May 5, 2023

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Administration
400 7th St. SW
Washington, DC 20024

Dear Director Thompson:

On behalf of the more than 1.5 million members of the National Association of REALTORS® (NAR), thank you for your efforts to improve the Government Sponsored Enterprises' (the Enterprises) ability to fund their charter duties, including support for underserved communities. The Enterprises have been transformed into market utilities and the Federal Housing Finance Agency (FHFA) should focus on a funding mechanism that takes advantage of that broad construct rather than only the narrowly supported and novel market for environmental, social and governance (ESG) investors. REALTORS® have a keen interest in the viability of the Enterprises and look forward to collaborating with the FHFA to ensure they support their charter duties.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock, along with its availability to the widest range of potential homebuyers.

Homeownership is a central part of the American dream, and the Enterprises help nearly half of all American's finance that dream. The Enterprises' congressionally mandated mission of providing liquidity to real estate investment nationally and in underserved communities is a critical piece in improving homeownership for all. Achieving a low cost, robust, and durable cost of funding is key to making that American dream affordable for all credit worthy homebuyers.

Balancing Mission and Cost of Funds

The FHFA states that one intent of this request for information (RFI) is to, "enhance FHFA's ability to ensure that the Enterprises fulfill their mission by operating in a safe and sound manner so that they serve as a reliable source of liquidity and funding for housing finance and community investment throughout the economic cycle." NAR applauds the FHFA for this seminal effort to match an appropriate cost of capital for its unique charter duties. Purely private actors do not share these utility functions, nor do they have the same privacy obligations.

As the FHFA rightly points out, the relatively new market for investment in ESG activities could play an important role in achieving the lower cost of funding needed to support the Enterprises duties. However, NAR is concerned that the ESG industry is still novel, and it is not clear how robust it will remain over the long term or during crisis, especially as those investors wrestle with lower returns and more risk from a rising rate environment.

Furthermore, the goals of the ESG investor base may not fully match the charter duties of the Enterprises and may not be flexible enough to meet the changing needs of the Enterprises over time. Likewise, to the extent that the Enterprises rely on pools specified for particular borrowers, it will reduce the overall liquidity for GSEs pools, raising the cost of capital for other borrowers.

Balancing Cost of Funds and Privacy

A second issue raised in the RFI is the need to provide data on the makeup of pools and how they match particular social goals to attract investors. REALTORS® appreciate the FHFA's desire to provide better data at a higher frequency that can be used to evaluate the Enterprises efforts to meet their charter duties. An oft-forgotten problem of the financial crisis and great recession is that the Enterprises not only failed in safety and soundness, but they also failed to provide liquidity for all markets and in underserved areas in particular. To operate effectively as market utilities, the Enterprises must be transparent and support their charter duties for which they are granted special treatment and an implicit backstop.

Providing granular data may be key to attracting ESG investors but it is at odds with the Enterprises' obligations to preserve consumer privacy. NAR shares this concern about privacy but is also concerned that this obligation could limit the degree to which the Enterprises might share information and attract investment.

A Better Approach

Achieving a robust, resilient, and low-cost investor base is key to the Enterprises' ability to fund their charter duties liquidity. The broadest investor base possible that seeks utility returns is the best means to achieve this goal.

Not all investors seek the same thing. Some investors have higher risk tolerances, while others like life insurance for catastrophic insurers prefer stable returns. The Enterprises operate as market utilities in a federally-protected market that makes it more likely they will be able to price adequately for risk and achieve consistent returns. They receive benefits such as special tax and accounting treatment to help them achieve their goal. This explicit structure should attract investors who desire stable returns, generally similar to utility investors.

In December of 2020, market experts Susan Wachter, Richard Cooperstein and NAR's Senior Policy Advisor Ken Fears penned *GSEs: Their Viability as Public Utilities*. The authors outlined how the Enterprises operate as market utilities and how they can attract a unique set of investors at lower returns to match the needs of a market utility with charter duties.

> "How high should they be? It seems that the government does not need to protect a 12% return. Nor should it be the case that losing money is impossible. High 3% returns or even small positive returns in a crisis should attract enough investors to maintain quality of production and stability through the cycle. However, anchoring returns closer to zero in a crisis is appropriate to align investor, taxpayer, and charter obligations and this exercise demonstrates that investors will

still receive stable utility returns through such a crisis. In summary, utility returns of 6%, 8%, or 10% can provide the stability needed to support equity investors' ROEs."[1]

While this article focused on the issuance of equity to fund the Enterprises' charter duties, the basic principles could be applied to a similar level of debt issuance as well. By focusing on a broader group of investors, with proven investment goals that align with the Enterprises' structure as market utilities, this approach can provide a more durable and low-cost source of capital for the Enterprises.

Finally, the FHFA could obligate the Enterprises to provide more detailed summary data of mortgages they finance that support the various charter duties. These reports could be aggregated to avoid identifying individuals but disaggregated enough to identify regional or submarket variations. The raw data could be reviewed by researchers with the FHFA, Department of Housing and Urban Development, the Federal Reserve and other credentialed academics to validate the granular results and to add levels of reporting as needed.

More Work to be Done

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., the 30-year fixed-rate mortgage). To this end, there are other 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. Related to the current RFI, the FHFA should develop a process that sets a band of returns for the Enterprises' cost of capital to use in establishing their guarantee 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 or convertible debt 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.

[1] Richard Cooperstein, Ken Fears & Susan Wachter (2021) *Government-Sponsored Enterprises: Their Viability as Public Utilities*, Housing Policy Debate, 31:1, 33-50, DOI: 10.1080/10511482.2020.1850013. https://www.nar.realtor/fannie-mae-freddie-mac-gses/executive-summary-gses-and-their-viability-as-public-utilities

Conclusions

NAR once again thanks you for your efforts to clarify the Enterprises cost of funding. This constructure is key to their success as market utilities and NAR believes that a lower cost, more durable, and robust source of capital exists and that it would allow for less intrusion on consumers' data. We look forward to working with the FHFA to support broad homeownership. If you have any questions or comments, please feel free to reach out to Ken Fears, NAR's Director of Conventional Finance and Valuation, at KFears@Nar.Realtor.

Sincerely,

Kenny Parcell
2023 President, National Association of REALTORS®