NATIONAL ASSOCIATION OF REALTORS®

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The Honorable Sandra Thompson
Acting Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Dear Director Thompson:

On behalf of myself and the 1.4 million members of the National Association of REALTORS® (NAR), thank you for the recent opportunity to discuss your priorities for the Federal Housing Finance Agency (FHFA) and NAR's perspective on how to shape and improve the conventional mortgage market. We look forward to working together to put housing front and center as the country transitions out of the extraordinary forbearance effort back to supporting a broad national market and narrowing the homeownership gap for underserved communities.

I enjoyed our discussion immensely. As mentioned during the meeting, I would like to elaborate on a few issues that are of particular interest to REALTORS® and the future of the housing market.

Transitioning from Forbearance to Recovery

NAR appreciates the FHFA's lead in providing forbearance options, deferred repayment options, and scripts for servicers to adhere to FHFA's new policies to support homeowners. The FHFA's allowances on income verification, appraisals and early payment defaults were equally important to market stability.

As the nation emerges from the grip of COVID-19 with vaccination efforts well underway, the housing market faces new challenges. Ideally, most homeowners will resume employment and become current on their mortgages. However, for some workouts, deferrals or other alternatives should be emphasized that allow for the transition out from ownership with minimal negative impacts, such sales with equity or short sales. These should be married to efforts to move properties back to the market and protect distressed owners' credit and access in order to restore them to homeownership. NAR commissioned research from the National Community Stabilization Trust and National Fair Housing Alliance which emphasized that distressed owners could benefit from clear and consistent messaging from servicers about their options and their best potential outcomes under these alternatives. The African American and Latino communities bore the brunt of the subprime crisis resulting in a widening of the homeownership gap. Our research suggests that this pattern could repeat itself unless critical steps are taken. These incentives, along with clarity on options for owners at various stages of distress, will help them make the best financial choices in the limited time they have in order to prevent foreclosure.

PSPA Limits are Unnecessary and Undermine the Charter Duties.

REALTORS® are concerned about recent changes to the preferred stock purchase agreements (PSPAs) made in January of this year. The changes conflict with the charter duties of the GSEs to support a national market, to support underserved communities, and to provide countercyclical support. The limits on borrowers with risk layers push borrowers to FHA and away from the HomeReady and HomePath products at a time when many sellers are less willing to accept FHA financing. Furthermore, the limits on profitable second homes and mom-and-pop investors would reduce the GSEs' ability to that support underserved communities. The cap on small lenders' ability to sell loans directly to the GSEs could result in market concentration that could raise costs and undermine the GSEs ability to support the market in a crisis. Finally, the PSPAs' mandate to comply with the 2020 final Enterprise Capital Rule canonizes an onerous requirement, described in more detail below, and precludes future directors' ability to alter the capital rule.

Under the *Housing and Economic Recovery Act*, the Director of the FHFA has the ability to temporarily raise capital requirements on particular products based on an increase in risk. Thus, the FHFA's Director already has the power to temporarily limit risk on any of the products and segments outlined in the January PSPAs making it unnecessary. The January changes to the PSPAs placed permanent limits on the GSEs' ability to support the market, undermining future directors' ability to shape the GSEs' credit box and ensure they meet their charter duties.

Revisit Recent Regulations

A number of other recent FHFA regulations should be revisited and revised. These changes include the 2020 Final Rule on Enterprise Capital, which raised the level of required capital well beyond that needed to survive the financial crisis and to continue operating. The capital rule's leverage ratio incentivizes risk taking, while burdensome risk weights on credit risk transfers make that trade difficult, forcing the GSEs to internalize credit risk and exposing taxpayers.

Another problematic rule is the resolution plan that does not adequately support the GSEs unique role in the market, and ignores the benefit of a government guarantee. However, it did nominally recognize the GSEs' unique function in the market, without which the market would become less liquid. This critical function is at the heart of NAR's proposal to transition the GSEs to systemically important financial market utilities or SIFMUs.

Finally, the Enterprises' pilot programs should restart. The pilot programs are a distinct comparative benefit of the enterprises versus the government mortgage programs like FHA and VA and could prove useful in reducing risk and expanding credit to underserved communities. The Enterprises have proven tremendously successful under conservatorship in reducing production risk through innovation developed through pilot programs. Pilot programs should continue, with oversight that protects the intellectual property of the GSEs and groups the GSEs work with on regular basis.

