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November 23, 2026

*Submitted electronically via www.regulations.gov*
U.S. Department of the Treasury
Attention: Office of Capital Markets 1500 Pennsylvania Avenue NW Washington, DC 20220

**Re: Restrictions on Large Institutional Investor Purchases of Single-Family Homes — Notice of Proposed Rulemaking, 31 CFR Part 36, Docket No. TREAS-DO-2026-0529, RIN 1505-AC96**

Ladies and Gentlemen:

This Firm, as counsel for the American Seniors Housing Association ("ASHA"), respectfully submit these comments in response to the Department of the Treasury's ("Treasury") notice of proposed rulemaking (the "Proposed Rule") implementing section 1001 of the 21st Century ROAD to Housing Act (the "ROAD Act" or the "Act").[1] [2] [3] Treasury has asked that comments be received on or before November 23, 2026, and that they be captioned "Restrictions on Large Institutional Investor Purchases of Single-Family Homes".[4] [5]

ASHA is a national organization of over 500 senior living companies who own, operate or provide services to approximately 7,000 senior living communities across the U.S., including, independent living, assisted living, memory care and life plan/continuing care retirement communities. Our members' communities serve a wide range of seniors, from those who require very little assistance with activities of daily living (ADL) such as eating, bathing, and dressing to those with significant needs associated with Alzheimer's disease and related forms of dementia. We describe the various senior living settings in this comment letter.

ASHA supports the goal of expanding homeownership opportunities for American families. Our concern in Section 1001 of the Act is narrow. Section 1001 should not be read, and the final rule should not be written, to reach investment in senior living communities, beyond the statute's intended scope. Section 1001 prohibits large institutional investors from purchasing single-family homes.[6] Congress aimed that prohibition at the acquisition of homes that would otherwise be available for purchase by individual households. That purpose does not support restricting the institutional capital that finances, develops, and sustains purpose built, service enriched residential properties designed to serve our nations older adults, even when a community offers cottages or duplexes among its housing options.

These residential settings are not intended to be marketed or sold to the general public as single family housing. They serve a targeted older population of people with supportive needs and are designed to ease the burdens that "home ownership" would otherwise place upon them. However, a restriction on the ownership of cottages or duplexes that are part of a senior living community would substantially impede the investment of capital required to meet the needs of our aging population. When an institutional investor acquires such a community, the transaction generally

does not remove homes from the market available to individual buyers. It preserves and finances specialized housing for older adults who have chosen, or need, a supported living setting.

The population is aging, people are living longer, demand for senior living is at historic highs, and supply is not keeping pace. More needs to be done to encourage investment in this sector and not create additional challenges through ambiguous legislative language and regulatory interpretations.

Because the prohibition takes effect on January 7, 2027, and violations carry civil penalties of up to the greater of $1 million or three times the purchase price of the property, we respectfully ask Treasury to clarify the treatment of senior living in the final rule.[7] [8] Without regulatory clarification, the industry may be subject to much risk and harm to its ability to serve the aging population.

Our comments address a few key areas:

**I. Purpose and Scope of Section 1001 is the Single-Family Market and Not Senior Living**

**II. Senior Living Community Housing Falls Outside the Statutory Definition of "Single-Family Home"**

**III. The Existing Exemptions Do Not Adequately Address Senior Living Communities**

**IV. Large Institutional Investors Are an Important Source of Capital for Seniors Housing**

**V. Summary of Requested Clarifications**

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## I. Congress Aimed Section 1001 at the Single-Family Home Market, Not Senior Living

The Act states its purpose directly. In section 1001(e)(3), Congress declared its sense that the section "is intended to expand the number of single-family homes available to individuals for purchase and is aimed at preserving and expanding the supply of single-family homes available to individuals".[9] The limits on Treasury's rulemaking authority rest on the same goal. Treasury may not alter the excepted-purchase categories "in a manner that would undermine the goal of expanding the number of single-family homes available to individual households for purchase".[10] In the Proposed Rule, Treasury likewise describes section 1001 as "intended to promote homeownership opportunities for American families".[11] The sponsors explained the provision the same way: it "prevents large institutional investors from purchasing single-family homes" so that "American families can have a home of their own". Transactions involving

integrated senior living communities generally do not implicate that concern. When an institutional investor acquires such a community, the transaction generally does not remove homes from the market available to individual buyers. It preserves and finances specialized housing for older adults who have chosen or need a supported living environment.[12]

Further, congressional colloquies reinforce intent of the section and this position:

*Mr. Scott: It is our intention that owners of 55 and older communities can acquire existing housing stock for this purpose in compliance with this section. The specifications we set—that the home serves those 55 and older and has certain visitability standards established by the department of Housing and Urban Development, or HUD, are common sense. (Congressional Record, Senate, March 18, 2026, S1202)*

*Mr. Hill: Additionally, purchases of homes used to provide residential care for individuals with disabilities or developmental disabilities, or in senior living communities, should be exempt, as these are unrelated to the problem being addressed by the Act. Regulations that do not meet that objective will fall short of congressional intent and risk reducing, not increasing, the availability and affordability of housing across our great country. (Congressional Record, House, June 23, 2026, H4191)*

*Ms. Waters: Thank you, Mr. Hill, for working with me to clarify the intent behind this section. I agree with you on what you have described on the congressional intent for section 1001. (Congressional Record, House, June 23, 2026, H4191)*

Additionally, President Trump issued Executive Order 14376, titled "Stopping Wall Street from Competing with Main Street Homebuyers," on January 20, 2026, to restrict large institutional investors and private equity firms from buying single-family homes. The President reinforced his message in the February State of the Union address.

*"Stories like this are why last month I signed executive order to ban large Wall Street investment firms are buying up in the thousand's single-family homes. And now I'm asking Congress to make that ban permanent, because homes for people, really that's what we want, we want homes for people, not for corporations". (State of the Union Address, February 24, 2026)*

These formal and informal actions and sentiments reinforce the purpose and scope of Section 1001.

## II. Housing Units within A Senior Living Community Are Significantly Different than the Single-Family Home Market and Falls Outside the Statutory Definition of "Single-Family Home"

The Act defines a "single-family home" as "a structure that contains 2 or fewer dwelling units that are each intended for residential occupancy by a single household".[13] Most senior living properties fall outside this definition:
Senior living includes a broad offering of residential settings specific to the older adults' needs and preferences for aging in place. These options include independent living, assisted living, memory care and continuing care retirement communities (CCRCs).

- *Independent living* allows residents to live on their own with options of support for meals, transportation, and housekeeping, and typically offer amenities for social engagement and wellness programs. The average age at move-in for the independent resident is early 80's.

- *Assisted living* settings provide residents assistance with activities of daily living (e.g., bathing, toileting, eating, dressing, etc.), 24/7 supervision, and limited nursing care. The amenities found in independent living are also a staple in assisted living. The average age at move-in for assisted living is slightly older than independent living with many at 85 years or older.

- *Memory care* provides specialty care in a structured secured environment for people with memory loss or dementia. These settings can be stand alone or part of an integrated community with independent living and assisted living.

- *Continuing Care Retirement Communities (CCRCs)* offer residents multiple levels of senior living housing options on a single campus. Residents typically move in at the independent living level and as they age and develop higher acuity needs, can move into a higher level of care setting, allowing for limited disruption as they age in place.

It is clear that Section 1001 is not directed at these multi-unit buildings. However, the risk lies in the mixed nature of many seniors housing campuses and portfolios. A single campus, or a portfolio acquired in one transaction, often includes an apartment-style independent living building together with an assisted living or memory care building. Some of these communities include detached cottages, villas, patio homes, or duplexes. Read in isolation, each cottage or duplex could be described as a structure with "2 or fewer dwelling units".[14] Section 1001 defines "purchase" broadly to include "mergers, acquisitions, construction, foreclosures, or bulk purchases".[15] An ordinary acquisition, recapitalization, or development of a seniors housing community could therefore raise questions about a "purchase" of single-family homes, even where the residences are integral parts of a care-oriented community and are not independently available in the for-sale housing market Congress sought to protect.

