Federal Housing Administration
Department of Housing and Urban Development
451 7th St SW
Washington, DC 20410

Rural Housing Service
U.S. Department of Agriculture
1400 Independence Ave SW
Washington, D.C. 20250

Consumer Financial Protection Bureau
1700 G St NW
Washington, DC 20552

Federal Housing Finance Agency
400 7th St SW
Washington, DC 20024

Loan Guaranty Service
U.S. Department of Veterans Affairs
810 Vermont Ave, NW
Washington, DC 20420

August 31st, 2022

Dear Directors Thompson and Chopra, Administrators Bell and Altoro, and Commissioner Gordon,

A group of representatives from consumer advocacy, civil rights, and housing industry organizations met to discuss an emerging issue that we would like to bring to your attention. Namely, the rise in home prices over the last several years has resulted in positive equity for many homeowners, including borrowers who are delinquent and could possibly benefit from a retail sale of the property in lieu of foreclosure. Given the cost of alternative housing, most borrowers who are delinquent or in COVID-19 forbearance would prefer to remain in their homes, if possible, and therefore a deferral/standalone partial claim or loan modification would be their best option for doing so. However, of those borrowers who cannot afford the reduced payment resulting from a modification, many have sufficient equity in their homes to consider a retail sale as a strategy to avoid foreclosure.

We would like to engage with you to share our insight on the subject and to discuss how best to communicate this information to homeowners. To be clear, we believe that under your programs, delinquent borrowers *are* able to sell their homes without special pre-approval, so long as they are able to fulfill their outstanding mortgage balance. However, this option is often omitted from communications about how borrowers can avoid foreclosure, which typically reference short sales, where the sales proceeds will be inadequate to pay off the full mortgage balance.

Therefore, as a first step, we request that your agencies review the content of your borrower-facing communications and update your materials and websites to include information on the use of traditional home sales (also called retail, private, or equity sales) as an option for delinquent borrowers facing foreclosure. Specifically, any loss mitigation notice that lists short sales and deeds in lieu should also list traditional loan sales as an option for borrowers. The communication should remind borrowers that it is critical to consider their complete financial picture when evaluating the sale of their home, including the equity remaining, costs to sell, costs associated with a foreclosure, and costs of alternative housing. This reminder could be added to the Consumer Financial Protection Bureau's recently published addition to the "Avoid Foreclosure" page on consumerfinance.gov,[1] which is a good starting

[1] See "traditional sales" section added to the "Avoid Foreclosure" webpage in June 2022: https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/help-for-homeowners/avoid-foreclosure/

point for such communication. Our core recommendation is that each of your organizations should adopt language similar to that of the CFPB in borrower-facing communications, and to accompany the explanations of all available loss mitigation options with the additional advice to assess the costs and benefits associated with each option.

We believe it is particularly important to ensure homeowners receive information regarding how to connect with a HUD approved housing counseling agency. A counselor can help homeowners fully understand and consider all of their loss mitigation options, including the benefits and drawbacks of each, in the context of their unique financial circumstances.

Further, in the discussion among industry stakeholders, participants raised several important policy questions that deserve consideration by your agencies. Mortgage servicers could benefit from guidance and possibly standard disclosures for consumers, to provide a consistent approach to communication, including when, what, and how to inform a consumer about a retail sale option.

To take this next step, we recommend a conversation between stakeholders and government officials to discuss a number of these policy questions. These include the timing of when to highlight for a delinquent borrower how much equity they might have in their homes, how to properly establish the market value of a property, whether treating borrowers with equity differently from other borrowers raises fair servicing issues, how much time is appropriate to provide a borrower to pursue and complete a private sale, and whether/how foreclosure time frames should be modified to accommodate this timeline. At the same time, all stakeholders agreed that traditional home sales should not be encouraged at the expense of fully evaluating borrowers for all available loss mitigation options, particularly home retention options, that borrowers should not be pressured to sell their homes, and that borrowers be afforded the opportunity to realize the full value of their investment in homeownership. In this regard, a number of the signers of this letter have suggested adjustments to the existing waterfalls to increase the payment reduction available from loan modifications, which have decreased due to rising mortgage interest rates, and we continue to work on that very important subject.

As your teams investigate these issues, we would love to engage with you – to the extent possible, jointly. As questions arise, please contact Matt Douglas at matt.douglas@housingpolicycouncil.org or David Sanchez at dsanchez@stabilizationtrust.org. Thank you for your consideration of this issue.

Center for Responsible Lending

Housing Policy Council

National Association of Realtors

National Community Stabilization Trust

National Consumer Law Center (on behalf of its low-income clients)

National Housing Resource Center