

HOUSING FINANCE REFORM: NEXT STEPS

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS
FIRST SESSION
ON
RECEIVING AN UPDATE FROM GOVERNMENT AGENCIES ON DEVELOPING A FRAMEWORK FOR ADMINISTRATIVE AND LEGISLATIVE REFORM OF THE FEDERAL HOUSING FINANCE SYSTEM

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HOUSING FINANCE REFORM: NEXT STEPS

TUESDAY, SEPTEMBER 10, 2019

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:01 a.m. in room SD-538, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. This hearing will come to order.

Today we are joined by the leading voices within the Administration on reforming and strengthening our housing finance system: the Secretary of the Treasury and the Secretary of Housing and Urban Development, both of whom have just submitted housing finance reform proposals to the President, as well as the Director of the Federal Housing Finance Agency, who serves as the regulator and conservator of Fannie Mae and Freddie Mac.

I want to thank each of you for coming to the Committee this morning.

Last Friday marked 11 years since the Government bailed out and put Fannie Mae and Freddie Mac into conservatorship, where they remain today.

Prior to 2008, the two Government-sponsored enterprises held just 45 cents in capital for every \$100 in mortgages they guaranteed. Now they hold just 19 cents, after a historic \$200 billion bailout from the taxpayers.

Eleven years later, these systemically important companies continue to be too big to fail and are even more leveraged than they were before the financial crisis, and taxpayers inevitably remain on the hook in the event of the next market downturn.

In March, President Trump signed a Presidential Memorandum directing the Department of the Treasury and the Department of Housing and Urban Development to develop a plan for administrative and legislative reform of the Federal housing finance system.

Many of the legislative recommendations in the plans that were released on Thursday are consistent with my outline to fix our housing finance system, including attracting private capital back into the market, protecting taxpayers against future bailouts, and promoting competition, as well as preserving certain important incremental reforms that have already taken place during the conservatorship, including a robust transfer of credit risk, the single security and common securitization platform, and loan pricing that does not vary based on a lender's size.

The status quo is not and has not been acceptable, and my strong preference remains to fix it through comprehensive legislation.

Five years ago, this Committee demonstrated that it is possible to come together and advance a comprehensive solution on this topic.

This year, I released my housing reform outline, which builds upon many of the same principles of those previous efforts.

It sets out a blueprint for a permanent, sustainable new housing finance system that protects taxpayers by reducing the systemic, too-big-to-fail risk posed by the current mortgage guarantors.

It preserves the existing infrastructure in the housing finance system that works well while significantly increasing the role of private capital.

It establishes several new layers of protection between mortgage credit risk and taxpayers.

It ensures a level playing field for originators of all sizes and types while also locking in uniform, responsible underwriting standards.

And it promotes broad accessibility to mortgage credit, including in underserved markets.

Ultimately, only Congress has the tools necessary to provide the holistic, comprehensive reform to our system that will be durable through any market cycle.

However, it is important for the Administration to begin moving forward with incremental steps that move the system in the right direction.

After 11 years of conservatorship, it is long past time to make the hard decisions and address this last unfinished business of the last financial crisis.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. Welcome to the witnesses. Welcome back to my colleagues.

We are going to hear from the Trump administration today about the “next steps” on housing finance reform. It is clear from the plan they put out last week what President Trump thinks these steps should be: The Trump plan will make mortgages more expensive and harder to get.

We should not have to tell the President we have an affordable housing crisis in this country. We all know it; we all see it.

I see it when I talk to residents of a manufactured housing community on the verge of losing their homes because they cannot afford the rent increase imposed by wealthy private equity investors from outside their States who just bought their community.

I see it when I drive past the boarded-up houses that belonged to the victims of predatory lending in my home city of Cleveland, in my neighborhood of Slavic Village, and it happens across the country.

I see it when I talk to young people in their twenties and thirties who want to buy a home, but who drown in student debt and cannot save enough for a downpayment or afford a mortgage.

These are the real crises facing real families all across Ohio and across our country.

They are renters, they are homeowners, and they are former homeowners. They all have one thing in common: They cannot afford a place to call home.

We have had productive hearings in this Committee where we talked about what it would take for the housing finance system to actually work for working families.

In March, we held two hearings with representatives from the home builders, the Realtors, the mortgage bankers, the credit unions, the civil rights community, and multifamily lenders.

We heard during those hearings that affordability and access are not just components of housing finance. They are the whole reason we have a housing finance system. They cannot be an afterthought once we have answered other questions about the structure of the housing finance system. They have to be built into the system.

We need a housing system built on a mission to serve borrowers and renters, no matter who they are, what kind of work they do, or where they live.

That means we need policies that focus on increasing service for underserved markets, like rural areas and manufactured housing homeowners and borrowers who have been locked out of the market for decades because of discrimination.

And we need a system that helps a wide variety of lenders and borrowers participate so that they can meet all families' needs, particularly those who have been left behind for generations.

In our March hearings and in the hearings since, we have heard housing stakeholders remarkably coalescing around a few foundational principles for reform. They have consensus. They have said that reform should protect access to affordable 30-year fixed-rate mortgages. They have said that reform should provide a catastrophic Government guarantee. They have said that we should structure loan guarantors like public utilities, providing a regulated rate of return. They have said we should serve a broad, national market. They have said we should serve lenders of all types and sizes equitably. They have said we should maintain a duty to serve all markets and all borrowers. They have said we should maintain affordable housing goals and metrics. They have said we should expand investment in affordable housing. And they have said we should maintain the GSEs' successful multifamily business models and ensure continued or better access for financing of affordable rental housing.

Yet, unsurprisingly, President Trump and his Administration missed the point.

Rather than create a system that addresses the needs of working families, the Trump administration has put out half-baked proposals that will make mortgages more expensive and harder to get.

In addition to increasing costs, the plan would make it harder for small lenders to compete and would gut the existing tools we have now to help underserved families finally find an affordable apartment or own their first home.

The President's plans would also roll back consumer protections and investor disclosures put in place following the financial crisis, and as we know, there has been a collective amnesia on this

Committee and in this Administration to prevent predatory loans and toxic securities from building up in our financial system.

So let us be clear: Whether you are renting and want to buy a home or own a home and someday want to sell it, President Trump's plan hurts you—all to funnel, no surprise here, all to funnel more money to the same Wall Street system that wrecked the housing market and wrecked families' lives in 2008.

I was encouraged when I saw that Treasury's plan had nine separate proposals dedicated to "leveling the playing field."

I thought this might mean, maybe hope against hope, might mean leveling the playing field for communities of color, young households trapped by student debt, or renters who cannot afford to save for a downpayment.

So you can imagine my disappointment when I saw that all nine proposals—every last one of them—were about "leveling the playing field" for Wall Street, which is looking to make money off of working families' mortgages.

Really?

Of course, we should not be surprised. The White House looks like a retreat for Wall Street executives. Only this plan is the same as every other Trump administration plan. It is about making it easier for Wall Street, in the President's home city, making it easier for Wall Street to profit off hardworking families.

These plans come in the midst of a flurry of other troubling Administration proposals to weaken fair housing and fair lending protections, to gut a bedrock civil rights law, the Community Reinvestment Act.

Taken together, the President has once again—once again—decided to betray working families in Youngstown, in Cleveland, in Baltimore—Baltimore, Secretary Carson, Baltimore the city that the President finds is so beloved—once again decided to side with Wall Street wealth over the dignity of work.

We do not need to make it easier for Wall Street to get richer. To quote Secretary Carson, "news flash, rich people are going to get richer anyway."

We need to make it easier for every American family to find an affordable place to call home.

Housing should not be optional. It is a basic need. No one should go without it in this great country.

Thank you, Mr. Chairman.

Chairman CRAPO. Our witnesses today are the Honorable Steven T. Mnuchin, Secretary of the Treasury; the Honorable Benjamin S. Carson, Secretary of Housing and Urban Development; and the Honorable Mark A. Calabria, the Director of the Federal Housing Finance Agency.

Secretary Mnuchin, you may begin.

**STATEMENT OF STEVEN T. MNUCHIN, SECRETARY,
DEPARTMENT OF THE TREASURY**

Mr. MNUCHIN. Thank you. Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am pleased to be with you today to discuss the Treasury Department's Housing Finance Reform Plan that will protect taxpayers and foster competition in the market.

I would like to thank Chairman Crapo and the Committee for your work on this important issue. The outline you released in February was a productive step toward ensuring the safety and stability of our housing finance system.

In September of 2008, the Government-sponsored enterprises Fannie Mae and Freddie Mac were placed into conservatorship by FHFA. Treasury has provided the GSEs with over \$190 billion in taxpayer assistance.

Eleven years later, the GSEs remain in conservatorship and continue to be supported by a Treasury commitment to keep them solvent. The continued conservatorships of the GSEs have perpetuated far-reaching Government influence over the housing finance sector. The lack of reform has left taxpayers exposed to future bailouts.

Treasury's Housing Plan includes almost 50 recommended actions. These measures would reduce the role of the Federal Government, enhance taxpayer protections against future bailouts, and increase private sector competition in the housing system.

As required by President Trump's directive, Treasury's plan shows that the GSEs can and should be reformed to ensure their safety and soundness. Although no law prescribes a specific endpoint for the conservatorships, no conservatorship is meant to be permanent, and that includes FHFA's management of the GSEs. The plan provides a road map to release them from conservatorship.

Treasury's reform plan takes great care to preserve what works in the system. Each of the Treasury's recommended reforms is incremental, realistic, and balanced. In particular, the Treasury plan would preserve the longstanding Government support of the 30-year fixed-rate mortgage loan. That support should be explicitly defined, tailored, and paid for. Treasury recommends that Congress authorize an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying mortgage-backed securities. To foster competition, this guarantee should be available to the GSEs and also to any other FHFA-approved competitor.

Moreover, the regulatory environment should be harmonized so that the GSEs and private sector competitors operate on a level playing field. For example, the GSEs currently have a competitive advantage over other participants under the so-called QM patch to the Consumer Financial Protection Bureau's ability-to-repay rule. In July 2019, the CFPB announced that the QM patch would expire in January 2021 or after a short extension. Treasury supports the CFPB's planned expiration of the QM patch, and it also supports further revisions to the ability-to-repay rule to ensure that mortgage lenders continue to have a bright-line safe harbor after the QM patch.

Finally, I must emphasize our recommendations make it clear that the Administration's preference is to work with Congress to enact comprehensive housing reform legislation. Legislation could achieve long-lasting structural reform that tailors explicit Government support of the secondary market and repeals the GSEs' congressional charters and other statutory privileges that give them a competitive advantage. At the same time, we believe that reform

can and should proceed administratively. Pending legislation, Treasury will continue to support FHFA's administrative actions to enhance regulation, promote private sector competition, and satisfy the preconditions set forth in the plan for ending the GSEs' conservatorships.

Under the leadership of the President, I am proud of all the work we have done to create conditions for greater economic growth, more and better opportunities for working families, and higher wages for all Americans. Today I look forward to discussing with you the critical issue of housing finance reform. I truly hope that the Committee will work with us on a bipartisan basis to move forward with legislation.

Thank you very much, and I look forward to answering your questions.

Chairman CRAPO. Thank you, Secretary Mnuchin.

Secretary Carson.

**STATEMENT OF BENJAMIN S. CARSON, SR., M.D., SECRETARY,
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. CARSON. Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for this opportunity to appear before you today to discuss how the U.S. Department of Housing and Urban Development will support this Administration's effort to reform the Nation's housing finance system.

I also want to thank the tremendous team that we have assembled at HUD. We say we have the ugliest building but the best people, and a special shout-out to Mike Kelley, whose birthday is today.

In the years since the financial crisis, the Federal Government has continued to play an outsized role in the Nation's housing finance system. It is imperative that Congress and the Administration act to refocus this system that we support appropriate and responsible access to credit and ensure Government programs do not overlap with and crowd out private capital.

I am pleased to present an overview of HUD's Housing Finance Reform Plan we submitted to the President last week. HUD supports millions of families with affordable homeownership opportunities through the Federal Housing Administration and Ginnie Mae, providing credit access and liquidity in the mortgage market.

During the financial crisis, and because of the policies of the previous Administration, FHA's and Ginnie Mae's balance sheets swelled, growing by approximately 350 percent and 400 percent, respectively, between the years of 2007 and 2018. Our reform plan will reduce the Federal Government's outsized role in housing finance and protect taxpayers.

To that end, I ask Congress to work with the Administration on four key pillars: number one, return FHA to its core mission of serving low- and moderate-income families, including first-time home buyers, who cannot be served through traditional underwriting; to protect American taxpayers, number two, from the risk of bailouts; number three, to provide FHA and Ginnie Mae with the tools they need to manage the risk associated with oversized portfolios; and, four, to provide liquidity to the housing finance system.

Our Housing Finance Reform Plan contains many recommendations, but for the sake of my oral testimony today, let me focus on just a few.

First, return FHA to its core mission. We ought to allow the private market to work, and in those areas where it cannot or will not work, we must make certain that we target programs to borrowers not served by traditional underwriting. Historically, this has been FHA's most important contribution to the American housing market: facilitating earlier entry into home ownership for these families, particularly first-time home buyers. Without FHA mortgage insurance, millions of lower-income and middle-income families would lack access to affordable mortgage credit. Refocusing on its core mission will strengthen FHA's ability to help creditworthy borrowers build equity and avoid foreclosure.

Second, a central principle of our plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable credit options. Our plan proposes that HUD and FHFA will coordinate to ensure Fannie Mae, Freddie Mac, and FHA serve defined roles within the marketplace. HUD recommends that Congress establish FHA, the Department of Veterans Affairs, and the Department of Agriculture as the sole source of low-downpayment financing for borrowers not served by the conventional mortgage market.

Third, to better protect taxpayers, we need to strengthen FHA's risk management systems. FHA currently insures more than \$1.4 trillion in mortgage debt. Meanwhile, Ginnie Mae guarantees more than \$2 trillion in mortgage-backed securities. It is imperative that FHA and Ginnie Mae conduct their business in a manner that protects American taxpayers. FHA must maintain an appropriate level of capital reserves. It is unacceptable for the agency to ever again require a draw on taxpayer funds to sustain its book of business, as it did in the previous Administration. Our plan strengthens FHA governance and builds its capital ratio well above the statutory 2 percent minimum to safeguard the agency against episodes of market decrease.

To fulfill this duty to taxpayers and ensure it continues to provide affordable access to mortgage credit for mission-focused borrowers, FHA needs some independence from broader HUD protocols that govern staffing, procurement, and technology. Therefore, our plan has recommended that Congress enact legislation that would restructure FHA as an autonomous Government-owned corporation within HUD.

In conclusion, the Presidential Memorandum provides an opportunity for Congress and the Administration to work together to ensure FHA and Ginnie Mae serve their important missions effectively, responsibly, and sustainably. I welcome Congress' participation as this Administration reforms these agencies to be better able to fulfill their responsibilities to borrowers and to the American taxpayers with that cooperation.

Thank you, and I look forward to answering your questions.

Chairman CRAPO. Thank you, Secretary Carson.

Director Calabria.

**STATEMENT OF MARK A. CALABRIA, Ph.D., DIRECTOR,
FEDERAL HOUSING FINANCE AGENCY**

Mr. CALABRIA. Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, thank you for the invitation to appear at this morning's hearing. I can think of few issues in our financial system deserving of more attention.

Our Nation's housing finance system is in urgent need of reform. The status quo poses significant risk to taxpayers, homeowners, renters, and the entire financial system.

I want to thank Secretary Mnuchin and Secretary Carson for their efforts to develop comprehensive housing finance reform plans. They lay out a responsible road map to build a more resilient housing finance system that protects taxpayers and maintains access. I also want to thank Secretary Mnuchin for the opportunity to have offered commentary on the Treasury's plan during its development.

These plans are broadly consistent with my top priorities, first of all to cement FHFA as a world-class regulator; second, to restore Fannie and Freddie to safe and sound condition by building capital to match their risk profiles. Building capital would also begin the process to end the conservatorships, which have lasted more than 11 years. I will note by comparison the longest bank conservatorship was 18 months.

A root cause of the 2008 financial crisis was imprudent mortgage lending backed by insufficient capital. I believe that this fundamental problem remains unresolved today. While borrower average credit scores have modestly improved, the enterprises' shares of low downpayment and high debt-to-income mortgages are back to their 2004 levels. Fueling rapidly rising house prices with easy mortgage credit from undercapitalized enterprises is a mistake, and it will end in disaster.

In their current financial condition, the enterprises are not equipped to withstand a downturn in the housing market. The enterprises own or guarantee a combined \$5.5 trillion in single-family and multifamily mortgages out of a \$12 trillion combined market. Yet with just \$6 billion in allowable capital, the enterprises approach a combined leverage ratio of nearly a thousand to one.

In comparison, our Nation's largest financial institutions have an average leverage ratio of ten to one.

The most recent DFAST for the GSEs I think illustrates this example. In the last crisis, housing prices declined by about 27 percent. The DFAST results modeled a 25-percent decline. Under such conditions, the enterprises lose over \$40 billion in capital.

Given that the housing supply appears to have become more inelastic since the crisis, we should actually expect greater price volatility going forward.

Let me also emphasize that our current mortgage finance system undercuts sustainable home ownership. The enterprises have expanded with the economy recently yet maintained risk and capital levels that ensure that they will fail in a downturn. This procyclical pattern harms low-income borrowers, making it easier to extend credit when the economy is strong but harder to keep those homes when the economy is weakened.

Our housing finance system is supposed to serve homeowners and renters while protecting taxpayers. In my view, it does neither. The Administration's plan aims to address these problems, and I applaud them for their efforts.

Congress, however, is the only body that can enact the structural reforms that are needed to fix today's broken system.

Compared to the duopoly of the enterprises, a fair and competitive secondary mortgage market would better serve borrowers and renters and promote long-term stability by ensuring that inefficient firms do not survive and that no firm is "too big to fail."

The Ranking Member mentioned increasing service and access, a goal I share. I think we have witnessed in one industry after another that the best guarantee for increasing access and lowering prices is an open, competitive market, not a monopoly, not a duopoly.

Some would argue that reform should wait for a crisis. I believe that this would be shortsighted. We found in the last crisis that it is difficult to do reform in the midst of a crisis. To paraphrase President Kennedy, the time to repair the roof is when the sun is shining.

Now is the time for needed reforms because our economy and housing market are strong. This will not always be the case.

While I am, of course, not forecasting a downturn, I do believe it is my responsibility as a potential regulator to hope for the best but to prepare for the worst.

Therefore, I intend, fulfilling my statutory duties, to strengthen FHFA, enable the enterprises to build capital to match their risk profiles, and to end the conservatorships. These reforms are critical to building a resilient mortgage finance system that protects taxpayers and delivers a diverse range of housing options at affordable prices. In the interim, I believe modest reforms can help me do my job better.

For instance, in June I asked Congress for the authority, similar to other financial regulators, to develop broader capital standards and to charter new enterprises. These commonsense proposals that other financial regulators have these powers need not wait for broader reform.

In far too many areas of our Nation, we face an affordable housing crisis. Too often this has been the result of misguided local land-use and building regulations. In other areas, housing supply remains constrained due to a lack of construction labor. For the enterprises to play an important role in addressing this crisis, they themselves must be fixed. Adding more weight to an already cracked foundation is to invite collapse.

Thank you again for the opportunity to testify, and I look forward to your questions.

Chairman CRAPO. Thank you, Director Calabria.

My first question is to all three of you, and this could be a yes or no answer, but feel free to elaborate if you would like to clarify.

Do you all agree that Fannie Mae and Freddie Mac are systemically important companies, that they continue to be too big to fail, and are even more leveraged now than they were before the financial crisis? Secretary Mnuchin.

Mr. MNUCHIN. Yes, in their current form, I do.

Mr. CARSON. I would agree as well.

Mr. CALABRIA. Yes, in their current form.

Chairman CRAPO. All right. Thank you.

I think I heard you each say this, but I want to ask it again. Do you each agree that the ideal outcome is for Congress to reach a comprehensive solution?

Mr. MNUCHIN. I absolutely support that.

Mr. CARSON. I think that would be the best permanent outcome.

Mr. CALABRIA. I would emphasize that I believe only Congress can reach a comprehensive solution.

Chairman CRAPO. So by saying that, Director Calabria, that does not mean that the Administration and the appropriate regulatory agencies cannot make significant steps?

Mr. CALABRIA. Absolutely correct.

Chairman CRAPO. And that leads to my next question, and that is, as we work to get a solution here in Congress, do you also agree that it is time for the Administration to act and to start building the foundation and taking the necessary steps that it can take in order to address this issue and actually help Congress get to a comprehensive solution?

Mr. MNUCHIN. We absolutely feel it is our responsibility to work both tracks, but our priority is to work with Congress on a bipartisan basis, and we will do everything we can to achieve that.

Chairman CRAPO. Thank you. Secretary Carson?

Mr. CARSON. And I think, you know, housing is obviously very important to everybody across any political spectrum. And anything that we do is going to be questioned as biased. So, yes, working with Congress is going to be the best way to do it.

Mr. CALABRIA. Absolutely, Mr. Chairman, I think that the Administration should move forward. I should move forward. I will tell you, as a safety and soundness regulator, when I look at a \$3 trillion institution that is leveraged a thousand to one, it keeps me up at night. So my focus is fixing that.

Chairman CRAPO. Well, thank you, and I will answer that same question back to you. I also believe that while it is the proper role for Congress to solve this and that only Congress can give the comprehensive solution that is needed, there are significant reforms that can be accomplished and can help actually move us in the direction of the reform that I have outlined in my outline and that I believe we need to achieve here in Congress. And I encourage you to act and to help us to get to that point.

In that context—and this question really is probably more specifically to Treasury and HUD—I would like you to talk a little bit about what the next steps that can be taken should be. And, again, in that context, it seems to me that a couple of the important ones that I have identified in your reports and in the discussion are capital and amending the PSPAs. But whatever your answer to the question is, what do you believe we should start seeing prompt action on?

Mr. MNUCHIN. So our priority is to make sure that the GSEs have more capital. We are in active discussions with the Director and the FHFA about renegotiating our agreements with them, which would allow for removing the net worth sweeps so that we would allow a significant amount of capital to be accumulated, but

in return for that, make sure that the taxpayers are compensated for the ongoing Treasury support. And that is something that the Director and I hope to achieve very quickly.

Chairman CRAPO. Secretary Carson?

Mr. CARSON. I think the most important things are obviously refocusing Ginnie Mae and FHA on our primary mission, which is providing opportunities for capital and credit to be extended to non-traditional markets; also providing the tools to these two entities that are necessary to deal with the various risks associated with management; providing liquidity to the world's largest financial market; and protecting the taxpayers. That is really what a lot of this is all about, and what happened last time around should never be allowed to happen again.

Chairman CRAPO. Thank you. And in my last 30 seconds, I did not mean to leave you out, Director. You have got a major role here.

Mr. CALABRIA. Thank you, Mr. Chairman. Absolutely, my primary focus at first is going to be trying to build capital, but also trying to make sure that FHFA as an agency is ready for a post-conservatorship world in terms of our supervision function, in terms of the powers we have, and in terms of the powers we may ask you that we may need.

Chairman CRAPO. All right. Thank you. I made it with 10 seconds to go.

Senator Brown.

Senator BROWN. I probably will not, Mr. Chairman. Thank you.

