NATIONAL ASSOCIATION of REALTORS®

Tom Salomone
2016 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Joe Ventrone, Vice President & Deputy Chief for Regulatory Affairs
Scott Reiter, Vice President
Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW
Washington, DC 20001-2020
Ph. 202-383-1194; Fax 202-383-7580
www.REALTOR.org

October 12, 2016

The Honorable Melvin L. Watt
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

RE: Single-Family Credit Risk Transfer Request for Input

Dear Director Watt:

I am writing on behalf of the over 1.1 million members of the National Association of REALTORS® (NAR) to provide comments to the Federal Housing Finance Agency (FHFA) on its request for input (RFI) on proposals for Fannie Mae and Freddie Mac (the government-sponsored enterprises or Enterprises) to adopt front-end credit risk transfer structures and other credit risk transfer policy issues.

NAR is America's largest trade association, including our eight affiliated Institutes, Societies and Councils, five of which focus on commercial transactions. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

First, and foremost, REALTORS® want to ensure that mortgage capital is available in all types of markets for the creditworthy housing consumer. Any requirement for mandatory risk sharing would either restrict the availability of mortgage credit or effectively do so by making the cost unaffordable. Second, and equally important, REALTORS® want to ensure that taxpayer dollars are optimally protected and believe that bringing private capital back to the secondary mortgage market is an important goal. NAR has supported FHFA's strategic objectives to have the Enterprises share credit risk with the private sector, but believe that it should not be at the expense of meeting their primary mission of supporting market liquidity. Specifically, this means facilitating the financing of affordable housing for low- and moderate-income families consistent with sustainable homeownership.

REALTORS® believe sound public policy that supports sustainable homeownership leads to stronger communities and social stability, all while driving the national economy. Historically, the nation's housing policy has been to ensure the continual flow of capital into the housing and mortgage markets in all economic conditions. Risk sharing and other objectives to bring private capital back to the mortgage market must be evaluated in a way that matches this historic policy and does not bring us back to a private profit and public loss structure.

NAR's Recommendation for Housing Finance Reform

NAR believes that any organization with a private profit and public loss construct, as the Enterprises were structured before conservatorship, is flawed and problematic. In order to ensure that the conflict between the new entity(s)' mission and shareholder needs is eliminated, and given the need for some level of government backing to ensure a steady flow of mortgage funding, NAR proposes a structure that is not driven by the shareholders' need to maximize profits or dividends.

NAR believes a "government-chartered" structure is the best model for the new entity(s) because this structure establishes a separate legal identity from the federal government, while serving a public purpose (e.g Export-Import Bank of the United States). Unlike a federal agency, government-chartered organizations are established to be politically independent and often are self-sustaining—not requiring appropriations from Congress. The ability of the entities to focus on their mission, to provide liquidity to the housing market, without the need to chase risky opportunities in order to maximize profit, meets the criteria of our members.

Moreover, a government-chartered authority should remove any ambiguity regarding the government's backing of this secondary mortgage entity(s). REALTORS® believe that an explicit government backing of a new entity(s) is required to instill confidence in potential investors of the entity(s)' mortgage-backed securities (MBS). Without the confidence of these investors, the ability of the entity to raise capital for the purpose of providing liquidity to the secondary mortgage market will be limited.

However, REALTORS® also believe that the entity(s) should not be operated as if the government and taxpayers are in the first loss position. The entity(s) should be self-sufficient, requiring no need for appropriations, price risk effectively to cover potential losses, and utilize any profits to establish capital reserves to alleviate losses that occur in economic downturns.

Lastly, REALTORS® believe that the conversion of the existing Enterprises into government-chartered authorities will pose the least amount of market disruption, and ensure a continual flow of capital to the secondary market during the transition period. Because of their existing capabilities and infrastructure, the current Enterprises are best positioned to become government-chartered authorities. With this in mind, our members also suggest that the new authorities import the best components from the current Enterprises (e.g. their ability to create MBS, their automated underwriting systems, etc.).

Key Elements of Engaging Private Capital in Risk Sharing Transactions (Questions A1-A4)

Outlined below are principles NAR believes should drive consideration in both front-end and back-end risk sharing transactions based on our housing finance reform recommendations.

Reduce Taxpayer Risk

For any risk sharing transaction to make sense, the risk must be transferred. Only fully collateralized (with appropriate haircuts) lender recourse transactions would seem to meet this principal. However, it is important that we point out early that a front-end vertical structure could potentially result in lenders cherry picking specific loans and lead to significant pricing fluctuation in times of stress. Additionally, if FHFA believes that the Enterprises experiences with private mortgage insurance companies over the recession raises doubt about the industries viability over cycles, FHFA could evaluate a small amount of front-end risk sharing transactions on loan products with loan to value ratios of 80 percent or higher.

