COMMUNITY
Home Lenders Association, Inc.

COMMUNITY MORTGAGE LENDERS AMERICA

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

The Honorable Sandra Thompson
Director, Federal Housing Finance Agency
400 7th St, SW
Washington, DC 20024

20 July 2022

Dear Secretary Yellen and Director Thompson,

The Community Mortgage Lenders of America & Community Home Lenders Association reiterate their call for the Treasury Department and the Federal Housing Finance Agency to continue the suspension of, or terminate, the sudden product and delivery restrictions imposed with no notice and no input in January 2021. The continued suspension, or termination, would further the Administration’s stated aim to ensure all Americans can access safe & sound housing and pursue economic opportunity.

As we’ve discussed in the past, little or no discussion had taken place before the January 2021 provisions (on cash window limits, and certain product restrictions) were announced, and no policy consensus had been on the horizon—indeed, the notion of a lender delivery limit to each GSE’s cash execution window had never been broached by any public official whatsoever. Other areas had minimal discussion, whether in Congress, regulatory bodies, or even within the GSEs themselves. The resultant policy dictates then seemed akin to edicts literally handed down from on high, appearing as if from the clouds.

Mortgage market delivery and pricing systems are complex and multi-faceted; this sort of market functions far more efficiently and fairly when regulators and market participants engage in careful discussion and analysis, with announced policy changes then taking place well in the future. Short-circuiting this process leads to market distortions and unnecessary price premiums stemming from uncertainty.

We ask both Treasury and FHFA to continue these suspensions past September 2022 and signal the market in advance that this will occur.

CASH WINDOW LIMITS IMPOSED COSTS WITH NO CLEAR BENEFIT

The PSPAs imposed a series of volume limits on what lenders can sell to the GSEs for cash as well as limits on the volume and type of mortgages that the Enterprises can purchase—although the *policy justification for this change remains even today a great mystery*. One of the material limitations was the $1.5 billion cap on a lender's sales to each GSE during any four calendar quarters. This unforeseen cap was too low and would have forced those smaller lenders exceeding this cap to enter into highly complex mortgage-backed securities (MBS) swaps market or sell to larger aggregators rather than directly to the GSEs. The change to the MBS swaps market would have required meaningful increases in time and capital investment for these firms to achieve the requisite organizational capabilities to compete against the larger lenders.

THE PURCHASE LIMITS ON SINGLE-FAMILY LOANS WOULD HAVE WIDENED ECONOMIC DISPARITIES, WITH NO CLEAR MEANINGFUL REDUCTION IN ENTERPRISE RISK PROFILES

Disclosures by both GSEs in the 2020 Annual Reports 10-Ks highlighted the extent to which the new mortgage product covenants would have constrained the GSEs' business, operations, and affordable housing activities. Based on FHFA's interpretive guidance and an initial assessment of their purchase activities, Fannie Mae indicated in 2021 that the company then was "not currently in compliance" with new covenants that restrict purchases of single-family loans with higher risk characteristics, or loans backed by investment properties and second homes as "measured during the preceding 52-week period." In addition to the limits on higher risk loans disproportionately affecting borrowers of color, Freddie Mac had disclosed in 2021 that "risk appetite constraints" might make it difficult for the company to meet their affordable housing goals in the future.

We would note that in lieu of the PSPA volume caps, Fannie Mae and Freddie Mac significantly raised LLPAs for second home loans early this year. This has resulted in major reductions in the volume of second home Enterprise home loans. While we agree that LLPA adjustments are preferable to PSPA-type arbitrary volume caps on certain types of homes, we believe these LLPAs are excessive compared to their risk. Therefore, we ask the Enterprises to reduce the LLPA fee hikes for low- and moderate-income borrowers and for lower-balance loans.

HARD PURCHASE LIMITS WOULD HAVE CREATED CONSTRAINTS ACROSS THE MARKET

Lenders that had underwritten mortgages in accordance with the Enterprises' seller guides would not have been able to deliver those loans because of the PSPAs' restrictions on loan features and volumes, including on loans delivered for cash. These delivery sticking points would have occurred unexpectedly at any point during a 52-week window as the GSEs managed loan delivery flows as well as FHFA interpretations around these restrictions. As with any limit, the GSEs would have managed these acquisition limits with a cushion, further tightening market conditions.

Because of the substantial role the GSEs play in the conventional mortgage market and in promoting affordable housing, these impacts would have had dire consequences. More home buyers have been relying on the conventional mortgage market, with conventional mortgages making up a growing share of home purchases. Together, the Enterprises provide approximately 40 percent of loans targeted towards low- and very low-income borrowers, supporting other public and private programs.

The GSEs ought to continue this important work, while building capital and making plans to build more capital—with the updated capital rule--from external sources of equity.

Recently, key policy measures at the GSEs and across federally-backed loan programs have been focused on facilitating loss mitigation options and homeownership preservation in response to the pandemic. These measures have been substantial and critical for LMI households and households of color that have been disproportionately impacted by the COVID-19 pandemic. However, to bring back these suspended PSPA constraints could set back an equitable recovery. For example, given the critical role that internally generated cross-subsidies play in supporting the Enterprises' housing mission, the PSPAs' limit on investor loans could also reduce a source of funding for the Enterprises' affordable housing activities.

IN THE FUTURE, AGENCIES OUGHT PROVIDE AN IMPACT ANALYSIS OF PSPA PRODUCT AND PROGRAM RESTRICTIONS

The PSPA constraints represented a fundamental change to the functioning of the nation's secondary mortgage market, but also a fundamentally different (and inferior) method of housing finance policymaking. As you know, prior to the January 2021 PSPA announcement, neither FHFA nor Treasury had provided data or analysis that addressed the impact of these changes on the GSEs or key stakeholders. The PSPA amendments also interacted with other policy changes that typically undergo a public notice and comment period – critical issues related to cash window access for smaller lenders and QM rulemaking are examples here.

In the future, should PSPA changes again contemplate making fundamental product and delivery changes affecting American families and the small lenders serving them, it would be crucial to understand whether and to what extent the amendments, which are de facto regulatory changes affecting all stakeholders, are impacting the ability of the Enterprises to meet the mission in their charters, including their affordable housing obligations and housing goals that reflect each of the statutory considerations in 12 U.S.C. 4562(e)(2)(B). Additionally, there must be confidence that the conservatorship policies have struck an appropriate balance between maintaining a sound financial condition and facilitating mortgage market liquidity and access in underserved markets.

WE STAND READY TO HELP CREATE CONSENSUS ON HOW TO MOVE FORWARD

We do understand that the current FHFA leadership has a different view of the scope of future PSPA changes, and that FHFA is less inclined to use the PSPAs for sudden product and delivery policy changes. The CMLA and CHLA urge FHFA and Treasury to conduct, jointly, listening sessions with stakeholders in order to craft any future PSPA changes affecting originator market dynamics. Doing so would increase the odds that the nation's housing finance policy could achieve its many objectives at the lowest possible cost to all Americans, and especially those creditworthy households most sensitive to pricing changes on the margins.

Thank you for your consideration of our views. We look forward to helping create a more economically robust, and fair, America.

THE COMMUNITY MORTGAGE LENDERS OF AMERICA
THE COMMUNITY HOME LENDERS ASSOCIATION