Integrated senior living campuses differ from conventional single-family rental portfolios in several respects relevant to section 1001. The structure of the statute shows the business models Congress addressed. Its excepted-purchase categories include build-to-rent programs, renovate-

to-rent programs, rent-to-own homeownership programs, and programs giving renters a right of first refusal.[16] [17] [18] These categories focus on homes and rental arrangements that may offer a path to individual homeownership. The Act's renter outreach resource likewise addresses disputes "relating to the rental of such properties".[19] Proposed § 36.15 similarly ties the "in the business of" test to holding single-family homes to earn "investment gains, rental income, management fees, or any other type of income or financial gain" from the homes themselves.[20]

A senior living cottage or villa may differ from that model in at least five ways:

| **Feature** | **Conventional single-family rental portfolio** | **Integrated seniors housing campus** |
|---|---|---|
| Location and market | Homes may be scattered across ordinary neighborhoods and drawn from inventory that individual buyers compete for. | Cottages and villas are built as part of a planned community on a single platted parcel, not on separate individual lots, and are not offered independently to the general for-sale market. They could not be sold to an individual buyer without replatting the property. Note, however, that while most seniors communities do not have separately platted cottages or duplexes, some may be separately platted depending on the state and municipality. |
| Occupancy | Households occupy homes under standard residential leases. | Age-qualified residents (typically, but not exclusively, 80's and above), with occupancy subject to age restrictions consistent with the Housing for Older Persons Act. Residency is governed by residency or continuing care agreements. |
| What the resident pays for | Primarily shelter and specific utilities and services. | Shelter combined with services such as dining, transportation, housekeeping, wellness programs, emergency response, medication management and |

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|---|---|---|
| | | other services as desired or needed. |
| Relationship to the rest of the property | Access to amenities if available. | All residents share common areas, infrastructure, and services, including dining, transportation, housekeeping and social activities. |
| Regulation | Primarily general landlord-tenant and other applicable housing laws. | Independent living cottages are generally not licensed, but they operate within a campus whose assisted living and memory care components are subject to state licensure and applicable change-of-ownership approvals, and, where applicable, continuing care and entrance-fee requirements, in addition to landlord-tenant law and accessibility design requirements. |

These distinctions describe how an integrated senior living community is built and operated. Where a cottage depends on the campus's services, infrastructure, and occupancy restrictions, and sits on the community's own parcel rather than a separately platted lot, separating it from the community would not return an independently marketable home to the for-sale inventory. It could instead remove a unit from a continuum of housing and care that older residents chose because of those services. The final rule should recognize these distinctions through objective criteria, such as: (i) the unit is located on the same property, or otherwise forms an operationally integrated part of, a senior living community; (ii) the unit is not located on a separately platted lot that could be conveyed independently of the community; (iii) occupancy is subject to lawful age-related restrictions; and (iv) residents receive or have contractual access to the community's services.

## III. The Existing Exceptions Intend to But Do Not Fully Exempt Seniors Housing

- **Age Restricted 55 and Older Communities**

While not included in this "staged rulemaking", Congress expressly recognized qualifying age-restricted housing by including an excepted purchase for single-family homes "newly constructed, renovated, or a rental conversion that is intended and operated for occupancy as part of a community for households with 1 or more members aged 55 years or older, and satisfies visitability standards established by the Secretary of Housing and Urban Development".[14] [26]

That exception supports specific treatment of seniors housing. Its limits, however, leave important questions unresolved:

1. It covers newly constructed, renovated, or converted homes, but its application to the acquisition of an existing, operating seniors community whose cottages or duplexes require no renovation is unclear. Treasury should (a) explain whether earlier qualifying construction or renovation satisfies the exception and what documentation is required, and (b) define the term *renovation* for the sake of the Act to avoid further ambiguity [27].

2. It depends on visitability standards that HUD must establish, creating uncertainty before those standards exist.[27] Senior living communities are purpose built for older adults in need of supportive care and currently adhere to Fair Housing Act (FHA) and Americans with Disabilities Act (ADA) accessibility design requirements. Treasury should deem compliance with these laws as compliant with any future visitability standard.

3. Treasury should clarify whether homes acquired under this exception count toward the 350-home threshold.

*Note: Treasury has proposed a phased approach. This first phase addresses build-to-rent, renovate-to-rent, homeownership, and boost-homeownership programs; the meaning of "engaged in the business of" and "passive investor"; and certain debt-related and investor-to-investor purchases. [28] Treasury expects that future rulemakings may address "other statutory excepted-purchase categories". [29] We urge Treasury to address seniors housing now relative to the (J) exception, before the January 7, 2027 effective date. [7] [30] [31] If Treasury cannot complete that guidance before the effective date, it should identify any legally available interim compliance guidance, reasonable reliance protections, or enforcement discretion for documented, good-faith seniors housing transactions.*

- **Purchases From Another Large Institutional Investor – Exception (H), Section 1001(a)(2)(H)**

Section 1001(a)(2)(H) of the Act ("Exception (H)"), and proposed section 36.11 implementing it, address large investor purchases of existing single-family homes, specifically those that the selling large institutional investor owned on July 11, 2026 or purchased in compliance with this section. Exception (H) thus provides two alternative tests and, as the proposed rule states, it allows for subsequent purchases between large institutional investors. This exception is granted as long as they were not purchased in violation of the act and met one of the stated exceptions.

