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June 16, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

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

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

Dear Secretary Yellen, Director Calabria, and Mr. Frater

The Community Home Lenders Association (CHLA) writes to raise significant concerns about the recent actions being taken by Fannie Mae to implement the PSPA percentage volume caps on investor and second home loans – as well as to reiterate our longstanding request for Treasury and the FHFA to immediately suspend all restrictions adopted in the January PSPA agreement.

We recently became aware of several lenders that received verbal communication from Fannie Mae stating that, starting in July, **their combined volume of investor and second home loans would be drastically lowered to a mere 3% of their GSE loan volume each month – and that failure to meet this cap would result in their losing their ability to sell such loans to Fannie Mae.**

This draconian action seems wildly disproportionate to the ostensible 7% GSE-level cap in the January PSPA agreement. **Therefore, we request immediate action to reverse such actions.**

The January PSPAs did not just impose a 7% GSE-level cap on these loans – it did so retroactively. **Thus the 7% investor/second home loan cap applied to loans going back as far as January 14, 2020.** This cap is imposed and calculated on a daily basis in perpetuity going forward from that date.

In its 2020 10-k, dated February 12, 2021, Fannie announced that because of this retroactivity feature, Fannie was already out of compliance with the 7% cap. In March, Fannie notified lenders that it expected them to stay under 7% for loans made after January 1st of this year (again retroactive). Now, abruptly, this is being ratcheted down to 3% for lenders that it believes are exceeding this level.

We have a number of observations about these developments.

First, the only reason for these 3% lender by lender caps appears to be the retroactivity feature of the PSPA restrictions. The fact that Fannie was out of compliance in February, with no consequences, shows that Treasury and FHFA believe they have flexibility to implement how compliance is achieved. A more reasonable phase-in – such as imposing a 7% lender by lender cap for loans starting on July 1st. - would have given both the GSEs and individual lenders more time to adjust to the restrictions and avoided the need for the draconian 3% caps.

We also note that the way this was implemented - without any real warning and without any real public transparency - could undermine public confidence in the longer run in GSE lending.

Second, it is unfair and inappropriate to penalize the very lenders that stepped up during the COVID crisis to provide mortgage credit to rental home investors and the renters they serve. Last spring, the CDC imposed a nationwide eviction moratorium, protecting renters from eviction. This created financial strain for many rental owners, and many lenders have stepped in to make GSE refinance loans to ease the financial strain by improving their cash flow (as well as making purchase loans to stabilize this market). Now because of the cap's retroactivity feature, these very same lenders are being held to loan levels more than 50% lower than the nationwide GSE 7% cap – and presumably way below levels imposed on countless other lenders.

Third, the PSPA restrictions – and particularly these draconian actions to cut investor/second home loans to 3% for certain lenders – are contradictory to virtually every other federal and state public policy and financial action taken since the beginning of the COVID crisis.

The January PSPA restrictions actually **contract** mortgage credit, in this case for rental properties, as well as second homes - at the same time Congress, two Administrations, and the Federal Reserve have taken a wide range of actions the last 15 months that uniformly **expand** credit or financial flexibility, including:

- Trillions of dollars of Congressional spending to cushion the blows of COVID,
- The Federal Reserve keeping interest rates low and widely extending cheap credit,
- Tens of billions of dollars for emergency rental assistance,
- A forbearance options for borrowers with federal agency loans,
- $10 billion to the states to help distressed homeowners, and
- Many others.

Fourth, these actions disproportionately harm non-bank lenders, particularly smaller ones. Unlike banks, independent mortgage bankers (IMBs) – particularly smaller ones – generally do not have the ability to originate portfolio loans. Thus, while big money center Wall Street banks can continue to serve their customers by making non-GSE loans to address these new constraints, IMBs cannot. If the goal is to shrink GSE loans and expand the non-federal agency sector, then lender-by-lender caps should be focused on banks, particularly larger ones, that have the flexibility to originate other types of loans.

We would also note that not only do the large Wall Street Banks have more flexibility to deal with the caps, the caps might even create profit arbitrage opportunities for them. These banks could originate and hold investor/second home loans that meet GSE underwriting standards at levels that exceed their lender-based GSE volume cap - then sell or securitize them at a later date when securitization prices improve if and when the caps are eliminated or lose their impact.

Finally, we would like to raise concerns on behalf of our lender members that similar draconian caps might soon be placed on so-called "higher risk" loans, which are subject to even lower percentage levels. These loans are vital, since they are critically important for access to mortgage credit for minorities, lower income, and other underserved borrowers.

Fannie Mae's 2020 10-k also stated that Fannie was not in compliance with the higher risk loan cap. It would be very helpful to know whether Fannie and Freddie anticipate the possibility that the same type of abrupt and draconian lender-by-lender caps might be soon placed on so-called "higher risk" loans.

In conclusion, per our many previous letters on the subject, CHLA reiterates our call to immediately suspend the January PSPA restrictions. In the interim, we appreciate your attention to this new crisis which is arising from steep reductions in caps on investor and second home GSE loan purchases.

Sincerely,

Community Home Lenders Association

CC: Mr. Michael J. DeVito, Freddie Mac