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CHLA FHA Recommendations to The Biden/Harris Administration ------ Facilitating Mortgage Access to Credit

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Following are Community Home Lenders Association (CHLA) recommendations to the Biden/Harris Administration for policy changes to the Federal Housing Administration (FHA) to promote access to mortgage credit for minority, low-income, and underserved borrowers:

(1) End the Overcharging of FHA Premiums – by reducing annual premiums to .55% - in order to revert to pre-2008 housing crisis levels and to make home purchases more affordable.

(2) **Eliminate FHA's Life of Loan Premium Policy -** which charges premiums long after it is actuarially justified and harms borrowers with limited options to refinance into lower cost loans.

(3) Clarify that Dreamers (DACA residents) are eligible for FHA loans.

(4) Adopt changes to restore the spot loan market for FHA condominium loans.

(5) **Adopt Servicing Reforms to Eliminate Disincentives for FHA Lending** – starting with ending punitive and disproportionate curtailment of interest penalties for failure to miss a servicing deadline.

(6) Make Implementation of Loan Assumptions Financially Viable and Continue IT upgrades.

End the Over-Charging of FHA Premiums

One of the last actions of the Obama Administration was to reduce annual FHA premiums by a quarter of one percent, from .85% to .60%. Unfortunately, the incoming Administration eliminated this premium cut on the very first day it took office. This action made FHA loans less affordable, particularly for minority, low-income and underserved borrowers.

Since that time four years ago, FHA finances have strengthened substantially. The 2020 FHA MMIF Actuarial Report shows a 6.10% Capital Ratio for FHA, with an Economic Net Worth of $78 billion. As a result, FHA's net worth is more than 3 times FHA's statutory minimum.

Thus, the Biden/Harris Administration should cut annual FHA premiums to .55% immediately upon taking office – restoring levels to where they were before the 2008 Housing Crisis.

We would note that new FHA loans are very profitable for FHA. Last year's Budget Estimate projected that FHA single family forward loans originated in FY 2021 would produce a net profit (negative credit subsidy) of 3.36% on each new loan – contributing $6.72 billion in net profits to taxpayers this year. Assuming these projections are maintained or grow in the upcoming FY 2022 budget, it is clear that borrowers are being overcharged for FHA loans.

Eliminate FHA's Life of Loan Premium Policy

In 2013, HUD issued Mortgage Letter 2013-04, which ended FHA's longstanding policy of eliminating the charging of annual premiums on FHA loans when a loan reaches 78% Loan-to-Value (LTV) – replacing it with a policy of charging annual premiums for the full life of the loan. This action put FHA out of step with all other high LTV loans – which under federal law are required to eliminate private mortgage insurance premiums (PMI) once a loan balances falls to 78% LTV.

This was one of numerous steps (including premium hikes) taken on a temporary basis to address the significant depletion of FHA reserves in the aftermath of the 2008 Housing Crisis. However, with the continued growing strength of FHAs finances – reaching a net worth level of over 6%, more than 3 times the statutory minimum – these temporary actions are now longer necessary.

Therefore, it is far past time to end FHA's Life of Loan policy. Eliminating FHA Life of Loan:
(1) is good policy,
(2) would strengthen FHA finances, and
(3) is fairer to borrowers, particularly minority, underserved, and low-income borrowers.

The argument to keep Life of Loan is that some risk of FHA loan loss still exists after 78% LTV is reached. Yet, the same argument would apply to PMI – yet Congress mandated that PMI premiums end after 78% LTV is reach, in recognition that premiums charged after that point are excessive.

Ending FHA Life of loan is a sound policy, since by the time a borrower pays an FHA loan down to 78% LTV, they have paid total premiums of around 10% of the original loan amount – which is many times the actuarial risk of an FHA loan. Charging premiums after this point is excessive.

CHLA believes that ending Life of Loan would also strengthen FHA finances. The loss of Life of Loan revenues does not take place for around 10 years after a loan is made, which translates into a relatively limited actuarial loss, particularly since many homes are sold before 78% LTV is reached.

