NCSHA

November 26, 2012

Mr. Edward J. DeMarco
Acting Director, Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20024

RE: No. 2012–N–13

Dear Mr. DeMarco,

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) writes to express our strong opposition to the Federal Housing Finance Agency's (FHFA's) recent proposal to increase the guarantee fees that the Government Sponsored Enterprises (GSEs) charge on single-family mortgages issued in five states. We believe that this proposal unfairly punishes states for adopting reasonable consumer protections and represents an unwarranted effort by a federal agency to influence state policy.

We are also deeply concerned that this proposal will set a dangerous precedent that will detract from the GSEs' mission to expand access to affordable home financing. Finally, the increase in guarantee fees will weaken the already struggling housing markets in these states and make it more difficult for lower-income consumers to obtain affordable home financing.

Do Not Intrude on States' Rights to Set Consumer Protection Laws

FHFA's proposed rule says its goal is to increase fees on those states where foreclosure-related costs are significantly higher than average. In calculating each state's costs, FHFA utilizes a vague formula based on the length of time it takes the GSEs, on average, to foreclose upon a loan and the costs that lenders and investors are responsible for when carrying a nonperforming loan.

Under this formula, FHFA singles out for fee increases five states that have instituted strong consumer protections designed to help homeowners contest wrongful foreclosures and seek out options to remain in their home. Many of these protections were put in place as a direct response to the wave of wrongful foreclosures that occurred following the financial crisis.

FHFA attributes the states' foreclosure-related costs to such policies. But, in fact, many of these state policies reduce foreclosures and foreclosure-related costs. The FHFA formula does not appear to factor in the reduction in the number of foreclosures and associated costs that results from these policies.

We are concerned that FHFA's policy, given the GSEs' significant role in the housing market, may inappropriately discourage states from adopting additional consumer protections. FHFA notes in the proposed rule that it plans to periodically adjust its guarantee price guidance to reflect the impact of newly enacted state laws that affect foreclosure timeliness and costs. Since many consumer protections will likely increase both these factors, states will have to be wary of implementing such initiatives out of concern that it could result in increased guarantee fees. This is an inappropriate effort on the part of a federal agency to influence state policy.

FHFA seeks comment on whether it should adopt a system in which all states would be assessed an upfront credit or fee based on how its foreclosure-related costs differ from the national average. We oppose such a system. If one were established, it would represent unwarranted interference into state policy-making by creating an incentive for states to weaken consumer protections in order to secure lower borrowing fees for their citizens.

Do Not Set a Dangerous Precedent that Detracts from the GSEs' Mission

The GSEs were created to provide a stable source of funding for residential mortgages across the country that would allow borrowers everywhere to secure affordable home lending. Fannie Mae and Freddie Mac have charged the same guarantee fees to all borrowers regardless of where they reside, making it possible for lenders to originate loans to consumers in rural and other underserved areas.

By proposing that certain states pay increased fees, FHFA is breaking from the uniform fee policy that has served the GSEs and the nation so well. Reversing this well-established policy would detract from the GSEs' critical mission to make homeownership affordable for working- and middle-class families throughout the country. National and regional lenders may be prompted to curtail their lending in states with higher guarantee fees, limiting options for consumers. In addition, once the precedent has been established for charging different fees in different states based on their consumer protection and housing policies, it raises the possibility FHFA and the GSEs will adjust guarantee fees based other factors.

Do Not Undermine the Struggling Housing Market

While there are several signs that the housing markets in the affected states have begun a slow recovery, their markets remain fragile. Given the dominant role that the GSEs currently play in the single-family mortgage market, these proposed additional fees could undermine the housing recovery in the impacted states by increasing monthly payments and deterring potential buyers. This is especially likely when considered together with FHFA's recent decision to increase guarantee fess on all mortgages by an average of 10 basis points and increased efforts by the GSEs to force lenders to repurchase loans. These steps combined have made lenders more reluctant to originate loans to otherwise creditworthy borrowers. The additional fees will amplify these negative effects.

The increased fees will disproportionately impact lower-income borrowers, for whom the fees represent a larger share of their income. While the expected average monthly increase that borrowers will face appears to be relatively low ($3.50 to $7.50, according to FHFA's estimate), such an amount's effect can be substantial for low-income borrowers. Further, the increased fees will reduce these borrowers' disposable incomes, thus limiting their resources for other basic needs.

NCSHA understands that FHFA's role as conservator requires it to take steps to improve the GSEs' financial condition. However, increasing guarantee fees for loans originated in certain states is a counterproductive approach that could end up doing more harm than good for the GSEs by making it more difficult for consumers to purchase a home, undermining states' consumer protection efforts, and disrupting a uniform fee policy that has been a cornerstone of American's housing finance system. We strongly urge FHFA to rescind this proposal.

Thank you for your consideration of our comments. Please do not hesitate to contact me if we can provide additional information.

Sincerely,

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives