

March 30, 2005

The Honorable Richard Shelby
Chairman
Committee on Banking, Housing
and Urban Affairs
Washington, DC 20510

The Honorable Paul Sarbanes
Ranking Member
Committee on Banking, Housing
and Urban Affairs
Washington, DC 20510

Dear Chairman Shelby and Ranking Member Sarbanes:

As the Committee moves toward markup of legislation to create a new regulatory regime for the Government Sponsored Enterprises (GSE), the undersigned organizations of state and local government elected officials and affordable housing practitioners are writing to advise you of their position regarding several issues.

Fannie Mae and Freddie Mac are critical business partners of our members, working together to advance the availability and affordability of affordable housing in this country. They are the two largest corporate purchasers of Low-Income Housing Tax Credits that result in the production or rehabilitation of affordable rental housing. They also purchase an estimated \$6 billion in tax-exempt single- and multifamily housing bonds, and in this regard, constitute approximately 25% of the market for these bonds. In addition, they provide credit enhancement for these bonds.

Independent Regulator

We believe that the regulator of the GSEs must be independent of both the Department of Housing and Urban Development and the Treasury Department. A new independent regulator would have the ability to *balance* the need for safety and soundness with the housing mission of the GSEs. In addition, the regulator must have experience in affordable housing and be given a new housing program approval process that is streamlined. We urge you to avoid a cumbersome program approval process that could only stifle innovation and prevent the GSEs from developing creative new initiatives to put homeownership within the reach of families in need.

Protect their Government-Sponsored Status

Under current law, the GSEs enjoy government-sponsored status. This enables the GSEs preferred access to capital, which in turn allows them to provide liquidity and reduce the borrowing costs of the homebuyers ultimately assisted. We strongly urge that any legislation the Committee considers preserves this special status. If the GSEs were to lose this status, they would be forced to borrow capital on the same basis as other private institutions. This would directly translate into increased mortgage costs for homebuyers and providers of affordable rental housing. The special status afforded the GSEs is a key reason that the nation enjoys a record homeownership rate and why housing has had such a positive effect on national economic performance.

Affordable Housing Goals

We enthusiastically support housing goals that focus the mission of the GSEs on increasing affordable housing. Moreover, we support any requirement that serves to increase the availability of mortgage credit to low- and moderate-income families, families living in underserved areas, and other targeted disadvantaged groups. However, our combined organizations are deeply concerned that HUD based the goal levels on an inaccurate or unreliable assumption of the size of the single-family refinance market and set the goals at levels in the out years above where even HUD believes the market will perform. As such, the new goals, while having good intentions, might adversely affect other areas of the housing finance market including discouraging lending to middle-income working families living in our communities and competing with the Federal Housing Administration's (FHA) mortgage portfolio.

Local and state government and national housing organizations are extremely concerned that the new goals promulgated last year by HUD may be overly aggressive and could have significant adverse effects on the housing market. Lending for affordable housing in today's housing markets is at an all-time high, and homeownership rates have reached record levels. The goals set forth in the final rule assume that this trend will either continue or increase in the foreseeable future. It is our view that this assumption is not only unrealistic, but also a dangerous gamble that could have, if proven wrong, dire consequences for the nation's housing finance system.

Of specific concern are the increases to the low- and moderate-income goal (from 50 percent in 2004 to 57 percent in 2008), the special affordable housing goal (from 20 percent in 2003 to 28 percent in 2008), and the underserved areas goal (from 31 percent in 2003 to 40 percent in 2008). Data published in the proposed rule suggested that these goal increases are over and above HUD's own estimates of the size of the current affordable housing market. The 2008 goal levels almost invariably exceed HUD's own market estimates because HUD has estimated a range of possible market sizes and then has chosen to increase the goals to levels at the highest end of those ranges. The supporting data leads us to believe these goals are set well above attainable levels.

To achieve HUD's goals, the GSEs will need to change their focus and business models fundamentally, potentially resulting in negative consequences for the FHA insurance fund or for middle-income families in the conventional market. As such, we recommend that the GSE's regulator be required to set the housing goals at the mid-point of their market estimate. To address a further uncertainty in the establishment of the goal levels, we recommend, as we did in our comment letter to HUD dated July 16, 2004, the removal of single-family refinances from the calculations of the GSE goal levels.

Another obstacle posed by the goals is the adoption of a purchase money sub-goal focused on metro areas that is again set at a level above where even HUD believes the market will perform. We are concerned that the further proliferation of sub-goals will cause the GSEs to focus on certain markets while neglecting others. We would recommend that Congress eliminate the regulator's authority to create sub-goals and instead focus the GSEs on the broad needs of the affordable housing marketplace.

In addition, we strongly urge that the GSEs be given goals credit for purchases of Low-Income Housing Tax Credits and tax-exempt single- and multifamily bonds. These investments expand the availability and affordability of housing for low- and moderate income households and are consistent with the thrust of the GSE goals.

Affordable Housing Fund

The bill approved by the Committee last year provided for the establishment of an affordable housing fund to be funded from a percentage of the net assets of the GSEs. The fund, targeted to very low and extremely-low income households, could be used as a reserve against losses from innovative loan programs, preserve affordable homeownership and rental housing opportunities, or provide grants for such purposes. We strongly support establishing such a fund. Available resources for affordable housing are shrinking. The GSEs can and should help fill this gap. In addition, we urge that the existing infrastructure in place among local and state governments be used to administer such a fund.

Limits on Growth of the GSEs

Some critics of the GSEs have recommended that there be limits placed on the growth of the GSEs or limits placed on their profitability. We oppose such limits. In order for the GSEs to carry out their mission and expand their investments in affordable housing they must be given the flexibility to raise capital to do so. Establishing limits on their growth or profitability would prevent this from happening, and possibly threaten their safety and soundness.

Bright Line Test

S. 190, which has been introduced by Senator Hagel, would impose a so called “bright line test.” This provision would prohibit the GSEs from engaging in any activity prior to a loan being closed. This test, which we strongly oppose, would preclude existing activities and products of the GSEs that have resulted in lowered costs and increased access to mortgage credit in the communities our organizations serve. Going forward, the bright line rule would limit the innovation that has occurred in the secondary market to further decrease costs and make homeownership more accessible and affordable for our nation’s families. This would be contrary to the mission of the GSEs. It has no place in legislation governing the regulation of the GSEs. We urge you to reject it.

Thanks you for your favorable consideration of our views.

Sincerely,

National Association of Local Housing Finance Agencies
National Association of Counties
U.S. Conference of Mayors
National Community Development Association
Council of State Community Development Agencies