



MORTGAGE BANKERS ASSOCIATION



March 27, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, DC 20219

The Honorable Julia Gordon
Commissioner
Federal Housing Administration
451 7th Street, S.W.
Washington, DC 20410

Ms. Priscilla Almodovar
Chief Executive Officer
Fannie Mae
1100 15th St., NW
Washington, DC 20005

Mr. Michael DeVito
Chief Executive Officer
Freddie Mac
1551 Park Run Dr
McLean, VA 22102

Dear Director Thompson, Commissioner Gordon, Ms. Almodovar, and Mr. DeVito:

Our groups write to you seeking confirmation at a critical point of change in the housing market, which accounts for nearly 20 percent of US gross national product. The National Association of REALTORS® has entered into a proposed settlement agreement, subject to court approval, in the *Burnett et al* and *Moehrl et al* cases. As a result of certain business practice changes in the settlement, we believe it is critically important for the GSEs and FHA to review the settlement and provide guidance to market participants that will ensure these new arrangements will continue to be supported by the Federal Housing Administration (FHA), Freddie Mac and Fannie Mae (the GSEs) underwriting standards.

Specifically, we seek confirmation regarding the treatment of interested party contributions (IPCs) in your guidelines. IPCs include concessions from the seller to the buyer for items that are traditionally *paid by the buyer* such as loan closing costs or rate buy-downs. As you are aware, under current practice, most home sellers pay the listing agent commission, who in turn pays the commission of the agent representing the buyer. Because commissions of buyers' agents are customarily *paid by the listing agent*, they are excluded from caps on IPCs established by the GSEs and FHA.

Under the settlement, cooperative commission is no longer permitted to be displayed on a Multiple Listing Service (MLS), but it is not banned – listing brokers and sellers can continue to offer compensation for buyer broker services, just not through the MLS. In addition, the settlement does not prohibit home sellers from paying buyer agent commissions. Thus, the settlement creates two clear paths for sellers and buyers to negotiate to continue the custom of listing agents or sellers paying buyer agent commissions.

Consequently, once the settlement is in effect, we believe that FHA and GSE policy should continue to exclude seller or listing agent payment of buyer agents' commission from IPCs. Confirming your policies

and maintaining this practice will sustain the current flow of mortgage capital to home buyers without change or delay.

Our groups ask that you provide confirmation of the treatment of seller or listing agent-paid commissions for buyers' agents by FHA and the GSEs as soon as possible. Home buyers and sellers are dealing with historic stresses, and it is incumbent upon us all to eliminate any confusion. The certainty we seek is needed now to prevent disruptions that may cost homebuyers and sellers money and potentially their home purchases.

Respectfully,

The National Association of REALTORS®

The Mortgage Bankers Association of America