

August 5, 2011

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW - 4th Floor
Washington, DC 20552

Dear Mr. DeMarco:

I am writing to request an update on the FHFA's progress evaluating taxpayer exposure to post-conservatorship legal expenses for executives of Fannie Mae and Freddie Mac. Taxpayers have already provided Fannie Mae and Freddie Mac with extraordinary assistance during their conservatorship. Approximately \$154 billion in taxpayer funds have been directed to the failed GSEs since September 7, 2008. Additionally, the Congressional Budget Office recently reported that the subsidy cost to the taxpayers for the GSEs' mortgage guarantees amounts to \$187 billion. Taxpayers have also spent more than \$162 million for legal expenses for Fannie and Freddie and their former top executives in civil lawsuits where executives stand accused of fraud. Tens of millions of dollars has been spent on legal fees for former executives who manipulated earnings to increase their own compensation and whose actions directly contributed to the demise of the GSEs.

To address concerns about the cost of legal expenses, the Oversight and Investigations Subcommittee held a hearing on February 15, 2011, entitled, "An Analysis of the Post-Conservatorship Legal Expenses of Fannie Mae and Freddie Mac." During the hearing we learned that FHFA made no attempt to repudiate indemnification contracts of GSE executives either at the time the GSEs went into conservatorship or thereafter. FHFA failed to act despite its authority to do so under section 4617 of the Housing and Economic Recovery Act (HERA).

We also learned that the indemnification agreements for the former CEO of Fannie Mae, Franklin Raines, former CFO, Timothy Howard, and former General Counsel, Leanne Spencer, provided that each is entitled to the advancement of "reasonable" legal fees. At the time of the hearing, over \$24 million was advanced to pay legal expenses for these three executives alone.

FHFA approved an open-ended commitment to advance legal expenses for GSE defendants. At the hearing you noted that there would be difficulties in reversing this policy. However, I firmly believe that advancing hundreds of millions of taxpayer dollars in legal fees without an undertaking or cap is unacceptable. We are concerned about the apparent lack of oversight of disbursing legal fees. Thus, we request that you respond to the following questions:

1. What specifically has FHFA done to minimize taxpayer exposure to all legal expenses related to the GSEs?

2. What policies, procedures, or guidelines have FHFA instituted to minimize taxpayer exposure for legal fees for GSE employees with indemnification contracts? If you have not instituted any policies, procedures, or guidelines, please explain why not.
3. What policies, procedures, or guidelines have FHFA instituted to define what will be considered “reasonable” legal fees related to indemnification of current and former GSE employees? If you have not instituted any policies, procedures, or guidelines, please explain why not.
4. What policies, procedures, or guidelines have FHFA instituted to ensure that the GSEs themselves pay for their legal expenses, including any large class action settlements, by selling physical assets or portions of their portfolio of loans and mortgage-backed securities? If you have not instituted any policies, procedures, or guidelines, please explain why not.

Please respond at your earliest convenience, but no later than August 19, 2011.

Should you or your staff have any questions or need additional information, please contact Cliff Roberti 202-225-7502.

Sincerely,

Rep. Randy Neugebauer
Chairman
Subcommittee on Oversight & Investigations