Treasury seeks response to whether the proposed rule offers sufficient clarity on this point. We recommend additional description to clarify this important exception. In the senior living context, this exception would allow a large institutional investor to purchase an existing senior living community with cottages if the seller, also a large institutional investor, was in compliance with the Act, i.e., the seller either owned the single-family home at the time of enactment or met another exception, such as having acquired the property at the "new construction" stage under the

55-and-older exception, regardless of sale date. A large institutional investor may purchase that property, given that it was originally purchased in compliance with this section. That "compliance status" would therefore allow the future sale of the now "existing property" to another large institutional investor. Accordingly, the purchase of a single-family home in compliance with the Act may be transferred among large institutional investors more than once.

## IV. Large Institutional Investors Are an Important Source of Capital for Seniors Housing at a Time of High Demand and Short Supply

The population is aging. The U.S. population aged 80 and older is projected to jump by over 55%, reaching nearly 23 million by 2035. This is creating a housing unit and capital shortfall. Projections indicate a need for roughly 576,000 new units by 2030 and over 1 million by 2035, alongside more than $1 trillion in cumulative investment through 2050. This coincides with a 67% drop in construction starts between 2021 and 2025 and an aging stock where over 40% of properties are past 25 years old. Approximately 10,000 to 15,000 units of senior housing are currently being built across the country, well below the more than 100,000 new units studies have shown are needed to meet demand over the next five to 10 years. (Source: National Investment Center)

Institutional investors play an important role in the ownership and financing of seniors housing properties and are a necessary capital source in meeting the stated demand. These investors fund the development of new communities, the renovation of aging properties, and capital improvements that state regulators require.

The section 1001 definition of "large institutional investor" reaches a broad range of entities. It covers specified for-profit funds, corporations, partnerships, limited liability companies, and joint ventures engaged "in whole or in part" in the business of investing in, owning, renting, managing, or holding single-family homes. It applies where the entity, "alone or in concert with 1 or more other entities," has direct or indirect investment control of at least 350 single-family homes.[22] [23] Investment control is attributed broadly, including through control of a general partner or managing member, through an investment manager, or through ownership of more than 25 percent of any class of equity interests unless the investor is a passive investor.[24] [25] A national senior living owner with cottage or villa components across many campuses could reach that threshold through attribution, even though its business focus is the broader senior living communities.

Uncertainty could also affect transactions that sustain existing communities. Acquisitions, recapitalizations, ownership transfers, foreclosures, and debt restructurings may provide needed capital or preserve operations. Treasury should clarify how the broad definition of "purchase" and the applicable exceptions treat these transactions, including transfers that do not change ultimate investment control. Without clear guidance, owners, lenders, and investors may delay transactions or require costly unit-by-unit diligence, potentially deferring improvements and disrupting resident services.

## V. Summary of Requested Clarifications

Treasury has authority to issue regulations to "minimize market disruptions" and to "mitigate, to the extent possible, negative impacts on consumers and communities".[32] Treasury has also explained that the Proposed Rule is intended to clarify terms "used but not defined in the Act". [28] ASHA's requests stay within those bounds. We ask Treasury to confirm how existing terms apply to senior living and to provide workable compliance guidance.

Overall, our position rejects that this Section was intended to reach the senior living sector as evidenced by its purpose, scope and congressional intent. To mitigate this misapplication, we request Treasury address the following:

1. **Clarify when senior living units or apartments are not "single-family homes."** The final rule shall identify when housing units; independent living, assisted living, memory care, that are part of an age restricted, purpose built senior living community, are not "dwelling units …intended for residential occupancy by a single household" within the statutory definition. More specifically, the final rule should more clearly and definitively exempt these housing units from the definition of "single-family homes."

