

April 4, 2005

The Honorable Richard C. Shelby
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Paul S. Sarbanes
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Sarbanes:

The undersigned organizations from the housing, mortgage brokering, mortgage lending, and real estate industries are writing to express our views on recent legislative proposals to reform the regulatory framework of the housing government-sponsored enterprises (GSEs) Fannie Mae, Freddie Mac, and the Federal Home Loan Bank (FHLBank) System. While our organizations represent a broad and diverse range of interests and constituencies, we share the common belief that Fannie Mae, Freddie Mac and the FHLBank System are integral components of this nation's highly acclaimed housing finance system.

We also believe that it is crucial for the housing GSEs to have an independent regulator with sufficient expertise, powers and authority to ensure that the GSEs operate in a safe and sound manner, and in furtherance of their congressionally mandated mission. We hope that a consensus will soon be reached so that all of us in the housing industry can focus our efforts squarely on meeting President Bush's challenge to increase America's homeownership rate, especially among minorities and other underserved populations, and to address other important affordable housing concerns.

We support your initiative to bolster the GSE regulatory framework with clearly defined supervisory powers for safety and soundness and mission enforcement. However, we are concerned that other counterproductive recommendations are being proposed under the guise, and beyond the scope, of regulatory reform. Of particular concern is the so-called "bright line" proposal. On its face, this proposal would prevent Fannie Mae and Freddie Mac from participating in activities unless they are determined to be secondary market activities. Even at this most basic and literal level, this provision is unnecessary and redundant with existing law because statutory language currently prohibits Fannie Mae and Freddie Mac from originating mortgages.

The true danger of this "bright line" proposal is that its overly broad approach would instantaneously preclude many of the GSEs' existing products and activities that were designed solely to increase access to mortgage credit, lower the costs of homeownership and foster innovations in home financing. For example, the "bright line" provision would undermine state-of-the-art mortgage underwriting technology that has contributed significantly to the vibrancy, competitiveness, and risk management that are vital to the contemporary housing finance system and would curtail the development of market-driven mortgage products and programs that meet lender and homebuyer needs.

Existing cooperative relationships between the GSEs and small and mid-size lenders that provide single-family and multifamily housing financing are also jeopardized under the "bright-line" provision. Lenders may now enter into a commitment with the GSEs for the purchase by the GSEs of a fixed amount of mortgage loans at a particular interest rate before the specific loans are identified or closed. This innovation has been extremely beneficial because it permits lenders to manage interest rate and credit risk and permits homebuyers to lock in mortgage rates before settlement. We believe that these advance purchase commitments are secondary market operations, but a literal interpretation of the proposed "bright line" test could prohibit these transactions in the future. If activities such as these are prohibited, the efficiency of the secondary market would be severely disrupted and, ultimately, the cost of mortgage borrowing would increase.

Further, the "bright line" provision would seriously hinder – if not prohibit – the myriad array of mission-related, consumer outreach activities by lenders and housing counselors that are supported by the GSEs. For example, the

GSE designed counseling and education programs that assist lenders, brokers, Realtors, and housing counseling agencies in helping consumers determine their financial readiness for homeownership are technically on the “wrong side” of the “bright line” and thus would be prohibited. These and other critical elements of today’s housing markets should not be subject to the rigidity and arbitrariness of a “bright line” test.

In conclusion, we pledge to work with you as the GSE regulatory reform debate moves forward. However, we urge you to refrain from considering legislation that would jeopardize the vibrancy, liquidity and evolution of the housing finance system. We thank you for considering our views.

Sincerely,

Independent Community Bankers of America
National Alliance of Independent Mortgage Bankers
National Association of Home Builders
National Association of Mortgage Brokers
National Association of Realtors®
National Community Reinvestment Coalition

Cc: Senate Banking Committee Member