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September 08, 2014

Director Melvin Watt
Federal Housing Finance Agency
Office of Policy Analysis and Research
400 7th Street, SW, Ninth Floor
Washington, DC 20024

Re: Request for Input, Fannie Mae and Freddie Mac Guarantee Fees

Dear Director Watt:

I am writing today on behalf of the more than 165,000 members of the California Association of REALTORS® (C.A.R.) in response to the Federal Housing Finance Agency's (FHFA) Request for Input (RFI) on Fannie Mae and Freddie Mac guarantee fees (g-fee). First, thank you for suspending the implementation of higher g-fees announced back in December of 2013 and for reaching out to the industry for comment on this issue. C.A.R. asks the FHFA to use the g-fee to allow Fannie Mae and Freddie Mac (Enterprises) to focus on their role and mission of promoting the American Dream of homeownership by ensuring stability and a low cost of capital in the secondary mortgage market.

As California emerges from the housing crisis and recession, its housing market still faces many struggles. Challenges include low homeownership rates, shortage of inventory, housing affordability, and an uncertain future for mortgage finance. We respectfully suggest that FHFA can and should enhance market stability by preventing the Enterprises from being used as political tools, and restore their focus on promoting and supporting homeownership. To this end, we submit that guarantee fees should be:

- As low as possible to promote homeownership,
- Set to allow for the maximum number of qualified homebuyers in all credit score/LTV boxes in Figure 3 of the RFI, and
- Enough to cover the risk and operating expenses of the Enterprises.

In response to FHFA's specific questions:

1. Are there factors other than those described in section III- expected losses, unexpected losses, and general and administrative expenses that FHFA and the Enterprises should consider in setting g-fees?
What goals should FHFA further in setting g-fees?

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Yes, the FHFA should consider other factors in setting the Enterprises' guarantee-fee. The factors listed in the question must be taken into consideration when determining the appropriate g-fee for the Enterprises; however, C.A.R. does not believe these alone should be the guiding principle. Pricing for risk and appropriate capital while all profits are swept to the Treasury under the current Preferred Stock Purchase Agreement does little to ensure the Enterprises will be ready to handle expected and unexpected losses. FHFA should focus on the mission of the Enterprises, while Congress and the judicial system work to figure out the future of the Enterprises and what should be done about the current profit sweep. FHFA should make every effort to ensure the g-fee is set to promote homeownership and housing affordability through providing low cost liquidity and stability in the secondary mortgage market. Guarantee-fees should not be allowed to become a clandestine tax to subsidize other government programs, however worthy they may be.

The g-fee should NOT be used as a political tool to decrease the government's role in the nation's mortgage market (C.A.R. will discuss this further in our response to Question 4).

3. Currently, target return on capital and the amount of capital largely determine required g-fees. What factors should FHFA and the Enterprises consider in setting target return on capital and amount of capital required? How should the Enterprises allocate capital across risk buckets?

Because the Enterprises are prohibited from rebuilding their capital under the current Preferred Stock Purchase Agreement, Guarantee-fees should be limited to ensuring qualified homebuyers have access to mortgages. C.A.R. believes it is important for the g-fees to cover the operating cost of the Enterprises, expected losses and the costs of holding economic capital; however, the Enterprises are not allowed to build their capital because of the profit sweep to Treasury. C.A.R. is not stating a position on the current profit sweep nor any of the issues surrounding it. What C.A.R. is concerned about is homebuyers paying for higher g-fees for a purpose which the fee won't be used. The purpose of a fee is to cover specific costs associated with a good or service; but if the fee is merely being swept into a general fund and used for other purposes not associated with that good or service it begins to less resemble a fee and becomes more of a tax. Targeting a return on capital that the Enterprises are unable to build-up or keep is punitive to the homebuyer.

4. At what g-fee level would private label securities (PLS) investors find it profitable to enter the market or would depository institutions be willing to use their own balance sheets to hold loans? Are these levels the same? Is it desirable to set g-fees at PLS or depository price levels to shrink the Enterprises' footprints, even if this causes g-fees to be set higher than required to compensate taxpayers for bearing mortgage credit risk and results in higher costs to borrowers?

No, it is not "desirable" to use the guarantee-fee as a tool to implement a political agenda of shrinking the Enterprises' footprint at the cost of homeownership. If the *last five-years have proven anything, it is that we cannot "price-in" private capital into the* mortgage market. As noted in the RFI, the g-fee has increased by two and one half, from 22 basis points in 2009 to 55 basis points in 2013. This more than covers the assumed cost advantage the Enterprises had over private capital. Going back to at least the 1990's, experts—including GAO reports, CBO reports and academic papers—have placed the Enterprises' cost advantage as providing a 20 to 40 basis point lower interest rate for the homebuyer. If the intent of the added fee is to increase profit or deliberately make the Enterprises uncompetitive with other market players, then the FHFA should be honest about the surcharge and its purpose to ration the availability of mortgage loans.