2. **Recognize the operation and ownership of integrated senior living as a distinct bona fide business.** Proposed §36.15(b) excludes an entity from being "in the business" of single-family homes where it holds such homes "solely on a temporary and incidental basis in furtherance of a different bona fide business," only to the extent reasonably necessary, and "not as a regular or continuing investment strategy".[33] Owning and operating seniors housing and care communities is a distinct bona fide business. However, operators own and/or operate campus cottages and villas on a continuing rather than a temporary basis, so the proposed text may not reach them. The final rule should clarify that detached cottages, duplexes or villas within a senior living community are an integral parts of that senior living community, with access to the community's services and amenities, therefore the presence of such detached cottages, duplexes or villas expressly does not mean that the owner or operator is "in the business" of single-family homes.

3. **Clarify the age-restricted community exception.** The final rule should explain how the exception in section 1001(a)(2)(J) applies to senior living communities including existing communities and mixed campuses.[27] Treasury should coordinate with HUD on the visitability condition, as section 1001(b)(4)(A) contemplates, and identify a legally permissible interim compliance approach such as such as adherence to existing accessibility requirements can establish compliance with that condition.[14]

4. **Clarify Exception (H), section 1001(a)(2)(H), including the "or purchased the single-family home in compliance with this section" language governing large institutional investor to large institutional investor transactions.** The final rule should include sufficient explanation regarding the subsequent purchases allowable when in compliance

with this section, and should confirm, in response to Questions 107 and 108, that compliant purchases include homes acquired under any excepted-purchase category, including the age-restricted community exception in section 1001(a)(2)(J).

5. **Clarify which senior living units count toward the 350-home threshold.** The final rule should confirm that units outside the statutory definition of "single-family home" do not count toward the threshold. It should separately explain the treatment of units that meet that definition but form part of a distinct seniors housing business or qualify for an excepted purchase. Treasury should also provide examples addressing attribution across affiliated campus owners, operator–capital partner joint ventures, and shared investment managers.[23] [25] [34]

6. **Protect passive capital and clarify the treatment of operator joint ventures.** The seniors housing business community commonly uses operator–capital partner joint ventures and REIT-operator structures in which capital providers hold customary consent and approval rights. The final rule's treatment of "property control rights" and "passive investor" should distinguish protective consent rights from authority to direct covered property-level investment or operating decisions. Treasury should provide examples addressing rights relating to licensed care operations, regulatory compliance, operator replacement, financing, and major capital expenditures at a senior living community.[35] [36]

7. **Provide a recordkeeping safe harbor and proportionate compliance procedures.** The final rule should allow an entity to rely on existing records, such as state licenses, approved site plans, occupancy restrictions, residency agreements, and service agreements, in order to document relevant facts. For residences with materially identical characteristics on an integrated campus, Treasury should permit common documentation supplemented by a unit schedule, rather than require duplicative transaction-by-transaction analysis of each cottage or duplex. Treasury should also clarify any reporting and record-retention obligations and the extent to which purchasers may reasonably rely on seller certifications and existing community records.

8. **Include a process for identifying a risk of material negative impact on the housing market**. Process should include a means of adjusting, and tailoring requirements before disruption occurs.

## VI. Conclusion

Congress enacted section 1001 to preserve and expand the supply of single-family homes available for individual purchase.[9] [12] [37] [38] Applying that prohibition to integrated seniors housing beyond the statute's intended scope would impede investment in a sector that depends on institutional capital to serve a growing population of older adults. Clarifying the rule as requested would carry out Congress's purpose, avoid unintended disruption, and protect residents and the communities that serve them.

We appreciate Treasury's consideration of these comments and would welcome the opportunity to discuss them.

Sincerely,



Christopher R. Froeb, Esq., on behalf of The American Seniors Housing Association

**References**

1. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
2. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
3. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
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5. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
6. 42 U.S.C. § 19521 — Homes are for people, not corporations (2026)
7. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
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12. The Facts: The 21st Century ROAD to Housing Act Cuts Red Tape, Builds More Homes, and Restores Accountability | United States Committee on Banking, Housing, and Urban Affairs
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20. 21st Century ROAD to Housing Act Prohibition on Large Institutional Investor Purchases of Single-Family Homes, 91 Fed. Reg. 66799-66827 (Oct. 23, 2026)
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