AMERICANS FOR FINANCIAL REFORM
ACCOUNTABILITY ★ FAIRNESS ★ SECURITY

Americans for Financial Reform
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September 8, 2014

The Honorable Mel Watt
Director
Federal Housing Finance Agency
400 7th Street, S.W. Washington, DC 20024
Re: Fannie Mae and Freddie Mac Guarantee Fees: Request for Input

Dear Director Watt:

Americans for Financial Reform (AFR) appreciates this opportunity to comment on the Federal Housing Finance Agency's (FHFA) Request for Input regarding a proposed change to increase guarantee fees (or g-fees), as well as the appropriate use of loan level pricing adjustments (LLPAs). AFR is a coalition of over 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.

Background

The GSEs play an important role in keeping capital flowing in the mortgage lending industry by guaranteeing that investors receive continued and timely payment of interest and principal, even in the event of missed payments or default. The charter of each Enterprise authorizes it to impose fees, and historically, each Enterprise has set fees for the guarantees provided for payment of both principal and interest on securities that are issued. In December 2013, FHFA announced changes to g-fees that lenders are charged; these changes included an across-the-board 10 basis point increase, an adjustment of upfront fees charged to borrowers in different risk categories, and the elimination of the 25 basis point Adverse Market Charge for all but four states. In January 2014, just after being appointed Director of the FHFA, Director Watt suspended the enactment of these fee increases and sought additional examination of the impacts of these policy changes. Since then, the FHFA has asked for input on the optimum level of g-fees required to protect taxpayers, along with feedback regarding the implications for mortgage credit availability.

Recommendation

AFR strongly encourages FHFA to refrain from instituting any increases in g-fees or loan-level price adjustments (LLPAs) at this time. We do not believe the case has been made that a further increase in g-fees or LLPAs is necessary to prevent losses to taxpayers, especially given the large increases in g-fees that have already occurred in recent years and the substantial improvement in credit quality that should result from Dodd-Frank mortgage reforms. Indeed, according to recent research by the Urban Institute, there is a strong argument that current g-fees in some market segments are higher than can be justified by likely loan losses.[1] We strongly oppose any increase in guarantee or insurance charges based on the vague and speculative intention to 'restore private capital to the housing markets.' Instead, we believe that the FHFA should, as it is legally mandated to do, set guarantee fees based on the need to protect taxpayers from credit losses, the GSEs' mission to 'promote liquidity, stability, and affordability in the secondary mortgage market,' and the existing GSE duty to serve underserved markets. For some categories of borrowers this likely in fact argues for lowering fees.

Taxpayer Protection and Enterprise Solvency

The FHFA Office of the Inspector General has estimated that aggregate single-family guarantee fees roughly doubled between 2010 and 2013, from 25 to 50 basis points.[2] At the same time, the 2013 annual examination of the GSEs reported record net income and 'a substantial improvement in credit quality' for new business due to more conservative underwriting standards.[3] In general, housing finance underwriting can be expected to improve market-wide due to new Qualified Mortgage regulations that ban the most toxic practices of mortgage lenders prior to the financial crisis, along with new CFPB oversight.

Given these trends, it is difficult to see any case that a further increase in g-fees is necessary to prevent losses on new mortgage guarantees issued by the GSEs. Since the enterprises are under conservatorship and cannot use any additional revenues from increased g-fees to increase their capital position, there is also no clear solvency justification based on increasing GSE capital.

Duty to reach underserved markets

We are concerned by the current lack of financing for first-time homebuyers and other underserved borrowers. The levels and types of g-fees charged by the GSEs, including LLPAs, have a direct impact on the affordability of mortgage credit, and higher fees would make homeownership unaffordable for additional borrowers.

Communities in underserved markets have already faced many barriers in the housing market. Underserved groups— including in particular African American, Latino, and low-wealth communities— were hurt by unfair lending practices in the lead up to the economic and housing crisis. People of color were more likely to be given toxic loans, even when eligible for safer products. Reckless lending practices led to both losses in wealth and wealth building opportunities in these communities. The Pew

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[1] Goodman, Laurie, Siedman, Ellen, Parrott, Jim, and Zhu, Jun, *Guarantee Fees—An Art, Not a Science*. Housing Finance Policy Center Commentary, Urban Institute. http://www.urban.org/UploadedPDF/413202-Guarantee-Fees-an-Art-Not-a-Science.pdf

[2] Federal Housing Finance Administration, *FHFA's Initiative to Reduce the Enterprises' Dominant Position in the Housing Finance System by Raising Gradually Their Guarantee Fees*. July 16, 2013. http://fhfaoig.gov/Content/Files/EVL-2013-005_2.pdf

[3] http://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA_2013_Report_to_Congress.pdf. The report does note that 2013 record net income was in part due to one-time revenue items that will not be repeated, but also states that "earnings are expected to remain positive for the foreseeable future."

Research Center has detailed that African American and Latino families lost 53 percent and 66 percent of their wealth, respectively, because of the housing and foreclosure crisis. In comparison, white households lost 16 percent of their wealth.[4]

FHFA has a duty, as outlined in the Housing and Economy Recovery Act of 2008, to ensure that these communities are not left behind in the aftermath of reckless and predatory lending schemes that led up to the financial crisis. The duty to serve rule charges the GSEs with a duty to provide "leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low- and moderate-income families with respect to manufactured housing, affordable housing preservation and rural markets."[5] The duty to serve these—and all underserved—markets is not only required by statute, but also key to a stronger recovery for the housing market and the U.S. economy.

