FHLBank
San Francisco

Dean Schultz
President and
Chief Executive Officer

October 15, 2010

Alfred M. Pollard, Esq.
General Counsel
Attention: Comments/RIN 2590-AA35
Federal Housing Finance Agency
Fourth Floor, 1700 G Street, NW
Washington, D.C. 20552

VIA E-Mail (regcomments@fhfa.gov) & Overnight Mail

Re: Notice of Proposed Rulemaking and Request for Comments – Guidance on Private Transfer Fee Covenants (No. 2010-N-11)

Dear Mr. Pollard:

The Federal Home Loan Bank of San Francisco ("Bank") has reviewed the notice of proposed guidance published by the Federal Housing Finance Agency ("Finance Agency") on August 16, 2010, proposing that the entities that the Finance Agency regulates should not deal in mortgages on properties encumbered by private transfer fee covenants ("Proposed Guidance"). The Bank understands the Finance Agency is concerned about the impact these covenants may have on liquidity, affordability and stability in the housing finance market, and we appreciate the opportunity to comment on the Proposed Guidance.

The Proposed Guidance does not mention the period of time for which the final guidance would be effective. The Bank recommends that the Finance Agency make clear that the final guidance would apply prospectively only. The Bank also recommends that the final guidance apply only to mortgages loans originated and mortgage-backed securities issued 120 days after the effective date of the final guidance so that the Bank's members and investment counterparties can have sufficient time to revise their underwriting and origination guidelines as necessary. Retroactive application of the final guidance to previously originated mortgage loans or issued mortgage-backed securities could have significant unintended consequences for the Federal Home Loan Banks ("FHLBanks") and their members.

Additionally, the Bank has significant concerns regarding how it could effectively implement and monitor compliance with the Proposed Guidance. The Proposed Guidance states that "Fannie Mae and Freddie Mac should not purchase or invest in any mortgages encumbered by private transfer fee covenants or securities backed by such mortgages. The Banks should not purchase or invest in such mortgages or securities or hold them as collateral for advances." For mortgage loan collateral, unless the loan file contains documents that clearly evidence the private transfer fee covenant, the Bank cannot determine whether the mortgage loan is subject to a private transfer fee covenant. Likewise, for securities collateral, the Bank does not have access to the individual underlying mortgage loan files and therefore would not likely be able to evaluate whether the security is subject to a covenant. Similarly, with respect to its investment portfolio, the Bank does not have access to the individual mortgage loan files for the loans underlying the mortgage-backed securities (either private label or Agency) held by the Bank. For these reasons, the Bank believes it would not be possible to implement the Proposed Guidance effectively. The Bank therefore recommends that if guidance in this area is issued, the Finance Agency consider an alternative guidance that can be effectively implemented by the FHLBanks or expand the Proposed Guidance to provide more information about standards for implementation, in either case, with appropriate notice and opportunity for comment, so that the FHLBanks can comply with the guidance.

Thank you for considering our comments.

Sincerely,

Dean Schultz
President and Chief Executive Officer