Secretary Mnuchin and Secretary Carson, the Presidential Memorandum that directed your agencies to complete the plans we discuss today said those plans were to be submitted to the President for his approval. A question to the two of you. Has the President approved your plan, Mr. Secretary?

Mr. MNUCHIN. We have briefed the President, and he has accepted the plans?

Senator BROWN. He has approved it?

Mr. MNUCHIN. Well, I believe—

Senator BROWN. Is accepted approved? Let me ask the question. Has he approved the plan, yes or no?

Mr. MNUCHIN. I do not know if he explicitly approved the plan. We will get back to you. We briefed the President, and he accepted the plans.

Senator BROWN. So you handed it to him and he said, "Thank you for the plan." OK.

Mr. MNUCHIN. Not we handed it to him. We briefed him. The Secretary and I went through and extensively briefed him.

Senator BROWN. OK, OK. I get it.

Secretary Carson?

Mr. CARSON. I agree.

Senator BROWN. OK. So is it possible he did not approve the plan? Because he and his in-depth knowledge of finance and all things Government knows they will make mortgages more expensive and harder to get perhaps? You know, if the GSEs and FHFA cut out their most profitable lines of business and still have to cover their costs, they will have to raise rates on the borrowers who are left. I mean, that is clear. It seems to me that you cannot come

here and say the President approved the plan, even though he wanted—the whole process would be so that he approved it, because the whole argument comes down to trust Wall Street. Just trust Wall Street does not really work these days. We should know.

Secretary Mnuchin, the majority of new households formed between now and 2030 will be headed by people of color. We already have a 30-point gap in home ownership between black and white households, a 25-plus-percent gap between Hispanic and non-Hispanic white households. This is not mentioned in either of these plans.

In your press release, you said the Treasury Department met with “a wide range of stakeholders, including affordable housing advocates.” How does your plan reflect the priority of civil rights organizations and the need for affordable housing and community development and credit access for people of color?

Mr. MNUCHIN. Well, let me first just comment we disagree that this is going to raise mortgage rates, and that we will be—

Senator BROWN. Of course you do.

Mr. MNUCHIN.—very clear that we are very careful, we support the 30-year mortgage, and we are not going to do anything to jeopardize that for hardworking Americans.

Also, we very much support the duty to serve as well as affordable housing goals, and we look forward to working with you and with the Chairman—

Senator BROWN. Not a lot of evidence that you support those.

Mr. MNUCHIN. Well, I believe we do. As a matter of fact, we specifically say in the report, OK, that we believe in affordable housing but we think that they should be replaced with something that is more efficient, transparent, and accountable. We want to make sure that affordable housing goals are met and that the money is being used carefully. And I look forward to working with you, so if you have ideas how we can do this in a better way, we look forward to working with you—

Senator BROWN. Well, we do. There was consensus, as I laid out in my opening statement, and your staff—I do not know how much of this you read, but your staff certainly saw this, watched or at least is informed of those hearings where there was consensus among almost the entire panels and the whole industry that we could do these things. And you pretty much ignored that in this.

But go back to this question. Why no mention of people of color in this gap?

Mr. MNUCHIN. I think we have referenced the duty to serve. That is a very important issue that you have outlined, and this is something that we look forward to working with you on.

I would say our priority is to make sure we maintain affordable housing and duty to serve, but also to make sure that the taxpayers are not at continued risk and we do not have another bail-out of these entities.

Senator BROWN. Secretary Mnuchin, your plan calls for shrinking Fannie and Freddie’s role in the housing market, cutting back on their activities, opening up their underwriting systems for anyone else to use, giving away their data, giving price advantages to their new competitors. You also say the GSEs, all three of you said GSEs

need more capital, and suggest raising capital through an initial public offering, or an IPO.

You grew up in the private investor world and the Wall Street world. You were a private investor. Would you invest in GSEs under the Trump administration's plan to shrink them and give away their assets?

Mr. MNUCHIN. I would.

Senator BROWN. And to raise the capital you say they need, you would have to raise more money than any company in IPO history right after the Trump administration has shrunk their businesses and given away their most valuable assets in your sort of cream-skimming privatization scheme that we have seen in other parts of the Government? It just strikes me as highly, highly unlikely that they can raise that kind of—they can have that successful an IPO, that kind of money, considering what you have done.

Mr. Chairman, before I close, I would like to enter in the record a letter from 22 civil rights and affordable housing organizations outlining their principles for reform; a letter from eight civil rights organizations, the Urban League, the NAACP, UnidosUS, Center for Responsible Lending, National Fair Housing Alliance, National Community Reinvestment Coalition, National Capacity, and the Leadership Conference on Civil and Human Rights. These letters outline why these civil rights leaders, what they see as the essential elements of a sustainable, equitable housing finance system. Few of these priorities, as we have seen from Secretary Mnuchin's answers, or non-answers, few of them appear in the President's Housing Plan.

Chairman CRAPO. Without objection.

Senator Toomey.

Senator TOOMEY. Thank you very much, Mr. Chairman. Thank you to our witnesses.

Mr. Chairman, first of all, thanks for kind of launching this conversation with your thoughts recently about how to move forward on GSE reform. I think what the Treasury report has laid out is a very, very constructive set of ideas that we ought to consider very seriously, and I want to thank all of our witnesses for contributing to that.

Let me start by saying it is clear to me that it is a lack of housing stock more than a lack of subsidies that is the primary cause of an affordability problem, which is a real problem. But it is a Government-inflicted problem. Now, typically, it is State and local, but housing is not immune to laws of physics or laws of economics. If there is not sufficient supply to meet the existing demand, then it becomes more expensive, and vice versa. And I never ceased to be amazed by the jurisdictions with the most severe affordability problems and the things they do to exacerbate the problems, like San Francisco blocking an affordable housing development because it casts a shadow on a park. OK? That is going to make affordable housing more expensive. Or California as a whole requiring that all new houses have to have solar panels installed, thereby raising the cost of houses. And rent control, which clearly and obviously exacerbates housing shortages where it is imposed.

So, first of all, I want to thank Dr. Carson for important work that you have been doing in identifying impediments to the deliv-

ery of new affordable housing stock. And I guess I would like to direct to Dr. Calabria, if there are things that we could be doing in the reform, acknowledging that I think most of these obstacles occur at the State and local level, are there things we can do to go to the fundamental underlying problem, which is inadequate supply?

Mr. CALABRIA. First, let me say I could not agree with you more strongly that the fundamental problem is inadequate supply. And the primary driver of that is State and local regulations, and it really does concern me, the damage that has been done to our economy and to affordability and to access from these barriers. And this truly is causing an affordable housing crisis in many parts of this country. And so we have to recognize that while the mortgage market and mortgage finance does play a role, it cannot fix this problem by itself.

I think the extent that we can encourage and work with localities—and, again, I would applaud as well Secretary Carson's effort in this regard to try to bring some focus on trying to reform local land use and regulation.

Senator TOOMEY. So as I understand, the Treasury report acknowledges that there is a statutory role to support affordability. But as I read it, the report identifies a flaw in the mechanism that the GSEs use, and as I think about it, it seems to me that our GSEs use an indirect subsidy. In other words, the subsidy does not go directly to people who have a low income. The subsidy tends to go to high credit risk loans. And you might think that high credit risk is a good proxy for low income, but it is really not. A very wealthy person can have an extraordinarily high risk loan.

Mr. CALABRIA. Absolutely.

Senator TOOMEY. And a person of very modest means could have a very prudent and low-risk loan. So isn't it true that we could design the subsidy in a more transparent, clear, and efficient fashion, that if we are going to provide a subsidy, it is actually targeting low-income folks rather than sort of distorting and arguably encouraging more high-risk transactions? And that is really for Dr. Calabria as well as Secretary Mnuchin.

Mr. CALABRIA. Let me say I absolutely agree. A handful of studies have looked at this question, and while the correlation between income and credit is positive, it is weak. And so you are right, there are plenty of high-income people who have poor credit and plenty of low-income people who have good credit. So I absolutely do believe we can better target the resources we have in a more efficient manner to try to get people home ownership that would not be there otherwise and get them in sustainable home ownership.

Senator TOOMEY. Secretary Mnuchin, it seemed like you were alluding to this dynamic a moment ago. Is there anything you want to add to that?

Mr. MNUCHIN. Yes, Senator Toomey. I agree with you completely. First, we absolutely support wanting to make sure there is affordable housing, but we want to do it in the most effective way. And I think we would all agree that the previous system did not work, and that is part of the reason why the GSEs got into trouble.

So I would hope that this Committee will work with us on a bipartisan basis to figure out what is the best way to deliver this support in affordable housing.

Senator TOOMEY. Thanks very much. I do not have enough time to get into my next line of questioning, Mr. Chairman, so I will yield my last 13 seconds.

Chairman CRAPO. Senator Menendez.

Senator MENENDEZ. Thank you. Thank you to our witnesses.

I would like to start with an important issue for New Jersey and many other communities represented by Members on both sides of the Committee. As part of your plan, Treasury is recommending that FHFA solicit information on whether to tailor support for higher principal balance loans, which any reasonable person would interpret to mean that Treasury is seeking to lower conforming loan limits. Doing so would have a seriously negative impact on the housing markets in States like New Jersey.

So, Secretary Mnuchin, why would you recommend that the FHFA “solicit information” on whether the FHFA should effectively lower conforming loan limits if Director Calabria asserts that the FHFA does not have the authority to administratively change conforming loan limits?

Mr. MNUCHIN. Congress has the responsibility on loan limits. Having any changes would require Congress. Having said that, we always think it is important to solicit information on the markets, and specifically in New Jersey, we do not want to do anything to jeopardize the housing markets in New Jersey. And I completely understand in the tri-State area the cost of living is significantly higher.

Senator MENENDEZ. It is not just the tri-State area. There are many places in the country in which—

Mr. MNUCHIN. There are many, but I was just referring to New Jersey and the places—

Senator MENENDEZ. For me, it is not just simply—it is an important local issue, but it is not a parochial issue alone. So you do agree then, as Director Calabria said in his testimony in his nomination hearing, that he does not have the authority to administratively change those conforming loan limits?

Mr. MNUCHIN. I am going to defer to him on his legal analysis, but I think our legal analysis is that is Congress’ responsibility.

Senator MENENDEZ. Your legal analysis, Director Calabria, is still the same as when you testified in your confirmation hearing?

Mr. CALABRIA. Yes, Senator.

Senator MENENDEZ. Thank you very much. So we have established that.

Now let me turn to the multifamily rental housing, which is a critical part of the housing market in New Jersey and across the country. More than 18 million households in the United States live in multifamily rental housing, including a million New Jerseyans. The GSEs play a vital role by ensuring that multifamily housing is widely available through the economic cycle.

As you know, the multifamily businesses at Freddie and Fannie performed quite well and remained profitable during the worst of the financial crisis, a time in which we saw most private investors exit this segment of the market entirely.

Secretary Mnuchin, the Treasury report recommends that Treasury and FHFA should consider limiting support of the GSEs' multifamily business. We heard from witnesses before this very same Committee in the multifamily industry in March that private capital alone cannot fill the void that would be left without GSE financing, and that would mean aggravating the housing crisis that already exists in States like New Jersey and across the country, leaving renters with fewer and more expensive housing options.

Have you conducted any analysis on what private sector financing for the multifamily housing market would look like if the GSEs' capacity to purchase multifamily loans is curtailed as described by your plan?

Mr. MNUCHIN. Well, I am not sure we necessarily think it is curtailed. I think we just need to look at it in the risk context. And I know there are external people who thought the GSEs should get out of the multifamily business. I do not agree with that. I think that the GSEs absolutely need to be in the multifamily business. I would say that, more broadly, there are issues given the GSEs' exposure in multifamily. There are obviously certain rent control rules and others that have now—I am concerned are going to limit the housing stock. So we absolutely—

Senator MENENDEZ. So you did not conduct an analysis here. Let me ask you this other question as a follow-up then. What makes you confident that the private market can fill the void? Or do you not believe that the private market can fill the void?

Mr. MNUCHIN. I am not saying that the private market can or cannot fill the void, but we are going to continue to do more analysis. We are just saying that we want to make sure that the GSEs have the appropriate risk. So we very much support multifamily lending with the GSEs.

Senator MENENDEZ. All right. Finally, Secretary Carson, on a different but urgent matter, in previous cases where lead was found in drinking water systems, Federal assistance was critical in helping communities remediate their water systems and reduce potential lead exposure. As I am sure you know, the city of Newark recently discovered elevated lead levels from some limited water samples. I have already called on the EPA to provide on-the-ground support and technical assistance, but I believe HUD needs to be part of the solution as well. In 2016, HUD assigned a full-time staff member to assist HUD residents in the greater Flint region and provide technical assistance to city and State agencies.

So I want to ask you, Mr. Secretary, as the city of Newark and the surrounding communities continue to address this issue, would you commit that if HUD-assisted properties are affected, you will assign a full-time staff member to assist both HUD residents and city and State agencies looking to tailor their CDBG funding to mitigate the risks of lead?

Mr. CARSON. Well, thank you, Senator, for your interest in this, and thank you for the help that you gave us on the carbon monoxide poisoning as well.

As you have noted in our budgetary request over the last 2 to 3 years, we have placed a great deal of emphasis on lead and on communities that are affected by it. So I will commit to continuing

to do that and continuing to raise the profile of this issue in New Jersey and elsewhere.

Senator MENENDEZ. I appreciate that, but my specific question, Mr. Chairman—and I appreciate your indulgence a moment—is: Would you commit, as we did in Flint, to have a person who is designated for Newark and the surrounding communities that are affected by this to assist them as it relates to the flexibility that has been shown in the past in CDBG funding?

Mr. CARSON. I will commit to doing everything that we possibly can do to alleviate the problem there, and if that involves a specific person or a dozen specific people, we will do what is necessary.

Senator MENENDEZ. All right. Thank you, Mr. Secretary.

Chairman CRAPO. Senator Cotton.

Senator COTTON. Thank you, Mr. Chairman, and thank you, gentlemen, for appearing here today. Thank you, Secretary Carson, in particular for coming down to Arkansas earlier this year.

I want to return to an issue that Senator Toomey touched upon, and that is restrictions on supply in housing, and especially local restrictions. It sounded like we had some agreement between Senator Toomey, a well-known conservative mind when it comes to housing and finance policy, and our Republican witnesses. I just want to read from another statement about these restrictions and get your response to them, in particular, Secretary Carson and Mr. Calabria:

Locally constructed barriers to new housing development include beneficial environmental protections or well-intentioned permitting processes or historic preservation roles, but also laws plainly designed to exclude multifamily or affordable housing. Local policies acting as barriers to housing supply include land use restrictions that make developable land much more costly than it is inherently, zoning restrictions, off-street parking requirements, arbitrary or antiquated preservation regulations, residential conversion restrictions, and unnecessarily slow permitting processes.

Secretary Carson, does that sound like a pretty good catalogue of local restrictions that reduce affordable housing supply?

Mr. CARSON. That sounds like a good catalogue, and, interestingly enough, what we have observed, in areas that have the greatest affordable housing needs and the largest number of homeless people, we have the largest number of restrictions. If you look at a place like San Francisco, the median home price in the San Francisco Bay Area is \$1.6 million, and you look at Los Angeles with the requirements for solar paneling, and a lot of this, quite frankly, is because of NIMBY-ism, you know, not in my back yard. But NIMBY-ism is actually based on archaic thinking. They believe that the Federal Government still acts the way that it used to, you know, building these gigantic complexes with little forethought, afterthought, or an immediate thought or support. And that is not what is done anymore. Now we are talking about public-private partnerships. We are talking about multiple incomes. We are talking about conforming to the architectural and cultural issues in the area. We are not talking about putting a multifamily house or complex in the middle of a single-family neighborhood. People have wrong impressions of what we are doing.

We actually care about what people think, but it can be done in the right way so that firemen and policemen and nurses can live

in the same neighborhood where they work. I think that actually enhances the community.

Senator COTTON. Mr. Calabria?

Mr. CALABRIA. Let me say I very fully agree, and I think part of the problem is, particularly in places like California, the process just has multiple vetoes where people can object and object to construction, and you do need streamlining of that. That said, I think we should look to cities that have done a good job. As Senator Smith is aware, Minneapolis recently has upzoned and I think done a very smart maneuver there on the local level that will help affordable housing in that area. So I think there are good lessons to learn as well as some lessons to learn in cities that do not work.

Senator COTTON. Well, that long catalogue of local restrictions that retard the supply of affordable housing comes from none other than President Barack Obama's White House Housing Plan in September of 2016. So I hope now that we have agreement between President Barack Obama, Mark Calabria, Ben Carson, and Pat Toomey that we could try to address this problem perhaps by looking at ways to condition grants on more affordable housing policies at the local level.

Another local policy, of course, is education policy. Anybody who has a child that has been going to school knows the pressure of getting in a good school district. I want to read a few quotes from a well-known book about the stress on middle-class families:

In the overwhelming majority of cases, a bureaucrat picks the child's school, not a parent. The way for parents to exercise any choice is to buy a different home, which is exactly how the bidding wars started.

The crisis in education is not only a crisis of reading and arithmetic. It is also a crisis of middle-class family economics. At the core of the problem is the time-honored role that where you live dictates where you go to school. Any policy that loosens the ironclad relationship between location, location, location and school, school, school would eliminate the need for parents to pay an inflated price for a home just because it happens to lie within the boundaries of a desirable school district. A well-designed voucher program would fit the bill neatly. Fully funded vouchers would relieve parents from the terrible choice of leaving their kids in a lousy school or bankrupting themselves to escape those schools. If a meaningful public school voucher system were instituted, the U.S. housing market would change forever.

Gentlemen, those quotes are from——

Mr. CALABRIA. Elizabeth Warren.

Senator COTTON.——Senator Warren's book from 2003 in support of a school voucher program. I know that you do not do education policy, but do you agree that local education rules can negatively impact affordable housing prices?

Mr. CALABRIA. I do, and let me also say her passages in that book on housing subsidies are a delightful read that I would encourage Members of the Committee to take a look at.

Senator COTTON. I know my time has expired, but perhaps you can find an ally on the other side of the aisle, along with Secretary DeVos, to both improve the quality of education in America and affordable housing. Thank you.

Mr. CALABRIA. Thank you.

Chairman CRAPO. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman and Ranking Member Brown, and I want to thank all the folks who are testifying today. I will tell you at the onset it is good to have you in front

of the Committee. I wish we had you in front of the Committee more often. It does not happen enough that we have folks from the Administration here to visit with us.

Dr. Carson, you are always welcome back in Montana, too.

Mr. CARSON. Thank you.

Senator TESTER. You got a chance to see some rural housing. And I do not want to talk about housing in San Francisco or LA or Denver, New York City or Atlanta or Miami or Houston. I want to talk about housing in Miles City and Plentywood and Great Falls and Billings and Missoula, in Pablo, in Rocky Boy, because, quite frankly, we are talking about large cities, and we have got just as big a crisis in rural America, if not worse, and nobody is paying attention to it.

So I want to start with you, Secretary Mnuchin. When this plan was developed, how much effort was put into getting information from rural/frontier America on affordable housing?

Mr. MNUCHIN. Well, first, let me say I enjoyed visiting many of those places during the President's campaign, so I put Montana—

Senator TESTER. Yes, you were there, and even during my campaign. I do not know if you were with him or not, but—

[Laughter.]

Mr. MNUCHIN. So I very much appreciate and support this should not be a big-city housing plan.

Senator TESTER. Right.

Mr. MNUCHIN. This should be a housing plan that impacts—

Senator TESTER. Right, but the question is: How much information did you gather when you developed this plan from rural/frontier areas? Because, you know, rural is the area between Baltimore and Washington, DC, in some people's eye. We do not have that kind of population in Montana, even in our most populated areas. So how much information was gathered from—

Mr. MNUCHIN. I think we solicited from a variety, but I am going to get back to you on the specifics.

Senator TESTER. I would appreciate it.

Mr. MNUCHIN. But I assure you, more importantly, I understand the point that you are trying to say, and this should very much help the people in Montana, not just the people in New York and California.

Senator TESTER. Well, it is critical, and I will get into that in a second. But when it comes to regulation of shadows and solar panels and rent control, those are really good issues for us to talk about here. But Miles City, Montana, the only regulation is you cannot build in a floodplain. OK? And we still do not have housing. So that is the point. And in your plan, I just want to get an idea, you talked about they need to serve—the guarantors need to serve a national market, but then it is also suggested that Congress should not require guarantors to serve a national plan but in individual markets.

Where are you on that? And I assume what you are saying is that you want to have a rule that supports national service, but Congress should undermine that and make it individual markets.

Mr. MNUCHIN. No, no, that is not the case.

Senator TESTER. Tell me what it says then.

Mr. MNUCHIN. We support the national concept, but we are looking at that and saying it cannot just be a national plan; it also has to have specific plans, as you said, that impact places like Montana and make sure that they are not left behind.

Senator TESTER. So the intent was to promote more access for rural frontier areas.

Mr. MNUCHIN. Yes.

Senator TESTER. Could it be used to do exactly the opposite, though?

Mr. MNUCHIN. Well, that is not our intent, and as I said, our priority is to work with Congress so that there is clarity in these issues. We want to make sure, whether it is this Director or any other future Director, it does not change—

Senator TESTER. I just want to make sure, though, Secretary Mnuchin, that—you are saying the right things right now, but the truth is if you have a national plan and then it can be undermined to serve just individual markets, it looks to me like it would actually—money would flow to the bigger areas where there is more population.

Mr. MNUCHIN. That is not our intent. And, again, working with Congress, we will refine and define these issues.

Senator TESTER. OK. So let me talk about the 30-year fixed-rate mortgage for a second because in the report it ultimately suggests maintaining the 30-year fixed-rate mortgage, but it also says it is possible that a 30-year fixed-rate mortgage loan could remain widely available and at similar prices under a market structure that does not depend on Government support.

Can you tell me why this line is in there?

Mr. MNUCHIN. Well, I think there is—first of all, again, let me just emphasize, we very much support the 30-year mortgage, although I will say the 30-year mortgage might not be for everybody, and there are different products—

Senator TESTER. I got it, but what I hear that saying is the 30-year fixed-rate mortgage could exist without any Government backing. Do you guys believe that?

Mr. MNUCHIN. No, we do not. There could be parts of the 30-year mortgage market—*i.e.*, the large jumbo market—that do not need Government guarantees and will have a 30-year mortgage.

Senator TESTER. So you would agree, without that Government backing of a 30-year fixed-rate mortgage, that it would have a pretty negative impact on housing, whether it is—regardless?

Mr. MNUCHIN. We need either an implicit or an explicit Government backing, and that is why we would rather have the taxpayers compensated for explicit support.

Senator TESTER. I used your and Toomey's over, so thank you. [Laughter.]

Chairman CRAPO. I noticed. Thank you.

Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman, and I want to thank you and our panelists for the hard work on these proposals. Housing finance reform is a difficult issue to tackle, and I appreciate their dedication to ending the decade-long GSE conservatorship.

There is something else as well I would like to just add at this time. There are challenges within housing within the United States

in rural areas, as my colleague on the other side of the aisle has just indicated. I am just going to give an example, and I know, Secretary Carson, we had a discussion on this the other day. Indian reservations, Native Americans, have a real challenge because we have Indian trust lands, and trying to find a way to move forward so that they can also purchase houses is something that is of real importance in South Dakota.

Just as an example, the VA, they do VA loans for Native Americans who are veterans who now live back on a reservation. The Minneapolis office about a year ago received recognition because they had the highest number of those mortgages that had been issued in the previous year—five in the entire region. Simply not acceptable. There has got to be a way forward.

