



April 4, 2005

Alfred M. Pollard
General Counsel
Office of Federal Housing Enterprise Oversight
Fourth Floor
1700 G Street, N.W.
Washington, DC 20552

Re: *Mortgage Fraud Reporting*
RIN 2550-AA31

Dear Sir,

The National Association of Mortgage Brokers ("NAMB") appreciates the opportunity to comment on the proposed amendments to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 that would set forth safety and soundness requirements with respect to mortgage fraud reporting, published February 25, 2005 (the "Proposed Rule") by the Office of Federal Housing Enterprise Oversight ("OFHEO"). We applaud OFHEO's efforts to ensure the safety and soundness of operations at the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac", together, "GSEs") and protect the mortgage market as well as consumers from mortgage fraud. However, we have several concerns regarding the mortgage fraud reporting definitions and requirements. Before discussing these concerns, this comment letter provides general information about mortgage brokers and NAMB.

Overview of the mortgage brokerage industry and NAMB

Mortgage brokers act as intermediaries between consumers and lenders when the borrower finances the purchase of a home or refinances an existing mortgage. A typical broker maintains business relationships with various lenders to provide consumers with numerous financing options. These partnerships allows the 44,000 mortgage brokerage companies employing over 360,000 employees in the United States to offer consumers the most competitive mortgage products available.

By offering consumers a variety of products, mortgage brokers can find loans for borrowers that match the financial needs of each customer. Mortgage brokers assist buyers with excellent credit histories in addition to those with less than perfect credit

histories. The mortgage brokerage industry also helps borrowers with low-to-moderate incomes in finding access to the credit they need to secure the benefits of homeownership. By advising homebuyers throughout the home financing process and delivering cost effective mortgages to consumers, mortgage brokers originate two out of every three residential loans in any given year. As the single largest group of loan originators, mortgage brokers undoubtedly have played a significant role in increasing the rate of homeownership in the United States to an all-time high of 68.6 percent.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry. As the voice of mortgage brokers, NAMB speaks on behalf of more than 25,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise. By adhering to a strict code of ethics and best lending practices, NAMB members guide consumers through the mortgage loan origination process. NAMB's government affairs representation ensures the voice of the mortgage brokerage industry is heard on Capitol Hill.

NAMB's concerns

Although the Proposed Rule does not impact mortgage brokers directly, NAMB is concerned when any new legislation or regulation affects the mortgage industry as a whole. NAMB supports the notion of ensuring the safety and soundness of the GSEs to guarantee their continued vitality in the mortgage market industry, as long as such measures maintain open access to affordable credit for consumers. However, NAMB believes that the current proposed regulation requiring the GSEs to report mortgage fraud or suspected mortgage fraud will do nothing more than impose an undue administrative burden that will result in a significant increase in costs. This increase in cost structure for the GSEs will undoubtedly be passed onto consumers in the form of higher loan costs, thereby curtailing the current availability of affordable credit.

In addition, the Proposed Rule requires the GSEs to report even the **mere suspicion** of fraud. OFHEO defines "possible mortgage fraud" to mean that a GSE "has cause to believe that the mortgage fraud is occurring or has occurred." This overly broad standard would require the GSEs to report every loan that would be flagged by any automated tool that checks for social security numbers, employment or bank verification, or appraisals, even where, upon investigation, no actual fraud exists. The automated tools used by the GSEs are designed to cast a wide net and highlight concerns in a loan file that would initiate a manual review of the loan. However, if every flag results in a requirement to report fraud, lenders will be discouraged from using these tools because the benefits of uniformity and speed would be lost.

The requirement to report the mere suspicion of fraud simply injects too high a level of uncertainty into the fraud reporting process, especially given the short time frame within which reporting would have to occur. Reporting the mere suspicion of fraud exposes the GSEs to considerable legal risks from entities that were the subject of inaccurate reports submitted in good faith by the GSEs. It is indisputable that the GSEs play an important

role in the mortgage finance system. Exposing the GSEs to these legal risks may be the genesis for market disruption with unforeseen economic consequences. If OFHEO moves forward with the Proposed Rule, it should, at a minimum, establish clear and quantifiable triggers to the GSEs' fraud reporting requirements. These triggers must include either a specific event or a clear finding of fraud that would fall within defined parameters established by OFHEO in conjunction with the GSEs. For these reasons, NAMB urges OFHEO to re-evaluate the purpose for requiring mortgage fraud reporting and reconsider its Proposed Rule.

NAMB greatly appreciates your consideration of our comments. If you have any questions, please contact Roy DeLoach at 703-245-8035 or Nikita Pastor at 703-610-0205.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Armbruster", with a long horizontal flourish extending to the right.

Bob Armbruster
President