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September 30, 2021

Mr. Clinton Jones
General Counsel
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

ATTN: Comments/RIN 2590-AB12,
Proposed Rule: 2022-2024 Enterprise Housing Goals

Dear Mr. Jones:

The Community Home Lenders Association (CHLA)[1] submits these comments on the proposed rule establishing 2022-2024 housing goals for Fannie Mae and Freddie Mac (the GSEs).

CHLA supports FHFA's proposal for higher benchmark levels for the low-income home purchase and refinance goals, and for two new home purchase subgoals focused on minority and low-income census tracts.

However, the housing goals do not operate in a vacuum. The ability of Fannie Mae and Freddie Mac to fulfill the goals is dependent on regulatory policies which facilitate access to mortgage credit, consistent with sound underwriting policies and pricing. Therefore, our letter will focus policies that affect the ability of Fannie Mae and Freddie Mac to meet these proposed goals and maximize access to mortgage credit.

CHLA makes the following recommendations, with the goal of facilitating compliance with housing goals:

1. Suspension of the January PSPA loan and lender restrictions should be made permanent.
2. GSE capital requirements should be reduced, and GSEs should continue to retain profits.
3. LLPAs should not be excessive, impeding GSEs' ability to purchase loans that meet housing goals.
4. FHFA should regulate Fannie Mae and Freddie Mac pursuant to a true utility model.
5. New product approval rules should be streamlined for goals-oriented products
6. Congress should not authorize new GSE charters, especially for vertically integrated banks.

Suspension of the January PSPA loan and lender restrictions should be made permanent

In March, CHLA called for the immediate suspension of the PSPA restrictions imposed on GSE purchases of so-called "higher risk" loans and investor and second home loans, and on small lender sales to the GSEs through the cash window. Suspension seemed like the fastest step that could be taken to stem the adverse access to credit impact that the restrictions had created. Therefore, CHLA supported FHFA's recent action, in concert with Treasury, to suspend these restrictions.

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[1] CHLA is the only national trade association exclusively serving small and midsized independent mortgage bankers (IMBs) – community-based lenders whose sole business is originating and servicing mortgage loans. More information about CHLA is available at communitylender.org.

CHLA reiterates its call, once the review period ends, to amend the PSPAs to permanently eliminate the restrictions on both higher risk loans and investor and second home loans.

Of particular relevance to the housing goals are the PSPA restrictions imposed on so-called higher risk loans, that have two or more of the following risk factors: borrower FICO credit score below 680, borrower debt-to-income ratio above 45 percent, and loan-to-value ratio above 90 percent. GSE purchases of such loans were limited to six percent of their home purchase volumes and three percent of their refinance volumes.

These are precisely the types of loans the GSEs must purchase to achieve the housing goals. Therefore, the purchase restrictions should not be reinstated in any form. CHLA also believes that while the restrictions on investor and second home loans are not directly related to the goals, GSE purchases are critical to mortgage access to credit and affordability. For example, investor loans are an important source of credit for affordable rental housing.

Regarding the cash window restrictions, CHLA could support complete elimination of any restrictions – or alternatively could support a more reasonable cap of $5 billion annual lender cap on Fannie and Freddie each, as CHLA suggested earlier this year.

The intent of this restriction is to reduce cash sales by large lenders and instead use securitization swap transactions. While this is a legitimate policy objective, the cap was set far too low, as cash window sales by many smaller lenders to one or both Enterprises are at or above $1.5 billion.

If the $1.5 billion cash window cap remains in place, many lenders – particularly IMBs, that lack the ability to portfolio loans – will be forced to sell loans to aggregators or face arbitrary limits to their business volumes. This is likely to hinder the GSEs' ability to achieve higher goal levels. IMBs now originate more than 60 percent of the mortgages sold to Fannie Mae and Freddie Mac, and, as we noted in our recent CHLA report, IMBs do a demonstrably better job than banks of originating mortgage loans for minorities and other underserved borrowers.

Finally, too little attention has been paid to the impact of the detrimental precedent that the January PSPA restrictions could have on a future stock offering of Fannie Mae and Freddie Mac, as part of a plan to raise capital and exit conservatorship. The threat of such arbitrary actions – particularly with the goal of shrinking the footprint of Fannie and Freddie – sends a terrible message to potential investors in a GSE stock offering.

Therefore, FHFA should find some legal avenue or at least issue a policy statement to signal that it will not pursue regulatory policies merely for the purpose of arbitrarily shrinking the GSEs' footprint, and that any regulatory dictates should be based on safety and soundness considerations.

GSE capital requirements should be reduced and GSEs should continue to retain profits.

In 2020, FHFA implemented a capital rule that requires the GSEs to build a very substantial amount of capital – more than $200 billion above their current combined capitalization – in order to exit conservatorship.

Building capital is essential to fulfilling Fannie and Freddie's overall mission of providing liquidity and stability and to meeting the proposed housing goals. CHLA was one of the very first national organizations to propose ending the arbitrary and ill-conceived profit sweep. We understood that if Fannie and Freddie were perpetually worried about the risk of taking even a small quarterly Treasury draw because they were not allowed to retain capital, they could set inappropriately conservative underwriting standards or overcharge for loans, just to avoid this risk.

This concern was clearly demonstrated in 2020 when FHFA and the Enterprises felt compelled to impose a 50 basis point "adverse market fee" on certain loans sold to the Enterprises to defray expected credit losses from the Covid pandemic. However necessary it might have seemed at the time, raising prices in the midst of the economic and market turmoil created by the pandemic was not helpful to borrowers and housing markets. Had

the Enterprises been allowed to build a sufficient capital cushion in prior years, they would have been able to ride out last year's turmoil without raising prices.

