American Bankers Association
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November 26, 2012

Federal Housing Finance Agency
Office of Policy Analysis and Research
400 Seventh Street, SW
Ninth Floor
Washington, DC 20024

Re: State-Level Guarantee Fee Pricing for Fannie Mae and Freddie Mac

Dear Sir or Madam:

The American Bankers Association[1] (ABA) is pleased to submit comments regarding the Federal Housing Finance Agency (FHFA or Agency) notice on state-level guarantee fee pricing for Fannie Mae and Freddie Mac (the Enterprises).

ABA supports FHFA's proposal to adjust the upfront fees charged by the Enterprises when they acquire single-family mortgages in states where the Enterprises incur foreclosure related costs that are statistically higher than the national average.

A significant factor which has exacerbated the recent mortgage foreclosure crisis has been the inability of some jurisdictions to efficiently carry out the foreclosure process in a reasonable time period. In many instances, this inability is the result of ill-advised or antiquated state (or in some instances, local) foreclosure laws which unnecessarily delay the process. These delays harm the Enterprises by delaying the time to resolve defaulted mortgages and increasing the costs of resolution. The harm does not end with the Enterprises, however. Long foreclosure delays ultimately hurt all homeowners, as a large and extended backlog of foreclosed properties depresses market values, and often makes it more difficult to value and sell a home. Further, because the Enterprises are currently in conservatorship, with their debt being guaranteed by the Federal government, these delays and the costs they impose ultimately are borne by the taxpayer.

FHFA's proposal to assess higher fees in states with foreclosure costs that are statistically higher than the national average should help to spur policy makers in those states to re-examine their foreclosure processes. While higher fees (which will be passed along to borrowers) will make it somewhat more expensive to finance a home in these states, the increase should be modest, as FHFA points out in the proposal.

We agree that standard deviation in a reasonable basis for identifying those states with higher foreclosure-related costs than the national average. Because the proposal is based upon Enterprise experience and does not include the forward-looking impact of recently enacted

[1] ABA represents banks of all sizes and charters and is the voice for the nation's $14 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than $165 million in assets.

legislation, we urge FHFA to set forth more specifically how frequently the foreclosure cost data will be reviewed, and how frequently the state-level guarantee fees may be adjusted. We also suggest that FHFA may want to undertake this as an annual review and adjust the fees on an annual basis.

The proposal also poses the question of whether there should be an upfront fee or an upfront credit assessed on every state based upon its relationship to the national average of costs, such that the net revenue effect on the Enterprises is zero. This approach is attractive, most notably in that by spreading the guarantee fee costs (or credits) among each of the states, it would likely result in the lowest cost impact to borrowers (and, in fact, would presumably lower costs for some in states with low foreclosure related costs). However, because this approach would likely moderate the impact of the guarantee fee increase in the most costly states (by spreading the impact among all of the states), it would not likely result in spurring borrower action to reform state and local foreclosure laws. Recognizing that FHFA's role as Conservator is primarily to preserve the Enterprises and reduce their costs where appropriate, this may be the favored approach. However, the public policy benefits of a more market-driving approach, impacting only those states with demonstrably higher foreclosure related costs, is appealing and should not be ruled out.

FHFA is to be commended for addressing this issue and for proposing a reasoned and potentially very effective solution. Given the impetus in various states and localities to further complicate the foreclosure process – or to forestall it completely with eminent domain legislation, it is imperative that FHFA, as both conservator for the Enterprises and as the de facto regulator for the vast majority of the existing secondary market, to engage on these issues, and to propose and implement effective responses.

We appreciate this opportunity it to comment on this proposal. If you have questions or wish to discuss our views in greater detail, please do not hesitate to contact Joseph Pigg, Vice President and Senior Counsel at 202-663-5480 or JPigg@aba.com.

Thank you.

Sincerely,

Robert R. Davis

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