

August 14, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Re: Request for Input on Fannie Mae and Freddie Mac Single-Family Mortgage Pricing Framework

Dear Director Thompson:

Thank you for this opportunity to provide insights into the Enterprises' single-family mortgage pricing framework. The National Association of Hispanic Real Estate Professionals (NAHREP) and aspiring Hispanic homebuyers across the country appreciate the seriousness of this discussion and seek to emphasize how important the pricing framework is to homeownership affordability and sustainability.

About NAHREP: NAHREP is a purpose-driven organization that is propelled by a passionate combination of entrepreneurial spirit, cultural heritage, and the advocacy of its members. Our mission is to advance sustainable Hispanic homeownership. NAHREP accomplishes its mission by educating and empowering the real estate professionals who serve Hispanic homebuyers and sellers; advocating for public policy that supports the trade association's mission; and facilitating relationships among industry stakeholders, real estate practitioners, and other housing industry professionals

Summary of NAHREP's Response: The Enterprises should eliminate the segment of upfront guarantee fees known as loan level price adjustments *and credit fees in price* (hereinafter referred to as "LLPAs"). They are no longer needed in the post-Dodd Frank environment.

I. The Request for Input's emphasis on "commercially reasonable returns" misunderstands the proper role of the Enterprises as federally chartered entities in conservatorship.

NAHREP holds that the emphasis in the Request for Input (RFI) on "commercially reasonable returns on capital" is misplaced at this time in the Enterprises' conservatorship. Instead, as public-serving entities, the Enterprises should operate to benefit the consumers who have been promised access to well-functioning secondary market-sourced financing for affordable mortgage credit through the federal charters of Fannie Mae and Freddie Mac.

As financial institutions that are implicitly guaranteed by the Federal government and have explicit financial support through what is essentially a U.S. Treasury line of credit, these entities should be properly treated as public-purpose utilities. Rather than debating whether the proper target rate of return is five percent (5%) or ten percent (10%), NAHREP chooses to bring FHFA's focus on the clear public purpose of the Enterprises as federally chartered entities.

Congress created the Enterprises and taxpayer resources now support them. Both of these occurrences have significant meaning that is overlooked in a discussion that is too focused on delivering value to company stock shareholders. Value to consumers needs to be front and center. Then a

significant consideration for the continued financial viability as ongoing concerns is limited insofar as it is a means to meet its obligation to consumers. Fannie Mae and Freddie Mac should seek to continue to be financially viable entities and operate as public utilities to facilitate secondary market transactions in a market-efficient way for the benefit of consumers, not as profit-seeking private companies delivering shareholder value.

II. LLPAs are surplus to requirement in the post-Dodd Frank environment and in light of a reformed private mortgage insurance framework.

According to the FHFA, "Beginning soon after FHFA placed the Enterprises into conservatorships, the Agency instructed the Enterprises to set upfront guarantee fees charged on loans with specific risk attributes to discourage the underpricing of risk by the Enterprises." (*Fannie Mae and Freddie Mac Single-Family Mortgage Pricing Framework RFI*. FHFA. May 15, 2023). "Discourage" is an interesting choice of words in context, as it connotes the need for a behavioral shift in the business practices at both of the Enterprises. It does not suggest actuarial soundness or overwhelming proof that loans were mispriced when properly underwritten and insured by credible lenders and private mortgage insurers. NAHREP argues that the behavioral shift has taken place as of 2023, thus obviating the need for this punitive price penalty to instill discipline in the Enterprises. The FHFA should and is capable of effectively regulating the Enterprises without the threat of pricing penalties on consumers.

As of today, the FHFA can exert its oversight function in meaningfully effective ways that do not cause harm to consumers. The continued use of LLPAs is a throwback to a time when the FHFA was just starting to exert the weight of its regulatory function. Those tactics are no longer needed, and their harm outweighs any beneficial function. In sum, the FHFA can and should instill pricing discipline through tactics that do not harm the very people the Enterprises are designed to support: homebuyers.

A. The Dodd-Frank advancements in fully documented, prudently underwritten lending and responsible servicing eliminate the need for LLPAs.

Today, the Enterprises enjoy the benefit of standard underwriting practices and procedures, which are written into law known as the Truth in Lending Act and the concept of the "Qualified Mortgage." Furthermore, as tested through the COVID-19 crisis, the Enterprises' ability to manage effective servicing has greatly improved alongside the enhanced supervision provided by the Consumer Financial Protection Bureau's (CFPB) advancements on servicing oversight and rulemaking. Indeed, since the Great Recession, foreclosure, and default rates have been at historic lows, notwithstanding several challenging economic cycles in the intervening years.

Taken in combination, the Qualified Mortgage rule and the CFPB and Enterprises' focus on responsible servicing practices have significantly reduced risk associated with underwriting. Since 2008, it has been nearly impossible to misunderstand mortgage credit risk in the face of standard practices and the law governing underwriting and servicing. As we know now, a significant aspect of the underpricing of risk in the lead-up to the Great Recession was the lack of oversight, deviation from safe, sound, and sustainable underwriting practices, and servicing chaos. Mispriced risk resulted from a lack of transparency and responsible lending that simply no longer exists. Moreover, the FHFA, as a potent regulator, is equipped to monitor and force remediation on Enterprises should non-standard practices once again become endemic in the Enterprises. Considering the significantly reduced to non-existent mispricing risk, the punitive LLPAs should disappear.