And so we look at this, I do not think this is a Republican issue or a Democrat issue. I think this is a case of where we have to find a way forward to fix the challenges.

I would like to say to all of my colleagues on both sides of the aisle that I believe that the door should be open when it comes to working out pathway forward to ending conservatorship of the GSEs.

Chairman Crapo was able to come to a consensus with then-Chairman Tim Johnson, who was my predecessor, about how to unwind conservatorship in a bill that passed out of Committee on a bipartisan vote. There is no reason that we should not be able to navigate those same concerns today.

Today's hearing should also serve as a warning. As we have all read, the Trump administration is determined to bring the GSE conservatorship to an end, and it has clearly defined ways that it can do so. While my colleagues might object to certain parts of the Administration's plan, these objections are no justification for not attempting to at least find a path forward within this Committee. There is common ground that could be had, and it is very unfortunate if we are not able to hold a markup on this approach.

It has been 500 days since this Committee has held a markup. If your concerns are genuine in this Committee, if our Committee Members are serious about doing something, I think this is the time in which we can perhaps find some common ground.

My first question I would like to direct to Secretary Carson. Mr. Secretary, I note with great interest HUD's proposal to transform the Federal Housing Administration into an independently chartered Government corporation. Now, I agree with HUD that this would provide FHA with the autonomy it needs to better execute its mission, especially serving first-time and low-income home buyers, while still allowing for HUD to have oversight and regulatory authority.

I would like to point out to my colleagues on the other side of the aisle that this is not an idea that comes from the radical right. President Obama's FHA Commissioner, Carol Galante, has proposed the same reform. Nonetheless, Mr. Secretary, I have drafted legislation that would do just as you proposed, but some of my colleagues have expressed reservations that reforming the FHA into a Government-chartered corporation would impact HUD's funding for other programs. My view is that the receipts from FHA mort-

gage insurance would still be available to offset the costs of other HUD spending.

I have offered to give my colleagues on the other side of the aisle an opportunity to rewrite or to have input into this section of the bill, but so far I have not received any takers.

My question is: Could you briefly discuss how to achieve a more independent FHA without jeopardizing HUD's funding?

Mr. CARSON. Thank you for that question, and I did very much enjoy our time I spent in your State. Interestingly enough, we have not said anything about the receipts all being swept into any particular area. So that obviously is not going to be a particular problem. The reason that we want to separate it out into an individual corporation very much like Ginnie Mae is so that they can have the flexibility of doing their own procurement, their own hiring, staffing, being able to respond quickly and with agility to market conditions that occur. They would still report to the HUD Secretary, and we would still be able to align our missions.

So consider the fact that right now the FHA Commissioner has to deal with a lot of housing assistance needs also. Those really require their own separate entity so that we can really concentrate on public housing, you know, on multifamily, in a way that it should be concentrated on.

Senator ROUNDS. Thank you, Mr. Chairman. My time has expired. I would ask for the opportunity to ask several questions for the record that I would ask you all to respond to.

Senator ROUNDS. Thank you, Mr. Chairman.

Chairman CRAPO. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman. And good to see the witnesses.

I have spent a lot of time on this subject over the last many, many years, and where I want to focus today, Secretary Mnuchin, is particularly less on what you aspire for legislatively but what potentially might happen administratively. And I have to say at the outset I am a little concerned that it appears to me from your administrative proposals, we could end up with a system that actually does not end too big to fail and does not increase affordable access to credit, and that is of grave concern to me.

First of all, I want to associate myself with Senator Menendez, who I think rightfully pointed out that in multifamily, not a problem, was not part of the crisis, but in the administrative component of your proposal, you are trying to lower the GSE multifamily caps. To me, that means smaller support for multifamily. I am concerned about that.

Also in your administrative proposal—so, again, let us not talk about legislatively—we continue to see this theme around trying to lower the GSE footprint. If we have a lower GSE footprint, if we have higher capital requirements, just the logic of that would mean you would have a much smaller revenue base, and under that assumption, wouldn't that mean the GSEs would deliver less cross-subsidy in the system?

Mr. MNUCHIN. First, I just want to acknowledge the work that you have personally done on legislation, and I truly hope that you will work with us because I know you have spent a lot of time on this. And as—

Senator WARNER. I know more about this subject than I ever wanted to know.

[Laughter.]

Mr. MNUCHIN. Exactly. And we hope not to lose all that knowledge.

So, you know, again, I just want to—when we comment on multifamilies, the GSEs have gone from 25 to 40 percent of market share, which I think is fine. We are not looking to take it back down to 25 percent. We just do not want to see it go higher than—

Senator WARNER. Administratively, I thought you said you wanted to lower the GSE multifamily caps.

Mr. MNUCHIN. Again, we want to—

Senator WARNER. Which I would read as slowing down. Go to my other question, though, which is if you are lowering—making the footprint smaller, if you are raising capital, which is appropriate, isn't that going to mean de facto a decrease in the cross-subsidies that take place?

Mr. MNUCHIN. No, not necessarily.

Senator WARNER. How do we do that?

Mr. MNUCHIN. Again, I think that cross-subsidy is something that we have. As we have talked about, some of it is efficient; some of it is inefficient. Again, our priority—

Senator WARNER. I would like to see some more detail on that. I do not, respectfully, see how you make that happen.

Dr. Calabria, let me ask you this: If you end up on your administrative and in the net worth sweeps, will you continue to fund the Housing Trust Fund? Just give me a yes or no.

Mr. CALABRIA. As long as the conditions in the statute that require it, yes.

Senator WARNER. So you will sweep all the profits and try to buildup capital, but you are committing here to continue to fund the Housing Trust Fund?

Mr. CALABRIA. As long as the conditions in statute are met for funding it, then yes, absolutely.

Senator WARNER. There is a great deal of discussion about whether—

Mr. CALABRIA. What the statute says, agreed. But I am bound by what the statute says.

Senator WARNER. Now, my sense is, Secretary Mnuchin, that—you know, I know you talk about potentially for additional entrants coming into the market, but my concern is on your administrative proposal that what you are really talking about on Fannie and Freddie is recap and release, which is going to keep us with a duopoly, even with higher capital standards, which it is going to put us right back to where we were prior to 2008. I do not know how that gets rid of our too-big-to-fail issue.

So one of the things you answered, you both addressed when Senator Crapo raised about as currently constituted, these entities are too big to fail. If you go forward—and this is both for Dr. Calabria and Secretary Mnuchin. If you go ahead and go through on your recap and release plan, would you both recommend that the GSEs be designated as SIFIs by FSOC?

Mr. MNUCHIN. Thank you. I think that is an important question. So, first, let me just say we do not believe in a simple recap and release. I want to make that very clear.

Second—

Senator WARNER. That is not the way, respectfully, I read your proposal, but continue.

Mr. MNUCHIN. I just said I want to make that very clear.

The second thing I would say is we absolutely would expect, either in the administrative way or working with Congress, that we would go to FSOC, and before we raised public capital, we would make sure we understood that there was enough capital so that they did not need to be designated.

Senator WARNER. Dr. Calabria?

Mr. CALABRIA. I would agree with the Secretary's statement there.

Senator WARNER. So neither one of you think under your recap-and-release scheme that the GSEs will be SIFI designated?

Mr. CALABRIA. Senator, as a member of FSOC, while I believe that there is more than sufficient information to begin a process, I also think it is important as a member of FSOC to never start with the presumption that any entity is necessary systemic until you have actually run the process.

Senator WARNER. The only thing I would just point out, Mr. Chairman, is that when you and the Ranking Member had, I thought, a very helpful hearing on this, I believe every witness across the ideological spectrum thought that the GSEs should receive that FSOC SIFI designation. And, again, this concerns me gravely that we could somehow end up with a scheme where we end up with a duopoly, somehow they are not even going to get SIFI designation, and I believe we are right back in the middle of too big to fail.

Thank you, gentlemen.

Chairman CRAPO. Thank you, Senator Warner.

Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Mr. Director, as an American, do you believe that I have a right to own a home even if I cannot afford it?

Mr. CALABRIA. I think you have a right to own property, yes, own a home. Now, whether you can afford it opens up to whether you can actually buy that home. I mean, it is the same in terms of you have the right to drive a Mercedes. Whether you can afford it or not is a separate question.

Senator KENNEDY. Right.

Mr. CALABRIA. So I am not sure where you are going with the question, Senator. It would be helpful for me to parse that out.

Senator KENNEDY. I just want to understand your philosophy. Do you think that as an American, if I cannot afford a home, I have a fundamental right to have other Americans subsidize me?

Mr. CALABRIA. Thank you for the clarification. The short answer would be no.

Senator KENNEDY. OK. I think everybody on this Committee, I think everybody on this panel believes we ought to do everything possible to make homes and mortgages affordable.

Mr. CALABRIA. Absolutely.

Senator KENNEDY. OK. We can agree on that, right?

Mr. CALABRIA. Absolutely, 100 percent.

Senator KENNEDY. Why would a lender make a loan without verifying income?

Mr. CALABRIA. Agreed.

Senator KENNEDY. Why would they?

Mr. CALABRIA. I think the only reason that a lender would reduce due diligence like verifying is because they can pass that risk along to someone else—

Senator KENNEDY. Yeah.

Mr. CALABRIA.—like the taxpayer.

Senator KENNEDY. Yeah, because they can sell it to you guys.

Mr. CALABRIA. Absolutely.

Senator KENNEDY. I mean, isn't that the fundamental problem here, how we got in trouble, was underwriting standards?

Mr. CALABRIA. Absolutely. We are the ones holding the bag at the end of the day. After everybody else in the process has made money and walked away, it is the taxpayer holding the bag.

Senator KENNEDY. Well, what have you done to fix that?

Mr. CALABRIA. Well, Senator, we have begun—I guess tomorrow will mark 5 months in the job. We have already started doing a bunch of due diligence internally, try to make sure that we have the regulatory—

Senator KENNEDY. That was not a fair question. What did your predecessor do to fix that over 11 years?

Mr. CALABRIA. Senator, I think that, to me, I am looking at what needs to be done going forward. Obviously, I would have preferred to have inherited a different situation than I did, but—

Senator KENNEDY. Excuse me for interrupting, but, you know, we are limited on time, Mr. Director. Have underwriting standards gotten any more realistic?

Mr. CALABRIA. They have gotten worse, not better. Certainly at the GSEs, we saw a massive expansion the last 2 years, at least, where a whole lot of high-income, high DTI loans were done that were not previously being done. So underwriting standards have eroded.

Senator KENNEDY. Yeah, that is what I thought.

Mr. CALABRIA. And it concerns me greatly.

Senator KENNEDY. Well, this is just one point of view. This whole thing is a car wreck. It is a Dumpster fire. We spent \$190 billion of taxpayer money, and we are in worse shape.

Mr. CALABRIA. Agreed.

Senator KENNEDY. Now, here is what I think we ought to do. I am not in love with every aspect of your plan, but I would encourage you to get somebody to put it in the form of a bill, if you have not already, get it introduced, and let us mark it up in this Committee, Mr. Chairman and Mr. Ranking Member. Let us put it in front of the Committee, and let Senators be Senators, and let us try to put out the Dumpster fire. What do we have to lose? I mean, how long have we been talking about that? Doing nothing is hard. You know why? You never know when you are finished.

[Laughter.]

Mr. CALABRIA. Senator, I could not agree more.

Senator KENNEDY. Now, if that does not work—and I am not going to mislead you—it is going to kind of be like slamming—trying to slam a revolving door, to pass a bill through the Senate. I would encourage you, Mr. Director, to saddle up and go. Tell me what you can do with your administrative authority to put out this Dumpster fire.

Mr. CALABRIA. Well, the first thing we—

Senator KENNEDY. And by that I mean encouraging people to make loans to people who clearly cannot afford to pay them back.

Mr. CALABRIA. Senator, we will be de-risking the GSEs, particularly in the—

Senator KENNEDY. What does that mean?

Mr. CALABRIA. That means that, on one hand, if you are leveraged a thousand to one, you cannot make loans that are almost guaranteed to go bad. So we have to be able to improve the quality of the lending of the GSEs in a way that is sustainable, that does not end up—I 100 percent agree. If we do nothing, this is going to end very badly, and—

Senator KENNEDY. Well, of course it is. We are going to have a recession at some point.

Mr. CALABRIA. Absolutely.

Senator KENNEDY. What was the leverage ratio, Mr. Chairman, 19 cents for every \$100?

Chairman CRAPO. That is what I understand.

Mr. CALABRIA. A thousand to one at Fannie Mae.

Senator KENNEDY. Now, let me say it again. I have got 1 second left. Let us put this bill in front of this Committee, Mr. Chairman and Mr. Ranking Member, and let us see what we can do. I listened to Sherrod's comments. He made some good points. I do not agree with all of them, but I think we ought to flesh it out. But if we are not, let us just admit that Congress is going to sit on its ice-cold lazy butt, do nothing, and you need to get started trying to fix this car wreck, Mr. Director.

Thank you, Mr. Chairman.

Chairman CRAPO. Senator Jones.

Senator JONES. Thank you, Mr. Chairman. Thanks to the witnesses.

I want to follow up on my friend Senator Kennedy. I absolutely agree with that, completely agree. We need to get this in front of this Committee. We need to get it, and we need to hash it out. But with all due respect to the Senator, I think we need to go farther than just this housing issue in this Committee. We need to get things to the floor of the U.S. Senate. We need to talk about gun violence. We need to talk about health care. We need to talk about election security.

There are a lot of things that this Congress of the United States and the Senate of the United States need to act as the independent body that the Constitution set up and not just somebody that is there only if the President of the United States is going to sign a bill. So thank you, Senator, and I apologize if I took it a little further than what you anticipated. But I completely agree.

The second thing, a quick comment, Secretary Mnuchin, and I will follow this up for the record. I believe that you earlier testified that—and I could be wrong, but I thought I heard you testify that

the duty to serve the very low-, low-, and moderate-income families in this country was maintained in this report. I do not read this that way. I see on page 23 and 24 of the report where you are talking about reforming that, getting rid of that mandate, and replacing it with something that would involve assessments and congressional appropriations, which I think is a really slippery slope to try to do. As much as I like Senator Leahy and Senator Shelby's approach to appropriations, that may not always be the case and subject to the whim of a Congress or the Administration. So I will follow up with a question for the record.

Senator JONES. There is one area I do want to talk about with Dr. Carson. Mr. Secretary, while I appreciate the Administration's efforts to move forward on housing reform, I do believe that overall these reforms are going to make it harder for working-class families to achieve home ownership and potentially put the dream of home ownership out of reach. In my view, open the discussions on that.

But, more importantly, while these reforms are being discussed today, I think we also have to talk about some other so-called reforms that the Administration is making to housing in America. We have not seen you here for a few months—a year and a half, as a matter of fact. I do not know if we will get to see you again at any time in the future, so I want to ask you about a recent HUD proposal regarding our rules that I believe are going to dramatically undermine the ability to enforce the Fair Housing Act. I have thought time and time again in this Committee and others that housing discrimination in 2019 is persistent, but more often than not subtle, not always direct, and years of legal doctrine, including the Supreme Court, made it clear that if policies and practices of businesses unintentionally discriminate against racial minority or protected classes, it is illegal. It is called “disparate impact,” and the new rules I think make it nearly impossible to bring forward a discrimination case based on disparate impact. Fair housing is only as far as it can be enforced, and if we cannot bring disparate impact housing by very nature, it ain't fair. And I am concerned about this; every single major housing rights and civil rights advocate agreed that this rule is a major blow. Across the board, this rule introduced new hurdles for plaintiffs, including a new five-part test.

Mr. Secretary, I think we can all agree that housing discrimination still exists in this country. Black homeownership rates are down to just 40 percent. That is not just because of discrimination. I get that. We are still pulling out of a recession. But the fact is they are down to 40 percent, and black home ownership is actually lower now than it was in 1968 when the Fair Housing Act was passed.

I would also like to point out that you have the ability to bring Secretary-initiated complaints. President Obama did it an average of ten times a year. President Bush did it an average of five times a year. But in the 2½ years of the Trump administration, we have zero that you have initiated. So a cynic would say that this new rule is in part to justify the inaction of HUD in bringing these complaints when we know that they exist.

So my question to you, sir, my question is simply: Explain this to me. Explain why we need this rule. Why is it important? Why do we need this when we know it exists? Give me an opportunity, give us an opportunity to explain why you are going to make it nearly impossible for people to bring disparate impact statements.

Mr. CARSON. Well, first of all, let me just mention the fact that our record stands for itself. The fact of the matter is, you know, we have initiated the Facebook complaint. We have gotten an agreement out of Los Angeles after almost 10 years of not taking care of disabled people's housing needs. We have launched one against San Francisco for discriminating against low-income people for housing. And if you look at our list of suits that have been brought, I think they would compare favorably with anyone else.

As far as disparate impact is concerned, we are trying to bring it into alignment with the Supreme Court ruling for—

Senator JONES. Oh, come on, Mr. Secretary. I am a lawyer. That dog is just not going to hunt. It is just not. This is not—the Supreme Court barely rolled back this. What you are doing is making—I have been practicing law for 40 years. What you are doing is making it just damn near impossible for a plaintiff to bring a disparate impact statement. It is not in line with the Supreme Court. The Supreme Court has affirmed this time and time again.

Mr. CARSON. In fact, we brought a complaint against San Francisco on disparate impact. You should go back and read it, and—

Senator JONES. I will take a look. I am happy to do that.

Mr. CARSON. But the fact of the matter is, if Congress, for instance, were to raise the minimum wage rate to \$15, who would be disproportionately affected? Low-skilled or unskilled workers, primarily minorities, in that area. That becomes a disparate impact against Congress. You begin to see what I am talking about here. You can have a disparate impact in almost anything. So what we want to do is clarify the way that it is done that would save taxpayers a lot of money.

Senator JONES. All right. My time is up, sir, and I may follow up for the record. Let me just say this: It has been offered out for public comment, and I want to make sure that my public comment is recorded right now. If I need to do it in writing with a black Sharpie, I am happy to do that. But this is wrong. This is absolutely wrong, Mr. Secretary. This discrimination still exists in this country. We need to be affirmatively doing something about it and not making it more difficult.

Mr. CARSON. I would love to discuss it with you.

Senator JONES. Thank you. Anytime. My door is wide open.

Chairman CRAPO. Senator Moran.

Senator MORAN. Mr. Chairman, thank you.

Both HUD and Treasury proposals suggest that there be a distinct separation between the borrowers that use FHA financing and those that use GSE financing. How would this be achieved, and how would this separation help home buyers? Dr. Calabria?

Mr. CALABRIA. Thank you for the question, Senator. I think the objective here which Dr. Carson talks about in his testimony is to try to reduce that competition at the margin, which has historically driven down credit standards. We certainly saw before the crisis where the GSEs aggressively tried to grab FHA market share and

did so by reducing their standards. And, of course, many of those loans unfortunately turned out unsustainable and left homeowners in a position where they lost their homes. So, again, trying to encourage responsible, sustainable home ownership is the objective.

To echo what Dr. Carson again has said, traditionally FHA has focused on the first-time home buyer, low-downpayment part of the market. And I think, first of all, I want to emphasize the objective here is not to have any gaps in the market, but the objective is to reduce some of that competition which has eroded standards in the past.

Senator MORAN. So it seems to me that our goal is to have a multiple guarantor system, and that is to boost the accountability to taxpayers. I assume that you all could tell me there are things that go on at the GSEs that deserve our attention in regard to accountability to taxpayers. We want financial innovation. We want greater consumer choice through competition.

When we separate the GSE and the FHA, does that help achieve those goals?

Mr. CARSON. Who is that for?

Senator MORAN. Whoever has the answer that is one I can understand.

[Laughter.]

Senator MORAN. And succinct.

Mr. CARSON. Well, I can speak for the FHA, and what our goals are and what our principal focus is in this reorganization is so that we can concentrate on those first-time home buyers, on minorities, on people who frequently do not have access to traditional credit markets. And this plan actually facilitates that rather than takes away from it.

Senator MORAN. One of the things, it seems to me, that the GSEs have been able to accumulate in this timeframe that we are in is greater access to technology and information. So if we have a new system, how do we force the sharing of the benefits in data and technology that those already established in the business have?

Mr. CARSON. Well, I can tell you that the GSEs were able to significantly upgrade their IT performance while they were in conservatorship thanks to the taxpayer. Therefore, what they have achieved in that area they should be willing to share, and I think they recognize that, and I think Congress should recognize that.

Senator MORAN. So you would see an increased transparency in sharing that GSE data and other information with the industry. Could that be a precondition to release from the conservatorship?

Mr. MNUCHIN. I think that is really the question for the FHFA, but I would agree with what you are alluding to, that these are one of the issues that we should be looking at.

Senator MORAN. Tell me where we are in regard to capitalization and where we need to be. What level of capitalization do you see is necessary—maybe this is for you, Mr. Secretary—at the GSEs to operate efficiently and, most importantly, to withstand any future significant financial downturn?

Mr. MNUCHIN. I think they need a lot of capital, let me just say. You know, what we are looking at now, \$3 billion in each, is irresponsible in terms of the amount of capital that they have, and there is no way they could operate if it were not for the fact that

they could draw on the Treasury lines, which, in essence, act as a capital backstop today.

So we really see two things. One, retaining earnings, that is one way we will accumulate capital. And then, two, we will have to raise third-party capital. But, you know, again, if I were to give you a range of a number, it is more like \$100 billion than it is \$6 billion.

Senator MORAN. What is the capitalization today compared to where we were before the crisis of 2007–08?

Mr. MNUCHIN. It is minuscule today.

Senator MORAN. So we are in worse shape going into any kind of significant major economic downturn than we were when we had the catastrophic consequences—

Mr. MNUCHIN. The GSEs could not operate today if it were not for the Treasury lines.

Senator MORAN. Thank you.

Chairman CRAPO. Senator Smith.

Senator SMITH. Thank you, Mr. Chair and Ranking Member Brown, and thank you all very much for being here today.

You know, my office has been doing a whole series of meetings around housing all across Minnesota, small towns and rural areas and big cities, too. And I want to just do a note to Senator Rounds and Senator Tester for bringing up this issue and how it affects rural areas, and especially tribal areas.

You know, what I have heard in these meetings is that if you do not have a safe, affordable place to live, then nothing else in your life works. Your job does not work. Your schooling does not work. Your health does not work. Your companies do not work because your employees do not have a place to live. So that is the way that I am looking at these really complex questions about what we do about the GSEs.

And so I want to start with this: Dr. Calabria, you and I had a chance to talk some about this in July when you came to visit my office, and in July, you indicated that you thought that the Treasury report might be flexible enough to accommodate the GSEs operating like a utility, with a regulated rate of return. And you even thought that maybe that you would be opening to considering that kind of a utility model rather than a multi-guarantor model in order to make sure that we have got the equity in all the places and for all the families that we need equity for.

So my question is: After reviewing the Treasury plan, do you think that a utility model would work?

Mr. CALABRIA. Senator, let me first say I think under certain circumstances a utility model could work. I think it would be helpful for members who want to see a utility model to start fleshing that out.

What I take away when people suggest utility is they mean regulated rate of return and, therefore, regulated pricing. As you know, currently in conservatorship we do regulate the pricing of the GSEs, and I just really would welcome having such regulatory flexibility outside of conservatorship.

