new york mortgage coalition
Creating Affordable Homeownership

November 26, 2012

The Honorable Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20024

Dear Acting Director DeMarco:

The New York Mortgage Coalition is urging the Federal Housing Finance Agency (FHFA) to withdraw its proposal to impose an extra origination fee of 15 to 30 basis points on mortgages in 5 states, including New York. The fee would be paid upfront by the lender and then passed on to borrowers through higher interest rates. The proposal further singles out New York whose borrowers would be required to pay the highest fee of all, 30 basis points. We believe this regulation, however well-intended, is unfair, unjustified, and likely to generate unintended consequences.

<u>Background</u>: The New York Mortgage Coalition (NYMC) is a nonprofit housing agency dedicated to creating and protecting first-time homeownership opportunities for low and moderate income (LMI) families in the greater New York region. NYMC comprises a unique network of 23 member organizations - 11 nonprofit housing counseling agencies and 12 lending institutions -- working in concert to serve the needs of LMI families seeking affordable first-time homeownership. NYMC also partners with the leading government and nonprofit affordable housing entities in New York City, including New York City's Department of Housing Preservation and Development and the Office of Financial Empowerment, the State of New York Mortgage Agency, the Center for New York City Neighborhoods, Enterprise Community Partners, Local Initiatives Support Corporation, Neighborhood Housing Services of New York City, and NeighborWorks of America.

Working within the NYMC network are 19 HUD-certified housing counselors, who provide LMI borrowers with the critical pre-purchase homeownership education and the one-on-one counseling needed to make an informed purchase. Our network also includes a team of experienced loan officers, each of whom is well-versed in LMI borrowing and trained to address specific issues relating to affordable homeownership. With our counselors and loan officers working together, NYMC has averaged over 500 closed loans per year over the past 5 years – while maintaining a default rate of under 2%.

From this unique vantage point NYMC is informed by both the consumer and lending communities and thus well-positioned to offer valuable and candid perspective on the proposed measure. Accordingly, we submit that through this proposed measure FHFA is imposing the wrong fee at the wrong time for the wrong reasons.

New York is being unfairly penalized for having strong consumer protection. New York has consumer protection safeguards in place that are among the strongest in the nation, designed to provide distressed homeowners with the ability to contest wrongful foreclosures and negotiate fair loan modifications. According to the Joint Economic Committee of Congress the cost of the average foreclosure in the US is $77,935 - compared to $3,300 to *prevent* a foreclosure. To penalize New York for focusing on foreclosure *prevention* rather than foreclosure itself and for putting a priority on home retention over home eviction, seems misguided, unfair, and inconsistent with the mission of Fannie Mae and Freddie Mac. Further, the interests of US taxpayers are best served when total social costs are reduced. The $77,935 cost of foreclosure cited above is multiplied when taking into account decreased property values in neighborhoods infested with foreclosure. Perhaps most unfair is the fact that New York, which has neither the highest foreclosure rate among states nor the highest number of absolute foreclosures, is being imposed with the highest fee rate.

The proposal fails to recognize underlying reasons behind foreclosure delay: Prolonged foreclosure delays in New York are typically the fault of mortgage servicers failing to comply with loss mitigation requirements and state foreclosure laws. The proposal also ignores the fact that the highly publicized robo-signing scandals and related illegal actions on the part of servicers ultimately led to artificially reduced foreclosure timelines in non-judicial states (all 5 of the states targeted by this proposal are judicial states). Notwithstanding this reality, the FHFA plan offers no incentive for servicers to change behavior - which means that of all the parties involved, only the borrowers are being asked to bear the burden of risk.

The penalty fee will inevitably dampen the housing recovery. An upfront fee of 30 basis points on a $200,000 mortgage equates to approximately $2,250. Given the fragile state of the housing market, particularly for the LMI population of New York, an additional burden of $2,250 is not insignificant, even when financed. Unfortunately, the FHFA proposal comes at a time when yet another lending restriction is about to be introduced by the Consumer Financial Protection Bureau. The new CFPB rule will require a 20% down payment for loans to qualify as a Qualified Residential Mortgage, and thus receive optimum pricing. In an already tight lending environment, the layering of an additional 30 basis points on top of an aggressive down payment requirement will further weaken a housing market that is just starting to show signs of recovery.

Fannie Mae and Freddie Mac exist to serve the vital public purpose of promoting and preserving homeownership. While we understand that both Fannie Mae and Freddie Mac must account for the risk associated with the loans they purchase, we do not believe this proposal adequately considers a) the full range of factors that contribute to systemic risk or b) the unintended consequences that may unfold if implemented. There are many ways to mitigate risk but we believe that imposing this fee at this time is not the answer. We further believe that New York, assigned the highest penalty fee, is being unfairly singled out because of the priority we place on home retention and strong consumer protection.

With home prices and interest rates at historic lows, homeownership has never been more affordable. Rather than impose yet another restrictive layer on lending, we recommend incentives to expand the housing market and help kick-start the economy. Accordingly, we ask that the FHFA immediately withdraw the proposed fee increase. At the same time, the New York Mortgage Coalition and our extended network would welcome the opportunity to work with FHFA to explore options that meet our mutual goals. Many thanks for your consideration.

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