CHLA COMMUNITY HOME LENDERS OF AMERICA

July 25, 2023

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

RIN 4030 - [XXXX]: FSOC Proposed Interpretive Guidance:
"Authority to Require Supervision and Regulation of Certain Non-bank Financial Companies "

Dear Secretary Yellen

The Community Home Lenders of America (CHLA)[1] writes to submit comments in response to proposed revisions to interpretive guidance by the Financial Stability Oversight Council ("FSOC") with respect to designation of non-bank financial companies as a systemically important financial institution ("SIFI").

CHLA writes to point out that independent mortgage banks (IMBs) clearly pose no systemic risk with regard to their function as mortgage loan originators. Further, with respect to IMB mortgage servicers, it would be absolutely inappropriate to designate **any** small or mid-sized servicers as a SIFI.

Finally, while the demise of a very large servicer could be disruptive to borrowers, it would not rise to the level of being a systemic risk. Therefore, CHLA believes it is not appropriate for **any** mortgage servicer to be designated as a SIFI. We note that large servicers are already subject to significant financial requirements and ongoing regulation by Ginnie Mae and FHFA, which have proved vigilant in monitoring servicers through varying financial conditions, including the spike in defaults under COVID.

In the mortgage servicing sector, CHLA represents only small and mid-sized IMBs (non-banks). In March, CHLA released its **"CHLA Report on Regulatory Creep."** This report covered a number of topics, including:

- *Rebutting the Myths that IMBs are risky and unregulated [page 2].*
- *IMBs are Subject to Significantly Greater Consumer Protections than Banks Are [page 6].*
- *More Regulation of Small & Mid-sized IMBs is Not Justified by the Minimal Risk They Pose [page 5].*

This last section goes into detail explaining why the demise of a small or mid-sized IMB in its capacity as a mortgage originator poses **zero** taxpayer or financial risk. This same section also analyzes the potential demise of a smaller IMB servicer, explaining there would be "miniscule" impact and no systemic risk.

> *"**Taxpayer Risk from Smaller IMB Servicer Failures is Miniscule**. If Ginnie Mae issuer/servicers go out of business, Ginnie's risk of loss is extremely low, since their guarantee is backed by federally insured loans (FHA/VA/RHS. Ginnie Mae might have to transfer an issuer's MSR portfolio - but historically it has been relatively easy to transfer portfolios of smaller issuers with little or no cost. The risk to Fannie and Freddie of IMBs going out of business is even lower, since many IMB seller-servicers have been selling loans through the cash window, reducing advance responsibilities."*

We now turn to an explanation of why even large servicers should never be designated as a SIFI.

[1] CHLA is the only national trade association focused exclusively on small and mid-sized independent mortgage banks (IMBs).

In April you stated that *"[FSOC] does not broadly prioritize one type of tool over another"* and that FSOC will often *"determine that a risk should be addressed by existing regulators . . . in instances where systemic risks emanate from widely conducted activities and where the entity is within the jurisdiction of a regulator with adequate prudential or supervisory authorities."*

Consistent with this framework, CHLA makes a number of points regarding why SIFI designation of non-bank (IMB) servicers is never appropriate:

- Ginnie Mae and Fannie Mae and Freddie Mac (through FHFA regulation) already have both significant financial requirements for issuance/servicing of these loans and ongoing robust supervision of these entities with the objective of maintaining them as an ongoing entity.

- Large servicers are subject to a wide range of additional financial and consumer rules and supervision, as well as market discipline - including: (1) state licensing in every state a servicer does business in, (2) ongoing examinations by the CFPB, (3) ongoing examinations by states in which they are licensed, (4) stringent counterparty risk requirements by warehouse lenders, (5) Dodd-Frank consumer protection laws regarding servicing practices, and (6) strict loss mitigation requirements for loan defaults on FHA, RHS, VA, Fannie Mae, and Freddie Mac loans.

- To the extent that mortgage-backed securities (MBS) markets could be affected by the demise of a large servicer that is temporarily unable to make advances, there are other mechanisms available to fulfill this function.

- Disruptions in mortgage servicing as a result of the demise of a large servicer could cause dislocations and inconveniences for borrowers - but ultimately are extremely unlikely to result in a significant widespread financial disruptions or other negative financial chain reactions.

In closing, we appreciate your consideration of these comments.

Sincerely

COMMUNITY HOME LENDERS OF AMERICA