Senator SMITH. Well, as Senator Brown said, as we have been working on this and looking at this, this idea of a utility-type model has emerged as something that there seems to be a lot of

consensus around, and so I would like to—I think it is important that we continue that conversation, because what we are seeking here is a way of making sure that we get at the equity that we need in order to fulfill that dream that people in this country can own a house.

Mr. CALABRIA. Absolutely.

Senator SMITH. Secretary?

Mr. MNUCHIN. I just want to comment on that as well, and we have actually had very specific conversations with the Chairman about this and with the Director and myself. We support working with this Committee on what you may consider to be a utility model. And, again, I would just say there are plenty of utilities where the pricing of the utility is regulated. And we do think that FHFA should maintain regulation and oversight of the pricing of the guarantee. So we look forward to working with this Committee on meeting objectives that go down that—

Senator SMITH. Well, I would be interested in continuing that conversation, and I think that is good.

Now, Secretary Mnuchin, I just have to take this opportunity, since I have a chance to see you, I do not think that you and I have had a chance to meet before. You know, I just got back from Minnesota, spent August in Minnesota, and as you probably know, in Minnesota agriculture is really the bedrock of our economy. And as agriculture goes, so goes small towns and rural areas. And I talked to a lot of farm families at the State fair and in Hallock and East Grand Forks and all over the place. And, you know, Minnesotans, we do not like conflict. We are not quite like my colleague from Louisiana. We are pretty low key. But Minnesota farmers are telling me that they are devastated. That is their word. They are devastated by the President's tariffs. His tariffs on China.

Gary Wertish, who is head of the Minnesota Farmers Union, says it has already driven some farmers off the farm, which not only hurts the farming community but it hurts rural small town communities. It has been devastating to rural America.

So, Mr. Secretary, yesterday on Fox News, you talked about the Chinese tariff war, and you said, "We have not yet seen any impact on the U.S. economy." And I just do not see how you can say that. You know, in 2017, China imported a little over \$19 billion in U.S. ag products. That was in 2017. In 2018, \$9.2 billion, a 50-percent drop. And Minnesota farm families are—they do not want to be told to be patient. They are afraid they are going to lose their farms.

So my question is: Do you really believe that this tariff war, the President's tariff war, has not had an effect on our economy?

Mr. MNUCHIN. First, let me say I look forward to coming and spending time with you, so I will have my office reach out.

Senator SMITH. Thank you.

Mr. MNUCHIN. My comment was on a broad impact on a \$22 trillion economy. I also went on to say that there clearly are specific situations, some of which where we have given waivers. And I want to acknowledge on the farm area, we spent a lot of time even on trying to get an interim agreement to have China buy agriculture. So I very much appreciate what is going on. I never thought I would become an expert on soybeans and other agricultural prod-

ucts. I have been accused at times of just wanting to sell soybeans. That is not what we are trying to do. But we want to make sure that China treats our farmers fairly and does not retaliate against the farmers in an unfair way in the way we have been doing it, and I can tell you that is top of the agenda for the conversations we are having this month.

Senator SMITH. Well, I think Minnesota farmers, the soybean farmers in northwestern Minnesota have seen their sales drop by 75 percent. They do not have any place to store the beans anymore. They feel like they are collateral damage in this trade war, and I think it is urgent that we—

Mr. MNUCHIN. I understand that, and I can also tell you there were specific commitments made in the Oval Office from the Chinese that they did not follow through on and that that has been a grave concern on us for U.S. farmers.

Senator SMITH. Thank you.

Chairman CRAPO. Senator McSally.

Senator MCSALLY. Thank you, Mr. Chairman. Thank you, gentlemen, for your testimony.

I am from Arizona, and in the last housing crisis, I was serving in the military, and I will just share with you that so many of my neighbors lost their homes in a middle-class neighborhood of hard-working families. And this crisis hit Arizona really hard. The home costs, the home prices dropped about 56 percent in the 6 years after 2006. In the 5 years before that, home prices had, you know, nearly doubled.

What you are describing today sounds even more dangerous than the conditions that we had prior to the last crisis. I have not been here that long, thank God, but—sorry. I should not have said that, but I am honored to serve Arizona. The point is, you know, as I am in this new role looking at this, people are expecting the Government to work for them. They are expecting—when we had the last crisis, we had so many people lose their homes—that modifications and changes would be made in order to make sure that we prevent this from happening again.

But what you are describing today, if we do nothing, if none of the changes you are offering are what Congress needs to do moves forward, if it is just the status quo, we are at a similar or higher risk. I do not want to put words in your mouths, but a similar crisis. So how is it that we did not learn things from the last crisis that brought us to a better place as far as how the Government is functioning to protect home buyers and hardworking Arizonans? How did we get here? The thousand to one capital ratio is scary.

Mr. CALABRIA. It absolutely is, and let me say first I very much recognize Arizona was ground zero for the crisis, and we certainly want to avoid that.

Let me also assure you I have begun internally a review of servicing practices, and to me one of the real problems in the last crisis, these things changed weekly. There was very little guidance to borrowers. And so I am committed to making sure that when we do have the next downturn, which, again, I hope is a long ways away. But when we get there, I want to make sure that borrowers, lenders, Government, that we all know the rules of the game, that we know that people are going to be treated fairly.

Perhaps I am a glass-half-full guy. I will say, having been on the staff of this Committee before the crisis, if you were in 2006, 2007, to even suggest housing prices might decline and there would be problems, you were kind of laughed at.

So I think we have made progress. There is at last a broad recognition I think across the Committee that we do not want to repeat the crisis and that we can repeat the crisis if we do not make positive efforts.

So having tried to do this once before, I feel like we are at a better spot than we were then.

Senator MCSALLY. Yeah, as opposed to trying to get through a crisis, the point is preventing the crisis in the first place. So it seems like we are in similar conditions. How is it that reforms have not been made in order to prevent us being in similar conditions? I mean, that is what my constituents would be hoping the Government would be doing.

Mr. CALABRIA. I share that frustration. As noted, tomorrow will mark 5 months for me. I am frustrated that we, 11 years later, still have Fannie and Freddie in conservatorship, and again a thousand to one leverage for Fannie. This is not a safe situation to be in. I commit to you that we will be working as fast as we can to try to turn this ship around.

Senator MCSALLY. Any other—Secretary?

Mr. CARSON. Yeah, I would just say, you know, at FHA our substantial delinquency rates or early defaults are at the lowest rate that they have been. So changes have been made. We recognize what happened before with the manipulation of debt-to-income ratios and credit-scoring possibilities.

And here is a key factor. You know, putting people in a home that they cannot afford does not do them any favors. You know, they lose the home, they lose their credit, they lose their future possibilities. That is playing into what is going on today.

For instance, in the minority community, particularly in the African American community, we have fewer homeowners today than we had before the crisis because their credit was ruined. And in some of these cases, they were people who had good credit before. We are looking at that to see how we can help with that situation, but we want to make sure that we do learn from those things, and we have made substantial progress.

Senator MCSALLY. Great. Thanks. And I want to also share that, you know, I took a tour to all 15 counties of Arizona in my first 90 days, and affordable housing—I want to associate myself with my colleagues as well. Affordable housing for the workforce, whether that is rental is buying, is something that is a real challenge for many communities in Arizona, to include rural communities. And I know this is not all just a Federal issue, but this is something that is really impacting the people that I represent.

So I think breaking down as many barriers as we can to provide better access is something that is really critical for Arizonans.

Thank you.

Chairman CRAPO. Senator Reed.

Senator REED. Well, thank you.

Director Calabria, thank you for being here today along with your colleagues. We have all talked about affordable housing. In

fact, this is the most, I think, unanimous sort of sense of the criticality of affordable housing that I have heard in this Committee. There are two programs that directly aid affordable housing, and that is the Capital Magnet Fund and the Housing Trust Fund. They are funded through assessments on the agencies, not through the appropriations process. Will you commit to ensure that these are fully funded and will continue forward to support affordable housing?

Mr. CALABRIA. Within the constraints of the statute, absolutely, yes.

Senator REED. Thank you very much.

Now, I would like to direct a question to all the panelists—three questions, and I will start first with the Secretary of the Treasury. Secretary Mnuchin, you have done an analysis of the impact of this program, I presume. So can I just ask you to give a categorical sense or a general sense of who will not be able to get a mortgage under your proposal?

Mr. MNUCHIN. I do not think there is anybody who will not get a mortgage other than there may be certain people today who should not get mortgages because they really cannot afford them. But affordable mortgages are what we want.

Senator REED. So you have not identified any group of individuals that would be disadvantaged by the proposal?

Mr. MNUCHIN. The only thing is, as the Director has said, he is looking at the GSEs, which is really his responsibility. There may be certain high-risk loans that the GSEs are making that they should not, but that is his responsibility and not—

Senator REED. I will ask him. Thank you, Mr. Secretary.

Secretary Carson, from your analysis, do you know of any groups that would be left out?

Mr. CARSON. Yeah, well, certainly there are some people who probably should not be mortgage holders. For the cases of very disabled people, elderly people, people who are drug-addicted, who may be at risk of not making their payments, we have other programs for individuals like that.

Senator REED. And, Dr. Calabria, your analysis?

Mr. CALABRIA. Well, Senator, I will note it is the Administration's plan, and being an independent regulator, we have not done an analysis of the Administration's plan.

Senator REED. OK. Again, going back to kind of the analysis underlying the proposal, will it cost more to get mortgages in your analysis? Have you done some data runs to show that rates will remain relatively constant?

Mr. MNUCHIN. We do not think it will cost more. Again, on the first question, what I was saying is there may be people who have giant cash-out mortgages today that are creating big risk to the GSEs that there should not be. That is what I was implying when—if there are people who will not get mortgages?

Senator REED. But it is a supposition; it is not an analytical analysis?

Mr. MNUCHIN. We would do an analytical analysis as part of this, but, no, we have not done that part yet today.

Senator REED. Dr. Carson, any comments on the cost?

Mr. CARSON. We do not have any analysis to dictate or that suggests that the prices will be raised. We are doing things to try to lower the prices, working with the servicers and making sure that they do the appropriate things, particularly before foreclosures.

Mr. CALABRIA. Senator, if I could offer some commentary?

Senator REED. Yes, please.

Mr. CALABRIA. I think it is important to keep in mind the plan suggests, and I have called for as well, increased competition. Again, it has been a few years since I was in grad school, but the economics I learned is that competitive markets provide lower cost and more access than monopolies and duopolies. So it is just hard for me to believe that bringing competition into this market will result in anything but lower prices. Again, I think there is a strong amount of evidence of that. Again, we look at other sectors across the economy. Again, there is some pretty good evidence for that.

Senator REED. Again, conceptually you make a point. If you get that evidence in an analytical fashion, we would love to have it. I certainly would. Thank you.

And then another question. How about community banks and credit unions? Will they fare better or worse under this arrangement, in your view or in your analysis?

Mr. MNUCHIN. We would absolutely make sure that they did not fare worse. We want them to be treated fairly, and that is a very important part of any future plan.

Senator REED. Dr. Carson?

Mr. CARSON. They are absolutely key. We have been working with them, and their ability particularly to provide education to people about housing financial matters is essential.

Senator REED. And, Dr. Calabria?

Mr. CALABRIA. Senator, it was mentioned earlier the control over pricing, such as a utility model. One of the things we have done in conservatorship is eliminate the volume discounts that Fannie and Freddie gave to large lenders. As you know, pre-crisis Countrywide paid a lower price than community banks. Fannie and Freddie pre-crisis drove consolidation in the origination side.

I think it is important post-conservatorship for me to have the authority to limit Fannie and Freddie's ability to drive consolidation.

Senator REED. If I can just for a moment, there has been a lot of discussion of the lack of capitalization of Fannie and Freddie and the fact that they just rely upon the Treasury to survive. It is interesting, though, because since—and I was here and Senator Crapo was here—since this crisis began, I think we have invested \$191 billion in Fannie and Freddie, and the Treasury has received about \$400 billion, I believe—excuse me? \$300 billion in terms of dividends you have taken out. So couldn't you correct this capital discrepancy by just relenting on some of the dividends you are taking out?

Mr. MNUCHIN. The taxpayers should be and have been compensated for the risk that they have had historically and the risk they have going forward. So had the taxpayers put the money in the stock market, they would have earned multiples of this. So the answer is this is not just about—if we took away—tomorrow if we said we got our money back, we will just rip up our guarantees,

these entities could not exist. So as long as taxpayers are at risk, we expect the taxpayers to be compensated.

Senator REED. But just a final point. Isn't your model going forward to allow these individuals, these entities to keep their capital, keep their dividends?

Mr. MNUCHIN. Two different things. So from a cash-flow and a capital standpoint, yes, our intent is they will keep the cash and it will increase their capitalization. What we are negotiating with the Director right now is in return for that, we do expect that the taxpayers are compensated. One way may be to increase our liquidation preference, maybe commitment fees, but that is what we are discussing now.

Senator REED. Thank you, Mr. Chairman.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. First of all, let me just thank the Chairman and Ranking Member. Affordable housing and this discussion is key. This is something we have been talking about, but it is a major issue that we need to address in this country. In Nevada, it is, outside of the cost of health care, the number one issue. So I appreciate, gentlemen, you being here.

But let me just kind of also introduce you to Nevada, because some of the discussion is not pertinent to what I am hearing in the impact in Nevada when it comes to affordable housing. I have had roundtable discussions on this issue for the last 2 years in Nevada, in our urban and rural areas. If you do not know anything about Nevada, of the 17 counties, 15 are rural. And I can tell you right now rent control is not causing the affordable housing crisis in Nevada. In fact, Nevada does not have any type of laws that mandate a type of rent control, and it is my understanding there are actually only five States that have rent control.

I would also like to point out that, yes, streamlining State and local permitting and improving local zoning will help, but it will not solve the problem, and it is not the main impact to the affordable housing issue in our State. I can promise you this: Around those affordable housing roundtables that I have had, local and State government have been at the table with our private sector, as well as so many other people, and some of the folks that work for you as well. So please know that. I am looking for answers, and I think we can come together to address this issue if we work together.

But let me start, Secretary Carson, with you. I am curious. Does HUD support the continuation of the Housing Trust Fund?

Mr. CARSON. The purpose of the Housing Trust Fund, we certainly support that.

Senator CORTEZ MASTO. You do support it?

Mr. CARSON. The purpose of—

Senator CORTEZ MASTO. So you would support keeping the Housing Trust Fund intact the way it is now?

Mr. CARSON. I do not know if I wouldn't be happy with some changes to it, but—

Senator CORTEZ MASTO. What type of changes would you make?

Mr. CARSON. Well, you know, we really want to take a more comprehensive look when it comes to how do we get people into affordable housing situations. That includes everybody in our society,

and I would like, you know, to be able to provide a little more flexibility not only for the agency but for localities.

Senator CORTEZ MASTO. I am not sure what that means, but let me ask you this: Right now, the changes you are making, how will it affect the \$3 million or more that all States receive every year to address acute housing needs for extremely low-income families?

Mr. CARSON. Well, we may have better solutions for extremely low-income people.

Senator CORTEZ MASTO. Do you have those yet—or is that something you are looking to work with Congress on those solutions?

Mr. CARSON. Of course, we want to work with Congress on those solutions, but I just want to make it clear that, traditionally, just throwing money at the problem has not solved it. This has been going on for several decades, and we want to look at some of the deeper issues that caused their problems and address those.

Senator CORTEZ MASTO. OK. I absolutely agree that this needs to be addressed, but we have got to have substance. We have to have details.

Mr. CARSON. And we would be happy to——

Senator CORTEZ MASTO. And that is what we are looking for. Yes, Secretary Mnuchin?

Secretary MNUCHIN. What I was going to comment on is one thing that is clear today is there is bipartisan support on the issue of affordable housing. There may be differences in views in how we can get there. I just want to be clear in the report. It may be there should be more money put for affordable housing. So when we talk about the Housing Trust Fund, I would say if there were a more efficient and accountable mechanism and Congress wanted to put more money for affordable housing, that is something the Administration would be very much open to working with this Committee on.

Senator CORTEZ MASTO. Right, and I agree there is bipartisan support.

Secretary MNUCHIN. The report does not imply less money for affordable housing. That is what I wanted to make clear.

Senator CORTEZ MASTO. Thank you. What is your definition of “affordable housing”? How do you define it?

Mr. MNUCHIN. It depends on the market. What is affordable in one market is not affordable in a different market, and I think there is both affordable housing both to own as well as to rent.

Senator CORTEZ MASTO. Right, but if you are setting parameters about how the funding is going to go toward affordable housing, how do you know where to send it if you do not define it first?

Mr. MNUCHIN. Well, we would have to work with this Committee. So, I mean——

Senator CORTEZ MASTO. So you have not defined it yet?

Mr. CARSON. Well, there are traditional——

Senator CORTEZ MASTO. What is the traditional?

Mr. CARSON. Traditional is you should spend less than 30 percent of your household income on housing, and if you spend more than 50 percent, then that is severely distressed.

Senator CORTEZ MASTO. OK. And so that is a parameter that you are looking at when you are deciding how you are going to focus

on the needs of those that fall within the affordable housing definition that you just defined. Is that correct?

Mr. CARSON. I think that is generally acceptable.

Senator CORTEZ MASTO. Are there any other identifiers for affordable housing? And I will open that up for all the panel. Director?

Mr. CALABRIA. Well, you certainly have a number of different formulas. I mean, CDBG has a different formula. Personally, I would probably allocate it across States based on poverty. Obviously, on one extreme, the low-income housing tax credit is done on a per capita basis. That to me is probably not well targeted. So, again, we have a number of formulas across States. This is something certainly the Committee has dealt with on multiple occasions.

Senator CORTEZ MASTO. OK. Let me change—I have just got a few minutes. Manufactured housing is very important to Nevada, and particularly our rural communities. So, Secretary Carson, let me ask you this: HUD includes manufactured housing in your proposal without any specifics. What protections for manufactured housing home buyers will you ensure remain in any changed policy?

Mr. CARSON. Well, thank you for bringing that up because manufactured housing has changed dramatically, and almost 10 percent of single families are in manufactured housing. People think about trailers and double-wides. We are talking about tremendous technological progress that has been made in that area. And what remains really is the removal of a lot of the regulations. I know you do not think that regulations are everything, but they have severely impeded the ability to utilize this very excellent solution, and that is—

Senator CORTEZ MASTO. Regulations at the Federal level? Regulations at State and local?

Mr. CARSON. Local. State and local levels.

Senator CORTEZ MASTO. So if at the State and local level they are willing to address those issues, which they are working on in my State, to what extent are you looking at it having an impact on manufactured housing as it comes to the Federal role?

Mr. CARSON. Well, you know, HUD obviously is the regulator of the rules regarding manufactured housing, and we have now taken manufactured housing and made it a separate entity with a DAS designation. So we have paid a lot of attention to this. This is an area where I think we can solve a lot of the problem.

Senator CORTEZ MASTO. Well, let me ask you this: Can you agree to preserve the protections for manufactured housing as we move through this process of looking at various changes?

Mr. CARSON. We will preserve them and expand on them as necessary.

Senator CORTEZ MASTO. Thank you. I notice my time is up. Thank you.

Chairman CRAPO. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman. I thank all of you for being here.

Secretary Carson, I wanted to follow up on some of the questions Senator Jones asked with respect to the proposed rule that HUD put forward in August that would gut the ability of people who are

victims of housing discrimination to prove that discrimination using a disparate impact analysis. In your response to Senator Jones, you said that the purpose of this rule was “to bring the rule in alignment with the Supreme Court decision.” Is that your testimony?

Mr. CARSON. That is correct.

Senator VAN HOLLEN. So I am confused, Mr. Secretary, because I have in my hand here an April 2017 filing where you are the defendant in the case, HUD, is being sued in the U.S. District Court for the Northern District of Illinois, Eastern Division, and the plaintiff is alleging that the existing Rule 213 is not in compliance with the Supreme Court decision. And in this pleading, you took the opposite position. I quote from your own brief here stating, “The Supreme Court’s holding in *Inclusive Communities* is entirely consistent with the rule’s reaffirmation of HUD’s longstanding interpretation that the FHA authorizes disparate impact claims.”

So which is it, Mr. Secretary? You have taken the position in a court filing that Rule 213 as is is consistent with the Supreme Court case, and your testimony today is just the opposite.

Mr. CARSON. No, it is not. We uphold the principles of disparate impact, and, in fact, as I testified earlier today, we have used that in a recent complaint against—

Senator VAN HOLLEN. Mr. Secretary, let me just ask you this: Does your testimony today remain, though, that Rule 213 is consistent with the Supreme Court’s holding in *Inclusive Communities*, which is the position that you took in this filing in April 2017, is your position today on that question the same as it was in 2017?

Mr. CARSON. My position—

Senator VAN HOLLEN. Yes or no? I mean, this is a pretty simple question.

Mr. CARSON. My position—I do not do yes or no. My position is that we want to be consistent with the idea of the Supreme Court, which is not to have this be so overly burdened that we drag discrimination into virtually every case.

Senator VAN HOLLEN. But, Mr. Secretary, you took the position in this filing that the existing rule complied with the Supreme Court decision in *Inclusive Communities*. Now, as I understand what you are saying, you are just using that decision as a pretext to rewrite the rule to make it much harder to file a discrimination claim. Is that what you are saying today?

Mr. CARSON. No. What I am saying is that—

Senator VAN HOLLEN. Well, then, why are you rewriting the rule that you said was consistent with the earlier—with the Supreme Court decision if your purpose was, as you testified earlier today, to bring the rule in alignment with the Supreme Court decision?

Mr. CARSON. What I would like to do is actually talk about solutions to problems—

Senator VAN HOLLEN. Mr. Secretary, really, you say you do not answer yes-or-no questions, but this is a pretty simple question. You took a position—you as Secretary—took a position in this court filing in 2017 that said the existing rule, Rule 213, is compliant, is consistent with the Supreme Court decision in *Inclusive Communities*.

Mr. CARSON. Yes——

Senator VAN HOLLEN. So I was surprised earlier today to hear you say that the reason for your new proposed rule, which you just filed in 2013, was because you wanted to bring it in compliance with the Supreme Court decision which you earlier stated it was already—the previous rule is compliant with. So my question is: Which is it?

Mr. CARSON. There are aspects of the rule that can be reinterpreted in many different ways, and it depends on which circumstance you are talking about. You know that.

Senator VAN HOLLEN. Well, Mr. Secretary, you are clearly in this latest proposed rule going way beyond what the Supreme Court required in terms of proving discrimination. In fact, you took the opposite position in 2017. And so it does——

Mr. CARSON. We are not going——

Senator VAN HOLLEN. So if I can show you a proposed rule change that is consistent with the Supreme Court decision but does not make it as difficult to file a discrimination case, would you accept that change as part of your new rule?

Mr. CARSON. What I would say is let us talk about what makes sense and what is logical and what helps us to solve the problem.

Senator VAN HOLLEN. Well, what we are trying to do is allow people to prove discrimination where it exists. The Supreme Court——

Mr. CARSON. And we are happy to do that.

Senator VAN HOLLEN.—has upheld the disparate analysis impact because they understand that discrimination can be subtle. People do not jump up and say, “Hey, I am denying you this loan because of your race.”

Mr. CARSON. Senator, I——

Senator VAN HOLLEN. And so that is the whole purpose of this, Mr. Secretary. You took a position in support of the earlier rule in 2017. You appear to have flipped on it today. I hope we can work together during this comment period——

Mr. CARSON. I would be happy——

Senator VAN HOLLEN.—to get to the bottom of this.

