



VIA EMAIL (REGCOMMENTS@FHFA.GOV) AND FEDERAL EXPRESS

April 8, 2011

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency, Fourth Floor
1700 G Street, NW
Washington, DC 20552

Re: Private Transfer Fees (RIN 2590-AA41)

Dear Mr. Pollard:

The Federal Home Loan Bank of New York (“FHLBNY”) appreciated the opportunity to comment on the Federal Housing Finance Agency’s (“FHFA”) proposed “Guidance on Private Transfer Fee Covenants” and would like to thank the FHFA for its efforts in drafting the proposed rule on “Private Transfer Fees” (“PTFs”).

The FHLBNY agrees with the FHFA’s comment that certain fees may benefit properties and such fees that are used to enhance the value of collateral that backs residential loans would not be inconsistent with safety and soundness goals. The FHLBNY supports the narrower focus prescribed in the proposed rule, in particular:

Distinguishing PTFs by excluding those fees paid to homeowners, condominium, cooperative and similar associations, and to certain tax-exempt organizations defined under section 501(c)(3) or (c)(4), while retaining the restrictions on those PTFs paid to developers, builders or other/related third parties;

Applying the rule prospectively to private transfer fee covenants created after the date of the proposed rule and to securities issued after that date backed by revenue from private transfer fees regardless of when the covenants were created; and

Recognizing the Banks’ challenges in identifying mortgages on properties with private transfer fee covenants and securities backed by such mortgage loans to ensure compliance especially if such covenants are not noted in the title report on a subject property.

While acceptable compliance activities were outlined by the FHFA, the FHLBNY believes that more can be done in this arena by requiring better disclosure of PTFs in the mortgage closing documents resulting from an industry standardization initiative. These disclosures would greatly assist the Banks in ensuring compliance through its collateral review process for pledged mortgage loans and the purchase of condominium and Planned Unit Development home loans within the Mortgage Partnership Finance acquired member asset program.

The FHLBNY was pleased that the FHFA included language that it does not expect the Banks to use such compliance tools with respect to Enterprise securities as any such securities issued prospectively should comply with the provisions. In addition, given the prospective nature of this proposed rule, currently pledged or owned private label mortgage backed securities, and any acquired member assets do not need to be tested for compliance.

On behalf of the Federal Home Loan Bank of New York, we thank the FHFA for giving serious consideration to our previous response.

Sincerely,

Paul B. Héroux
SVP, Head of Member Services Group

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