SCHOOLSFIRST
FEDERAL CREDIT UNION

August 30, 2012

Richard Hornsby
Chief Operating Officer
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20024

Re: Use of Eminent Domain to Restructure Performing Loans (Docket No. 2012-N-11)

Dear Mr. Hornsby:

I am writing on behalf of SchoolsFirst Federal Credit Union, which serves school employees in Southern California. We have more than 500,000 Members and over $9 billion in assets. SchoolsFirst commends the Federal Housing Finance Agency ("FHFA") for recognizing the serious concerns market participants have voiced over the proposed use of eminent domain to seize mortgage notes and restructure them.

We believe that this plan would likely significantly harm mortgage finance markets and reduce access to credit for mortgage borrowers due to lenders exiting the affected market. This proposal also raises serious legal and constitutional issues and is likely to be challenged as an impermissible "taking" of private property under the U.S. and California Constitution. It could also be challenged as a violation of the Contracts Clause of the U.S. Constitution, as well as the Commerce Clause on grounds that it impermissibly burdens interstate commerce.

From a market perspective, if performing mortgage loans are taken from their holders, this will cause significant losses which will be borne by the pension plans and individual citizens who are invested in the securities. The use of eminent domain will do more harm than good, and the worst impact will be felt by future borrowers who will inevitably pay higher rates for home mortgages.

From a legal perspective, it appears certain that eminent domain could not be exercised over loans owned by the government-sponsored enterprises ("GSEs") since the GSEs are likely to be held to be instrumentalities of the federal government due to their conservatorship status. Therefore, the mortgages to be seized would be composed entirely of privately-held mortgages and those held in private-label securities. Such mortgages compose less than 10 percent of the total mortgage pool in San Bernardino County.

Despite these realities, the municipalities considering this ill-conceived plan cite the premise that by seizing performing mortgages using eminent domain, they are serving the public good of their communities. How can a plan that "serves" less that 10 percent of the community be perceived as a "public" good? Rather, such a plan would solely benefit a select few homeowners to the detriment of the County as a whole through reduced access to future credit and the growth it supports.

Furthermore, if the County asserts eminent domain in the context of residential mortgages, why not assert it against commercial properties? Ultimately, this would drive business and residents away and not benefit the public or the municipalities.

2115 N. Broadway • Santa Ana, California • 92706-2613
P.O. Box 11547 • Santa Ana, California • 92711-1547
800.462.8328 • schoolsfirstfcu.org

SCHOOLSFIRST
FEDERAL CREDIT UNION

For the above reasons, SchoolsFirst is firmly opposed to this idea and supports the FHFA exploring all available avenues to prevent these municipalities from engaging in this potentially unconstitutional and detrimental practice.

Thank you for the opportunity to comment on this Notice and Request for Input

Sincerely,

John Barton
Senior Vice President, Lending
SchoolsFirst Federal Credit Union

Cc: Credit Union National Association (CUNA)
California/Nevada Credit Union League (CCUL)

2115 N. Broadway • Santa Ana, California • 92706-2613
P.O. Box 11547 • Santa Ana, California • 92711-1547
800.462.8328 • schoolsfirstfcu.org