Mr. CARSON. I would be happy to work together with you, and I would ask you to look at our record in pursuing cases against people who have discriminated against protected classes.

Senator VAN HOLLEN. But you brought some of those cases under the existing Rule 213, and now you are changing that rule——

Mr. CARSON. Some of the cases that have been brought——

Senator VAN HOLLEN.—or you are proposing to change that rule.

Mr. CARSON.—with disparate impact, and I do not disagree with disparate impact. It is the way that you interpret disparate impact that is important.

Senator VAN HOLLEN. OK. Well, let us interpret it in a way that still allows people to be able to bring discrimination cases where it exists.

Mr. CARSON. And they still can, absolutely.

Senator VAN HOLLEN. Thank you.

Chairman CRAPO. Thank you. That concludes our questioning, and before we conclude the hearing, Senator Brown has a statement.

Senator BROWN. A couple of brief comments. I followed with interest Senator Cotton's comments about removing regulatory barriers to fair and affordable housing, like zoning rules. I was pleasantly surprised because several years ago he cosponsored an appropriations amendment to end HUD's Affirmatively Furthering Fair Housing (AFFH) rule because he said it would give HUD too much say in local zoning. That amendment failed. Secretary Carson has recently suspended that rule. On his watch, AFFH would help communities identify and remove those barriers, so I will later ask Senator Cotton to join me in asking you, Secretary Carson, to reinstate that rule.

The other comment, Mr. Chairman, I would like to make is, Secretary Mnuchin and Director Calabria, thanks for your comments on a utility model. I look forward to working with you on this and really figuring out how we can flesh out details. I will ask the staffs of both of you to provide technical assistance on a utility model with a regulated rate of return.

Thanks, Mr. Chairman.

Chairman CRAPO. Well, thank you.

That does conclude the hearing. For Senators wishing to submit questions for the record, those questions are due in 1 week, on Tuesday, September 17th. As for the witnesses, we ask as always that you respond to those questions as promptly as you can.

Again, we want to thank all of you for being here today and look forward to our continuing work together on this important topic.

This hearing is adjourned.

[Whereupon, at 12:03 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Today, we are joined by the leading voices within the Administration on reforming and strengthening our housing finance system: the Secretary of the Treasury and the Secretary of Housing and Urban Development, both of whom have just submitted housing finance reform proposals to the President, as well as the Director of the Federal Housing Finance Agency, who serves as regulator and conservator of Fannie and Freddie.

Thank you for making the time to join the Committee this morning.

Last Friday marked 11 years since the Government bailed out and put Fannie Mae and Freddie Mac into conservatorship, where they remain today.

Prior to 2008, the two Government-sponsored enterprises held just 45 cents in capital for every \$100 in mortgages they guaranteed. Now they hold just 19 cents, after a historic \$200 billion bailout from taxpayers.

Eleven years later, these systemically important companies continue to be too-big-to-fail, are even more leveraged than they were before the financial crisis, and taxpayers remain on the hook in the event of the next market downturn.

In March, President Trump signed a presidential memorandum directing the Department of the Treasury and the Department of Housing and Urban Development to develop a plan for administrative and legislative reform of the Federal housing finance system.

Many of the legislative recommendations in the plans that were released on Thursday are consistent with my outline to fix our housing finance system, including attracting private capital back into the market; protecting taxpayers against future bailouts; and promoting competition.

The recommendations also preserve certain incremental reforms that have already taken place during the conservatorship era, including robust transfer of credit risk; the single security and common securitization platform; and loan pricing that does not vary based on a lender's size.

The status quo is not, and has not been acceptable, and my strong preference remains fixing it through comprehensive legislation.

Five years ago, this Committee demonstrated that it is possible to come together and advance a comprehensive solution on this topic.

This year, I released my housing reform outline, which builds upon many of the same principles from our previous efforts.

It sets out a blueprint for a permanent, sustainable new housing finance system that protects taxpayers by reducing the systemic, too-big-to-fail risk posed by the current mortgage guarantors.

It preserves the existing infrastructure in the housing finance system that works well, while significantly increasing the role of private capital.

It establishes several new layers of protection between mortgage credit risk and taxpayers.

It ensures a level playing field for originators of all sizes and types while also locking in uniform, responsible underwriting standards.

And, it promotes broad accessibility to mortgage credit, including in under-served markets.

Ultimately, only Congress has the tools necessary to provide holistic, comprehensive reform to our system that will be durable through any market cycle.

However, it is important for the Administration to begin moving forward with incremental steps that move the system in the right direction.

After 11 years of conservatorship limbo, it is long past time to make the hard decisions and address this last unfinished business of the financial crisis.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

Thank you, Mr. Chairman, and thank you to all of our witnesses for being here today.

We're going to hear from the Trump administration about the "next steps" on housing finance reform, but it's clear from the plan they put out last week what President Trump thinks those steps should be—the Trump plan will make mortgages more expensive and harder to get.

We shouldn't have to tell the President that we have an affordable housing crisis in this country. We all know it—we all see it.

I see it when I talk to residents of a manufactured housing community on the verge of losing their home, because they can't afford the rent increase imposed by wealthy private equity investors who just bought their community.

I see it when I drive past the boarded up houses that belonged to the victims of predatory lending in my neighborhood of Slavic Village, and so many like it across the country.

I see it when I talk to young people in their twenties and thirties who want to buy a home, but who are **drowning in student loan debt** and can't save enough for a down payment or afford a mortgage.

These are the real crises facing real families all across Ohio and around the country.

They're renters, they're homeowners, and they're former homeowners, and they all have one thing in common—they can't afford a place to call home.

We have had very productive hearings in this Committee where we talked about what it would take for the housing finance system to actually work for working families.

In March, we held two hearings with representatives from the Home Builders, the Realtors, the Mortgage Bankers, the credit unions, the civil rights community, and multifamily lenders.

We heard during those hearings that affordability and access aren't just components of housing finance—they're the whole reason we have housing finance system. They can't be an afterthought once we've answered other questions about the structure of the housing finance system—they have to be built into the system.

We need a housing system built on a mission to serve borrowers and renters, no matter who they are, what kind of work they do, or where they live.

That means we need policies that focus on increasing service for underserved markets, like rural areas and manufactured homeowners, and borrowers who have been locked out of the housing market over decades of discrimination.

And we need a system that helps a wide variety of lenders and borrowers participate, so that they can meet all families' needs, particularly those who have been left behind for far too long.

In our March hearings and in the months since, we've heard housing stakeholders coalescing around a few foundational principles for reform. They've said that reform should:

- Protect access to affordable 30-year fixed-rate mortgages;
- Provide a catastrophic Government guarantee;
- Structure loan guarantors like public utilities, providing a regulated rate of return;
- Serve a broad, national market;
- Serve lenders of all types and sizes equitably;
- Maintain a duty to serve all markets and all borrowers;
- Maintain affordable housing goals and metrics;
- Expand investment in affordable housing; and
- Maintain the GSEs' successful multifamily business models and ensure continued or better access for financing of affordable rental housing.

Yet unsurprisingly, President Trump and his Administration missed the point.

Rather than create a system that addresses the needs of working families, the Trump administration has put out half-baked proposals that will make mortgages more expensive and harder to get.

In addition to increasing costs, the plan would make it harder for small lenders to compete, and gut the existing tools we have to help underserved families finally find an affordable apartment or own their first home.

The President's plans would also roll back consumer protections and investor disclosures put in place following the financial crisis, to prevent predatory loans and toxic securities from building up in our financial system.

So let's be clear: whether you're renting and want to buy a home, or own a home and someday want to sell it, President Trump's plan hurts you—all to funnel more money to the same Wall Street system that wrecked the housing markets and wrecked families' lives in 2008.

I was encouraged when I saw that Treasury's plan had nine separate proposals dedicated to **"leveling the playing field."**

I thought this might mean leveling the playing field for communities of color, young households trapped by student debt, or renters who can't afford to save for a down payment.

So you can imagine my disappointment when I saw that all nine proposals—every last one—were about "leveling the playing field" for Wall Street, which is looking to make money off of working families' mortgages.

Really?

Of course we shouldn't be surprised. Ultimately this plan is the same as every other Trump administration plan—it's about making it easier for Wall Street to profit off hardworking families.

These plans come in the midst of a flurry of other troubling Administration proposals to weaken fair housing and fair lending protections, and gut a bedrock civil rights law, the Community Reinvestment Act.

Taken together, the President has once again decided to side with Wall Street wealth over the dignity of work.

We don't need to make it easier for Wall Street to get richer. To quote Secretary Carson, "news flash, rich people are going to get richer anyway."

We need to make it easier for every family to find an affordable place to call home.

Housing isn't optional. Housing is a basic need, and no one should go without it in this country.

Thank you.

PREPARED STATEMENT OF STEVEN T. MNUCHIN

SECRETARY, DEPARTMENT OF THE TREASURY

SEPTEMBER 10, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am pleased to be with you today to discuss the Treasury Department's Housing Finance Reform Plan that will protect taxpayers and foster competition in the market.

I would like to thank Chairman Crapo and the Committee for your work on this important issue. The outline you released in February was a productive step toward ensuring the safety and stability of our housing finance system.

In September 2008, the Government-sponsored enterprises ("GSEs") Fannie Mae and Freddie Mac were placed into conservatorship by the Federal Housing Finance Agency ("FHFA"). Treasury has provided the GSEs with over \$190 billion in taxpayer assistance.

Eleven years later, the GSEs remain in conservatorship and continue to be supported by a Treasury commitment to keep them solvent. The continued conservatorships of the GSEs have perpetuated far-reaching Government influence over the housing finance sector. The lack of reform has left taxpayers exposed to future bailouts.

Treasury's Housing Reform Plan includes almost 50 recommended actions. These measures would reduce the role of the Federal Government, enhance taxpayer protections against future bailouts, and increase private sector competition in the housing finance system.

As required by President Trump's directive, Treasury's plan shows that the GSEs can and should be reformed to ensure their safety and soundness. Although no law prescribes a specific end point for the conservatorships, no conservatorship is meant to be permanent, and that includes FHFA's management of the GSEs. This plan provides a roadmap to release them from conservatorship.

Treasury's reform plan takes great care to preserve what works in the current system. Each of Treasury's recommended reforms is incremental, realistic, and balanced. In particular, Treasury's plan would preserve the longstanding Government support of the 30-year fixed-rate mortgage loan. That support, however, should be explicitly defined, tailored, and paid-for. Treasury recommends that Congress authorize an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying mortgage-backed securities. To foster competition, this guarantee should be available to the GSEs, and also to any other FHFA-approved competitors.

Moreover, the regulatory environment should be harmonized so that the GSEs and private sector competitors operate on a level playing field. For example, the GSEs currently have a competitive advantage over other market participants under the so-called "QM patch" to the Consumer Financial Protection Bureau's ("CFPB") ability-to-repay rule. In July 2019, the CFPB announced that the QM patch would expire in January 2021 or after a short extension. Treasury supports the CFPB's planned expiration of the QM patch, and it also supports further revisions to the ability-to-repay rule to ensure that mortgage lenders continue to have a bright-line safe harbor after the QM patch expires.

Finally, I must emphasize, and our recommendations make it clear, that the Administration's preference is to work with Congress to enact comprehensive housing finance reform legislation. Legislation could achieve lasting structural reform that tailors explicit Government support of the secondary market, and repeals the GSEs'

congressional charters and other statutory privileges that give them a competitive advantage over private sector competition. At the same time, we believe that reform can and should proceed administratively. Pending legislation, Treasury will continue to support FHFA's administrative actions to enhance the regulation of the GSEs, promote private sector competition, and satisfy the preconditions set forth in the plan for ending the GSEs' conservatorships.

Under the leadership of President Trump, I am proud of all of the work we have done to create conditions for greater economic growth, more and better opportunities for working families, and higher wages for all Americans. Today I look forward to discussing with you the critical issue of housing finance reform. I hope that the Committee will work with us on passing bipartisan legislation. Thank you very much, and I look forward to answering your questions.

PREPARED STATEMENT OF BENJAMIN S. CARSON, SR., M.D.

SECRETARY, HOUSING AND URBAN DEVELOPMENT

SEPTEMBER 10, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today to discuss how the U.S. Department of Housing and Urban Development (HUD) will support this Administration's effort to reform the Nation's housing finance system.

In the years since the financial crisis, the Federal Government has continued to play an outsized role in the Nation's housing finance system, and it is imperative Congress acts with the Administration to refocus Federal agencies insuring and guaranteeing mortgages to their core role of supporting equity and wealth building through sustainable home ownership and ensuring these Government programs do not overlap with, and crowd out, fully private capital in the conventional mortgage market.

To this end, I am pleased to present an overview of HUD's housing finance reform (HFR) plan that was submitted to the President on September 5, 2019. Housing finance reform is a key priority of this Administration, and as recognized in the March 27, 2019, Presidential Memorandum on Federal Housing Finance Reform (Presidential Memorandum), it is crucial to advance reforms that acknowledge the integral role HUD plays in the Nation's housing finance system.

HUD supports millions with affordable housing opportunities through its rental assistance and manufactured housing programs, and the Federal Housing Administration (FHA) and Government National Mortgage Association (GNMA) provide credit access and liquidity in the mortgage market. FHA provides credit enhancement and regulatory oversight for a portfolio exceeding \$1.4 trillion, and importantly serves as a countercyclical buffer during times of stress, and GNMA guarantees more than \$2 trillion in mortgage-backed securities (MBS) with the full faith and credit of the United States of America, facilitating liquidity in the housing market and contributing to the availability of mortgage credit for qualified borrowers.

During the financial crisis, and because of the policies of the previous Administration, FHA's and GNMA's balance sheets swelled, growing by approximately 350 percent and 400 percent, respectively, between fiscal years (FY) 2007 and 2018. Federal policymakers should take steps to enable both FHA and GNMA to refocus on their core missions and make sure both agencies have the tools needed to manage their significant portfolios, strengthening their ability to support the housing market and minimizing the likelihood of any future taxpayer funded bailout.

Reform will reduce the Federal Government's outsized role in housing finance and prevent its activities from crowding out the private sector. Congress must work with the Administration to: refocus FHA to its core mission of serving low- and moderate-income families, including first-time home buyers (FTHBs), that cannot be fulfilled through traditional underwriting; protect American taxpayers from bailouts; provide FHA and GNMA with the tools they need to manage risk of their oversized portfolios; and provide liquidity to the housing finance system.

Pillar I: Refocus FHA to its Core Mission

Targeting Programs to Borrowers Not Served by Traditional Underwriting

The Presidential Memorandum directed HUD to recommend reforms that would allow FHA to best target its programs to borrowers not served by traditional underwriting. Historically, this has been FHA's most important contribution to the American housing market: facilitating earlier entry points into home ownership for these families, particularly FTHBs, than conventional mortgage loans with higher down-payment requirements. Without FHA mortgage insurance, many of the low- and

moderate-income, minority, and FTHBs supported through the agency's programs would lack access to affordable mortgage credit. In recent years, in the aftermath of the financial crisis, the share of FHA-insured purchase mortgage activity for FTHBs has ranged between 75 percent and 83 percent of total annual purchase loan endorsements.

Refocusing on the core mission will strengthen FHA's ability to help creditworthy borrowers build equity, avoid foreclosure, and protect taxpayers. The benchmark for success of FHA's programs should be ensuring that borrowers are receiving financing that is appropriate, sustainable, and optimized for long-term home ownership. To this end, HUD has proposed the implementation of a "Homebuyer Sustainability Scorecard" (Scorecard) that would be used by FHA to measure the performance of loans to low- and moderate-income borrowers and FTHBs. The Scorecard will track the percent of mission borrowers who default, return to renting, refinance out of an FHA loan, remain in an original FHA-financed home, and monitor the risk associated with secondary financing (*i.e.*, downpayment assistance (DPA)). Moreover, FHA will use the Scorecard to evaluate additional underwriting criteria to ensure that new lending within its single-family portfolio remains consistent with FHA's mission. With the Scorecard, FHA will change the measure of success by no longer touting the number of loans it insures and instead, as with other HUD programs, tracking whether its borrower participants are improving with FHA support.

It is also important FHA support sustainable home ownership; which FHA can support in part through mortgage products that carry terms that accelerate equity accumulation. After all, faster accumulation of equity benefits borrowers. To achieve this objective, HUD's plan recommends FHA undertake the following reforms: 1) conduct rulemaking to clarify the statutory prohibitions on DPA providers that financially benefit from a mortgage transaction; 2) examine incentives to make shorter-term mortgages that accelerate equity accumulation more attractive to FHA's mission borrowers; 3) ensure the agency's programs and policies do not incentivize negative borrower behavior such as equity stripping via cash-out refinances; and 4) examine the overall impact of repeat borrowers on the Mutual Mortgage Insurance Fund (MMIF) and ensure these loans are consistent with the agency's mission.

Define Roles for Government-Supported Programs through Better Coordination

A central principle of the Administration's HFR plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable options. Coordination ensures that there is not unhealthy and irresponsible competition between Government-supported programs, which can lead to lower underwriting standards, increase risk to taxpayers, and threaten the long-term availability of credit to qualified borrowers. The Government-sponsored enterprises (GSE), which back a substantial portion of the Nation's mortgage debt, should not be able to selectively choose from the FHA portfolio and leave taxpayers with the riskiest borrowers.

Uncoordinated policies create incentives that encourage entities to work at cross-purposes, resulting in little or no change in overall access to credit while increasing taxpayer exposure to uncompensated risk. As discussed in HUD's plan, the FHA program is primarily utilized by FTHBs who cannot be served through traditional underwriting, as it generally accepts more risk and provides low-downpayment borrowers greater leverage than allowable in GSE programs while also offering Government-subsidized pricing.

As proposed in our plan, FHA and FHFA will coordinate to ensure that the GSEs and FHA serve defined roles within the marketplace. HUD and FHFA should develop and implement a specific understanding as to the appropriate roles and overlap between the GSEs and FHA, for example, with respect to cash-out refinances, conventional-to-FHA refinances, and loans to FHA repeat borrowers. Moreover, HUD has recommended that Congress establish FHA, the Department of Veterans Affairs (VA), and the Department of Agriculture (USDA)—the Government-insured mortgage loan programs—as the sole source of low-downpayment financing for borrowers not served by the conventional mortgage market.

Provide Regulatory Certainty to FHA Lenders

FHA strives to be clear in its guidance on compliance and legal enforcement matters and will not tolerate violations of its program—those who seek to defraud borrowers and taxpayers, as well as those who make routine (and often material) errors that put strain on the agency's resources. Additionally, FHA makes it a top priority to adhere to the rule of law, and this means the agency's view of materiality should be clearly communicated.

FHA participants and advocacy groups have called for clarification of the process by which HUD and the Department of Justice (DOJ) consider whether severe finan-

cial penalties through the pursuit of False Claims Act (FCA) remedies is appropriate for minor and putatively immaterial errors. HUD will prioritize improving certifications to which lenders attest for each FHA-insured loan, as well as lenders' annual certifications. These certifications, along with updates to FHA's defect taxonomy in order to clearly align the severity of loan underwriting defects with proposed remedies, will provide the needed certainty and clarity on FHA's requirements. HUD also will ensure its views of materiality with respect to potential violations of the FCA are clearly shared through formal consultation with DOJ.

Pillar II: Protect American Taxpayers

Strengthen FHA Risk Management Systems and Governance

With mortgage insurance on loans over \$1.4 trillion in unpaid principal balance (UPB) and more than \$2 trillion in MBS guaranteed by taxpayers, FHA and GNMA, respectively, must ensure their business and operational practices protect American taxpayers. Meeting this duty also is essential to both agency's respective missions, and if either does not operate in a fiscally responsible manner, HUD's ability to provide affordable and sustainable mortgage credit for borrowers is severely jeopardized. FHA must maintain an appropriate level of capital reserves in the MMIF, and it is unacceptable for the agency to ever again require a draw on taxpayer funds to sustain its book of business, as it did in the previous Administration. Thus, FHA should strengthen its governance and build its capital ratio well above the statutory 2 percent minimum safeguarding the agency against episodes of market distress.

To ensure protection of the American taxpayer, modernizing FHA risk management capabilities is critical. As the size of FHA's portfolio has not returned to pre-crisis levels and taxpayers continue to bear increased risk, now is an appropriate time to develop and implement a framework that will better allow the agency to monitor current, emerging, and future risks across credit cycles.

To accomplish these risk management objectives, HUD has proposed the following key reforms: a sound risk-based capital regime framework, credit-risk sharing capability, in addition to inter-agency coordination on credit policy and counterparty information exchange. First, HUD's plan recommends that Congress direct the Department to formally evaluate options, feasibility, and the economics of a credit-risk transfer (CRT) program similar to those recently implemented by the GSEs—these programs could be effective ways for FHA to reduce the overall risk to taxpayers in FHA's mortgage insurance programs while still serving HUD's mission borrowers. Second, HUD proposes that Congress also direct FHA to more effectively manage lender counterparty risk in future books by authorizing such additional remedies as appropriate. HUD has further proposed FHA adopt sound risk-based capital regimes for both the MMIF and the General Insurance/Special Risk Insurance (GI/SRI) Fund, managing risk exposure to defined stressed scenarios and ensure that FHA does not inappropriately compete with the GSEs or private capital. Last, HUD recommends FHA pursue an inter-agency agreement with other Government agencies (including GNMA and FHFA) involved in mortgage insurance and mortgage securitization on counterparty risks.

Improve Financial Viability of the Home Equity Conversion Mortgage (HECM) Program

The HECM program, which has supported millions of American seniors to "age in place," has suffered significant financial distress in recent years. At the end of fiscal year 8, FHA's HECM portfolio had an economic net worth of negative \$13.63 billion and a standalone capital ratio of negative 18.83 percent. Financial volatility within the HECM program remains a constant challenge for FHA, despite changes to the program's principal limit factors and insurance premiums in 2017, and the implementation of an appraisal inflation risk mitigation policy in 2018, both of which have been directionally positive on the program's fiscal solvency.

To continue shoring up the HECM program and best ensure these mortgage products remain a viable option for America's seniors that desire to "age in place," HUD has proposed several key reforms. First, HUD recommends Congress reform the loan limit structure in the HECM program to reflect variation in local housing markets and regional economies across the U.S. instead of the current national loan limit set to the level of high-cost markets in the forward program (\$726,525 for calendar year 2019). Second, HUD proposes Congress set a separate HECM capital reserve ratio and remove HECMs as obligations to the MMIF—reforms that would provide for a more transparent accounting of the program costs and decrease the cross-subsidization that occurs with mission borrowers in the forward mortgage portfolio. Third, HUD proposes FHA eliminate HECM-to-HECM refinances as these loan transactions result in greater appraisal inflation, increasing program costs, and

negatively impacting GNMA-guaranteed HECM MBS (HMBS) due to quick “churn” in pool participations.

Eliminating Regulatory Barriers to Affordable Housing Including Manufactured Housing

Home ownership is a vehicle for many families to put down roots, become active in their communities, and build wealth for future generations. However, over-regulation of housing construction has been a key factor in supply failing to keep pace with growing demand, resulting in many creditworthy FTHBs unable to afford the purchase of entry-level housing. On June 25, 2019, the President continued his historic deregulation campaign by signing an Executive Order establishing the White House Council on Eliminating Regulatory Barriers to Affordable Housing (Council). As the Chairman of this Council, I will build on the President’s commitment to hardworking Americans by reducing overly burdensome regulations that artificially raise the cost of housing development that directly lead to the undersupply of affordable housing and will engage with State, local, and tribal partners to help them do the same.

