, to each single-family home in an aggregate dollar amount of not less than 15 percent of the purchase price of the single-family home.

Treasury is proposing to define "purchase price of the single-family home" to mean "the portion of the purchase price of the property attributable to the value of the structure, as calculated by subtracting the tax-assessed value of the land at the time of the purchase on which the single-family home is situated from the purchase price of the property." This term is used in the exception for renovate-to-rent programs.

NAHB Comments on Renovate-to-Rent

NAHB is concerned that the proposed approach to § 36.6 could limit the rehabilitation of older homes that need many improvements to become quality housing. The final rule should reflect that the ROAD Act's use of "improvements" is not limited to work required by code, and that the 15 percent threshold should capture the full cost of the improvements, including permits, design, project management and similar costs.

The Act Uses the Term "Improvements," Which Is Not Limited to Code

The language of the ROAD Act is clear. Section 1001(a)(2)(C) requires a renovate-to-rent program to make "improvements in an aggregate dollar amount of not less than 15 percent of the purchase price of the single-family home." Congress used the word "improvements," not "repairs," "corrections" or "code violations." In ordinary usage, an improvement is work that adds to the value, function or quality of a home, not only work that brings a home into compliance with code. Reading "improvements" to mean only work that cures a code deficiency would exclude the work that turns a dated home into quality housing, such as reconfiguring floor plans, adding bedrooms or bathrooms, renovating kitchens and bathrooms, replacing worn finishes, improving energy efficiency, and adding accessibility features. These are the improvements that bring many older homes up to what families expect in a home, and they should count in full toward the threshold.

Aging Housing Stock

Much of the nation's housing stock is aging. According to the American Community Survey, the median age of owner-occupied homes climbed to 42 years old in 2024, up from 31 in 2005[4] and preserving these homes is one way to ease the housing shortage. Many of these homes need extensive renovation to stay in use, and the cost is often beyond what an individual owner-occupant, especially a first-time or lower-income buyer, can finance. Renovate-to-rent programs direct investment to these homes, keep them in the supply, and return them to the market as refreshed rental housing. This supports affordability and the vitality of the neighborhoods where older homes are concentrated. A narrow definition of improvements would leave many outdated homes without that investment, and many would continue to deteriorate or be lost from the supply.

NAHB Agrees with Treasury's Definition of "Purchase Price of the Single-Family Home"

NAHB agrees with Treasury's proposal to define "purchase price of the single-family home" as the portion of the purchase price attributable to the structure, calculated by subtracting the tax-assessed value of the land from the purchase price of the property. The Act measures the 15 percent improvement threshold against the purchase price of the "single-family home," and a home is the structure that is being rehabilitated, not the land it sits on. Including land in the base would inflate the amount that must be spent and would make the threshold hardest to meet in markets where land is most expensive. Using the value of the structure ties the threshold to the property that is actually being improved.

[4] NAHB "How Old is Today's Housing Stock?", March 26, 2026

The 15 Percent Threshold Should Include Other Project Costs

The Act measures improvements by an "aggregate dollar amount," which points to the total cost of the improvements and not only the cost of labor and supplies. A renovation cannot be carried out without permits, design and management, and these costs are part of the investment in the home. Treasury should confirm that costs reasonably attributable to the improvements count toward the 15 percent threshold. Counting only direct construction costs would understate the investment in the home and could cause a program that spends more than 15 percent of the purchase price could fall short of the threshold on paper. This would discourage investment in the homes that need it most. NAHB recommends that Treasury define the costs counted toward the threshold broadly and allow them to be documented through contracts, invoices, permit records and project budgets.

NAHB Recommendation on Renovate-to-Rent

NAHB recommends that Treasury give effect to Congress's intent in using the term "improvements" in Section 1001(a)(2)(C) of the Act. Congress did not limit "improvements" to work that cures a code deficiency, and the final rule should not do so. Treasury should confirm that "improvements" includes all work that improves the home, whether or not code requires it, and that the "aggregate dollar amount" counted toward the 15 percent threshold includes related costs such as permits, design, project management and contractor overhead, documented through contracts, invoices, permit records and project budgets. This reading carries out Congress' intent that the exception reach older homes that need substantial investment to become quality housing.

Enforcement (Proposed § 36.17)

In the proposal Treasury notes that Section 1001(d)(1) of the Act authorizes Treasury, or the Department of Justice at Treasury's request, to bring an action against a large institutional investor that unlawfully purchases, or contracts to purchase, a single-family home for a civil penalty up to the greater of $1 million per violation or three times the purchase price of the property involved. Proposed § 36.17 would provide that a purchase of a single-family home that violates the Act's prohibition with respect to more than one large institutional investor is deemed a single violation for purposes of calculating this maximum civil penalty.