The recent increases to the g-fee over the last five-years has already brought conforming loan rates to the same level as jumbo loan rates. The evidence of this is being seen in California (which has more jumbo loans than any other state) where some lenders are already offering jumbo loans at the same interest rate as conforming loans. Additionally, over the last two-years lenders have begun to keep some of their conforming loans in portfolio and not pay to have the Enterprises' guarantee. Given what our members see happening in the market place C.A.R. believes the current g-fee is not preventing private capital from returning to the mortgage market. On the contrary, it is instead incentivizing private capital to raise costs to consumers and "cherry pick" risk in their portfolios.

The slow return of private capital has more to do with infrastructure problems highlighted by the housing

bubble and not an Enterprises' cost advantage driving private capital out of the market. Wall Street investors and mortgage lenders must still address issues surrounding representations and warrants, transparency, confidence in the rating agencies, loan level data, legal remedies, regulatory uncertainty and other issues. All of these issues are slowly being resolved, and the implementation of the Qualified Mortgage rule is helping with regulatory certainty. As a result, government backed mortgages are decreasing as a share of new loan originations.

Lastly, private capital won't invest in real estate if it believes other areas of the economy are a better investment. In short, one cannot force private capital to invest in a market segment it doesn't want to invest in.

If "pricing-in" private capital was truly the solution to shrink the Enterprises' footprint then the increases in the g-fee over the last five-years should already have drawn private capital back into the market, increasing interest rates further would do little more than reduce housing affordability and punish homebuyers.

5. If the Enterprises continue to raise g-fees, will overall loan originations decrease? That is, will Enterprise loans decline without a commensurate increase in private capital?

Yes, raising g-fees will decrease the Enterprises' loans WITHOUT a commensurate increase in private capital. If the g-fee is increased, the first to be pushed out of the conforming mortgage market will be low- to moderate-income homebuyers and many first-time homebuyers. One of the consequences of the housing crisis was private capital's reluctance to lend to this segment of the market again. With higher debt-to-income ratios, lower downpayments, and shorter credit histories lenders have looked to more qualified buyers when investing in mortgages absent the government guarantee. In short, there is little to no prime-loan funding available for these homebuyers without a government guarantee. The effect of increasing the g-fee is more likely to continue to reduce the homeownership rate and/or push these otherwise qualified buyers into the more expensive FHA loan product or the re-burgeoning subprime market. Put another way, the increased fees will prejudice first-time and marginal home buyers long before the increased possible yield incentivizes new private capital to enter the market.

6. Is it desirable for the Enterprises to charge higher g-fees on low credit score/high LTV loans if it causes these loans to be insured/securitized through FHA/Ginnie Mae rather than through the Enterprises?

No, it is NOT desirable to push qualified homebuyers into FHA mortgages. Going back to at least the 1980's and up until 2008, FHA had been the lender of last resort for many homebuyers prior to going to the subprime lending market. Because of this, FHA loans carry expensive fees that include an upfront mortgage insurance premium and an ongoing mortgage insurance premium for the life of the loan. The upfront premium also slows the ability of the homebuyer to build equity. The combined FHA downpayment and upfront premium is close to the same amount needed for a qualified Enterprise borrow to place five-percent down and obtain a conventional mortgage with private-mortgage-insurance (PMI). The benefits are greater equity for the homebuyer and PMI payments that can end after a couple of years. FHA is a good product for many homebuyers; however, steering homebuyers toward a more expensive mortgage product should not be viewed as a preferable alternative to conforming mortgages.

11. Taking into consideration that FHFA has previously received input on state-level pricing adjustments, do the g-fee changes proposed in December 2013 have any additional implications that should be considered in deciding whether to price for the length of state foreclosure timelines, unable to market periods or eviction timelines? Are there interactions with other pricing components under consideration that FHFA should consider in making decisions on the state-level adjustments?

FHFA should consider the preemptive impact their regulations and guidelines can have on state laws. While California was not included in the list of four-states that would be penalized with the higher "State-Level Upfront Fee" that was proposed in December of 2013, C.A.R. has concerns that the end result of this will be to influence state law. While FHFA may not have intended its limited engagement with some states to set a national standards it may be the result of the proposal in practice. We see similarities to the Home Valuation Code of Conduct (HVCC) where the Enterprises struck an agreement with a single state which became an

unworkable national standard. Because of the size and market share of the Enterprises, their regulations and guidelines can easily force changes to state laws or state practices so mortgages qualify for the Enterprise financing.

In closing, whether the Enterprises are in conservatorship or not, their core mission is to serve the nation's housing market and promote homeownership. Setting the Enterprises' g-fee absent consideration of this role and mission, or used as a tool to manipulate or reduce their market share, would greatly harm California's homebuyers and overall housing market. We respectfully urge the FHFA NOT to increase the g-fee, and to take the steps necessary to ensure qualified homebuyers have access to safe and affordable mortgages. We would be happy to discuss any of these issues further with you and your staff, please contact Matt Roberts, C.A.R. Federal Governmental Affairs Manager at matthewr@car.org or by phone at 213-739-8284.

Sincerely,

Kevin Brown
2014 President