Manufactured housing comprises 9.5 percent of the total single-family housing stock and, along with other innovative housing solutions, plays a vital role in meeting the Nation’s affordable housing needs. Policies that exclude or disincentivize the utilization of innovative housing construction homes can exacerbate housing affordability challenges because this kind of housing potentially offers a more affordable alternative to traditional site-built housing without compromising building safety and quality.

HUD will elevate the Office of Manufactured Housing Programs and appoint a Deputy Assistant Secretary to lead it and other innovations in housing. FHA also will consider innovative proposals to modify single-family housing mortgage finance underwriting to further stimulate additional supply of entry-level housing, including manufactured housing. To encourage innovation in manufactured housing, HUD will create a formal framework for identifying and evaluating new building, construction, and design developments and ensuring that HUD’s regulations do not unnecessarily impede their adoption.

Pillar III: Provide FHA and GNMA the Tools to Appropriately Manage Risk

Today, FHA is responsible for managing a \$1.4 trillion mortgage insurance portfolio with a fiduciary duty to protect taxpayers from costly bailouts. To fulfill this duty to taxpayers and ensure it continues to provide affordable access to mortgage credit for mission-focused borrowers, FHA needs some independence from broader HUD protocols that govern staffing, procurement and information technology (IT). To this end, HUD recommends that Congress enact legislation that would restructure FHA as an autonomous Government-owned corporation within HUD. Moreover, to the extent administrative reforms are insufficient to address the procurement challenges at FHA (and GNMA), HUD proposes that Congress provide new statutory acquisition authorities for the Department, particularly to address instances where material underperformance of contracting vendors results in substantial quality deficiencies and costs.

FHA also continues to operate on antiquated technology platforms that inhibit the agency’s ability to appropriately manage risk and fulfill its fiduciary duty to taxpayers. FHA has already developed a detailed technology roadmap that will guide the development of a single platform and baseline architecture to cover all aspects of the mortgage process, from loan origination, through endorsement, servicing, claims, and, as required, disposition. Overall, the investment in the new single platform structure will allow FHA to better adapt to changing industry, regulatory, and statutory requirements; the modernized systems will be data-driven, and ultimately allow FHA to fully digitize the mortgage process, opening doors to significantly more refined risk analysis and management. To this end, HUD has recommended that FHA explore agreements to share technology with GNMA and other Government-supported mortgage programs, including the GSEs, when feasible. Additionally, HUD recommends that Congress appropriate sufficient funds for FHA to complete its multi-year, single-family IT modernization effort.

Pillar IV: Provide Liquidity to the Housing Finance System

Following the financial crisis, GNMA’s outstanding MBS guaranty portfolio swelled nearly fourfold to over \$2 trillion. This substantial growth in GNMA’s guaranty portfolio has been concurrent with the increase in the combined mortgage insurance and guaranty programs of FHA and VA. Then, as now, GNMA has been able to effectuate its mission because of the full faith and credit guaranty of the Federal Government.

The GNMA guaranty provides for the timely payment of pass-through income (generally principal and interest) to security holders of GNMA-guaranteed MBS backed by pools of mortgages insured or guaranteed by Federal agencies, including FHA, VA, and USDA. The “last position” guaranty in mortgage securitization that GNMA covers in its MBS guaranty program is an important element of potential reform of the broader housing finance system. As described in the U.S. Department of the Treasury’s HFR report, and also pursuant to the Presidential Memorandum, GNMA could—if authorized by Congress—extend its explicit guaranty to MBS backed by conventional single family and multifamily housing mortgages, as it has already gained the experience of administering, and managing the growth of, its MBS-guaranty portfolios.

In addition to this potential future role for GNMA in the Nation’s housing finance system, HUD has recommended that Congress pass legislation granting the agency the authority to administratively adjust its guaranty fee within a narrow, permissible range. This guaranty fee provides the funds from which losses would be paid if GNMA needed to step in to remit funds to security-holders as the result of an issuer’s failure to do so. GNMA believes that the authority to administratively adjust its guaranty fee within a narrow, permissible range, would ensure that such fees are adequate for the risks in the program and sufficient for GNMA to meet its statutory obligations under extreme circumstances.

Conclusion

The Presidential Memorandum provides an opportunity for Congress and the Administration to ensure FHA and GNMA serve their important missions effectively, responsibly, and sustainably while taking care to minimize overlap in the Nation’s housing finance system. FHA should focus on helping its core mission borrowers become sustainable homeowners while minimizing risk to the taxpayer to the greatest extent possible and providing a path for borrowers to graduate from Government-supported programs. HUD continues to work on administrative reforms absent legislation so that FHA and GNMA better serve low- and moderate-income borrowers unable to access conventional financing, but Congress must join efforts in improving these agencies’ service of this critical segment of the market. For too long FHA and GNMA have operated somewhat isolated from the rest of the housing finance system and I welcome Congress’s participation as this Administration reforms the agencies to better fulfill their responsibilities to borrowers and the American taxpayers.

PREPARED STATEMENT OF MARK A. CALABRIA, Ph.D.

DIRECTOR, FEDERAL HOUSING FINANCE AGENCY

SEPTEMBER 10, 2019

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, thank you for the invitation to appear at this morning’s hearing. I can think of few issues in our financial system more in need of our attention.

Our Nation’s housing finance system is in urgent need of reform. The status quo poses significant risk to taxpayers, homeowners, renters, and the entire financial system.

I want to thank Secretary Mnuchin and Secretary Carson for their efforts to develop comprehensive housing finance reform plans. They lay out a responsible roadmap to build a more resilient housing finance system that protects taxpayers and mortgage access. I also thank Secretary Mnuchin for the opportunity to have offered commentary on Treasury’s plan during its development.

These plans are broadly consistent with my top priorities, which are to cement FHFA as a world-class regulator and to restore Fannie Mae and Freddie Mac (“the Enterprises”) to safe and sound condition by building capital to match their risk profiles. Building capital would also begin the process to end the Enterprise conservatorships, which have lasted more than 11 years, far longer than any other conservatorship.

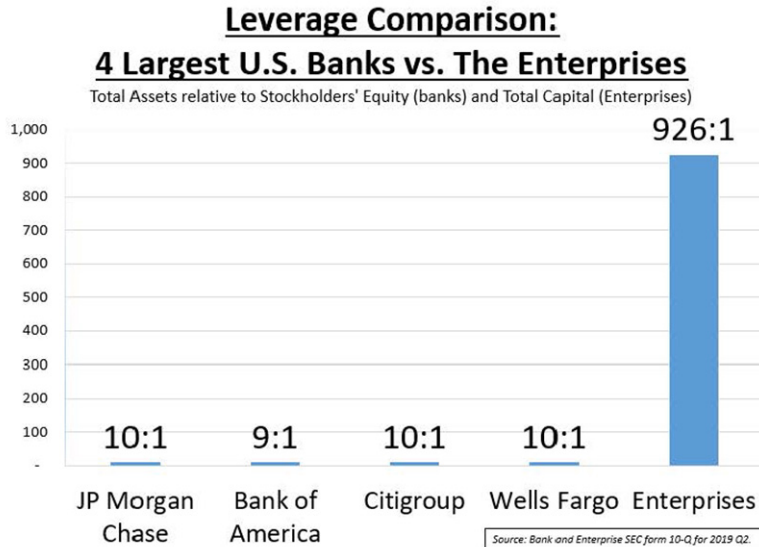
A root cause of the 2008 financial crisis was imprudent mortgage credit risk backed by insufficient capital. This fundamental problem remains unresolved today. While borrower average credit scores have modestly improved, the Enterprises’ shares of low-downpayment and high debt-to-income mortgages are back to 2004 levels. Fueling rapidly rising home prices with easy mortgage credit from under-capitalized entities is a mistake. We should not repeat it.

In their current financial condition, the Enterprises are not equipped to withstand a downturn in the housing market. The Enterprises own or guarantee a combined \$5.5 trillion in single and multifamily mortgages out of a \$12 trillion combined

market. Yet with just \$6 billion in allowable capital reserves, the Enterprises' combined leverage ratio is nearly a thousand to one.

In comparison, the Nation's largest financial institutions have an average leverage ratio of roughly ten to one. See Exhibit 1.

Exhibit 1¹



The 2019 Dodd-Frank Act Stress Test (DFAST) demonstrated the consequences of inaction. In the last crisis, from the market peak in the summer of 2006 to the bottom in 2012, housing prices declined by 27 percent. The 2019 DFAST modeled a scenario where residential real estate prices decline by 25 percent. Under such conditions, the Enterprises forecasted combined total losses of \$43.3 billion during the stress-test period.

Given that housing supply appears to have become more inelastic since the crisis, we should expect greater price volatility going forward.

Our housing finance system also undercuts sustainable home ownership. The Enterprises have expanded with the economy recently yet maintained risk and capital levels that ensure they will fail in a downturn. This pro-cyclical pattern harms low-income borrowers, making it easier to buy homes beyond their means when the economy is strong and harder to keep those homes when the economy is weak.

Our housing finance system is supposed to serve homeowners and renters while protecting taxpayers. Currently, it fails on both counts. The Administration's plans aim to address these problems.

Only Congress, however, can enact the structural reforms needed to fix today's broken model.

Compared to the duopoly of the Enterprises, a fair and competitive secondary mortgage market would better serve borrowers and renters and promote long-term stability by ensuring that inefficient firms do not survive and that no institution is "too big to fail." We have witnessed in one industry after another that the best guarantee for delivering lower prices to consumers is an open, competitive market, not a monopoly or duopoly.

Some argue reform should wait for a crisis. This shortsighted thinking fueled the last housing market collapse. As we learned then, it is impossible to solve complex problems in the middle of a crisis.

¹ Large U.S. banks and the Enterprises are subject to separate leverage ratio requirements that use differing components, both in terms of what each firm can use to meet its respective requirements and which balance sheet measures the requirements are based on. To provide a simplified version of the actual requirements for the purposes of comparison, this graph uses Stockholders' Equity for the banks and Total Consolidated Assets (Total Capital) for the Enterprises.

To paraphrase President Kennedy, the time to repair the roof is when the sun is shining. Now is the time for bold reforms because our economy and housing market are strong. This will not always be the case.

I am not forecasting a downturn. Rather, as a prudential regulator, I believe my job is to hope for the best and prepare for the worst.

Therefore, I intend, fulfilling my statutory duties, to strengthen FHFA, enable the Enterprises to build capital to match their risk profiles, and end the Enterprise conservatorships.

These reforms are critical to building a resilient mortgage finance system that protects taxpayers and delivers a diverse range of housing options at market-affordable prices. In the interim, modest reforms can improve FHFA's ability to do its job.

For example, in June, I asked Congress for the authority, similar to other financial regulators, to develop capital standards for the Enterprises and to charter new enterprises. This commonsense proposal need not wait for broader reform.

In far too many areas of our Nation, we face a housing affordability crisis. Too often this has been the result of misguided local land-use and building regulations. In other areas, housing supply remains limited due to a lack of construction labor. For the Enterprises to play an important role in addressing this crisis, they themselves must be fixed. Adding more weight to an already cracked foundation is to invite collapse.

Thank you again for the opportunity to testify today. I look forward to answering your questions.

**RESPONSE TO WRITTEN QUESTION OF CHAIRMAN CRAPO
FROM STEVEN T. MNUCHIN**

Q.1. During the hearing, you indicated that as part of your external engagement in designing the Treasury Housing Reform Plan, you sought out and obtained input from a diverse variety of stakeholders. Can you provide a specific list of parties that were consulted?

A.1. Consistent with its approach to preparing its reports on Core Principles for Regulating the U.S. Financial System and other recent reports, Treasury met with a wide range of market participants, affordable housing advocates, think tanks, and other stakeholders and interested parties in advance of preparing the Treasury Housing Reform Plan. The purposes of these outreach meetings were to foster Treasury's understanding of the key priorities of stakeholders, solicit stakeholders' views on recent developments related to housing finance reform, and discuss stakeholders' perspectives on housing finance reform more generally.

In advance of preparing the Treasury Housing Reform Plan, Treasury met with the following stakeholders, among others:

- American Bankers Association
- American Enterprise Institute
- American Land Title Association
- Annaly Capital Management
- Bank of America
- BlackRock
- BNP Paribas
- Capital Magnet Fund Coalition
- Cato Institute
- CBRE Group
- Center for Responsible Lending
- Citibank
- Commercial Real Estate Finance Council
- Community Home Lenders Association
- Community Mortgage Lenders Association
- Consumer Federation of America
- Credit Suisse
- Credit Union National Association
- Goldman Sachs
- Heritage Foundation
- Housing Assistance Council
- Housing Policy Council
- Independent Community Bankers Association

- JPMorgan
- Manufactured Housing Institute
- Milken Institute
- Morgan Stanley
- Mortgage Bankers Association
- Mr. Cooper
- National Association of Affordable Housing Lenders
- National Association of Federally Insured Credit Unions
- National Association of Home Builders
- National Association of Real Estate Investment Trusts
- National Association of Realtors
- National Community Reinvestment Coalition
- National Congress of American Indians
- National Council of State Housing Agencies
- National Housing Council
- National Low Income Housing Coalition
- National Multifamily Housing Council
- National Urban League
- Nomura
- Opportunity Finance Network
- PennyMac
- PIMCO
- PNC
- Prudential/PGIM
- Quicken Loans
- R Street Institute
- Securities Industry and Financial Markets Association
- Structured Finance Association
- SunTrust
- U.S. Mortgage Insurers
- UnidosUS
- Urban Institute
- Vanguard
- Walker & Dunlop
- Wellington Management
- Wells Fargo

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM STEVEN T. MNUCHIN**

*Affordable Housing Goals, Duty to Serve, and the Housing Trust
Fund / Capital Magnet Fund*

Q.1. Secretary Mnuchin, in your testimony you told me that you “very much support the duty to serve, as well as affordable housing goals.” You went on to say that your “priority is to make sure that we maintain affordable housing and duty to serve.”

But in the Treasury Department's plan, you state that the GSEs' "statutory mandates should be reformed" and that "the GSEs' statutory affordable housing goals should be replaced."¹ You also cite a dissenting argument from the Financial Crisis Inquiry Commission report that asserts that the goals were used to "degrade the GSEs' mortgage underwriting standards,"² when in fact the Commission concluded that the GSEs would have met their affordable housing goals in the years leading up to the crisis without purchasing any subprime or Alt-A securities, and that Fannie did not submit any of these securities for goals credit in 2004.³

Instead of comprehensive programs to serve underserved borrowers and markets with tailored products, your report states that the affordable housing goals should be replaced with another mechanism like a stream of funds sent to the Department of Housing and Urban Development (HUD).

Where in your plan do you state or make proposals demonstrating that you "support the duty to serve, as well as the affordable housing goals?"

A.1. Treasury supports the GSEs' longstanding role in promoting access to affordable mortgage credit, including access by low- and moderate-income, rural, and other historically underserved borrowers. Relevant statements in Treasury's Housing Reform Plan include:

- "The GSEs should also continue to support affordable housing for low- and moderate-income, rural, and other similar borrowers."⁴
- "Consistent with its charter, each GSE's role should be to perform activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities."⁵
- "Pending legislation, FHFA should focus on increasing the efficiency of the means employed by the GSEs to achieve the statutory affordable housing goals."⁶
- "In addition to operating a cash window, single-family guarantors generally should be required to offer to acquire mortgage loans from across the Nation. A nationwide service requirement will foster equitable secondary market access, diversified Government-guaranteed MBS, and also affordable access to mortgage credit by underserved borrowers."⁷
- "Pending legislation, Treasury and FHFA should amend each PSPA to require each GSE to maintain a nationwide cash window for small lenders . . ."⁸

¹ See U.S. Department of Treasury *Housing Reform Plan* pg. 23.

² See Financial Crisis Inquiry Report, Dissent of Peter J. Wallison, January 2011, pg. 502, available at https://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf.

³ *Id.* at pg. 123.

⁴ Treasury, *Housing Reform Plan*, at 3.

⁵ *Id.* at 3; see also *id.* at 25.

⁶ *Id.* at 24.

⁷ *Id.* at 42.

⁸ *Id.* at 43.

Q.2. Your plan proposes to reform the GSEs’ “statutory mandates.” The current “statutory mandates” are the affordable housing goals, the Duty to Serve underserved housing markets, and contributions to the Housing Trust Fund and Capital Magnet Fund. Do you intend to reform all three of these mandates? If so, how? Please address each of the three elements.

A.2. Treasury does not propose, and indeed opposes, reducing or eliminating the GSEs’ longstanding support for affordable housing. Indeed, comprehensive housing finance reform legislation could preserve and improve support for low- and moderate-income and other historically underserved borrowers and renters.

With respect to the statutory affordability mandates enumerated in the Treasury Housing Reform Plan,⁹ Treasury’s recommended reforms are focused primarily on the statutory affordable housing goals for the GSEs’ acquisitions of mortgage loans to low- and moderate-income borrowers and mortgage loans to borrowers in low-income areas.¹⁰ In particular, Treasury recommends that “Congress should replace the GSEs’ statutory affordable housing goals with a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time home buyers and low- and moderate-income, rural, and other historically underserved borrowers, with a portion of the associated funding potentially transferred to HUD to expand its affordable housing activities.”¹¹

Except to suggest that reforms could “more effectively target support for affordable housing,” the Treasury Housing Reform Plan did not include specific recommendations to alter the duty to serve specified underserved markets or the periodic contributions to the Housing Trust Fund and Capital Magnet Fund.

Q.3. Absent legislation, your plan states that “FHFA should consider more efficient mechanisms for the GSEs to achieve the statutory affordable housing goals.”¹² What are those more efficient mechanisms? How do you expect that these changes would impact the way that the GSEs currently serve very low-, low-, and moderate-income homeowners and renters?

A.3. The Treasury Housing Reform Plan notes that the GSEs’ “mission-related cross-subsidization in large part occurs where the GSEs collect above-cost guarantee fees from lower credit risk borrowers to subsidize below-cost guarantee fees collected from higher credit risk borrowers.”¹³ Because “[c]redit risk is not necessarily a good proxy for borrower income,” Treasury has suggested “that alternatives to credit risk-based cross-subsidy could provide more efficient mechanisms for the GSEs to deliver well-targeted support to low- and moderate-income borrowers and achieve their statutory affordable housing goals.”¹⁴ FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan. One approach that FHFA might wish to consider could be to focus support on borrowers that have been identified as

⁹ *Id.* at 23.

¹⁰ 12 U.S.C. §§ 4562–63.

¹¹ Treasury, *Housing Reform Plan*, at 24.

¹² Treasury, *Housing Reform Plan*, at 24.

¹³ *Ibid.*

¹⁴ *Ibid.*

very low-, low-, or moderate-income, or another type of historically underserved borrower.

Q.4. Secretary Mnuchin, during your testimony you stated that there is bipartisan support on the issue of affordable housing, and it “may be that there should be more money put for affordable housing.” As you know the Housing Trust Fund and Capital Magnet Fund are currently funded through a 4.2 basis point assessment on the GSEs’ volume. The Administration proposes limiting the footprint of the GSEs’ multifamily business and suggests a number of limitations on the single-family business that would likely reduce the GSEs’ overall guarantee volume.

If the Administration limits the GSEs’ volume or eliminates certain product lines, what impact would you expect that to have on the amount of funds allocated to the Housing Trust Fund and Capital Magnet Fund in future years?

A.4. The Treasury Housing Reform Plan does not include specific recommendations to alter the periodic contributions to the Housing Trust Fund and Capital Magnet Fund. More broadly, Treasury does not propose, and indeed opposes, reducing or eliminating the GSEs’ longstanding support for affordable housing. Indeed, comprehensive housing finance reform legislation that establishes a more efficient, transparent, and accountable mechanism for delivering tailored support could preserve and improve support for low- and moderate-income and other historically underserved borrowers and renters.

Affordability

Q.5. Secretary Mnuchin, during the hearing and in the Treasury Department’s Housing Finance Reform plan you expressed support for affordable housing.

How would you define affordable housing? Please address affordability in the context of home ownership, rental housing, and explicit subsidies.

A.5. As stated in the Treasury Housing Reform Plan, “[a]ccess to affordable housing is far too difficult for many Americans, with rising housing costs forcing many families to dedicate larger shares of their income to housing.”¹⁵ Consistent with the Presidential Memorandum on Federal Housing Finance Reform dated March 27, 2019, sustainable home ownership for American families should be a benchmark for success for housing finance reform. Affordable housing policy should, among other things, contemplate efficient, transparent, and accountable mechanisms for delivering targeted support to facilitate access to affordable housing for borrowers and renters.

National Market

Q.6. Secretary Mnuchin, in your testimony you stated that Treasury supported “the national concept.” But in the Treasury Department’s plan, you also state that “[c]areful attention should be devoted to the drafting of the nationwide service requirement so as to not confer on FHFA the authority to in effect dictate under-

¹⁵ *Id.* at 21.

writing or pricing terms for single-family guarantors—for example, the authority to require a single-family guarantor to acquire mortgage loans from a geographic area that the single-family guarantor has determined to have home prices that are not supported by market fundamentals.”¹⁶

Why might a guarantor decide not to serve a given market?

A.6. The Treasury Housing Reform Plan states that “single-family guarantors generally should be required to offer to acquire mortgage loans from across the Nation. A nationwide service requirement will foster equitable secondary market access, diversified Government-guaranteed MBS, and also affordable access to mortgage credit by underserved borrowers.”¹⁷ Congress may consider exceptions to this requirement to prevent circumstances in which a regulator is in effect dictating underwriting terms to a guarantor. Treasury’s preference and recommendation is that Congress enact comprehensive housing finance reform legislation. The legislation should specify the parameters for maintaining a nationwide service requirement, in particular to ensure that all markets are served by the housing finance system.

Q.7. Under the Treasury Department’s plan, would a guarantor be required to explain to FHFA why it would not serve a market on equitable terms before it could exclude that market?

A.7. Treasury’s preference and recommendation is that Congress enact comprehensive housing finance reform legislation. The legislation should specify the parameters for maintaining a nationwide service requirement, in particular to ensure that all markets are served by the housing finance system. The Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, but Congress should enact legislation addressing these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.8. If FHFA cannot enforce the requirement for a guarantor to serve all markets, how would Treasury maintain a truly national market?

A.8. Treasury’s preference and recommendation is that Congress enact comprehensive housing finance reform legislation. The legislation should specify a mechanism for enforcing the nationwide service requirement, in particular to ensure that all markets are served by the housing finance system. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.9. Please describe the impact for borrowers and prospective homeowners and renters if a guarantor or guarantors decide not to serve a given market.

A.9. There should be no disruption to the market as a result of Treasury’s recommended reforms. Treasury’s reform plan takes great care to preserve what works in the current system. Treasury’s preference and recommendation is that Congress enact comprehensive housing finance reform legislation. The legislation should specify the parameters for maintaining a nationwide service requirement, in particular to ensure that all markets are served by

¹⁶*Id.* at pg. 42.

