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Housing Finance & Regulatory Affairs

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Federal Housing Finance Agency
Office of Strategic Initiatives
400 7th Street, SW
Washington, DC 20024

Re: Building a New Infrastructure for the
Secondary Mortgage Market

Submitted via Electronic Delivery to:
SecuritizationInfrastructure@fhfa.gov

Dear Sir or Madam:

On behalf of the National Association of Home Builders (NAHB), I appreciate the opportunity to submit comments on the Federal Housing Finance Agency's white paper called *Building a New Infrastructure for the Secondary Mortgage Market*. The Federal Housing Finance Agency (FHFA) is seeking input on its proposed framework for both a new securitization platform for the secondary mortgage market and a model Pooling and Servicing Agreement (PSA).

NAHB is a Washington-based trade association representing more than 140,000 members involved in all aspects of single-family and multifamily residential construction. The ability of the home building industry to meet the demand for housing, including addressing affordable housing needs, and contribute significantly to the nation's economic growth is dependent on an efficiently operating housing finance system that offers home buyers access to mortgage financing at reasonable interest rates through all business conditions.

Background

As conservator of Fannie Mae and Freddie Mac (the Enterprises) since September 2008, FHFA has been challenged to put the Enterprises in a safe and solvent condition and make decisions regarding reorganizing, rehabilitating or winding up the affairs of the Enterprises. Following conservatorship and the worsening of the housing and economic crisis through 2009, it appeared as though the crisis would lead to an immediate restructuring of Fannie Mae and Freddie Mac and the housing finance system broadly. However, as is became clear that the Enterprises, along with Ginnie Mae, were the only entities of the secondary housing finance market that continued to operate at any significant level, proposals to reform, restructure or eliminate them were not moved forward by Congress.

After almost four years of the status quo, in February 2012, FHFA issued *A Strategic Plan for Enterprise Conservatorships: The Next Chapter in a Story that Needs an Ending*. This plan set forth three goals for how the Enterprises themselves would begin to reshape their role within the housing finance system. The goals were to 1) **Build** a new infrastructure for the secondary mortgage market; 2) Gradually **Contract** the Enterprises' dominant presence in the marketplace while simplifying and shrinking their operations; and 3) **Maintain** foreclosure prevention activities and credit availability for new and refinanced mortgages. To accomplish the first goal, the Enterprises were tasked by FHFA to work together and with FHFA to develop and finalize a plan for the design and build of a single securitization platform that could serve both Enterprises and a post-conservatorship mortgage market with multiple future issuers.

FHFA's Proposed Securitization Platform

In addition to being an extension of FHFA's ongoing work toward greater alignment of the Enterprises' standards and practices, FHFA has two specific goals in designing this securitization framework: 1) to replace the outmoded proprietary infrastructures of the Enterprises with a common, more efficient model; and, 2) to establish a framework that is consistent with multiple states of housing finance reform, including greater participation of private capital in assuming credit risk.

NAHB supports FHFA's efforts to build a single securitization platform that seeks to address the acknowledged problems of the securitization systems currently in use by Fannie Mae and Freddie Mac. The individual, proprietary systems of the Enterprises have long been considered antiquated and inefficient and Acting Director DeMarco's conclusion that rebuilding two platforms is economically infeasible is consistent with his approach to managing the organizations while they are in conservatorship. In anticipating a framework that would meet the needs of an as yet undetermined housing finance and secondary mortgage market structure, NAHB appreciates FHFA's recognition that the new platform must incorporate flexibility and enhancements to the Enterprises' current securitization systems.

NAHB also believes it is appropriate that the new infrastructure would not be mandatory for issuance of mortgage-backed securities (MBS), but would be available to all MBS issuers and also that the platform would support securities guaranteed by either the government or private sector entities. Additionally, NAHB agrees with FHFA that the platform should have the flexibility to accept different levels of credit standards and mortgage products, including at the loan level.

