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December 3, 2012

Mr. Ed DeMarco
Federal Housing Finance Agency
c/o Office of Strategic Initiatives
400 7th Street SW
Washington, DC 20024

Re: Building a New Infrastructure for the Secondary Mortgage Market

Dear Mr. DeMarco:

I am writing on behalf of the over one million members of the National Association of REALTORS® (NAR) to provide comments to the Federal Housing Finance Agency (FHFA) on its proposal to build a new securitization platform and a model Pooling and Servicing Agreement (PSA). NAR is America's largest trade association, including our eight affiliated Institutes, Societies and Councils, five of which focus on commercial transactions. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

REALTORS® believe that full scale economic recovery will rely heavily upon the return of stability and confidence in the residential real estate market. Providing consistency and standardization in pooling and servicing agreements and the development of a securitization platform will help facilitate the return of private sources of capital to the mortgage market. REALTORS® recognize that it is critical that the creation of a more efficient and effective housing finance structure also ensures the continued availability of affordable mortgage credit to all qualified borrowers. Therefore, as FHFA continues the creation of a new securitization infrastructure and a standardized PSA for the secondary mortgage market, we respectfully request that the continued liquidity of mortgage capital and credit availability remain paramount concerns.

Strategic Plan

In February 2012, FHFA published the Strategic Plan for the conservatorship of Fannie Mae and Freddie Mac (the government-sponsored enterprises or GSEs). The Strategic Plan set forth three strategic goals, including building a new infrastructure for the secondary mortgage market. In the absence of certainty regarding the future structure of housing finance, FHFA believes it can design and build a single securitization platform that incorporates secondary market elements that will be needed to rebuild the housing finance system, including an operational mechanism connecting capital market investors to borrowers through securitization. This new structure will need to have the operational capacity to bundle mortgages into securities, track payments, and include clear rules for certain key functions that can serve a post-conservatorship market with multiple mortgage backed security (MBS) issuers. FHFA hopes to achieve the creation of a more efficient infrastructure model and to establish a framework that is consistent with multiple states of housing finance reform. The establishment of a framework that is conducive to greater assumption of credit risk by private capital will be a key initiative.

REALTORS® understand the need for a new securitization platform, and fully appreciate FHFA working to foster one that the GSEs will utilize in tandem, as opposed to using taxpayer money to create two different platforms. However, we caution against using the single platform as a proxy to combine the GSEs into one entity before Congress and the Administration can make a determination on the future structure of the GSEs or reformation of the housing finance system. Utilizing the single platform to create a single secondary mortgage market entity prior to agreements being reached by Congress and the Administration may be detrimental to the Nation's efforts to reform the secondary mortgage market, and ultimately liquidity for potential homebuyers.

Success in achieving standardization and the development of a sound, efficient and flexible infrastructure that will work with various degrees of government involvement will provide policy makers the opportunity to focus on the future design of housing finance reform rather than GSE operational capacity.

Proposed Securitization Platform

Currently, the GSEs perform many different securitization functions including issuance of MBS, master servicing of loan pools, and overall bond administration for investors. FHFA identified the promotion of credit liquidity, attracting private capital, benefiting borrowers and operating flexibly and efficiently as key principals critical to the success of a functional secondary mortgage market.

Core Functions

NAR believes that the new securitization platform should be developed to provide a self-sufficient mechanism whereby safe, sound, transparent, and insured MBS may be packaged and sold. To facilitate the core functions of the platform, a not-for-profit "utility" company is needed to source, package, sell and guarantee the securities. This entity should operate with similar insurance and enforcement components as the Federal Deposit Insurance Corporation (FDIC). The utility should concurrently set standards, validate and hold stakeholders accountable to those standards, and supply initial and continuous disclosures on the various loans and pools. Additionally, access to the platform should have minimum eligibility standards, while also providing smaller entities equal access to the secondary market.

Data and Disclosures

NAR agrees that improved disclosures to market participants would enhance opportunities for private capital participation. Standardized loan level and pool data is an essential foundation for investors to efficiently analyze and price mortgage credit risk. The platform must allow for the continuous real time updating and reporting of loan data. Though transparency is imperative, individual borrower's privacy and identity must also be protected. Making the data available in a streamlined electronic format, built upon uniform industry standards, will allow for the immediate and continuous risk analysis that will enable broader private investor participation.