The proposed rule would not treat purchases of different single-family homes, or purchases of the same single-family home in separate transactions, as a single violation. It also does not establish procedures for investigating potential violations, which Treasury may address in the future. The proposed rule does not specify how responsibility for a violation should be allocated among large institutional investors and does not limit Treasury's ability to pursue enforcement actions against all entities whose conduct violates section 1001(b) of the Act. The proposed rule would preserve Treasury's ability to consider the facts and circumstances of any violation, including the role of each large institutional investor, in any enforcement process. Treasury may address such issues in the future.

<u>NAHB Comments on Enforcement</u>

Section 1001 directs Treasury to minimize market disruptions, including any impact on the ability of market participants to dispose of single-family homes in an orderly fashion. Penalties of up to the greater of $1 million per violation or three times the purchase price, applied to purchases whose status often cannot be confirmed at closing, would disrupt the housing market. Build-to-rent timing, renovate-to-rent spending, and passive-investor

status are facts that can often only be settled after a transaction closes. Threat of penalties without ability to correct will likely cause lenders and equity partners to respond by tightening credit, requiring costly indemnities, or stepping back, and sellers will find fewer buyers for compliant homes. Transactions that would otherwise add housing supply would be delayed or abandoned, and owners that need to sell could be forced into rushed sales at discounted prices.

NAHB urges Treasury to include a notice-and-cure procedure in the final rule, or in the later phase of rulemaking on compliance and enforcement. A good-faith purchaser that finds a problem could correct it on a set timetable, such as by selling to a buyer that is not a large institutional investor, rather than being left with a penalty action or a rushed sale that depresses prices. The procedure should be unavailable to anyone who knowingly buys in violation.

NAHB also urges Treasury to issue an enforcement-priorities memorandum stating that, during initial implementation, it will generally reserve enforcement for clear, material, and knowing violations. Section 1001(d) provides that Treasury "may bring an action," which leaves room for this approach. It would give market participants room to build compliance systems and finance transactions with confidence, while directing Treasury's resources to entities that deliberately evade the law.

Conclusion

NAHB thanks Treasury for its thoughtful consideration of these comments and for its continued engagement with the housing industry as it implements Section 1001 of the ROAD Act. Congress enacted the ROAD Act to ease the nation's housing affordability crisis by increasing housing supply, and the restrictions on large institutional investors should be implemented in a way that advances that goal.

Build-to-rent homes are new supply from the day they are completed, and a home built as a rental was never available to a family seeking to buy. NAHB therefore urges Treasury to adopt the alternative it considered and treat a purchase as made pursuant to a build-to-rent program when the home was originally constructed to be rented and has remained rented. This standard gives "newly constructed" full effect while preserving the investment that adds homes to the market. By contrast, the 18-month window would disqualify rentals built before enactment, break up phased communities, and limit the buyers that lenders count on when they finance construction. Those effects would fall hardest on small and mid-sized builders and would reduce the number of rental homes built, at a time when estimated build-to-rent starts have already fallen 16 percent.

Renovate-to-rent programs are also important to housing supply. The median age of owner-occupied homes has climbed to 42 years, and many older homes need extensive renovation to stay in use, which is often more than an individual owner-occupant can finance. Renovate-to-rent investment keeps these homes in the supply and returns them to the market as quality rental housing. To preserve that investment, NAHB urges Treasury to confirm that "improvements" under Section 1001(a)(2)(C) are not limited to work that cures code deficiencies, and that the 15 percent threshold counts related costs such as permits, design, project management and contractor overhead.

NAHB also urges Treasury to ensure that the passive investor definition in proposed § 36.16 does not limit the flow of capital that builds and rehabilitates homes. New construction and renovation depend on construction and permanent lenders and joint venture partners, and most builders cannot fund these activities alone. The final rule should state clearly that lenders and joint venture partners are not large institutional investors by reason of their financing and investment roles, and that customary protective rights and board oversight do not

defeat passive status. Without that clarity, lenders and investors can be expected to tighten credit or invest elsewhere, and fewer new and renovated homes would reach the market.

These recommendations are consistent with the approach of both Congress and the administration. Congress enacted the ROAD Act with strong bipartisan support to expand the nation's housing supply, and it expressly excepted purchases made pursuant to build-to-rent programs. President Trump's Executive Order 14376, "Stopping Wall Street From Competing With Main Street Homebuyers," issued January 20, 2026, makes it the policy of the administration that large institutional investors should not buy single-family homes that could otherwise be purchased by families, and it recognizes an exception for build-to-rent communities planned, permitted, financed, and constructed specifically as rental properties. The recommendations in this letter carry out both. They keep large institutional investors out of the market for existing owner-occupied homes, while preserving the capital that builds new rental homes and increases housing supply. NAHB appreciates the opportunity to comment and looks forward to continuing to work with Treasury on the remaining phases of this rulemaking.

Thank you for your consideration of NAHB's comments and recommendations. For more information, please contact Allison Karakis, Director, Financial Institutions and Capital Markets at akarakis@nahb.org.

Sincerely

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