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March 20, 2014

The Honorable Melvin L. Watt
Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

**Re: Docket No. 2013–N–18, Fannie Mae and Freddie Mac Loan Purchase
Limits: Request for Public Input on Implementation Issues**

Dear Director Watt:

I am writing on behalf of the over one million members of the National Association of REALTORS® (NAR) to respond to and raise concerns about implementation of a plan by former Federal Housing Finance Agency (FHFA) Acting Director Edward DeMarco to reduce the maximum size of loans that Fannie Mae and Freddie Mac (the government-sponsored enterprises or Enterprises) may purchase. Our foremost concern is that reducing the maximum loan limits will increase the cost of, and reduce access to, conventional mortgages for an ever increasing number of borrowers. Further, we believe the basis given for FHFA’s legal authority to ignore language in a law passed by Congress remains questionable.

NAR is America’s largest trade association, including our eight affiliated Institutes, Societies and Councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

Conforming Loan Limits

Congress has made significant, positive steps towards reforming the nation’s housing finance system. However, until reforms are implemented, the Enterprises must continue to play a vital role in the success of our nation’s housing markets. The Housing and Economic Recovery Act of 2008 (HERA) set the maximum loan limit for the Enterprises and outlined the formula by which the limits could be raised. In addition, Congress made ensuring the Enterprises serve as a reliable source of liquidity and funding for housing finance and community investment a principal duty of the Director.¹

NAR supports the return of private capital to the mortgage market, but a policy to reduce the loan limits would certainly reduce access to credit, is counter to a principal duty of the FHFA Director, and will leave families without affordable housing finance options. Purchasing a home remains a challenge for many



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¹ See the Housing and Economic Recovery Act of 2008, Public Law 110-289 (July 30, 2008).

potential homeowners due to the restrictive availability of mortgage credit. Many borrowers in areas across the country do not qualify under the tight credit standards currently required by the private market. While there has been some return of private lending without the benefit of a federal guarantee, it remains limited and available only to the most highly qualified borrowers with minimum down payments of over 20%. These qualifications leave the American dream of home ownership out of reach for many families.

Though some banks have taken small steps to serve affluent borrowers by holding loans on their balance sheet, FHFA's analysis of borrowers who may still have access to financing were the limits reduced failed to account for the type of mortgage products that would be available. These institutions typically only offer adjustable rate mortgage products to borrowers whose loans would remain with the bank rather than be securitized. A reduction in the availability of 30-year fixed rate mortgages leaves the burden and uncertainty of rising interest rates on middle-class Americans. Many middle-class and older Americans on fixed incomes will be left without the ability to responsibly plan for the future.

REALTORS® believe stability in the mortgage market must be a key component in expanding private capital participation. It is difficult to encourage greater participation if participants aren't given a clear understanding of the rules. In addition to the "ability-to-repay" requirements that just went into effect in January 2014, the Dodd-Frank Act's mortgage risk retention regulations will also hopefully be finalized this year, providing the certainty of a regulatory framework for securitization. A reduction in loan limits would add even more uncertainty to the current lending environment. We believe this is counter to one of the Director's principal duties under HERA, and runs the risk of reversing progress being made in our nation's economic recovery.

Lack of Legal Authority

After reports surfaced in September of 2013 that FHFA was considering reducing the size of loans that the Enterprises may purchase, 2013 NAR President Gary Thomas raised concerns with FHFA's authority to reduce the maximum limits established by Congress as part of HERA. On December 23rd, 2013, FHFA published a request for information in the Federal Register seeking input on a plan to reduce the loan limits along with its interpretation of the legal authority to do so, despite statutory provisions that prohibit reductions.² In the notice, FHFA indicated that:

Exercising, as conservator, a business judgment on a core business function of the Enterprises—setting levels of loan amounts below the maximums eligible for purchase by the Enterprises—is consistent with FHFA legal authorities.³

While Congress granted FHFA, as conservator, broad authority as part of HERA, we believe that authority was to be exercised within the bounds of the law granting that authority. Lawmakers regularly allow for, and NAR often supports, regulatory flexibility. However, we believe that FHFA's broad interpretation of its authority under HERA ignores congressional intent, which was made evident by Congress' decision to permanently not reduce loan limits in section 1124 of that same law.

NAR believes that if FHFA decides that a reduction in loan limits is necessary, it should request that Congress specifically address the issue, rather than rely on a questionable interpretation of its legal authority to do so.

Conclusion

While reviving private capital participation in the mortgage market is an important goal, REALTORS® believe that ensuring that the Enterprises provide liquidity and funding for housing finance is vital to a continued recovery in

² See Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)). We note that the Charter Acts available on your website are not current, which could cause confusion to those seeking up-to-date versions, and recommend that you bring them up to date. See <http://fhfa.ig.gov/LearnMore/History>.

³ Fannie Mae and Freddie Mac Loan Purchase Limits: Request for Public Input on Implementation Issues,"78 Federal Register 246,(23 December 2013), pp 77450-77454

housing and the broader economy at this time. Reducing loan limits is contrary to this principal and will increase the cost of and reduce access to conventional mortgages for a significant number of families.

Should FHFA determine that pursuing a reduction in loan limits is an important policy objective, we urge you to resist using general conservatorship powers to override congressional direction that loan limits not be reduced, and alternatively request that Congress provide clear direction.

If you have any questions or would like to meet to discuss these concerns, please feel free to contact Charlie Dawson, NAR's Senior Policy Representative for Financial Services, at 202.383.7522 or cdawson@realtors.org.

Sincerely,

A handwritten signature in blue ink that reads "Steve Brown". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steve Brown

2014 President, National Association of REALTORS®