B. The new counter-party risk standards, "PMIERS," eliminates the need for LLPAs.

The advent of the new Private Mortgage Insurer Eligibility Requirements (PMIERS) has significantly altered the business of the private mortgage insurance (PMI) industry and their relationship with the Enterprises. Importantly, it reformed the ability and certainty of the PMIs to pay on lawful claims. Combined with the enormous reduction of fraudulent underwriting, PMI now covers nearly all the risks the Enterprises face from a frequency and severity standpoint on low-downpayment mortgages. LLPAs continued existence on low downpayment loans results in a double charge to consumers already paying PMI. That risk is already protected through risk-adjusted capital and reserve requirements imposed on the private mortgage insurance providers and included in the cost to Consumers in their mortgage transaction.

III. LLPAs make Enterprise supported mortgage credit less available to creditworthy Hispanic homebuyers. FHFA should take positive steps to reverse the harm.

As we recently shared in a *Housing Wire* opinion piece, "For the most part, mortgage interest rates are determined by market forces; however, risk is also a factor. Ironically, higher interest rates and fees are assigned to the borrowers that can least afford them." (Acosta, Gary. "Opinion: How to Close the Minority Homeownership Gap." *Housing Wire*. August 7, 2023). While the issue of cross-subsidy is not raised in this RFI, the issue should be part of the more extensive examination of the factors to consider for the Enterprises' pricing framework. Especially as previously noted, higher consumer risk is covered with higher capital and reserve requirements of the private mortgage insurance providers.

A. Lenders who have invested in successfully lending to minority homebuyers should be awarded with financial incentives.

In the same *Housing Wire* opinion piece, NAHREP argued that notwithstanding the existence of affordable housing goals and the advent of Equitable Housing Plans, the Enterprises have had little impact on closing the minority homeownership gap. LLPAs are a significant source of the reason why the Federal Housing Administration and other lending programs have succeeded modestly where the Enterprises have faltered. If the FHFA seeks to close the minority homeownership gap, FHFA should require pricing incentives or other forms of financial incentives to lenders that outperform the market in lending to minority first-time buyers.

B. Pricing is not the only way to offset credit risk: housing counseling, language access, enhanced electronic documentation, and digital mortgage functionality are widely available in the market and have similar risk-reducing impacts.

LLPAs are a blunt tool to accomplish the same outcomes that a concerted effort to increase housing counseling, language access, and enhanced electronic documentation and digital mortgage functionality can achieve to reduce the risk of loss at the Enterprises. First, pre-purchase housing counseling and troubled borrower support from housing counselors prepare consumers for sustainable homeownership, significantly improve consumer outcomes and reduce the frequency and severity of loss associated with foreclosure or other instances of default. However, there is a significant public data gap in the Enterprises' understanding of the cost-saving aspects of successful housing counseling. Furthermore, it is common sense that a borrower who can review and understand their mortgage documents in their preferred language is a better-informed borrower who is better equipped to sustain

a mortgage than limited-English proficiency borrowers who are not provided adequate mortgage transaction support in their preferred language.

The work the FHFA is doing on the new Supplemental Consumer Information Form is valuable work to address the data gap, but it is still years away from a definitive data set. Today, the FHFA should undertake efforts to properly incent housing counseling and all efforts to guide and inform borrowers whose preferred language is not English.

Finally, wider adoption of “eMortgages”, which are defined as mortgage loans for which the promissory note, referred to as an electronic promissory note or "eNote," is generated, presented, and signed electronically in a closing transaction (defined as an eClosing) is a valuable tool [[[change to....for minority borrowers and results in a seamless, more secure documentation transfer to the Enterprises)....or not only access for minority borrowers but also for seamless documentation transfers to the Enterprises.]]] Importantly, eMortgages reduce the Enterprises' administrative expenses that must be recouped via Guarantee Fees. Issues that often arise with paper note loans, such as missing signatures, pages, and documents, are virtually eliminated with eMortgages, significantly decreasing the frequency of downstream remedial processes. Reducing GFees for eMortgage and eClosing transactions should help the Enterprises as they pursue their mission relating to first-time and underserved homebuyers. A loan closed as an eMortgage is a natural fit and a friendlier process for these buyers.

The FHFA should replace and offset LLPAs with investment in housing counseling, improved language access products and services, and the encouragement of eMortgages.

Conclusion: NAHREP supports the elimination of LLPAs in favor of a pricing framework that would result in more affordable and accessible homeownership opportunities for consumers. NAHREP respectfully suggests that the post-Dodd Frank legal regime, along with the risk-based priced private mortgage insurance required on all loans sold to the GSEs with less than 20% downpayment, justifies LLPA elimination and that advancements in housing counseling, language access, and eMortgages are tangible substitutes for the LLPA regime and more closely align with the charter and mission of the GSEs.

NAHREP appreciates your consideration of our comments. Given the significance of the negative effects of LLPAs, addressing this issue is one of our highest priorities. Please do not hesitate to contact me at gacosta@nahrep.org if you have any questions or would like to discuss this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Acosta".

Gary Acosta
Co-Founder & CEO
NAHREP