On September 16, 2021, FHFA announced that it is proposing certain modifications to the rule that would better enable the Enterprises to serve the market while still ensuring they possess sufficient capital. Many commenters on the capital rule have argued that total capital levels are excessive, and that the rule did not give appropriate capital credit for the GSEs' credit risk transfer activities. **CHLA agrees that capital requirements under the capital rule are excessive, and will be submitting a comment letter on the subject.**

Excessive capital levels hinder the GSEs' role in facilitating mortgage access to credit role and in meeting the proposed expanded housing goals.

The revised PSPAs require the GSEs to build capital sufficient to meet FHFA's capital requirements. Under conservatorship, their ability to raise capital through equity offerings is limited. This requires them to rely upon raising capital through loan pricing via guarantee fees and loan level price adjustments (LLPAs). Moreover, the GSEs have been following a policy of charging premiums based on a rate of return on equity for entities that are fully capitalized. Therefore, excessive capital levels result in excessive G fees and/or excessive LLPAs.

LLPAs should not be excessive, impeding GSEs' ability to purchase loans that meet housing goals.

CHLA recognizes that the GSEs have an obligation to be good stewards of the capital support they receive from Treasury by operating in a financially safe and sound matter. This includes proactively addressing increased credit risks arising from adverse market changes. One tool the GSEs use to address increased risk is LLPAs.

At the same time, LLPAs increase the cost of credit to borrowers, often during inopportune times such as the Covid pandemic in 2020, when the better policy response from the GSEs would have been to maintain pricing at then current levels or even slightly reduce prices as a countercyclical measure. LLPAs also particularly impact affordability for lower income borrowers, which in turn directly hinders the GSEs' ability to achieve the housing goals.

We recognize the inherent tradeoff between credit risk management and maintaining and increasing access to mortgage credit. Finding the right balance is critical. We believe that, in practice, GSE LLPAs often are priced too highly and remain in place for too long. The aforementioned LLPA last year in response to the Covid pandemic illustrates this point – it imposed a substantial price increase and remained in place long after it became clear the GSEs remained solidly profitable throughout the pandemic and were not experiencing the credit losses initially estimated.

FHFA should regulate Fannie Mae and Freddie Mac pursuant to a true Utility Model

There is currently broad support for a so-called "Utility Model" for Fannie Mae and Freddie Mac, post-conservatorship. However, commentators use this phrase to mean widely different regulatory models.

CHLA believes a true Utility Model for Fannie and Freddie should be structured to achieve the primary policy goals of providing a competitive, equitable secondary market securitization outlet for **all** mortgage lenders and balancing goals of access to mortgage credit and limiting excessive risk to protect taxpayers.

A good explanation of a true Utility Model is laid out in a March 2020 Committee for Responsible Lending March 2020 paper entitled "Treat Fannie and Freddie as Utilities."

CHLA believes that a true Utility Model makes it easier for Fannie Mae and Freddie Mac to meet housing goals and fulfill its mission of creating a secondary market to facilitate broad mortgage access to credit. Specifically, a true Utility Model acts as a brake on unbridled maximization of profits by Fannie Mae and Freddie Mac by emphasizing regulatory authority to ensure that Fannie and Freddie serve low and moderate income borrowers and fulfill its Duty to Serve responsibilities.

Therefore, CHLA urges a more vigorous debate than is now taking place on the proper components of a Utility Model, before we go much further towards the potential steps of Fannie Mae and Freddie Mac raising capital in an IPO and ultimately exiting conservatorship.

New product approval rules should be streamlined for goal-oriented products

FHFA in 2020 proposed a revised process for reviewing new products by the Enterprises. CHLA submitted comments strongly supporting a process that ensures stakeholders have ample opportunity to review and comment on new products before FHFA approves their use. At the same time, we expressed concern that the scope of the review process as proposed was too broad and could require review of even minor changes to existing activities and products.

As FHFA proposes ambitious new housing goals, we want to extend this latter concern to new products that are designed to help Fannie Mae and Freddie Mac meet the housing goals and increase access to mortgage credit for lower income, minority and other underserved borrowers.

Therefore, CHLA recommends that any new product authority process must allow for streamlined approval of any new product designed to help the GSEs fulfill the housing goals.

Congress should not authorize new GSE charters, especially for vertically integrated banks.

FHFA does not have authority to authorize new GSE charters, and the current general consensus seems to be that this idea has to a major extent lost support. However, we expect that the large Wall Street Banks will keep pushing for consideration of new charters. CHLA believes this is a terrible policy – facilitating efforts by vertically integrated Wall Street banks to use their advantages in the secondary market with a new charter to gain an unfair advantage in the primary origination market – to the significant disadvantage of consumers.

We raise this issue in this letter, because we believe it has an application to the housing goals. CHLA believes that one of the reasons large Wall Street Banks would be seeking GSE charters is to use the charter for purposes that are inimical to the housing goals and inimical to broad access to affordable mortgage credit.

There are a concerns about the impact of new GSE charters on the housing goals mission:

- Politically powerful Wall Street banks could seek legislative exemptions from the goals.
- Enforcement of housing goals would be weakened, as it would be spread over multiple guarantors.
- Wall Street banks could play games between GSE loans and portfolio loans to technically meet the goals while undermining their purpose.
- Wall Street banks could meet the goals by buying goals-rich loans from smaller originators while using the new GSE charter to serve only their own customers or to prioritize higher FICO borrowers.

In closing, CHLA appreciates this opportunity to comment on FHFA's proposed housing goals rule. Please do not hesitate to contact us if you have questions or need further information.

Sincerely,

COMMUNITY HOME LENDERS ASSOCIATION