However, this loss is offset by retention of annual premiums that would otherwise be lost before the 78% point - by discouraging borrowers from refinancing early out of FHA loans to avoid FHA premiums that never end. Recent FHA Actuarial Reports cited runoff from refinances as an important factor in reducing FHA revenues. Our members' experience is that Life of Loan significantly contributes to that runoff. The facts bear that out. Since the 2013 action requiring Life of Loan premiums, FHA retention of refinanced loans has fallen from 50% to around 15%.

Finally, ending Life of Loan premiums is fairer to the borrower. FHA's Life of Loan policy adds another 8% in premiums – on top of the 10% in total premiums paid up to the point where a loan hits 78% LTV. Thus, Life of Loan can reduce home equity by some $16,000 on a $200,000 home.

Clarify that Dreamers (DACA residents) are eligible for FHA loans

The Biden-Harris plan for *"Securing our Values as a Nation of Immigrants*" pledged to *"remove the uncertainty for Dreamers by reinstating the DACA program"* – in order to protect undocumented immigrants *"who were brought to the U.S. as children, obeyed the law once here, and stayed in school or enlisted in the military."*

Over the last four years, the uncertainty regarding DACA status was compounded by conflicting guidance from FHA regarding whether Dreamers are eligible FHA borrowers. Assuming the DACA program is promptly extended, FHA should quickly issue public guidance clearly stating that Dreamers are eligible for FHA loans, provided they meet all FHA underwriting and loan policies.

Adopt changes to restore the spot loan market for FHA Condo Loans

In August 2019, FHA finalized a condominium approval rule, making changes designed to make it easier to originate FHA loans for condominiums – including a new single approval process to make it easier for units to gain approval, extension of the recertification requirement for approved condo projects from 2 to 3 years, and allowing more mixed used projects to be eligible.

However, these changes have not made a significant impact in making it easier to originate loans in the condo spot loan market for condo units in non-approved condo projects. Therefore, CHLA recommends that FHA generally follow the process and rules adopted by Fannie Mae for condo project approval, and specifically make the following changes to improve the FHA approval process:

- Improve and simplify HUD Form HUD-9991 to provide clearer and explicit guidance on requirements for spot loan unit approvals.
- Create an interactive process in which lenders receive responsive feedback on submissions, with opportunities to promptly correct deficiencies or provide additional information as needed.
- Allow a lender to certify a condominium project, subject to stringent FHA approval of key requirements, such as the level and types of cash reserves.

Adopt Servicing Reforms to Eliminate Disincentives for FHA Lending

There are numerous FHA servicing policies that discourage lenders from originating FHA loans. The most significant is the curtailment of interest for the entire time a loan is in default when a servicer action deadline is missed - even by only a single day. This penalty is wildly disproportionate to its impact.

FHA acknowledged that this should be fixed five years ago, when it issued a proposed rule to do so. However, that proposed rule died without action, and FHA has not taken any action to fix it in the subsequent five-year period. As we understand it, FHA proposes to make this change through a rulemaking, probably starting next year. With a comment period and final action, this means that this critically important change will likely not become effective for at least an additional two or three years.

Such action needs to be accelerated. With COVID, servicers of FHA loans are focused on the challenges of delinquencies and carrying out loss mitigation. The disproportionate penalty for missed deadlines diverts servicers' focus to some degree by the economic incentive to devote disproportionate resources to ensuring that servicing deadlines are never missed, not even by a single day.

FHA should also take actions to increase the use of non-conveyance options for property disposition.

Other Policy Changes

(1) **Loan Assumptions.** Raise the permissible FHA lender loan assumption fee from $900 to $3,000 per loan, to keep pace with inflation. If and when mortgage rates rise, use of the FHA loan assumption option will increase. Lenders should be adequately compensated for underwriting a loan assumption - or they will not carry them out and borrowers will suffer.

(2) **IT Upgrades.** Continue the work of the previous Administration to carry out long needed upgrades to information technology. As part of this effort, FHA should ask Congress for an extension for the next five fiscal years of the lapsed authority under Section 2126 of HERA law allowing FHA to use some of its billions of dollars in annual net profits to fund $25 million a year for IT upgrades and other technology improvements.