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MORTGAGE BANKERS ASSOCIATION

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Federal Housing Finance Agency
Office of Budget and Management
400 7th St., SW
Washington, D.C. 20024

To Whom it May Concern:

On August 15, the Federal Housing Finance Agency (FHFA) released for input its strategic plan for fiscal years 2015-19. The Mortgage Bankers Association (MBA)[1] appreciates FHFA's transparency in soliciting input on its regulatory priorities for the coming years. What follows are MBA's comments from both the residential and multifamily perspective.

Residential Comments

MBA believes that now is a critical time for the single-family housing finance industry, requiring FHFA to focus its residential objectives on improving access to credit for consumers. Many borrowers, in particular first-time homebuyers and low- to- moderate income borrowers, are being priced out of the market, contributing to the still-tepid housing recovery. Reducing over-priced credit costs and eliminating credit overlays would stimulate the housing recovery, allowing many more prospective buyers to enjoy the benefits of homeownership.

FHFA should adopt a program to utilize greater up-front risk-sharing on high LTV loans and coverage on loans with LTVs below 80%, accompanied by a reduction in G-fees.

MBA has argued previously[2] that FHFA should direct the GSEs to implement an up-front risk sharing program, highlighted by deeper mortgage insurance (MI) coverage on higher LTV loans and coverage of lower LTV loans, e.g. coverage for a 70% LTV loan down to an effective LTV of 50%. Under this proposal, a lender could seek loan-level coverage from an MI company and in turn receive commensurately lower G-Fees and

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

[2] *See* MBA response to G-Fee RFI and Private Mortgage Insurer Eligibility Requirement RFI.

LLPAs from the GSEs. MI companies could potentially insure down to an effective LTV of 50%, leaving the GSEs covering only a pure catastrophic risk position. The market would benefit from competition and increased price transparency, and consumers would likely benefit through lower costs. Indeed, as MBA has mentioned in previous comments, there are currently cases where the GSEs charge more through G-Fees and LLPAs for their second-loss position than MIs charge for their first-loss position.

In light of the new eligibility standards for mortgage insurers (MIs), there is no reason to delay in implementing this proposal.

FHFA Should Direct the GSEs to Move to a Common, Fungible Security

For more than two years, MBA has discussed with the GSEs, FHFA, policymakers, and other stakeholders the widespread benefits of a common, fungible GSE security in the single-family mortgage market. Indeed, a common, "qualified" security formed the basis of the Johnson-Crapo Bill that was voted out of the Senate Banking Committee earlier this year. On August 12, FHFA released a white paper proposing a possible structure for a single security (the White Paper) and MBA commends FHFA's leadership in taking this important step. FHFA's proposal is especially helpful in that it takes advantage of existing market structures and utilizes a common securitization platform to serve as a single issuer and administration agent for the new security. MBA continues to analyze the White Paper and we look forward to contributing our comments.

While the structure proposed by the White Paper remains subject to analysis, the benefits to taxpayers and borrowers of a single, fungible agency security are clear. Ending the trading differential between Fannie Mae and Freddie Mac securities will make our housing finance system more efficient, allowing borrowers to receive the best price on their respective loans. It will also eliminate the Market-Adjusted Pricing (MAP) payments made by Freddie Mac as a result of the trading differential, saving the enterprise, and ultimately the taxpayers, hundreds of millions of dollars per year. Finally, a common security takes us one step closer to sustainable housing finance reform, a bipartisan goal shared by both Houses of Congress and this Administration.

FHFA Should Eliminate the Substantial Uncertainty Concerning Representation and Warranty Liability

Since the financial crisis, the GSEs have successully forced lenders to repurchase roughly $100 billion in single-family loans based on perceived breaches of representations and warranties made by lenders to the GSEs. While many repurchases were no doubt justified, a significant amount of these repurchase requests were based on technical, foot-fault defects at best, and in many cases resulted from unreasonable or erroneous decisions by the GSEs themselves. The aggressive approach taken by the GSEs led to significant uncertainty among lenders over the ultimate liability for a loan that goes into default, resulting in a significant constraint on borrowers' access to credit. The effect of this approach can be seen in the credit score and loan-to-value ratio (LTV) for the GSEs' current book of business – the average FICO score for the GSEs' 2013 book of business was 762, with an LTV of 71. In essence, the GSEs' aggressive repurchase policies have ensured that only pristine credit borrowers can obtain conventional financing.

Earlier this year, FHFA committed to working with the lending community to reduce these barriers to homeownership. Some changes have already been announced, including those that relax performance criteria for sunset relief and a measure that allows lenders to "stand in" for an MI firm in the event the MI policy is rescinded. Further, the GSEs now appropriately acknowledge that MI rescission is not an independent breach of the Charter Acts, a positive step forward in these discussions. These were positive steps and MBA commends FHFA and the GSEs for their efforts.

However, significant work remains before credit availability will begin to expand. The GSEs effectively utilize their representation and warranty framework and lender contracts as credit enhancements for their loan portfolio, allowing themselves the ability to interpret key discretionary provisions after a loan defaults. Needless to say, in almost all cases the remedy for a defaulted loan is repurchase, regardless of the defect.