Furthering Housing Finance Reform

REALTORS® believe the future housing finance system must provide mortgage capital in all markets, at all times, and under all economic conditions while maintaining an explicit government guarantee in the secondary market, which includes the availability of long term, fixed-rate mortgage products (i.e. 30-yr fixed-rate mortgage). To this end, there are important steps the FHFA can take to continue housing finance reform.

Under conservatorship, the FHFA has established guarantee fees that limit the Enterprises' ability to drive out competition or to extract excess profits. The FHFA should develop a process that sets a band of returns for the Enterprises' cost of capital to use in establishing their g-fees and pricing outside of conservatorship. This process should be non-political and incorporate an analysis of required returns for equity based on expertise from Wall Street analysts as well as insights from CRT and reinsurance markets for the cost of debt. The process must be transparent, include public comment, and could explore what investments are permissible for profits above established returns (e.g. retained capital, expansion of duty to serve programs, reduced LLPAs, or larger investments in HTF and CMF). Importantly, such a process also recognizes the tenuous relationship between equity capital and charter duties by demonstrating how those benefits are portioned and preserved for both investors and those benefiting from charter duties, a necessary step in developing long-term stability.

A second important step is to research the costs and benefits of various forms of a government guarantees. Such a study would analyze the extent of a guarantee (e.g. limited to the MBS and/or extended to the charter duties) and the extent of the backstop (e.g. explicit in legislation, based on a limited line of credit, or implied). The enterprise capital rule, liquidity rule, and living wills are only limited exercises without answering this important question and such a study would benefit any potential future structure for the enterprises.

Sending a Strong Signal

The FHFA's move on July 16, 2021, to eliminate the 50-basis point fee on mortgage refinancing was an important step to help homeowners as the economy transitions out of forbearance and the effects of the pandemic linger. Likewise, the FHFA's statement on July 1, 2021, affirming its duty to support fair housing was an equally important signal to consumers and it epitomizes the FHFA, Enterprises', and Federal Home Loan Banks' robust roles as standard setters in the secondary mortgage market.

NAR strongly supports the *Fair Housing Act's* broad remedial purpose, including its affirmatively furthering provisions, which commit all federal agencies with housing portfolios (including those with regulatory or supervisory authority over financial institutions) to confront the legacy of historic practices that have left many of our communities segregated by race. NAR opposes policies and practices having an unjustified disparate impact on a basis prohibited by the *Fair Housing Act* and support the GSEs charter duties to assess underwriting standards and other policies that may yield disparate results based on the race of the borrower. There must be strong enforcement of the *Fair Housing Act* and increased funding for proactive, systemic investigations and testing to uncover hidden discrimination.

REALTORS® have taken the initiative to combat racism and complacency in our association as well. NAR has deployed the "ACT!" fair housing initiative that emphasizes accountability, culture change and training to root out discrimination that persists in our industry. We have launched simulation training that puts agents in the position of buyers confronting discrimination in the homebuying process, and implicit bias training that helps agents confront and override biases that prevent them from providing equal professional service to all prospects and clients. We have engaged in a review of the fair housing provisions of every state licensure law, to ensure they hold real estate professionals to the highest standard of accountability and provide for adequate fair housing training. We are launching a self-testing program that will allow brokerages to assess their own compliance with fair housing laws, and have rolled out a continuing series of video profiles of REALTOR® fair housing champions who embrace inclusion as a part of their business strategy, to inspire others.

Likewise, REALTORS® applaud the Enterprises' efforts to expand their support for underserved communities as outlined in their charters and to innovate to meet their duties. In rural America, finding safe and affordable housing is difficult as rental housing is often limited and access to traditional mortgage financing can be challenging. Housing choices can be restricted due to differences in infrastructure requirements, lack of public transit, and access to other amenities. The Duty to Serve initiative and its programs to expand the liquidity of investment in rural housing and manufactured housing are important in supporting homeownership in rural America. NAR looks forward to working with the FHFA to eradicate racism in housing and to expand homeownership to all communities in the United States.

Working Together

Thank you again for taking the time to hear the concerns of REALTORS®. We appreciate your efforts in supporting the market during the pandemic and look forward to collaborating on ongoing support for sustainable homeownership opportunities and shaping the future of the conventional housing finance market. If you have any questions or comments, please feel free to reach out to Ken Fears, NAR's Senior Policy Representative at (202)383-1066 or KFears@Nar.Realtor.

Sincerely,

Charlie Oppler
2021 President, National Association of REALTORS®