Economically Sensible

Fannie Mae and Freddie Mac buy single-family mortgages from mortgage companies, commercial banks, credit unions, and other financial institutions. A key revenue component for the Enterprises is a guarantee fee (g-fee) received for guaranteeing the payment of principal and interest on their mortgage backed securities (MBS). The g-fee is a significant factor in determining profits earned from this credit guarantee. The g-fee covers projected credit losses from borrower defaults over the life of the loans, administrative costs, and a return on capital. FHFA points out that both front-end and back-end credit risk transfers have an impact on Enterprise revenue since the Enterprises give up a portion of the guarantee fee as cost for transferring the risk to the private sector. In this, the Enterprises and any future entity(s) that serve the mission of ensuring liquidity to the broader mortgage market may have to give up too much in order to transfer the risk to support the profitability of the private market.

REALTORS® believe that fees at both Enterprises are already too high. Pricing at the Enterprises has already created problems for two entities that are supposed to be mission based. Maintaining high fees in order to guarantee a profit to a private, revenue-maximizing firm places the housing finance market and the Enterprises' mission at the whim of profit-driven and fleeting market behavior.

Repeatable/Scalable/Broad Investor Base

Nearly all market observers agree that liquidity in the agency MBS markets help contain costs. The Enterprises' back-end transactions have been repeated, but they still only represent a fraction of the unpaid principal balance of the potential market required of private credit risk. Additionally, these transactions have only ever been completed in a rising market. Furthermore, the many different types of transactions [CAS, STACR, Recourse] would suggest limited benefit from broad liquidity since promoting many different execution types would cannibalize liquidity growth in any one.

Stability Through Economic and Housing Cycles

Our members fear that in times of economic upheaval, a system with transaction structures that require private capital will cease to exist as it did, to a great extent, in the jumbo mortgage, commercial mortgage and manufactured housing mortgage markets throughout the economic downturn. When the economy turns down, private capital rightfully flees the marketplace to protect profitability. However, market dynamics can be irrational and untied to credit or housing risk and homebuyers would be forced to pay for it through higher rates or reduced access.

Today the economy is improving, home prices are increasing, and the credit profile of borrowers has NEVER been better. Yet, yield requirements of private investors along with credit models that miscalculate risk and loss severity, are forcing borrowers to pay more for mortgage credit than they should to companies who exist to serve a public mission. Moreover, NAR would have concerns on whether the Enterprises could adequately determine the timing and attachment points for a countercyclical reaction to a market downturn in order to support stability in the secondary mortgage market. This is particularly the case for those activities that promote housing for low- and moderate- income families. While high profits may be necessary to attract private capital to support credit risk transfer structures, this is likely to be passed onto consumers, raising the cost of mortgages.

Fees Should Be Set To Provide Liquidity and Protect Taxpayers, Not Guarantee Profits (Questions C1 and C2)

For private credit risk transfers it is important that all transactions allow the Enterprises to carry out the principal mission of serving the broader market.

NAR has long supported the idea that the fees charged by the Enterprises need to adequately protect the Enterprises and taxpayers from credit losses. However, NAR believes that the fees charged by the Enterprises are pushing substantially more underserved and first-time borrowers, who would most benefit from the Enterprises leadership in the space, to FHA and other lending programs.

Preserving access to affordable housing must be accomplished within the confines of safety and soundness and the goals of conservatorship. However, it is possible for the Enterprises to have robust underwriting guidelines without having a similarly robust, singular focus on desired economic returns or substantial profitability. As NAR has continually reiterated, and the Enterprises' financial reports have demonstrated, both Fannie Mae and Freddie Mac have experienced sizable returns and enormous profits, at the direction of FHFA, based on charging borrowers substantially higher fees than the actual risk those borrowers present.

Current fees and pricing do not reflect the reduced credit losses the Enterprises have experienced throughout 2015, thus resulting in substantial profits for their credit guarantee businesses. Instead of focusing on economic returns or profitability requirements of Wall Street investors wanting to participate in risk sharing transactions, FHFA should follow through with the mission of ensuring mortgage financing for the marketplace.

Conclusion

NAR appreciates the opportunity to provide comment on FHFA's request for input on front-end credit risk transfer structures and credit risk transfer policy issues. REALTORS® believe any market for mortgage credit risk must be liquid at all times to support the national housing policy of affordable and accessible housing finance. In market downturns, private capital pulls back to protect profitability. Any requirement for mandatory risk sharing would either restrict the availability of mortgage credit or effectively do so by making the cost unaffordable.

In order to ensure a continuous flow of capital into the mortgage market at all times, NAR believes in a transition to government-chartered, non-shareholder owned authorities that are subject to regulations on product, profitability, and minimal retained portfolio practices in a way that ensures the protection of taxpayer monies.

NAR looks forward to continuing to work with the FHFA, Members of Congress, and other stakeholders to not only build suitable principals and minimize costs for credit risk transactions, but also a collective solution for broader housing finance reform. If I may be of any assistance to you, please do not hesitate to contact me or Charlie Dawson, NAR's Managing Director for Regulatory Policy and Industry Relations, at 202.383.7522 or CDawson@REALTORS.org.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®