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National Association of Federally-Insured Credit Unions

September 15, 2020

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

RE: Tomorrow's Hearing, "Prioritizing Fannie's and Freddie's Capital over America's Homeowners and Renters? A Review of the Federal Housing Finance Agency's Response to the COVID-19 Pandemic"

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to you regarding tomorrow's hearing, "Prioritizing Fannie's and Freddie's Capital over America's Homeowners and Renters? A Review of the Federal Housing Finance Agency's Response to the COVID-19 Pandemic." As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 121 million consumers with personal and small business financial service products. NAFCU appreciates the Committee's ongoing oversight of the Federal Housing Finance Agency (FHFA) and efforts to ensure that homeowners and renters are protected during these turbulent times. We would like to take this opportunity to provide our comments on the FHFA's recent actions in regard to its proposed "adverse market fee" on mortgage refinance loans, re-proposed capital rule for Fannie Mae and Freddie Mac (the government-sponsored enterprises or GSEs), and moratorium on foreclosures and evictions.

<u>Adverse Market Refinance Fee</u>

As we wrote to you last month, NAFCU is highly concerned with the FHFA's proposed "adverse market fee" on mortgage refinance loans, as outlined in Freddie Mac's Bulletin 2020-32 and Fannie Mae's Lender Letter (LL-2020-12). We appreciate the FHFA's decision to delay the new policy until December 1, 2020, but we continue to advocate for a complete reversal of the policy. Although NAFCU appreciates that the GSEs must limit their losses and protect against credit and liquidity risks during the COVID-19 pandemic and subsequent economic crisis, the adverse market refinance fee will have a negative impact on the housing market and could hurt economic recovery efforts. Although preserving the safety and soundness of our nation's mortgage industry is a top priority, credit unions and borrowers are facing significant challenges due to the pandemic and economic recession. This new fee puts credit unions in the difficult position of absorbing the cost or passing it onto their members as part of the cost of the refinance.

Borrowers are already facing challenges as they seek to refinance their mortgage loans for a lower interest rate to make their payments more affordable and free up cash to spend on other products or services. As a result of this adverse market refinance fee, refinancing their mortgage loan may become uneconomical, increasing the likelihood that these borrowers seek a forbearance on their mortgage payments and potentially risk defaulting on their loan. On behalf of the credit union industry and their members, we request that you urge the FHFA to reverse this untimely policy change and that you be prepared to take swift legislative action to stop it if they do not.

Credit unions have stepped up to the plate to help their members remain in their homes and offer relief such as waiving fees and skip payment options. Credit unions are also facing ongoing operational difficulties due to the pandemic and anticipate an increase in loan modifications, troubled debt restructurings, defaults, and even bankruptcies as forbearance periods end, only further amplifying these difficulties. Furthermore, institutions may also see additional forbearance applications over the next few months as nearly 1 million Americans continue to file for unemployment protection on a weekly basis. Credit unions are already burdened with making advances on the payment of principle and interest for the first four months of a mortgage sold to the GSEs as well as paying taxes, insurance costs, and other fees required on loans in forbearance. Credit union service to their member-owners could suffer if they have to absorb additional fees on refinance mortgages to protect borrowers from this additional cost.

Re-Proposed Capital Rule for the GSEs

As NAFCU wrote to the FHFA, we appreciate their re-proposal of the capital requirements rule and urge them to adopt a realistic capital framework for the GSEs to begin moving toward exiting conservatorship. However, NAFCU maintains the FHFA should work with lawmakers to ensure certain legislative guarantees are adopted before the GSEs are released from conservatorship to guarantee access for smaller lenders like credit unions.

As you know, NAFCU has urged Congress to take up housing finance reform efforts including establishing guaranteed access to the secondary market, issuing an explicit government guarantee on the payment of mortgage-backed securities (MBS), and establishing an equitable framework for alternative participants to compete with the GSEs in the secondary market. Until Congress acts, the GSEs should move towards becoming stable and self-funded, without relying on their U.S. Department of the Treasury lines of credit. A regulatory capital framework that ensures the long-term future of the GSEs and the protection of American taxpayers is a necessary component of that goal.

It is critical that the FHFA establish a robust capital framework that seeks to prevent another government bailout in the event of a severe stress event like the 2008 financial crisis. However, it is just as critical that capital levels are not set too high, which could impact fees charged to smaller lenders, making it harder to access the secondary market. Capital in the housing finance system must also be effectively deployed to ensure affordable housing is available for American consumers. Similarly, the FHFA must ensure its capital framework aligns with actual risks posed and appropriate reductions of that risk. Over-capitalizing the GSEs, over-estimating the risks of certain loans, and undervaluing credit risk transfer mechanisms will only serve to harm underserved, low-income and moderate-income consumers and the credit unions which exist to serve them. NAFCU urges the Committee to relay these concerns to FHFA Director Dr. Mark Calabria, and to encourage the FHFA to thoroughly consider the impact of over-capitalization on the cost of guarantee fees and the resulting cost and availability of mortgage loans for the most vulnerable consumers.

Moratorium on Foreclosures and Evictions
As NAFCU has previously highlighted to the Committee, concerns remain with the impact of sections 4022 and 4023 of the CARES Act, which provide borrowers with forbearance options for single-family and multifamily loans sold to the GSEs, respectively. As you know, the FHFA has extended the moratorium on foreclosures and evictions through the end of the year. The four-month limitation on servicer payments of principal and interest on loans in forbearance announced by the FHFA was an important step as the CARES Act did not address these broader issues. Additionally, even though we were pleased to see guidance from the FHFA that the GSE's can buy mortgages in forbearance, the loan level price adjustment (LLPA) fee placed on the loans will create challenges for lenders. The higher LLPA associated with selling loans to the secondary market will make it more challenging for lenders to ensure that they have ample liquidity to continue lending during a downturn and may serve to ultimately constrain new credit. We would ask the Committee to urge the FHFA to further examine this LLPA fee structure and consider a lower LLPA to accommodate community lenders like credit unions and ensure they are still able to access the secondary mortgage market and make more loans to their members.

It is important that the FHFA and GSEs remain as transparent as possible with respect to expectations for servicers during these unprecedented times and offer assistance programs for servicers encountering difficulties making the required payments to the GSEs on mortgages and MBS. We ask that you echo these requests to the FHFA, as well as consider legislative action to ensure that this health crisis does not become another housing crisis.

We would also caution the Committee against any additional mandated blanket loan forbearance as a response to the pandemic. We are concerned that broad mandated loan forbearance that does not balance the perspectives of financial institutions could create both operational questions and safety and soundness issues without providing regulators the flexibility to address them. As we noted earlier, credit unions are already working with members to ensure they get the relief they need. Blanket mandated loan forbearance, regardless of actual need, can strain a financial institution's liquidity, making it harder to operate and provide additional credit to members. It would also cause credit unions to lose the ability to work with a member to achieve a mutually agreeable solution that protects both the member and the institution.

In conclusion, we thank you for your leadership and ongoing oversight of the FHFA. We appreciate the opportunity to share our thoughts and look forward to continuing to work with you on pandemic relief and economic recovery. Should you have any questions or require any additional information, please contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at 703-842-2231 or sjacobs@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Financial Services