



May 18, 2023

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

Dear Director Thompson:

In late March, CHLA sent a letter to FHFA, Fannie Mae, and Freddie Mac, asking the Enterprises to establish requirements for aggregators: (1) to promptly forward all Enterprise repurchase demands to correspondent loan originators, and (2) to promptly submit all responses from such lenders to the Enterprises disputing repurchase demands. We understand and appreciate that the Enterprises are considering these requests, and we understand that such policy changes would take time to implement.

Today, we write on another equally important topic, also dealing with Enterprise repurchase demands.

**We request that FHFA and the Enterprises adopt a uniform policy of offering an indemnification, at a reasonable level - in lieu of the practice of a repurchase demand - for all performing loans.**

In support of this request, we make the following points:

- 1. Such policy avoids unfairly penalizing borrowers current on their mortgage payments, who lose their legal rights to Enterprise loss mitigation protections when a repurchase is made.**
- 2. Such policy reduces disincentives for lenders to originate Enterprise loans to underserved higher risk borrowers and to borrowers in rural areas with fewer appraisal comps.**
- 3. Such policy addresses the unfairness of imposing loan losses to lenders averaging 30% per loan for loans that are performing and are likely to never go into default or foreclosure.**
- 4. Such policy avoids a grossly inefficient market outcome where a repurchase costs the lender 30% per loan on average - but saves Fannie and Freddie a small fraction of that amount.**

We understand that repurchase demands have been the longstanding default practice for Fannie Mae and Freddie Mac when a loan does not meet their underwriting standards - for reasons that include fraud, material misrepresentation, underwriting errors (most often related to a borrower's income or employment), appraisal problems, and other reasons.

What has changed in the last year is the back-end cost of a repurchase to the originating lender. As we have communicated in meetings with FHFA, Fannie Mae, and Freddie Mac, our consensus member conclusion is that the average loss to the lender is now 30% on every loan repurchase.

This average loss level on repurchases has never been higher, in our members' business experience.

This significant increase in losses is primarily due to the spike in mortgage rates, from around 3% a year ago to over 6% currently. This creates a significant loss to the lender merely by taking a loan out of an MBS pool. This equates to a loss of over \$100,000 on a \$335,000 loan. The loss is even greater for high-cost loans; 30% equates to a \$218,000 loss for a loan at the conventional loan limit - and a \$327,000 loss for a loan at the maximum nationwide loan amount. This is for one loan - that is not even in default!

**These costs are exacerbated by the fact that there is effectively no appeals process, outside of Fannie and Freddie, to contest their repurchase demands on individual loans.**

In place of this, we are asking the Enterprises to utilize an indemnification option, in a reasonable range, in lieu of making a repurchase demand for performing loans. Such an approach is more aligned with the practice of FHA, which generally uses indemnification for mortgage loans with manufacturing defects.

**Moreover, this fully protects Fannie and Freddie on such loans, since in addition to the lender indemnification payment to the Enterprise, the lender will continue to be responsible for repurchase of the loan at a later date if the borrower status changes to non-performing.**

Put simply, the penalty to the lender of a repurchase is wildly disproportionate if a loan is performing. Repurchases inflate the overall loss level by effectively capitalizing the interest rate mismatch through a kind of mark-to-market impact. Put another way, the expected reduction of future Fannie/Freddie losses is a small fraction of the actual lender caused by a repurchase. **This is inefficient.**

In this letter, we have not chosen to address our overall belief that the number of Enterprise repurchase demands has increased in the last year. However, we wanted to give you a few examples our member-lenders have experienced of actual repurchase demands, in order to illustrate how unfair and disproportionate a 30% penalty is compared to the alleged offense:

- 1. HOME POSSIBLE LOAN.** *(1) Borrower FICO Score is above 780, (2) Borrower had no debts at time of loan application and has established tradelines, (3) Borrower had 10 years on the same job, was an hourly employee working a standard 40-hour work week per VOE, with some overtime verifiable over a 3-year history, and had 10 years on same job, with no employment. Loan was LP approved at a 95% Loan to Value at the income level the Lender put forth. The purchase demand was based on income calculations, with the disagreement being under \$100 per month. The seller was an investor and the home was taxed under investor non owner occupied tax mill rate which is higher than owner occupied tax mill rate. Taxes will be reduced with owner occupied borrower. IMB used current taxes to qualify borrower vs lower taxes as IMB believed borrower qualified easily and had AUS approve at that payment. Enterprise disputed income calculations by under \$100 raising ratio and ultimately resulting in the repurchase demand. Lender demonstrated that even at the Enterprise slightly lower income calculations, which Lender disputed, the actual tax rate under new owner-occupied mill rate produces lower payment well below that which was used in the AUS.*
- 2. NO SPECIFIC VIOLATION.** *Enterprise unable to identify any specific underwriting guideline the lender violated - merely subjectively argued the house's unusual design had limited market appeal, despite lender submission of two appraisals and a review appraisal of homes with similar design and appeal.*
- 3. INACCURATE CLAIM BORROWER NOT EMPLOYED AT CLOSING.** *Enterprise demanded repurchase on a loan due to a TWN VOE that inaccurately claimed the borrower was unemployed at closing. Lender did a manual verification at time of closing showing borrower was employed. Though the borrower lost their job post-closing, borrower got a new one several months later.*
- 4. APPRAISALS:** *Enterprise questioned appraisal value of \$240,000, claiming a CDA reflected a value of only \$220,000. However, (a) the lender followed all guidance of multiple appraisals to confirm value, (b) even at the lower appraised amount, the loan was approvable (85% LTV), and (3) even if the Enterprise was correct, the repurchase was causing an average 30% loss on a recovery diminishment of only 10%.*

**Borrowers (consumers) are ALSO harmed by repurchases being the default Enterprise action.**

Fannie Mae and Freddie Mac loans have strong consumer protections in the form of required loss mitigation actions and a prescribed waterfall in the event of a borrower default. However, when a lender is required to repurchase an Enterprise loan, it is no longer an Enterprise loan. **Those loss mitigation requirements and consumer protections simply expire when the repurchase takes place.**

This is not to say lender/servicers will not take actions to try to keep borrowers in their home. However, with the Enterprises removing their MBS wrap, lenders' best execution option is often to sell to opportunistic buyers on the scratch and dent market. In turn, these buyers are solely motivated by the profit motive, and will not hesitate to foreclose if the borrower stops making payments.

Second, actions have consequences. FHFA has commendably pursued policies designed to encourage loans to minorities and underserved borrowers, such as the Home Possible and Home Ready programs.

However, these borrowers commonly pose more risk of default and foreclosure. Combined with the fact that underserved borrowers commonly have tighter underwriting compliance ratios (which increases the chance of a lender not meeting such ratios), these factors increase repurchase risk for lenders.

Thus, if a lender is going to end up taking 30% loan losses for what are many times merely foot faults that have little or nothing to do with loan performance - on loans where the borrower has not even defaulted on the loan - **this will inevitably create disincentives to lend to underserved borrowers.**

Additionally, our members report that the most common cause of a repurchase request is Enterprise claims of defects in appraisals. The lack of depth of appraisal comps is particularly a problem in rural areas. Therefore, it would be understandable if lenders experiencing a high level of repurchase requests due to appraisals in rural areas would pull back on lending in rural areas or use more conservative LTVs.

Further, repurchase demands based on appraisal issues are generally the most subjective basis for such demands, often questioning things like the level of adjustments to other comps and the degree of comparability between financed properties and the comps.

Finally, it seems grossly disproportionate for a lender to take a 30% loss - on a performing loan - where the Enterprise is at most claiming appraisal values are being inflated by a comparatively small amount in relation to the average 30% loss being imposed on the lender through a required repurchase.

In closing, CHLA appreciates your consideration of our comments and recommendations, and looks forward to talking with you in the near future about this and the other aggregator repurchase issue.

Sincerely

COMMUNITY HOME LENDERS OF AMERICA

CC: Mr. Michael J. DeVito, CEO, Freddie Mac  
Ms. Priscilla Almovodar, CEO, Fannie Mae