July 13, 2026

Ethan Fallang
Assistant Secretary for Financial Markets
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Assistant Secretary Fallang,

We are writing on behalf of the members of the National Multifamily Housing Council (NMHC), Mortgage Bankers Association (MBA), National Apartment Association (NAA), National Association of Home Builders, National Rental Housing Coalition (NHRC), and Nareit who represent the majority of the owners, developers, lenders and operators of the build-to-rent housing (BTR) community. The passage of the *21st Century ROAD to Housing Act* marks a significant step forward towards meeting the housing needs of so many families, but significant work lies ahead to make this worthy objective a reality. The Department of the Treasury plays a key role in enacting this legislation, and, as such, we write today to request a technical clarification that:

- Forthcoming regulations will except BTR communities from the ban on purchases of single-family rental (SFR) housing by large institutional investors; and
- Treasury communicate as soon as practical that such guidance is forthcoming.

Ensuring Build-to-Rent Communities Are Not Inadvertently Scoped into the Ban on Purchases of SFR by Large Institutional Investors

Uncertainty over language in the Act is already having a material negative impact on the housing market, which Treasury is obligated under the statute to address. Members of our organizations are putting BTR investments on hold until they receive assurances regarding how Treasury will interpret the statutory language, as they are specifically concerned that an incorrect reading of the Act may make the ability to purchase BTR communities following an initial sale impermissible. Indeed, potential liquidity constraints are giving investors great pause as to whether BTR projects should move forward. Given that our nation needs every possible housing property to be made available and that the goal of the underlying legislation is to spur housing supply and address our nation's housing affordability crisis, it is important that Treasury immediately clarify that BTR is excepted from the ban on purchases of single-family rentals (SFR) by large institutional investors, as was intended in the legislation. in forthcoming regulations.

We note that the Section 1001(b)(4)(A)(i) of the statute provides Treasury the specific authority to issue regulations to "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."[1] Our request simply contemplates issuing the very regulation the statute itself authorizes.

Our concern stems from a potential misinterpretation that the ban on purchases includes existing and new BTR communities in addition to the SFRs that are the intended subject of the legislation even though BTR is clearly excepted by the text of the statute. Statements from both President Trump and the Act's congressional authors reiterate that BTR is not within the scope of the ban on SFR purchases.

We believe the exception for BTR housing is embedded in Section 1001(a)(2)(B) of the *21st Century ROAD to Housing Act*[2]. Below, we highlight key parts of this section that confirm that any BTR, regardless of the time when it was built, meets the terms of the exception.

(B) pursuant to a <u>build-to-rent program</u> where the large institutional investor <u>purchases, constructs, or constructs and retains</u> a <u>newly constructed single-family homes to be managed as a rental property,</u> whether as part of a <u>community made up exclusively of renter-occupied single-family homes</u> or <u>as part of a community made up of single-family homes that are both owner- and renter-occupied</u>;

- <u>build-to-rent program:</u> Includes units that have or will be built with the intent to operate them as rental units;
- <u>purchases, constructs, or constructs and retains:</u> Captures all the ways an owner may acquire a BTR community;
- <u>newly constructed single-family homes to be managed as a rental property:</u> Scopes in all existing and future communities planned, built, operated, and financed as rental properties since they were newly developed. Notably, there is no reference to a date at which subject properties were constructed. Rather newly constructed should be read as encompassing properties that were constructed with the intent that they be BTR properties as the definition of BTR program cited directly above requires;
- <u>community made up exclusively of renter-occupied single-family homes:</u> Scopes in all developments that are fully BTR; and
- <u>as part of a community made up of single-family homes that are both owner- and renter-occupied:</u> Scopes in rental properties that were developed as rentals, even if the overall development also includes owner-occupied homes.

We believe the interpretation above is the correct reading of the statutory text. Such an interpretation fits well within the rule of construction in Section 1001(b)(4)(B)(i) and (ii), as such a reading is simply a clarification of the excepted class of BTR homes and alters neither the scope nor type of excepted purchases. It would not undermine the goal of expanding the number of single-family homes for purchase to individuals as the BTR homes covered are parts of communities that are planned, built, operated, and financed as rental communities and their zoning, ownership, management, and financing preclude their sale as individual units. A rule preserving the ability of build-to-rent investors to make orderly downstream dispositions fits comfortably within that grant of authority. If the statute is read to

[1] https://www.banking.senate.gov/imo/media/doc/bill_text_of_the_21st_century_road_to_housing_act.pdf
[2] https://www.banking.senate.gov/imo/media/doc/bill_text_of_the_21st_century_road_to_housing_act.pdf

prohibit any subsequent purchaser from acquiring a completed build-to-rent community, the practical effect would be to impair exit liquidity and chill capital formation for current and future projects.

In addition to the statutory text exempting BTR from the ban on purchases of SFR by large institutional investors, we believe this was also the intent of both President Trump and the legislation's congressional authors.

In his January 21, 2026, "STOPPING WALL STREET FROM COMPETING WITH MAIN STREET HOMEBUYERS" Executive Order, President Trump declared, "The guidance issued pursuant to subsection (a)(i) of this section shall include appropriate, narrowly tailored exceptions for build-to-rent properties that are planned, permitted, financed, and constructed as rental communities, and such other appropriate, narrowly tailored exceptions as the applicable agency may determine appropriate to further the policies of my Administration."[3]

In remarks following the Senate passage of H.R. 6644, Senate Committee on Banking, Housing, and Urban Affairs Chairman Tim Scott noted, "Likewise, a single-family home—as defined in the bill—would constitute a home on a single 'plat.' It is not our intent to preempt local zoning. However, if there are multiple homes on a single plat, it is our intent that these homes would be considered multi-family housing."[4]

Moreover, House Committee on Financial Services Chairman French Hill noted, "Congress also intended exemptions for homes acquired as a part of a community of five or more contiguous rental units; and homes planned, permitted, financed, and constructed as a part of a unified rental community on a single platted parcel that are not intended for individual sale; as well as properties that are made up of multiple rental homes or units constructed on a single parcel of property that cannot be legally sold as individual homes or units without further subdividing the property."

The *21st Century ROAD to Housing Act's* statutory language, as well as both President Trump and the Act's authors, support the view that both new and existing BTR should be excepted from the ban on SFR purchases by large institutional investors. To ensure BTR investments can move forward and help spur housing supply, we request that Treasury signal its intention to issue regulations consistent with this view and subsequently issue such regulations. This will unlock and unleash the BTR market so that it can continue to play an integral role in fostering housing supply and ensuring all Americans have a safe and decent place to call home.

Our organizations stand ready to be a resource and work with your team as Treasury writes regulations that effectuate provisions in the *21st Century ROAD to Housing Act*, and we thank you for your consideration of this matter. Please contact Jamie Woodwell at jwoodwell@mba.org or Matthew Berger at mberger@nmhc.org for any questions.

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[3] https://www.whitehouse.gov/presidential-actions/2026/01/stopping-wall-street-from-competing-withmain-street-homebuyers/

[4] https://www.congress.gov/119/crec/2026/03/18/172/49/CREC-2026-03-18-pt1-PgS1202-2.pdf

Sincerely,

National Multifamily Housing Council

Mortgage Bankers Association

National Apartment Association

National Association Home Builders

Nareit

National Rental Housing Coalition