Center for Responsible Lending

May 23, 2023

Hon. Patrick McHenry, Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Hon. Maxine Waters, Ranking Member
House Committee on Financial Services
4340 O'Neill House Building
Washington, DC 20515

Dear Chairman McHenry and Ranking Member Waters,

On behalf of the Center for Responsible Lending (CRL), we thank you for the opportunity to submit this letter for the record for the House Committee on Financial Service's hearing entitled, "Federal Housing Finance Agency (FHFA) Oversight: Protecting Homeowners and Taxpayers."

The Center for Responsible Lending (CRL) is a non-partisan, nonprofit research and policy advocacy organization working to promote financial fairness and economic opportunity for all, end predatory lending, and close the racial wealth gaps. One crucial part of the economic life of any American family is housing and, for many of those, home ownership.

Today's hearing is important as we follow the FHFA's oversight of the Government Sponsored Enterprises (GSEs) to maintain a competitive, liquid, efficient, and resilient housing finance market. The enterprises don't just purchase, package, and guarantee home loans. In times of economic distress, they have a countercyclical function to ensure access to mortgage credit, particularly when the private sector retreats or becomes so exceedingly risk-averse that credit-worthy borrowers are routinely denied access to mortgage credit.

In the aftermath of the Great Recession, the Financial Crisis Inquiry Commission stated unequivocally that the primary cause of the crisis was a failure on the part of the government to regulate the financial industry, particularly in the secondary mortgage market.

We also shouldn't forget that LLPAs were a compromise to those that wanted to put the burden of the enterprises' financial recovery and future risk on the backs of moderate- and middle-income households, even though these were the very victims of the financial crisis, not the cause.

Let's be mindful that those modest- and middle-income borrowers that benefit from a reduced LLPA cost are fully underwritten by their lender. To mean that those borrowers' financials were scrutinized by a lender who ultimately decided to approve the loan based on their ability to repay. And, please, let's remember that "they," in this case, is your average American family. These changes to LLPAs help bring a little more equity to purchasing a home.

It bears repeating that the principal function of the GSEs is to support sustainable and affordable homeownership that benefits all communities across all regions of the country. The g-fees are meant to cover capital requirements and meet goals for return on capital, but those fees are intended to serve a public mission. The GSEs adjust their margins for different kinds of loans. This flexibility helps American families access affordable mortgage credit in rural communities, states with higher default rates, or when purchasing a mobile home.

Undoubtedly, the GSEs need to balance that mission with their fiscal obligations, and they do this by adjusting to the market. As entities with a federal guarantee, they took advantage of current market conditions by lowering fees for folks with average wealth and credit to purchase a home. They also raised fees for loans that don't fall within their mission – like investment properties and cash-out refi's. These fees are adjusted according to mission and market conditions.

All the expert witnesses at last week's subcommittee hearing testified that LLPAs and the base g-fee are driven by the capital structure. Most of that capital and the resulting LLPAs are for catastrophic risk to avoid a repeat of the 2008 crisis. The GSEs were both overly risky and grossly undercapitalized at the time, but that is not the situation today.

Dodd-Frank and the ability to repay rule have de-risked these loans, as shown by the current historically low default rates even following the Covid crisis. The risk on lower down payment loans is borne largely by private mortgage insurance, paid for with hefty premiums charged to those borrowers. Meanwhile, the GSEs have further improved on conditions with their Credit Risk Transfers, which offload substantial risk to additional private companies.

As a result, in the regular stress tests done for the GSEs, which are modeled on the 2008 crisis, the enterprises can cover all losses and continue to operate with ongoing revenues. If the worst came to pass, these stress tests reveal the GSEs capable of absorbing the shocks without tapping into their capital. Yet, most of the LLPAs and G fees continue to be charged to borrowers for this capital. This puts an undue burden on all homebuyers today. Given that the GSEs have paid the federal government several times over, LLPA costs have now become a tax on modest- and middle-income families that purchase a home.

Most any American family would agree that LLPA fees for mansions, penthouse condos, and beach homes shouldn't be lower than those for purchasing a single-family home as an owner-occupier. Polls have repeatedly shown how American families want to buy homes but cannot afford them – especially the down payment. For example, a conventional 20 percent down for the 2023 Q1 average sales price of $436,800 is $87,360.

This year we commemorate 55 years of the Fair Housing Act, yet the disparity between white and black homeownership is at its highest in 120 years. We must face that the present lack of affordable housing remains at the core of inequality in the United States and how investor purchases of single-family homes have become a key driver of inflation. These changes are, if anything, too modest in addressing the inequities in mortgage lending and wealth. As an organization, we continue to believe that LLPAs ought to be eliminated altogether.

The federal government's role in promoting affordable housing credit is settled policy, and we've had the enterprises to prove it for nearly a century. Their role is to ensure that all Americans have an opportunity to own their home, ensuring that credit-worthy borrowers of all kinds have access to affordable credit. Not just in urban and suburban communities, not just to high-wealth and -income borrowers. To keep the dream of homeownership – and the wealth creation that generally comes with it – attainable to the next generation.

We urge you and the Members of the committee to please consider our views and reject tomorrow's consideration of the so-called Middle-Class Borrower Protection Act. Thank you again for the opportunity to present these thoughts for the hearing record.

Sincerely,

The Center for Responsible Lending
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