¹⁷*Id.* at 42.

the housing finance system. The Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, but Congress should enact legislation addressing these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

30-year fixed-rate mortgage

Q.10. Secretary Mnuchin, in your testimony you stated that you do not believe that the 30-year fixed-rate mortgage could exist without Government backing. But the Treasury Report states that it “is possible that the 30-year fixed-rate mortgage loan could remain widely available and at similar prices under a market structure that does not depend on Government support.”¹⁸ Treasury further states that it “does not believe a Government guarantee is required” for a functioning mortgage market.¹⁹

To clarify, is it the position of the Trump administration and the Treasury Department that a Government guarantee is necessary to preserve widespread availability of the 30-year fixed-rate mortgage? Please specify whether you are referring to an implicit, limited explicit, or unlimited explicit guarantee.

A.10. As stated in the Treasury Housing Reform Plan, the GSEs have fostered the widespread availability of the 30-year fixed-rate mortgage loan. Any proposal to fundamentally change the housing finance system should take careful account of the risks posed by the transition. Stability in the housing finance system is crucial, and generally counsels in favor of preserving what works in the current system, including the longstanding support of the 30-year fixed-rate mortgage loan. This existing Government support should, however, be made clearer and better tailored.

Treasury does not believe an explicit guarantee, backed by the full faith and credit of the Federal Government, is required for the GSEs to continue to support the widespread availability of the 30-year fixed-rate mortgage. However, to preserve stability in the housing finance system pending comprehensive housing finance reform legislation, Treasury expects that it will be necessary to maintain limited and tailored Government support for the GSEs by leaving the PSPA commitment in place after the conservatorships. The capital support provided through the PSPA commitment continues to provide confidence to investors that the GSEs will meet their financial obligations.

Further, Treasury would support legislation that authorizes an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying mortgage-backed securities (MBS). That explicit Government guarantee should be available not only to the GSEs but also to any other potential guarantors that would be chartered by FHFA.

Multifamily

Q.11. Secretary Mnuchin, during your oral testimony you stated that Treasury believes the GSEs’ current level of involvement in

¹⁸*Id.* at pg. 12.

¹⁹*Id.* at pg. 2.

the multifamily housing market is “fine” and that you were not looking to reduce it. But in the Administration’s plan, the Treasury Department stated that “FHFA should revisit FHFA’s efforts in 2012 and 2013 to restrict the GSEs’ multifamily footprint.”²⁰ The plan further states that FHFA should “limit support of each GSE’s multifamily business to its underlying affordability mission.”

As you know, the GSEs play a critical role in providing liquidity for multifamily housing in secondary and tertiary markets that are less likely to attract capital from other sources. While these deals may not be designated as affordable, they, too, serve a critical unmet need.

Does the Administration recommend restricting the GSEs’ multifamily footprint and limiting its activities as stated in the Treasury Department’s Housing Finance Reform plan? If so, please explain what limitations Treasury would recommend. If not, please explain the meaning of the quotes above.

A.11. The GSEs continue to provide liquidity to the multifamily lending market, in particular to support the availability of rental units that are affordable to low- and moderate-income and other historically underserved renters. The Treasury Housing Reform Plan recommends that Congress authorize an explicit, paid-for guarantee of qualifying MBS collateralized by eligible multifamily mortgage loans. The funding advantage conferred by an explicit guarantee could risk crowding out existing private sector funding of multifamily loans. As such, Treasury recommends that Congress and FHFA revisit the framework for ensuring that the Federal Government’s support of the multifamily secondary market is tailored to an affordability mission. FHFA recently announced changes to the restrictions on GSE multifamily loan purchases. Treasury believes these changes are consistent with the recommendations in the Treasury Housing Reform Plan.

Cross-Subsidy

Q.12. Secretary Mnuchin, the Administration’s plan proposes to reduce business lines for which the GSEs charge higher guarantee fees.

Does the Administration intend to maintain at least the same level of cross-subsidy in the system, which directly impacts low- and moderate-income prospective homeowners and renters in harder to serve markets? If so, how will the GSEs generate sufficient funds to maintain affordable access to mortgage credit for moderate-income borrowers and in less lucrative markets, like rural areas?

A.12. The Treasury Housing Reform Plan recommends that “Congress should restrict the permissible activities of guarantors to the business of securitizing Government-guaranteed MBS,” and that “[p]ending legislation, FHFA should assess whether each of the current products, services, and other single-family activities of each GSE is consistent with its statutory mission . . .”²¹ Treasury supports appropriate review of GSEs business activities to ensure that

²⁰*Id.* at pg. 21.

²¹*Id.* at 18.

there is a clear rationale for them given the Government's existing and recommended future support.

Treasury does not propose, and indeed opposes, reducing or eliminating the GSEs' longstanding support for affordable housing. Indeed, comprehensive housing finance reform legislation that establishes "a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time home buyers and low- and moderate-income, rural, and other historically underserved borrowers" could improve support for affordable housing.²² Any legislative reforms should also preserve and improve support for low- and moderate-income and other historically underserved renters.²³

Regulated Rate of Return

Q.13. Secretary Mnuchin, in your oral testimony you stated that the Trump administration believes that FHFA should maintain regulation and oversight of the pricing of any guarantee. While regulation of pricing is important to avoid unhealthy competition for market share, I am also concerned about the returns that investors in guarantors might demand. As the Financial Crisis Inquiry Commission's report noted, "risky practices of Fannie Mae," which was the case study for the two Enterprises, "led to its fall: practices undertaken to meet Wall Street's expectations for growth, to regain market share, and to ensure generous compensation for its employees."²⁴

To address the problematic incentives in place before the crisis, we must also address investor expectations.

In addition to supporting regulation of the guarantee fee, does the Trump administration also support a regulated rate of return for shareholders in any guarantor?

A.13. Treasury believes any subsidy provided to the GSEs should be passed through to borrowers, not passed through to shareholders or employees. While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.14. Secretary Mnuchin, you stated that FHFA should maintain "regulation and oversight of the pricing of the guarantee" for mortgage-backed securities. But in the Treasury Department's plan, you also state that "[c]areful attention should be devoted to the drafting of the nationwide service requirement so as to not confer on FHFA the authority to in effect dictate underwriting or pricing terms for single-family guarantors—for example, the authority to require a single-family guarantor to acquire mortgage loans from a geographic area that the single-family guarantor has determined to have home prices that are not supported by market fundamentals."²⁵

²² *Id.* at 24.

²³ *Id.* at 14, 19–21.

²⁴ *Financial Crisis Inquiry Report*, pg. 323.

²⁵ *Treasury Housing Reform Plan*, pg. 42.

How do you distinguish between regulation and oversight of pricing for the guarantee and the pricing terms for a single-family guarantee? Under the Treasury Department's plan, what pricing would FHFA establish and what pricing would be left to the discretion of the guarantor?

A.14. Treasury supports preserving a national service requirement to ensure that all markets are served by the housing finance system. Comprehensive housing finance reform legislation should specify the parameters for maintaining such a nationwide requirement and any limited exceptions to such a requirement to address potential safety and soundness considerations for a guarantor or with regard to achieving a competitive secondary market.

While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

QM

Q.15. Secretary Mnuchin, your plan calls on the Consumer Financial Protection Bureau to amend its rules put in place after the crisis to hold lenders accountable for making predatory loans based on little or no documentation. You also say that the GSEs will be limited to guaranteeing only some portion of the loans that the Bureau believes are so safe that lenders are given a complete safe harbor from legal liability.

Please describe what loans you believe are so safe that consumers shouldn't need the right to hold their lender accountable, but that are too risky for the GSEs to guarantee.

A.15. The Treasury Housing Reform Plan recommends that "Congress amend the Truth in Lending Act to establish a clear bright line safe harbor for compliance with the required ability-to-repay determination," and that "[p]ending legislation, the QM patch should expire."²⁶ Treasury recommends that FHFA review GSE purchase guidelines in light of any revisions to the QM standard, as determined by the Consumer Financial Protection Bureau (CFPB), in order to manage risks to the safety and soundness of the GSEs or additional guarantors, and to ensure that GSE activities have a close nexus to the underlying rationale for Government support.

G-Fees

Q.16. Secretary Mnuchin, your plan suggests that FHFA could charge different guarantors different amounts for the same Government guarantee to help new entrants compete with Fannie Mae and Freddie Mac.²⁷

Who would you imagine would pay those higher costs for a guarantee, and what impact might these higher costs have on access to credit?

A.16. Treasury recommends legislative reforms that would encourage a more competitive secondary mortgage market, including

²⁶*Id.* at 38.

²⁷*Id.* at pg. 41.

granting FHFA the authority to charter additional competitor guarantors to the GSEs. Having multiple guarantors could reduce the systemic importance of any single guarantor, increase market discipline, better protect taxpayers, and encourage the transmission of any subsidy to borrowers. However, additional entrants may face significant barriers to entry. Treasury's Housing Reform Plan recommends that Congress grant FHFA "appropriate authorities to foster competition with the re-chartered GSEs."²⁸ These authorities may include giving FHFA the ability to adjust the fees it charges in association with administering a mortgage insurance fund. The Treasury Housing Reform Plan contemplates that certain requirements for new guarantor entrants be phased in to foster the development of a competitive market. These recommended authorities would not be expected to have a negative effect on borrower access to credit. The establishment of a full faith and credit Government guarantee by Congress on eligible MBS could support continued broad access to mortgage credit by providing confidence to MBS investors regardless of prevailing market conditions.

TBA Market

Q.17. The Administration proposes a number of limitations on the GSEs' single-family business that would likely reduce the GSEs' overall guarantee volume, including product restrictions.

How would any reduction in the size of the GSEs' footprint impact liquidity in the to-be-announced (TBA) market? How would changes in liquidity in the TBA market ultimately impact mortgage pricing for consumers?

A.17. There should be no disruption to the market as a result of Treasury's recommended reforms. Treasury's reform plan takes great care to preserve what works in the current system, including preservation of the TBA market, to which the GSEs and Ginnie Mae have unique access and through which global capital supports the availability of the 30-year fixed-rate mortgage.

Duplication of Support

Q.18. Secretary Mnuchin, both the Treasury and HUD plans express concern about "duplicating support" for families who might be eligible for both FHA-insured and GSE-guaranteed loans. But, as you know, FHA's insurance and the GSEs' guarantee provide two different functions, and most borrowers participate in just one of these programs at a time.

How is a borrower being eligible for an FHA-insured loan and a GSE-guaranteed loan duplicating support? How does a borrower having the option to choose an FHA or conventional loan hurt the programs?

A.18. The Presidential Memorandum on Federal Housing Finance Reform dated March 27, 2019, directed Treasury to define the GSEs' role in promoting affordable housing without duplicating support provided by the Federal Housing Administration (FHA) or other Federal programs. Consistent with its charter, each GSE's role should be to perform activities relating to mortgages on housing for low- and moderate-income families involving a reasonable

²⁸ *Id.* at 42.

economic return that may be less than the return earned on other activities. Consistent with the Presidential Memorandum, FHA and Ginnie Mae have primary responsibility for providing housing finance support to low- and moderate-income families that cannot be fulfilled through traditional underwriting. Treasury acknowledges that there will be some incidental overlap between the GSEs' and FHA's support for affordable housing, but the duplication of support for affordable housing has unnecessarily increased during the GSEs' conservatorships. Treasury believes FHFA and HUD should better define the respective roles, including their overlap, between the GSEs and FHA to avoid duplicating sizable Federal support to the housing system.

PLS

Q.19. Secretary Mnuchin, your plan makes a number of suggestions to try to resuscitate the private-label securities (PLS) market. In its latest paper on reviving the PLS market, the Structured Finance Association said that “[i]nvestors have indicated that a mechanism to solve issues related to representations and warranties is a prerequisite to returning to the market.”²⁹

Has the market fixed the remaining distrust between investors and issuers? If this hasn't been fixed, why would we think that investors would come back?

A.19. PLS issuance has not returned to levels seen in the decade before the financial crisis. Residual investor concerns with how losses are managed and allocated to different parties to a private label securitization (PLS) transaction, and how conflicts between those interests are resolved, continue to be raised as one challenge limiting PLS issuance. Other issues likely also contribute to the relatively limited issuance, including challenges for issuers to comply with onerous asset-level disclosure requirements for registered issuances; passive investor concerns with their potential assignee liability under Federal law; risk retention rules for residential mortgage securitizations; and GSE activities crowding out private risk capital. The Treasury Housing Reform Plan has as one of its main pillars leveling the playing field across market participants, so that innovation and competitive market forces drive volume, as opposed to statutory and regulatory barriers. Treasury supports efforts by regulators to review existing rules to address areas where recalibration is warranted to support a competitive secondary mortgage market.

**RESPONSE TO WRITTEN QUESTION OF SENATOR MENENDEZ
FROM STEVEN T. MNUCHIN**

Q.1. First-time home buyers have traditionally been the driving force of the housing market and these borrowers traditionally rely on low-downpayment mortgages to purchase their homes. In fact, over the past several years, nearly 80 percent of first-time home buyers with mortgages purchased homes using low-downpayment products. With rising rents, high home price appreciation numbers,

²⁹“RMBS 3.0: A Comprehensive Set of Proposed Industry Standards to Promote Growth in the Private Label Securities Market,” SFIG, November 9, 2017, available at <https://structuredfinance.org/wp-content/uploads/2019/05/RMBS-3.0-Sixth-Edition-Final-1109.pdf>.

and student debt, it is critical that younger buyers have access to affordable low-downpayment options that will allow them to attain the American Dream of home ownership.

Can you please speak to how your agencies' recommendations will ensure that borrowers can access affordable, prudent low-downpayment mortgage options?

A.1. Treasury supports the GSEs' longstanding role in promoting access to affordable mortgage credit, including access by low- and moderate-income, rural, and other historically underserved borrowers. As stated in the Treasury Housing Reform Plan, "[a]ccess to affordable housing is far too difficult for many Americans, with rising housing costs forcing many families to dedicate larger shares of their income to housing."¹ Consistent with the Presidential Memorandum, sustainable home ownership for American families should be a benchmark for success for housing finance reform. Affordable housing policy should contemplate efficient, transparent, and accountable mechanisms for delivering targeted support for affordable ownership and rental opportunities.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT FROM STEVEN T. MNUCHIN

Q.1. Treasury's report states that Treasury and FHFA should amend each PSPA to require each GSE to maintain a nationwide cash window for small lenders and to prohibit volume-based pricing discounts or other similar incentives. I think this is a critical issue to ensure that small banks can compete in the mortgage business and that rural America can have access to mortgage credit.

How will you operationalize enforcement, particularly if more guarantors enter the market? How will the window function in a crisis without the implicit guarantee of debt financing?

A.1. Treasury believes housing finance reform should foster a competitive primary mortgage market in part by protecting equal access for lenders of all sizes to the secondary mortgage market, including operating a cash window for small lenders. While cash acquisitions account for a sizable share of GSE business acquisition volumes, because the GSEs have access to the Agency MBS market to package and securitize their cash acquisitions, the size of the balance sheet needed to fund these activities is relatively small. Treasury expects that much of the funding needs currently supported by unsecured corporate debt of the GSEs will be covered by the equity financing eventually required by FHFA's final capital rule.

Q.2. Both Treasury and HUD have been heavily involved in the implementation of my Opportunity Zone initiative and I appreciate your hard work. Thus far Opportunity Zones have proven to be instrumental in fostering community development, job creation, and economic development across our Nation. Needless to say, Opportunity Zones have also been extremely impactful in terms of the topics we've covered today.

As you know, Opportunity Zones have been a catalyst for new investment into our Nation's most economically distressed neighbor-

¹*Id.* at 21.

hoods. Of course, Treasury's work in providing implementing regulations has been a huge part of making this initiative—and these projects—possible. In light of that, when do you expect that we will see the Opportunity Zone regulations finalized?

A.2. On December 19, 2019, the Treasury Department and IRS issued a final set of regulations on Opportunity Zones.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM STEVEN T. MNUCHIN**

Q.1. Our housing finance system faces a number of profound challenges. In most parts of the country, prices for starter homes are skyrocketing as much as 10 percent per year.¹ Millions of Americans are cost burdened, paying more than 30 percent of their income on rent, mortgages or other housing costs. Perhaps most perniciously, the legacy of decades of racist Federal housing policy is still too apparent today. The average Black family has about $\frac{1}{10}$ th the wealth of the average white family,² and while the Black families made some gains in the healthy housing markets of the 1990s and early 2000s, that progress was wiped out in the subprime crisis. Today, the homeownership gap between Black and white families is as large as it was when housing discrimination was legal.³

Any proposal for housing finance reform must confront these problems. After all, as the U.S. Department of Treasury Housing Reform Plan (“Treasury Report”) points out, “[e]ach GSE’s is unique in that its congressional charter endows the GSE with a public mission.” These public missions make it clear that the GSEs exist to “promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas)” and to perform “activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities.”⁴

I have carefully reviewed the Treasury Report and the Department of Housing and Urban Development’s Housing Finance Reform Plan (“HUD Report”). Both appear to eliminate many of the mechanisms in the current system that support sustainable home ownership among low- and moderate-income and middle-income borrowers, especially in communities of color. The following questions seek more information about the analysis that Treasury, HUD and the Federal Housing Finance Agency (FHFA) undertook to determine the effects of their various proposals on housing prices, access to home ownership for first-time home buyers, and the racial homeownership gap.

¹Marketwatch “One big reason it’s so hard for first-time buyers to find the right starter home.” Jacob Passy, March 21, 2018, <https://www.marketwatch.com/story/another-hurdle-for-first-time-home-buyers-there-are-barely-any-starter-homes-for-sale-2018-03-21>.

²Brookings, “A conversation about the racial wealth gap—and how to address it,” Michaela Broyles, June 18, 2019, <https://www.brookings.edu/blog/brookings-now/2019/06/18/a-conversation-about-the-racial-wealth-gap-and-how-to-address-it/>.

³Census Bureau, “Quarterly Residential Vacancies and Homeownership, Second Quarter 2019,” July 25, 2019, <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>; National Bureaus of Economic Research Working Paper Series, “Race and Home Ownership, 1900 to 1990,” William J. Collins and Robert Margo, August 1999, <https://www.nber.org/papers/w7277.pdf>.

⁴U.S. Department of the Treasury, “U.S. Department of the Treasury Housing Reform Plan,” September 2019, [file:///C:/Users/js42247/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/LTYNPN67/Treasury-Housing-Finance-Reform-Plan.pdf](http://C:/Users/js42247/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/LTYNPN67/Treasury-Housing-Finance-Reform-Plan.pdf).

The Treasury Report recommends that “Congress should restrict the permissible activities of guarantors to the business of securitizing Government-guaranteed MBS,” including “cash-out refinancings, investor loans, vacation home loans, higher principal balance loans [in high-cost areas], or other subsets of GSE-acquired mortgage loans,” and in the absence of legislation “FHFA should assess whether each of the current products, services, and other single-family activities of each GSE is consistent with its statutory mission.”⁵

Did Treasury analyze the effects of limiting the activities of the guarantors on home prices, especially in high-cost areas? If so, please provide the analysis.

A.1. Treasury recommends that activities that benefit from Government support should be assessed to ensure they align with a clear rationale warranting such support. Treasury took great care to formulate its recommendations in ways that would not disrupt the market or raise borrowing costs. Treasury believes any changes to GSE business activities should be carefully calibrated to this objective.

Q.2. Did Treasury analyze the effects limiting the activities of the guarantors on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers, especially in high-cost areas? If so, please provide the analysis.

A.2. Treasury took great care to formulate its recommendations in ways that would not disrupt the market, limit access to credit, or raise borrowing costs. Critically, the legislative reforms Treasury recommends in Treasury’s Housing Reform Plan should preserve and improve support for low- and moderate-income and other historically underserved groups.⁶

Q.3. Did Treasury analyze the effects of limiting the activities of the guarantors on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.3. See previous answer.

Q.4. The Treasury report recommends getting rid of the affordable housing goals. As an alternative, the Report suggests, “collect[ing] a periodic assessment from guarantors that Congress would make available through an appropriation to administer on-budget affordable housing.”

Did Treasury analyze the effects of getting rid of the affordable housing goals on home prices? If so, please provide the analysis.

A.4. While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury’s preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation. Given the critical importance of the housing market to the U.S. economy, Treasury supports careful review of proposed reforms, as they are developed in potential legislation, to ensure that they do not

⁵ *Ibid.*

⁶ *Id.* at 14, 19–21.

disrupt the market, limit access to credit for creditworthy borrowers, or raise borrowing costs.

Q.5. Did Treasury analyze the effects of getting rid of the affordable housing goals on access to home ownership low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.5. See previous answer.

Q.6. Did Treasury analyze the effects of getting rid of the affordable housing goals on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.6. See previous answer.

Q.7. The Treasury report recommends that “FHFA and HUD should develop and implement a specific understanding as to the appropriate roles and overlap between the GSEs and FHA, for example, with respect to the GSEs’ acquisitions of high LTV and high DTI loans and FHA’s underwriting of cash-out, conventional-to-FHA, and other refinancing loans and loans to repeat FHA borrowers.”

Did Treasury analyze the effects of limiting the footprint of the GSEs and FHA on home prices? If so, please provide the analysis.

A.7. The Presidential Memorandum directed Treasury to define the GSEs’ role in promoting affordable housing without duplicating support provided by the FHA or other Federal programs. Consistent with its charter, each GSE’s role should be to perform activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities. Consistent with the Presidential Memorandum, FHA and Ginnie Mae have primary responsibility for providing housing finance support to low- and moderate-income families that cannot be fulfilled through traditional underwriting. Treasury acknowledges that there will be some incidental overlap between the GSEs and FHA’s support for affordable housing, but the duplication of support for affordable housing has unnecessarily increased during the conservatorships. Treasury believes FHFA and HUD should better define the respective roles, including their overlap, between the GSEs and FHA to avoid duplicating sizable Federal support to the housing system. Treasury took great care in formulating its recommendations in ways that would not disrupt the market, raise borrowing costs, or limit access to credit for creditworthy borrowers to achieve sustainable home ownership.

Q.8. Did Treasury analyze the effects of limiting the footprint of the GSEs and FHA on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.8. See previous answer.

Q.9. Did Treasury analyze the effects of limiting the footprint of the GSEs and FHA on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.9. See previous answer.

Q.10. The Treasury Report recommends that “FHFA’s eventual regulatory capital requirements should require that each guarantor, or each GSE pending legislation, be appropriately capitalized by maintaining capital sufficient to remain viable as a going concern after a severe economic downturn and also to ensure that shareholders and unsecured creditors, rather than taxpayers, bear losses.” These higher capital requirements would be similar to bank capital requirements, well above the status quo and the proposed FHFA rule.

Did Treasury analyze the effects of higher capital requirements on home prices? If so, please provide the analysis.

A.10. Treasury stated in Treasury’s Housing Reform Plan that “[t]o foster a level playing field with private sector competition, similar credit risks generally should have similar credit risk capital charges across market participants.”⁷ The Treasury Housing Reform Plan is not prescriptive as to the level of capital the GSEs or additional competitor guarantors would be required to hold. Treasury took great care in formulating its recommendations in ways that would not disrupt the market or raise borrowing costs. On November 19, 2019, FHFA announced it would re-propose its capital regulation applicable to the enterprises.⁸ Any assessment of the impact of potential GSE capital requirements would be premature pending the development of those requirements.

Q.11. Did Treasury analyze the effects of higher capital requirements on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.11. See previous answer.

Q.12. Did Treasury analyze the effects of higher capital requirements on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.12. See previous answer.

Q.13. According to the Treasury report, “Treasury supports the contemplated expiration of the QM patch.”

Did Treasury analyze the effects of letting the QM patch expire on home prices? If so, please provide the analysis.

