NATIONAL ASSOCIATION OF REALTORS®

Charlie Oppler
2021 President

Bob Goldberg
Chief Executive Officer

ADVOCACY GROUP

Shannon McGahn
Chief Advocacy Officer

August 12, 2021

Nellie Liang
Under Secretary for Domestic Finance
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Under Secretary Liang:

On behalf of myself and the 1.4 million members of the National Association of REALTORS® (NAR), congratulations on your confirmation by the Senate as Under Secretary for Domestic Finance. We look forward to working together to support home ownership and the stability of the housing finance system, especially as recent changes potentially threaten both of these foundational components of the American economy. In particular, the changes made to the preferred stock purchase agreements, if not addressed with the Federal Housing Finance Agency (FHFA), could undermine stability and lead to even higher housing costs for consumers at a time when we should be maximizing affordability and opportunity during the pandemic recovery.

Detrimental Impact of PSPA Limits

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, and raise issues of safety and soundness. 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 home loans and mom-and-pop investors would reduce the GSEs' ability to 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 future crisis.

Finally, the PSPAs' mandate to comply with the 2020 Final Rule on Enterprise Capital canonizes an onerous requirement and precludes future directors' ability to alter the capital rule. The capital rule's leverage ratio incentivizes risk taking, while burdensome risk weights on credit risk transfers (CRTs) make that trade difficult, forcing the GSEs to internalize credit risk and exposing taxpayers. Taken together these steps force the GSEs to take on more risk and internalize it, a dramatic step backward from reforms made since the Great Recession that will threaten indispensable market stability.

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.

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, we encourage Treasury to support important steps by the FHFA 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. The Treasury voiced similar concerns in its *Treasury Department Blueprint on Next Steps for GSE Reform*. 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 the Housing Trust Fund and Capital Magnet Fund). 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 government guarantees. Such a study would analyze the breadth of a guarantee (e.g. limited to the mortgage backed securities (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.

NAR remains deeply engaged in reform of the GSEs and has proposed transiting the GSEs to systemically important financial market utilities (SIFMUs). This proposal recognizes how the GSEs have transformed their structure in recent years and now act as market makers for the CRT and MBS to distribute credit and rate risk from the portion of the secondary market that is governed by the GSEs' unique charter duties. Furthermore, this structure provides the best vehicle to preserve the GSEs critical functions in the market, maximize private participation and capital, prevent oligopolistic behavior, protect tax payers, and maintain market stability.

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. We would greatly appreciate the opportunity to discuss these issues in more detail with you and your staff. 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®