Principles for Reform of the Secondary Mortgage Market

There is general agreement by the housing industry, policymakers, Congress and the Obama Administration that the housing finance system must be reformed. There have been numerous proposals for how to structure a housing finance system without Fannie Mae and Freddie Mac. Earlier this year, NAHB developed its own framework of broad parameters that must be included in a future housing finance system. FHFA's proposed framework for a securitization platform appears to support significant components of NAHB's proposed housing finance system:

- Like FHFA, NAHB proposes a gradual transition from Fannie Mae and Freddie Mac with the mortgage funding and delivery system continuing to operate efficiently and effectively while the old system is wound down and a new system is put in place;
- Every effort should be made to reassure borrowers and markets that credit will continue to flow to creditworthy borrowers and that mortgage investors will not experience adverse consequences as a result of changes in process;
- Both FHFA and NAHB believe it is critical to find ways to encourage private label MBS issuers and investors to reenter the market;
- NAHB strongly defends a continued government backstop. FHFA's proposed platform accommodates a government backstop, but the agency neither opposes nor supports a government guarantee for conventional mortgages;
- The new platform must be able to accommodate the enormous volume of MBS issuance currently handled by the Enterprises plus the potential volume from a revived private MBS market;
- FHFA's and NAHB's proposals both support/acknowledge the importance of full transparency and disclosure of the structure of the securities and the origination requirements of the mortgage products within the securities;
- NAHB's proposal says PSAs which establish the obligations and authority of the servicers, should include a clear and consistent protocol for handling non-performing loans including, for example, the right to negotiate extensions of the loan term, interest rate reductions and principal reductions. As proposed, FHFA's model PSA will incorporate the Selling and Servicing guides of the Enterprises that already are moving toward consistent application of the above loan administration principles.

Considerations for Building the New Infrastructure

Building the new infrastructure that FHFA proposes will be a multiyear effort. Proactively developing a platform that is intended to predict and meet the needs of whatever housing finance system Congress approves is an tremendous undertaking. FHFA acknowledges it will have to incorporate enough flexibility into the infrastructure to allow the system to evolve as Congress and policymakers progress toward finalizing a new housing finance system.

NAHB asks that FHFA consider the following:

- Create a working group or committee, comprised of various housing and housing finance industry participants, including NAHB, to advise and provide assistance as the new infrastructure is designed. This will help ensure that proposed developments will not have unintended consequences on the industry and the to-be-announced (TBA) MBS market;
- Ensure fair and competitive access to all market participants, including smaller mortgage originators;
- Should FHFA design a system that expands far beyond the Enterprises' needs or places too much emphasis on the potential needs of the private label MBS market? For example, it seems unlikely the private market will want to utilize PSAs that incorporate Fannie Mae and Freddie Mac's Selling and Servicing guides.

Further, there are significant governance and regulatory questions that must be answered by Congress prior to implementation of the new platform and PSA, including:

- What entity/organization owns the platform?
- When the Enterprises are wound down, what entity/organization would be responsible for ongoing development, governance and day-to-day operations of the platform?
- What entity/organization would regulate the platform and the securities issued through it?
- What entity/organization would make and approve changes to the Selling and Servicing guides that would be incorporated by reference in the PSA?

Conclusion

NAHB appreciates FHFA's efforts to move forward the discussion of the future of the housing finance system. We support the broad long term and short term goals FHFA has incorporated into the design of the securitization platform. The short term goal anticipates the continued role of the Enterprises, but will require them to migrate to a common securitization platform that would allow for a single MBS. The long term goal envisions the securitization platform as an infrastructure that will accommodate multiple designs of a future housing finance system and be flexible enough to evolve and adapt once Congress has approved a new housing finance system infrastructure.

Thank you for your consideration of NAHB's comments. If you have questions, please contact Becky Froass, Director, Financial Institutions and Capital Markets, at 202-266-8529 or rfroass@nahb.org.

Sincerely,

David L. Ledford

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