The burden of higher g-fees falls most significantly on first-time homebuyers and lower wealth borrowers; these fees have increased significantly since conservatorship began. According to Harvard's *State of the Nation's Housing 2014*, both the GSEs and FHA have raised the fees required to insure their loans, and many of these charges "remain in place or have risen." The average g-fee charged by Fannie Mae and Freddie Mac rose from 22 basis points in 2009 to 38 basis points in 2012. In addition, the GSEs introduced LLPAs, or additional upfront fees, in 2008, based on LTV ratios, credit scores, and other risk factors. LLPAs are paid through higher interest rates on loans.[6]

Families of color are expected to represent 7 out of 10 families formed in the next decade, and future housing demand will be driven not only by these families, but also by low- to moderate-income households, and younger households. Policies that will deter these borrowers from accessing the housing finance markets could have broader negative impacts on their communities, and the economy, as well.

AFR would like to discourage FHFA from increasing LLPAs based solely on borrower credit score or down payments; the evidence shows that borrowers sold well-underwritten loans can succeed in mortgages with lower down payment amounts. The Center for Responsible Lending's affiliate, Self Help, has operated a national secondary market home loan program offering loans to low-income families. A study of this program notes that of the 46,000 borrowers studied: 70 percent had down payments of less than 5 percent; 90 percent did not meet at least one of three traditional criteria (LTV of 90% or less, debt-to-income ratio of 38% or less, credit score of 640 or above); 95 percent of those borrowers made their payments successfully, despite the Great Recession; and successful repayment could be attributed

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[4] *Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics*, Pew Research Center, Social and Demographic Trends. July 26, 2011. http://www.pewsocialtrends.org/files/2011/07/SDT-Wealth-Report_7-26-11_FINAL.pdf

[5] Federal Register, Vol. 75, No. 108 (June 7, 2010), p. 32100.

[6] *The State of the Nation's Housing*, Joint Center for Housing Studies of Harvard University. 2014. http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/sonhr14-color-full.pdf.

to the prevalence of sound mortgage products, and sensible underwriting and servicing.[7] Furthermore, analysis by the Urban Institute indicates that compensating and underwriting factors are more important in addressing default risk than tinkering with down payment levels.[8] A mortgage market that serves first-time, lower down payment, and lower credit score borrowers should take care not to price out underserved groups with unreasonable g-fees and/or LLPA increases.

Data from mortgage reforms should inform fee decisions

It particularly would not make sense for FHFA to increase g-fees now, without adequate information regarding the performance of loans since the new QM rules have gone into effect.

The U.S. housing market is - slowly and very unevenly - beginning to gain steam after experiencing the worst housing crisis since the Great Depression. This crisis was caused in large part by damaging lending practices and mortgage features that were pervasive in the years leading up to the crisis. We have overwhelming evidence on how harmful those products and features were, and that loan characteristics and foreclosures were strongly linked. For mortgages originated between 2004 and 2008, loans that were originated by a mortgage broker, contained hybrid or option ARMs, had prepayment penalties, or were considered subprime had much higher foreclosure rates and were more likely to be seriously delinquent than loans that did not have those features.[9]

FHFA's model for determining g-fee levels should reflect the fundamental underwriting changes that have been made in response to the housing crisis. Reforms made in the Dodd-Frank Act, along with the creation of the CFPB and the placement of Fannie Mae and Freddie Mac into conservatorship has significantly reduced the toxic lending that caused the housing crisis and contributed to the economic meltdown. The risk of a similarly massive default is reduced, thanks to the QM and "Ability to Pay" provisions, which have eliminated the riskiest loans from the marketplace and set higher and safer standards for lending. Any model on which g-fee pricing is based should take into account the impacts these provisions will have. Modeling future risk based upon old loan practices should not play a part in GSE capital modeling; the most appropriate data to determine next steps will not be available for some time. AFR encourages FHFA to proceed slowly and allow for more data to become available before determining next steps on capital production and fees moving forward.

Conclusion

AFR would like to thank FHFA for its efforts in response to an overwhelming housing and economic crisis. We encourage FHFA to fulfill its mission to provide safe and sound credit and homeownership

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[7] Quercia,Roberto G., Freeman, Allison, and Ratcliff, Janneke, *Policy Brief: Regaining the Dream: How to Renew the Promise of Homeownership for America's Working Families*. UNC Center for Community Capital. 2011. http://www.nw.org/network/documents/CenterforCommunityCapital-RegainingTheDreamPolicyBrief.pdf
[8] Goodman, Laurie and George, Taz, *Fannie Mae reduces its max LTV to 95: Does the data support the move?* MetroTrends Blog, Urban Institute. September 24, 2013. http://blog.metrotrends.org/2013/09/fannie-mae-reduces-max-ltv-95-data-support-move/
[9] Bocian, Debbie Gruenstein, Li, Wei, Reid, Carolina, and Quercia, Roberto G. *Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures*, Center for Responsible Lending. November 2011. http://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-2011.pdf

opportunities to borrowers in underserved markets. Thank you for the opportunity to submit comments on this subject. Should you have any questions, please contact Rebecca Thiess, AFR's Policy Analyst, at 202-973-8005.

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- AARP
- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Center for Effective Government
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group

- Demos
- Economic Policy Institute
- Essential Action
- Green America
- Greenlining Institute
- Good Business International
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defender's League
- Information Press
- Institute for Agriculture and Trade Policy
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- Next Step
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen

- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Partners

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA

- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- New Economy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ

- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ

- UNET