MBA strongly recommends that FHFA continue the on-going discussions with the lender community and direct the GSEs to clarify the representation and warranty framework. Key measures that should be resolved in a fair and timely fashion include limiting the exclusions to the 36-month sunset framework, allowing genuine disputes over defects and remedies to be resolved by a neutral third party, and creating a clearly defined defect taxonomy that links specific defects to specific remedies and provides lenders with some certainty over their ultimate responsibilities.

FHFA Should Abandon its Recent Proposal to Radically Limit Federal Home Loan Bank Membership

On September 2nd, FHFA released for notice and comment a proposed rule (the Proposal) that would impose substantial and unprecedented restrictions on membership in the Federal Home Loan Bank System (the System). Key changes include a limitation on the definition of "insurance company," the involuntary termination of existing members in good standing, and an on-going asset test requirement that will likely harm community banks and credit unions. Many stakeholders, including MBA and the FHLBs themselves, have already voiced concern or outright opposition to this ill-advised policy, and MBA urges FHFA to abandon the Proposal entirely.

MBA has significant legal and policy concerns with the Proposal. Congress has been clear for more than 80 years that "any . . . insurance company" has the right to join the

FHLB System. Captive insurance companies have been active participants in the insurance market since at least the 1950s, yet Congress has repeatedly declined to limit this provision despite significant amendments made to the FHLB Act in 1989 and 1999. The Proposal is a significant regulatory overreach and is clearly contrary to Congressional intent.

Moreover, the Proposal will undermine the FHLBs' mission. Many current members in good standing could have their membership involuntarily terminated, severing a critical financing relationship and throwing that relationship into doubt for members that remain in the System. Subjecting this vital relationship to the uncertain regulatory posture of FHFA will likely cause other System members to reduce their reliance on the FHLB in case a similar measure targets them in the future. The end result will be less capital contributed to the FHLBs and fewer advances, significantly impairing the FHLBs' ability to fulfill their statutory mission of providing liquidity to finance home lending. Ultimately, this will further harm consumer's access to credit at a time when encouraging such access should be the top priority at FHFA.

MBA will be submitting more thorough comments on the Proposal during the comment period. For the reasons highlighted above, MBA strongly opposes the Proposal and recommends FHFA abandon it.

Multifamily Comments

MBA appreciates FHFA's recognition of the importance of multifamily rental housing and the GSEs' role in the multifamily finance market. As FHFA stated, the GSEs "play a significant role in supporting multifamily housing needs, particularly for low-income households."[3] For the financing and support of workforce and affordable multifamily housing, Fannie Mae and Freddie Mac, working with their multifamily lender partners, have continued to provide liquidity and stability in all market cycles and in a broad range of geographic markets. The multifamily businesses of both GSEs have played a counter-cyclical role with very strong credit performance, in a manner that incorporates substantial private capital bearing credit risk.

Ensuring liquidity, stability and access is vital to the multifamily rental housing market (Strategic Goal 2). As FHFA is aware, a broad range of capital sources support the multifamily housing market, including private capital and government-sponsored sources. The diversification of capital sources in multifamily finance is currently strong. Given the competition that exists in the market, we encourage FHFA to continue to support GSE multifamily activities that strengthen liquity and stability, monitor ongoing market dynamics, as well as refrain from regulatory intervention that would be harmful to the competitive landscape.

[3] FHFA Strategic Plan: Fiscal Years 2015-2019, August 15, 2014, p. 11.

We appreciate FHFA's attention to the affordable and underserved segments of the multifamily housing market. Through the 2014 conservatorship scorecard, FHFA has implemented a thoughtful means to incentivize GSE activities in these markets. MBA also looks forward to working with FHFA to develop policies intended to support affordable housing and underserved markets. At the same time, we underscore that multifamily housing, by its very nature, tends to be affordable, and encourage FHFA be mindful that the range of multifamily rental housing segments, including "workforce" housing, is fundamentally important to families of modest incomes.

Effective management of the GSEs' ongoing conservatorships (Strategic Goal 3) is a core component of FHFA's statutory responsibilities, and it equally applies to conserving the assets, resources and infrastructure of the GSEs' multifamily businesses. In overseeing operating businesses and monitoring a dynamic market, FHFA's stewardship of these resources also involves considering forward-looking steps within the bounds of conservatorship. Just as initiatives specific to the GSEs' single-family guarantee businesses (such as the Common Securitization Platform and single security) take key steps forward to strengthen the single family mortgage market, so too should approaches be considered that can build an even stronger foundation for a stable and resilient multifamily finance system, whether through exploring additional risk transfer structures, considering standalone capabilities, or other strategic ideas.

Conclusion

FHFA and the GSEs play a critical role in the single-family and multifamily finance markets. The tepid recovery of the single-family market requires FHFA focus on policies that will broaden access to credit for borrowers, particularly first-time homebuyers and the underserved. From a multifamily perspective, FHFA should underscore the importance of multifamily rental housing and the GSEs' role in providing liquidity and stability, as well as consider additional strategic steps to continue to strengthen this market.

MBA looks forward to working with FHFA on these important issues. For more information, please contact Dan McPheeters at dmcpheeters@mba.org or Eileen Grey at egrey@mba.org.

Sincerely,

David H. Stevens
President and Chief Executive Officer