

HOUSING POLICY COUNCIL

THE FINANCIAL SERVICES ROUNDTABLE



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Federal Housing Finance Agency
Office of Housing and Regulatory Policy (OHRP)
Constitution Center
400 Seventh St SW, 9th Floor
Washington, DC 20024
via email LPIinput@fhfa.gov

RE: No. 2013-N-05; Lender Placed Insurance, Terms and Conditions

To Whom It May Concern:

The Financial Services Roundtable's Housing Policy Council¹ (HPC) appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) notice on lender-placed insurance (LPI) terms and conditions (Notice).² The HPC is committed to working with the FHFA to strengthen and improve the servicing of loans owned by Fannie Mae and Freddie Mac (collectively the GSEs) in a manner that continually improves the value of the mortgage financing experience for consumers while promoting a financially sound primary and secondary market. We understand the FHFA is not required to request comments on this Notice, and we thank the FHFA for taking this additional step to ensure transparency.

I. FHFA's Process

We appreciate FHFA's providing increased transparency and an opportunity to comment on these proposed actions. These proposed changes will affect many mortgage servicers and insurance providers. We understand that this is only part of the actions that FHFA may undertake regarding LPI.³ Additionally, in 2011 FHFA issued a discussion paper on alternative mortgage servicing compensation with a request for comments. While no additional actions have been taken regarding this issue, FHFA has indicated it will continue to focus on it over the next several years.⁴

We ask the FHFA to extend the transparency and care it has brought to the process and take a holistic approach to the issues of lender-placed insurance and mortgage servicing compensation. We ask that, rather than administering these changes one-by-one, FHFA consider publishing a full plan for input

¹ The Housing Policy Council of The Financial Services Roundtable consists of thirty-one of the leading national mortgage finance companies. HPC members originate, service, and insure mortgages. We estimate that HPC member companies originate approximately 75% and service two-thirds of mortgages in the United States. HPC's mission is to promote the mortgage and housing marketplace interests of member companies in legislative, regulatory, and judicial forums.

² Lender Placed Insurance, Terms and Conditions, 78 Fed. Reg. 19263 (Mar. 29, 2013).

³ See Fed. Reg. at 19263.

⁴ See Federal Housing Finance Agency, Strategic Plan Fiscal Years 2013-2017.

and comment before proceeding with implementation of this Notice. To better inform the public's comments on the substance of the Notice, the public should first comprehend FHFA's plans on all aspects of LPI. Similarly, the proposed changes in the Notice directly bear upon broader issues of mortgage servicing compensation that FHFA is considering modifying. We believe FHFA and the GSEs would benefit from a broad-based collaborative process involving servicers with a diversity of approaches and business models as it relates to lender-placed insurance, as well as consumers and consumer representatives interested in promoting a fair, transparent and high-value mortgage finance system.

II. Insurance is Regulated by the States

While we recognize FHFA's obligation to ensure the GSEs are applying appropriate standards for mortgages they finance in the secondary market, we encourage FHFA to consider that the business of insurance has primarily rested within the purview of state insurance regulators.

FHFA states that actions by the GSEs "only affect loans that [the GSEs] purchase or guarantee; their seller-servicer guides have no effect on practices of insurers except for dealings with the Enterprises."⁵ However, it is fair to note that the specific practices as to which the FHFA is considering taking action are practices regulated by state insurance regulators, and are practices not related to insurers dealing with the GSEs specifically, but insurers dealing with other insurance agencies who are affiliates of servicers. The transactions addressed in the Notice are between a state-licensed and regulated insurance carrier and either a state-licensed and regulated insurance agent or a state-licensed and regulated reinsurer.

Insurance rates are reviewed and approved by states through filing requirements, and this process is meant to ensure the rates are neither excessive nor inadequate. Currently multiple states are reviewing lender placed premium rates and the allowable expense components therein. FHFA should ensure that its process does not put servicers or their insurance affiliates into conflict between GSE requirements and the regulation of the business of insurance by the states. We encourage FHFA to engage with state insurance regulatory bodies, as it considers changes in LPI standards associated with mortgages that the GSEs finance.

III. Comments on the Specific Practices

We recognize that concerns exist regarding lender placed insurance in the mortgage market, and that this has been a focus of the Consumer Financial Protection Bureau and state insurance regulators, among others. The HPC is firmly committed to the enhancement of transparency and fair dealing for all participants in the mortgage finance system, most especially the borrowers whose financial future depends so strongly on the extraordinary value that the system conveys. There is no place for abusive practices or unwarranted fees within the mortgage transaction.

⁵ See Fed. Reg. at 19264.

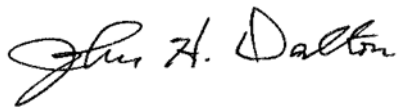
That said, the fact is clear: the obligation to obtain lender placed insurance is a requirement imposed on servicers by investors – including the GSEs – for the purpose of protecting investors and mortgage borrowers equally by protecting the value of mortgage collateral. Lender-placed insurance policies are legitimate and legal financial products, and policy changes or regulations should not start from a premise that the existence of LPI is inherently suspect.

HPC's membership applies a diversity of business models in fulfilling the requirement to obtain lender placed-insurance. A number of servicers and their affiliates are compensated for actual work performed, while others have chosen to forego compensation as part of their own business decisions. Insurance agents, including those affiliated with servicers and sellers, perform several functions in the LPI process. They assist the seller/servicer in developing their LPI program, and selecting their LPI provider, as well as ongoing administration and supervision of the program, and ongoing compliance verification, including LPI provider oversight. While reinsurance arrangements do provide for the reinsurer to participate in the LPI market, such participation is not without peril, as the reinsurer accepts the risk of loss associated with LPI transactions of their affiliated seller/servicer. There is a true transfer of risk that is no different from any standard reinsurance transaction.

We believe FHFA would benefit from consultation with a variety of servicers and affiliates bringing different business models to the lender-placed insurance arena. We stand ready to assist FHFA in further organizing its fact-finding in this area.

Again, we appreciate the opportunity to represent the views of our membership, and we encourage further dialogue and fact-finding in this area. Thank you again for the opportunity to comment on this Notice. We look forward to working with the FHFA on these issues and related issues in the future.

Sincerely,

A handwritten signature in cursive script that reads "John H. Dalton". The signature is written in black ink and is positioned above the typed name and title.

John H. Dalton
President, Housing Policy Council