



April 14, 2020

The Honorable Mark Calabria  
Director, Federal Housing Finance Agency  
400 7<sup>th</sup> Street SW  
Washington, DC 20219

Mr. Hugh R. Frater  
CEO, Fannie Mae  
1100 15<sup>h</sup> Street, NW  
Washington DC 20005

Mr. David Brickman,  
CEO, Freddie Mac  
1551 Park Run Drive  
McLean, VA 22102

Dear Director Calabria, Mr. Frater, and Mr. Brickman:

We are writing to ask Fannie Mae and Freddie Mac to take steps to ensure that consumers seeking new mortgage loans are not adversely affected by market developments in response to the new forbearance option created under the recently enacted CARES Act.

On April 2<sup>nd</sup>, we wrote you and other federal regulators seeking a servicer liquidity facility in order to address concerns about missed mortgage payments under the newly created forbearance option and the problems it creates for smaller lenders that sell Fannie Mae and Freddie Mac loans to aggregators.

Since then, this problem has grown more acute, with purchasers adding credit overlays, offering lower purchase prices and refusing to buy loans due to post-closing forbearance risk. The latter has created significant new risks to smaller correspondent lenders, due to the significantly increased possibility they will end up owning un-insured loans and having to service loans they are not set up to service.

This hurts the borrowers these small lenders serve, both in terms of availability and pricing of loans.

Therefore, we are writing to ask that the following policies be adopted to address these concerns, which should apply at least during the period in which the federal forbearance option remains in place:

- (1) Fannie Mae and Freddie Mac should not refuse to purchase properly underwritten loans at time of closing solely because a borrower subsequently exercises their forbearance option.**
- (2) Fannie Mae and Freddie Mac should not demand repurchase of loans by originators or aggregators solely because a borrower subsequently exercises their forbearance option.**
- (3) Fannie Mae and Freddie should consider giving servicers that operate under any scheduled remittance option the opportunity to shift to an actual remittance option.**

## **EXPLANATION OF THE PROBLEM**

A significant number of Independent Mortgage Bankers (IMBs) that originate Fannie Mae and Freddie sell these closed loans service-released to correspondent consolidators that retain the servicing for a fee. These loans are currently subject to the CARES Act requirement to offer forbearance when requested.

In the normal course of business, these IMB's utilize their warehouse loan facilities and aggregate loans, typically for a period between 7 and 30 days – until they sell them to aggregator/investors.

In recent weeks, we have seen a significant deterioration in the prices and terms under which aggregators are offering to purchase Fannie Mae and Freddie Mac loans. This includes:

- Aggregators refusing to buy loans not just if the borrower invokes their forbearance option after loan closing, but even if the borrower merely inquires about the forbearance option.
- Aggregators reducing the prices they are offering to purchase loans, reflecting the risk that borrowers will exercise their forbearance option after the loan closing.
- Aggregators imposing new credit overlays – e.g. requiring FICO scores over 700 or requiring significant down payment levels, such as 20%.

In the event a borrower fails to make the first payment of a recently closed loan (e.g. exercising their new right to forbearance), the standard master services agreement between a loan originator and a loan purchaser would typically consider this a violation of the covenant to deliver a performing loan. The result is that aggregators are generally declining to purchase these “non-performing” transactions – especially now since they would add to the growing advance liabilities they are already occurring because of the forbearance requirement, as well as the economic downturn due to the coronavirus.

Furthermore, warehouse banks that advance funds to IMB's are generally not designed or equipped to provide financing on transactions for more than 30 days, the typical period from loan closing to sale to an aggregator. In the event of an intervening early payment default, the non-servicing loan originator would then be contractually required to advance increasingly large amounts of cash to reduce the warehouse bank's exposure to the defaulted transaction. With no outlet to dispose of the transaction within 60 days, in most cases, the IMB is covering the entire balance of the defaulted transaction.

While smaller IMB's are adequately capitalized to with-stand the losses associated with individual transactions in the normal course of business, they do not possess the liquidity nor are they likely to be provided with a facility to meet the covenants contained both within their Master Services Agreement with their correspondent and in their warehouse facility. These circumstances are exponentially made worse because consumers have a right under the CARES Act to not make payments due to “hardship.”

Finally, although seller-servicers that securitize GSE loans or sell to the cash window are not as affected since their execution of loans is more direct and less time consuming, the changes we are recommending would also reduce risks related to borrowers exercising the federal forbearance option post-closing.

Thank you for your consideration of these requests.

Sincerely,

COMMUNITY HOME LENDERS ASSOCIATION