REALTORS® believe that with properly structured loan level data on the mortgage collateral supporting a regulated, securitized instrument will provide the information necessary to attract private capital into the secondary mortgage market.

Framework for a Model Pooling and Servicing Agreement

The current PSA framework used by both GSEs consists of two separate guides that set forth the parameters of loans delivered to the GSEs and the servicing responsibilities of the servicers of the loans. Additionally, each GSE has agreements with specific sellers outlining the general terms applicable to the transfer of mortgages and master trust agreements setting out the structure of the securities. The typical private label PSA is created on a highly customized basis for each MBS transaction and sets the structure of the securities (the number of classes and the right of each class to receive principal and interest payments), as well as the rights and obligations of all parties (seller, servicer, investors, etc.).

There is little consistency, much confusion, litigation, and a general lack of confidence in the underlying PSAs of today's private label MBS. NAR agrees with FHFA that producing a standardized model PSA to replace parts of the current GSE PSA framework and address shortcomings found in private label agreements will achieve improved efficiency, reduce costs, and provide the private market with a more standardized securitization process to adopt and with which to foster private capital participation in credit risk.

Standardization

REALTORS® believe that the lack of standardization in PSAs has led to divergent business practices and ambiguity in interpretations. Private investors see the wide variety of documentation, differences in terminology, and overall lack of standardization as an impediment to broader investment in housing finance. The standardized PSA must contain a simple, inexpensive way to transfer and record ownership, standardized terms with clear definitions and best practices, and a representation and warranty framework with clearly defined rules clarifying lenders' loan repurchase responsibilities on future loan deliveries.

The proposed PSA framework must also outline servicer operational policies that are consistent with standards that will facilitate the participation of private capital in the secondary mortgage market. At a minimum these policies would include:

- a) Standardized processing, procedures and enforcement.
- b) Standardized protocol for handling non-performing loans with aggressive and timely procedures.
- c) Early notice requirements for investor to be made aware of deficiencies.
- d) Thorough disclosure of a Servicer's conflicting fiduciary interests.

These operational policies will provide investors with the standards and uniformity that is currently absent in private label PSAs and will create the confidence and consistency required for a wider range of private capital credit risk participation.

Underwriting

REALTORS® believe that sound underwriting principles and products will provide the foundation for responsible, credit worthy borrowers to be able to achieve homeownership goals. Mortgage products that offer reasonable down payment requirements, as well as provide affordable access to the remaining capital required to close the property sale are in the best interest of the American public. Additionally, loan approvals must be based on a good faith determination that the borrower has a reasonable ability-to-repay the loan and related obligations based on verified and standardized documented information.

NAR cautions against overly contracting the role, or over-correcting the underwriting standards of the GSEs during the development of a standardized PSA. Any specific underwriting standards must avoid unduly restricting credit liquidity and must ensure that all qualified and creditworthy consumers will be able to obtain mortgage financing.

Conclusion

NAR appreciates the opportunity to comment on FHFA's proposal to build a new infrastructure for the secondary mortgage market. The alignment of GSE policies, guides, documents, processes and a new securitization platform will create standards that will help facilitate the return of private capital to the housing finance sector. It is critical that throughout the creation of a more efficient and effective housing finance structure, the continued availability of affordable mortgage credit to all qualified borrowers remains a top priority.

REALTORS® support the creation of a more efficient and effective housing finance system and have long maintained that the key to the nation's economic strength is a robust housing industry and the inclusion of government participation in the secondary mortgage market to ensure that all creditworthy consumers have reasonable access to mortgage capital. FHFA's attempt to bring standardization, stability and confidence in the mortgage market space is an important step in facilitating the return of private sources of capital to the housing finance system.

If you have questions, please feel free to contact me or Charlie Dawson, NAR's Policy Representative for Financial Services, at 202.383.7522 or cdawson@realtors.org.

Sincerely,



Gary Thomas
2013 President, National Association of Realtors®