A.13. The CFPB is currently engaged in a review of the ability-to-repay rule, following its advance notice of proposed rulemaking in July 2019. As noted in Treasury’s Housing Reform Plan, Treasury recommends that FHFA and the CFPB continue to coordinate their efforts to avoid market disruption in connection with the expiration of the QM patch and the implementation of any amendments to the CFPB’s ability-to-repay rule.⁹ Treasury took great care in formulating its recommendations in ways that would not disrupt the market, raise borrowing costs, or limit access to credit for credit-worthy borrowers to achieve sustainable home ownership.

⁷ *Id.* at 28.

⁸ Federal Housing Finance Agency, FHFA Will Re-propose Enterprise Capital Rule in 2020 (Nov. 19, 2019), available at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Will-Re-propose-Enterprise-Capital-Rule-in-2020.aspx>.

⁹ Treasury, *Housing Reform Plan* at 38.

Q.14. Did Treasury analyze the effects of letting the QM patch expire on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.14. See previous answer.

Q.15. Did Treasury analyze the effects of letting the QM patch expire on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.15. See previous answer.

Q.16. The Treasury report recommends that “[f]ollowing any change to the CFPB’s ability-to-repay rule, FHFA should revisit the determination as to which single-family mortgage loans should be eligible for acquisition by the GSEs (with appropriate amendments to the PSPAs) or, following legislation, should be eligible to secure Government-guaranteed MBS.”

Did Treasury analyze the effects of further limiting the footprint of the GSEs on home prices? If so, please provide the analysis.

A.16. Treasury recommends that FHFA review GSE purchase guidelines in light of any revisions to the QM standard, as determined by the CFPB, in order to manage risks to the safety and soundness of the GSEs or additional guarantors, and to ensure that GSE and guarantor activities maintain a close nexus to with Government support for their MBS. Treasury took great care in formulating its recommendations in ways that would not disrupt the market, raise borrowing costs, or limit access to credit for credit-worthy borrowers to achieve sustainable home ownership.

Q.17. Did Treasury analyze the effects of further limiting the footprint on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.17. See previous answer.

Q.18. Did Treasury analyze the effects of further limiting the footprint of the GSEs on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.18. See previous answer.

Q.19. The Treasury Report is silent about the Housing Trust Fund and the Capital Magnet Fund. Both programs make important contributions to mitigating the affordable rental-housing crisis. Nearly every county in the United States lacks a sufficient stock of available and affordable rental units for residents who make 30 percent of area median income or below—the population targeted by the Housing Trust Fund.¹⁰ Nearly half of renters are cost burdened, meaning that they pay more than 30 percent of their income in rent.¹¹ The private sector cannot and will not the fix this gap on

¹⁰National Low Income Housing Coalition, “New Report Concludes that Nearly Every U.S. County Lacks an Adequate Supply of Affordable and Available Homes for Low Income Renters,” June 20, 2019, <https://nlihc.org/news/new-report-concludes-nearly-every-us-county-lacks-adequate-supply-affordable-and-available>.

¹¹Housing Wire, “Apartment List: Nearly 50 percent of renters are cost burdened,” Jeremiah Jensen, September 25, 2018, <https://www.housingwire.com/articles/46924-apartment-list-nearly-50-of-renters-are-cost-burdened>.

its own. How does Treasury recommend funding the Housing Trust Fund and the Capital Magnet Fund and at what level?

A.19. The Treasury Housing Reform Plan does not include specific recommendations to alter the periodic contributions to the Housing Trust Fund and Capital Magnet Fund. More broadly, Treasury does not propose, and indeed opposes, reducing or eliminating the GSEs' longstanding support for affordable housing. Indeed, comprehensive housing finance reform legislation that establishes a more efficient, transparent, and accountable mechanism for delivering tailored support could preserve and improve support for low- and moderate-income and other historically underserved borrowers and renters.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS
FROM STEVEN T. MNUCHIN**

Q.1. Treasury's report on reforming the GSEs mentioned that it's possible for the 30-year fixed-rate mortgage to still be widely available under similar prices in market structures that don't depend on Government support. An alternative system that Treasury discussed was one in which mechanisms like covered bonds mimic our GSEs' separation of credit risk and interest rate risk. Banks in Denmark, where government has a less central role in housing finance and the use of covered bonds is widespread, have recently been offering 30-year fixed-rate mortgages at interest rates of just 0.5 percent.

I understand that monetary policy in Europe plays a role in such an ultra-low rate, but the fact that this kind of a mortgage product is so widely available in a small country like Denmark suggests that there are indeed other options to the American status quo.

Would such an alternative financing model that doesn't have Government support as its centerpiece be feasible in the United States?

A.1. As stated in the Treasury Housing Reform Plan, the GSEs have fostered the widespread availability of the 30-year fixed-rate mortgage loan. Any proposal to fundamentally change the housing finance system should take careful account of the risks posed by the transition. Stability in the housing finance system is crucial, and generally counsels in favor of preserving what works in the current system, including the longstanding support of the 30-year fixed-rate mortgage loan. This existing Government support should, however, be made clearer and better tailored. Treasury, therefore, would support replacing the commitment in the senior preferred stock purchase agreements with an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying MBS. That explicit Government guarantee should be available not only to the GSEs but also to any other guarantors chartered by FHFA.

Treasury supports a level playing field for diverse forms of capital participating in the mortgage finance market to support widespread access to mortgage credit at the lowest cost to borrowers. Diverse forms of capital competing to support creditworthy borrowers are more likely to facilitate a dynamic housing finance

system where efficiency, innovation, and service drive business and funding decisions.

Q.2. In January 2016, the FHFA released a rule on Federal Home Loan Bank (FHLB) membership that restricted private capital investors' support of our housing market through their captive insurance companies. This rule was set to become fully effective 5 years after it was made final. Companies whose membership sunsets in February 2021 have already started pulling meaningful private capital from the housing market.

Given that it will take time for the Administration to review the January 2016 rule and FHLB membership, what interim steps is the Administration planning on taking to promote the ability of impacted housing finance-focused companies to continue providing liquidity?

A.2. In light of the continued evolution of the housing finance system, including lending outside of traditional depositories, Treasury recommends that Congress and FHFA revisit the FHLBank membership eligibility to consider whether captive insurers and other types of financial institutions should be eligible for FHLBank membership. Pending legislation, FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM STEVEN T. MNUCHIN

Q.1. I was pleased to see that you believe that FHFA and Congress should revisit FHLBank membership eligibility to reflect the evolution of the housing finance system. Can you discuss the role you would see mREITs playing in the housing finance system and how that would increase liquidity and durability to housing finance?

A.1. Treasury supports diverse forms of capital participating in the mortgage finance market to support widespread access to mortgage credit. Diverse forms of capital and associated private market participants competing to support creditworthy borrowers are more likely to reduce the systemic importance of any single intermediary, increase market discipline, and pass benefits through to borrowers. Treasury believes it is critical that housing finance reform further level the playing field across market participants so that efficiency, innovation, and service drive business and funding decisions.

In light of the continued evolution of the housing finance system, including lending outside of traditional depositories, Treasury recommends that Congress and FHFA should revisit the FHLBank membership eligibility to consider whether captive insurers and other types of financial institutions should be eligible for FHLBank membership.

Q.2. Given the impending expiration of captive insurance membership and the resultant withdrawal of private capital occurring now, would you be willing to sit down with the FHLBs and mission-aligned captive insurance companies to discuss a path forward?

A.2. Treasury supports Congress and FHFA revisiting the FHLBank membership eligibility to consider whether captive insur-

ers and other types of financial institutions should be eligible for FHLBank membership. Treasury stands ready to provide technical assistance to Congress on this and other issues and otherwise support legislative reform efforts. Pending legislation, FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN
FROM STEVEN T. MNUCHIN**

Q.1. What risk and prudential controls would you want to see in place at the FHFA as the regulator of the GSEs to whom you provide a line of credit? Director Calabria has noted that he must be “100 percent” confident in the supervisory framework at the FHFA, and that FHFA is prepared for proper oversight and regulation of the GSEs as private entities, before he agrees to release the GSEs from conservatorship. What does this framework require in your opinion?

A.1. Pending legislation to end the conservatorships, each GSE should remain in conservatorship until FHFA determines that that the particular GSE can operate safely and soundly and without posing an undue systemic risk. Treasury believes that FHFA should consider a number of preconditions prior to releasing a GSE from conservatorship. These include finalization of regulatory capital requirements; approval and subsequent completion of capital restoration plans by each GSE; amendments to the senior preferred stock purchase agreements to compensate the Federal Government for its support, among other potential amendments; and any other conditions that FHFA determines are necessary to ensure that the GSE would operate in a safe and sound manner after conservatorship.

Q.2. The Treasury report detailed recommendations to support a level playing field for new participants in the housing finance system. These regulatory requirements touch on items like capital relief, data standardization, and third-party credit risk transfers; however, the report does not address the technological infrastructure that the enterprises have built up over the past decade while in conservatorship. Post conservatorship, how do we limit the competitive advantage Fannie & Freddie would have over new competitors due to the technological infrastructure they have accrued over the past decade on the taxpayers’ dime?

A.2. In addition to granting FHFA the authority to charter competitor guarantors to the GSEs, the Treasury Housing Reform Plan recommends that Congress “give FHFA appropriate authorities to foster competition with re-chartered GSEs.”¹ Such authority may include the ability to set variable guarantor-specific fees for access to the Federal guarantee on MBS or to make the GSEs’ “loan-level and appraisal data and the source code for the GSEs’ automated underwriting system[s] available to new entrants.”²

¹*Id.* at 42.

²*Id.* at 41.

Q.3. In the report from the U.S. Department of the Treasury, recommendation #6 is that “pending legislation, each GSE should be recapitalized so that private capital takes the first-loss position on the GSE’s exposure to risk and loss.” To best protect taxpayers from mortgage related credit risk, do you agree that the entities taking the first-loss risk should be dedicated to the housing finance system, highly regulated, and available during all market cycles?

A.3. Yes.

Q.4. I appreciate that the report recognized the impact to housing affordability that local jurisdictions are causing through myriad barriers such regulations, land use and rent control. What impact can the GSEs, through direction from FHFA, have on breaking down these barriers or incenting localities to modify their rent control initiatives?

A.4. One of the objectives in the GSEs’ 2020 Conservatorship Scorecard, as prescribed by FHFA, is to “assess opportunities to support and encourage State and local policies that enable the housing market to function more efficiently by (1) reducing the cost of housing production and/or (2) lowering the cost or risk of providing mortgage financing.”³ Treasury supports FHFA’s efforts to explore ways to address the critical shortage of affordable housing. Additionally, Treasury continues to participate in efforts to address the critical shortage of affordable housing through its participation on the White House Council on Eliminating Regulatory Barriers to Affordable Housing, established under Executive Order 13878.⁴

Q.5. The report mentions the deleterious effect that rent control policies can have on housing affordability—why not be more explicit about what FHFA should do about underwriting loans eligible for the GSEs to purchase from jurisdictions that have enacted rent-control laws and regulations?

A.5. The Treasury Housing Reform Plan recommends that FHFA revisit the GSEs’ underwriting criteria for multifamily properties in jurisdictions that adopt rent-control laws. In certain markets, drastic changes to rent control laws may have credit implications for underwriting, and the GSEs should account for those risks when underwriting loans in those jurisdictions. FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan.

Q.6. The report identifies that housing affordability is a major concern but then calls for contracting the GSEs’ multifamily footprints and reducing liquidity in the market. What measures does Treasury propose to create more supply of multifamily assets to put downward pressure on rents?

A.6. Treasury acknowledges the critical challenge of insufficient affordable housing across the country. Pursuant to Executive Order 13878, Treasury is actively supporting the White House Council on Eliminating Regulatory Barriers to Affordable Housing in its

³Federal Housing Finance Agency. 2020 Scorecard for Fannie Mae, Freddie Mac, And Common Securitization Solutions, available at: <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/2020-Scorecard-10282019.pdf>.

⁴Executive Order 13878 of June 25, 2019, Establishing a White House Council on Eliminating Regulatory Barriers to Affordable Housing. See 84 FR 30853.

efforts to identify practices and strategies that reduce regulatory and other barriers. Successful remediation of these challenges should help create additional housing supply that benefits both borrowers and renters.

FHFA recently announced changes to the restrictions on GSE multifamily loan purchases.⁵ Treasury believes these changes are consistent with the recommendations in the Treasury Housing Reform Plan. As a part of comprehensive housing finance reform legislation, Treasury recommends that Congress revisit the framework for ensuring that the Federal Government's support of the multifamily secondary market is tailored to an affordability mission.⁶

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ
MASTO FROM STEVEN T. MNUCHIN**

Q.1. Does Treasury's plan propose eliminating the requirement that Fannie Mae and Freddie Mac—or additional guarantors envisioned by your proposal—have a duty-to-preserve affordable housing?

A.1. Treasury recommends that guarantors continue to have a national service requirement to foster access for small, rural, and other mortgage lenders to the secondary market. Each GSE also has a statutory duty to serve underserved markets requirement to provide leadership in developing products to facilitate a secondary market for mortgages in three specific markets: rural housing, manufactured housing, and preservation of affordable housing. Except to suggest that reforms could “more effectively target support for affordable housing,” the Treasury Housing Reform Plan did not include specific recommendations to alter this duty to serve requirement.

Q.2. Under the current affordable housing goals regime, there is no budgetary limit to Fannie and Freddie's ability to reach out and serve low- and middle-income and low-wealth borrowers. There would be such a cap under your proposal.

How would you propose to allocate the funds you would raise in your proposal?

A.2. The Treasury Housing Reform Plan recommended reforms focused primarily on the statutory affordable housing goals for the GSEs' acquisitions of mortgage loans to low- and moderate-income borrowers and mortgage loans to borrowers in low-income areas. In particular, Treasury recommends that “Congress should replace the GSEs' statutory affordable housing goals with a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time home buyers and low- and moderate-income, rural, and other historically underserved borrowers, with a portion of the associated funding potentially transferred to HUD to expand its affordable housing activities.”¹

While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to

⁵ See FHFA Revises Multifamily Loan Purchase Caps for Fannie Mae and Freddie Mac. September 13, 2019, available at: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Revises-MultifamilyLoan-Purchase-Caps-for-Fannie-Mae-and-Freddie-Mac.aspx>.

⁶ Treasury, *Housing Reform Plan*, at 21.

¹ Treasury, *Housing Reform Plan*, at 24.

address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.3. What populations would be served under Treasury's plan?

A.3. The Treasury Housing Reform Plan recommends "a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time home buyers and low- and moderate-income, rural, and other historically underserved borrowers."² Any legislative reforms should also preserve and improve support for low- and moderate-income and other historically underserved renters. While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.4. How would diverting money to HUD not simply substitute for other appropriated funds instead of providing new resources for desperately needed affordable housing?

A.4. Treasury recommends that "Congress should replace the GSEs' statutory affordable housing goals with a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time home buyers and low- and moderate-income, rural, and other historically underserved borrowers, with a portion of the associated funding potentially transferred to HUD to expand its affordable housing activities."³ The Treasury Housing Reform Plan offers HUD's administration of these funds as one potential option for Congress to consider.

Q.5. The Treasury paper recommends administrative consideration of other means of reaching the objectives now served by the affordable housing goals besides "cross-subsidy and credit-expanding tools." Could you please elaborate on this recommendation? What other sorts of incentives or requirements do you have in mind?

A.5. The Treasury Housing Reform Plan notes that the GSEs' "mission-related cross-subsidization in large part occurs where the GSEs collect above-cost guarantee fees from lower credit risk borrowers to subsidize below-cost guarantee fees collected from higher credit risk borrowers."⁴ Because "[c]redit risk is not necessarily a good proxy for borrower income," Treasury suggested "that alternatives to credit risk-based cross-subsidy could provide more efficient mechanisms for the GSEs to deliver well-targeted support to low- and moderate-income borrowers and achieve their statutory affordable housing goals."⁵ FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan. One approach that FHFA might wish to consider could be to focus support on borrowers that have been identified as very low-, low-, or moderate-income, or another type of historically underserved borrower.

Q.6. Is there an assessment of what will happen to the projects currently in the pipeline if the Housing Trust Fund and Capital

²*Ibid.*

³*Ibid.*

⁴*Ibid.*

⁵*Ibid.*

Magnet Fund are eliminated? How many developments will not be built if the Housing Trust Fund is eliminated or substantially changed?

A.6. The Treasury Housing Reform Plan does not include specific recommendations to alter the periodic contributions to the Housing Trust Fund and Capital Magnet Fund. More broadly, Treasury does not propose, and indeed opposes, reducing or eliminating the GSEs' longstanding support for affordable housing. Treasury believes that reforms should more effectively target this support for affordable housing. Indeed, comprehensive housing finance reform legislation that establishes "a more efficient, transparent, and accountable mechanism for delivering tailored support"⁶ could preserve and improve support for low- and moderate-income and other historically underserved borrowers and renters.

Under current law, the GSEs have a statutory requirement to contribute an amount equal to 4.2 basis points of their annual production to the Housing Trust Fund and the Capital Magnet Fund. The statute also enumerates certain circumstances where annual contributions would be temporarily suspended. Treasury's strong preference is to work with Congress to enact comprehensive housing finance reform. In the absence of comprehensive reform legislation, Treasury supports appropriate review of the GSE contributions under the statutory framework to ensure that contributions are not diverting funds away from the GSEs in a way that is causing the GSE to become undercapitalized or preventing the completion of a capital restoration plan.

Q.7. The Treasury report recommends restricting multifamily lending in jurisdictions with rent controls. As I mentioned, rent control only exists in cities in four States and Washington, DC. In addition, GSE underwriting already factors in the effects of rent control.

What additional restrictions do you have in mind?

A.7. The Treasury Housing Reform Plan recommends that FHFA revisit the GSEs' underwriting criteria for multifamily properties in jurisdictions that adopt rent-control laws. In certain markets, drastic changes to rent control laws may have credit implications for underwriting, and the GSEs should account for those risks when underwriting loans in those jurisdictions. FHFA will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan.

Q.8. Did you consider similar recommendations to restrict or constrain single-family home lending in jurisdictions that have restrictive zoning, or that fail to adopt inclusionary zoning to encourage more development in high opportunity communities?

A.8. Treasury supports efforts underway in response to Presidential Executive Order 13878 to increase the available supply of affordable housing by addressing, reducing, and removing the multitude of burdensome regulatory barriers that artificially raise the cost of housing development and help cause the lack of housing supply. Pursuant to that Executive Order, the White House Council on Eliminating Regulatory Barriers to Affordable Housing is

⁶*Ibid.*

engaging with stakeholders to explore policy solutions to address the critical shortage in affordable housing in the United States.

Q.9. Nevada is home to many small banks and credit unions. They tell me that Fannie Mae and Freddie Mac work efficiently for them. They know the system and have good relationships with both. However, your proposal requires creating new entities.

In your ideal model, what are your preferences for recapitalizing Fannie and Freddie?

A.9. Regular, nondiscriminatory, and reliable access to the secondary market is critical for small, rural, and other mortgage lenders. These lenders often play a particularly vital role in serving rural and other historically underserved borrowers. Treasury believes housing finance reform should foster a competitive primary mortgage market in part by protecting equal access for lenders of all sizes to the secondary mortgage market.

Treasury's preference and recommendation is that Congress enact comprehensive housing finance reform legislation. Pending legislation, FHFA should exercise its authority as conservator to begin the process to end each GSE's conservatorship. As a part of this process, Treasury and FHFA should develop a recapitalization plan for each GSE after identifying and assessing the full range of strategic options. Among other preconditions for exiting the conservatorships, Treasury believes each GSE should remain in conservatorship until it has retained or raised sufficient capital or other loss-absorbing capacity to operate in a safe and sound manner.

Q.10. Who will these new guarantors be?

A.10. Treasury recommends that "Congress should authorize FHFA to charter competitor guarantors to the GSEs . . ."⁷ As Treasury further states, "the likelihood of achieving a competitive secondary market . . . will depend in part on the specifics of any legislation."⁸ While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.11. How many guarantors would there be? Who should invest in a guarantor?

A.11. The benefits of a competitive market are such that Treasury supports Congress establishing a framework where interested private parties could apply for a charter to become a guarantor. To encourage private sector entrants, Congress could supplement FHFA's chartering authority with additional authorities to foster a competitive secondary market, including, but not limited to, "authorizing FHFA to set variable guarantor-specific fees for the Government guarantee of a particular guarantor's MBS or authorizing FHFA to lower barriers to entry by making the GSEs' loan-level and appraisal data and the source code for the GSEs' automated underwriting system available to new entrants."⁹

⁷*Id.* at 41.

⁸*Ibid.*

⁹*Ibid.*

Q.12. Will guarantors be allowed to serve a countercyclical role, particularly for multifamily loans? If so, how?

A.12. Treasury supports legislation that authorizes an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying mortgage-backed securities. Critically, this guarantee should be available for both MBS collateralized by eligible conventional mortgage loans and eligible multifamily mortgage loans. Such a guarantee would provide certainty to MBS investors in all market conditions.

Q.13. Smaller financial institutions are concerned with the staff costs of establishing new relationships with many more secondary market entities than Fannie Mae and Freddie Mac. How are you computing the costs to financial institutions to learn to work with new entities?

A.13. A competitive secondary market would allow lending institutions to pursue a range of execution options for the sale of their loans. Treasury's Housing Reform Plan recommends that housing finance reform legislation include protections for small lenders by requiring each single-family guarantor to operate a cash window for small lenders, prohibiting volume-based pricing discounts, and requiring guarantors to maintain a nationwide presence. Nothing in Treasury's Housing Reform Plan would require smaller lenders to build relationships with additional secondary market guarantors.

Q.14. Currently, housing credit is available and affordable in rural Nevada, Reno and other parts of the country. How will your plan ensure consistent national pricing?

A.14. The Treasury Housing Reform Plan states that "single-family guarantors generally should be required to offer to acquire mortgage loans from across the Nation. A nationwide service requirement will foster equitable secondary market access, diversified Government-guaranteed MBS, and also affordable access to mortgage credit by underserved borrowers."¹⁰

Q.15. The proposal makes many changes to the housing market which is not serving African American and Latino borrowers well. We have the largest homeownership gap between whites and African Americans since before the passage of the Fair Housing Act.

What will be the impact on African American and Latino homeownership if the Qualified Mortgage (QM) patch is eliminated?

A.15. The QM patch, which offers a bright line safe harbor for loans eligible to be purchased by the GSEs, creates an unlevel playing field between the GSEs and other market participants, which, to achieve a safe harbor, must comply with a strict maximum 43 percent borrower debt-to-income ratio as documented by outdated requirements under Appendix Q of the ability-to-repay rule.¹¹ Treasury supports the contemplated expiration of the QM patch. Treasury also supports further revisions to the ability-to-repay rule

¹⁰ *Id.* at 42.

¹¹ 12 C.F.R. § 1026.35; 12 C.F.R. part 1026, appendix Q.

to ensure that mortgage lenders continue to have a bright-line safe harbor after the expiration of the QM patch.

The CFPB is engaged in a review of the rule, following its advance notice of proposed rulemaking (ANPR) in July 2019. The CFPB will determine whether to adopt any particular recommendation set forth in the Treasury Housing Reform Plan regarding the ability-to-repay rule, and the impact, if any, on loan origination volume will depend on the specifics of the CFPB's rulemaking.

Q.16. Will elimination of the QM patch increase or decrease African American and Latino homeownership rates? If so, by how much?

A.16. The CFPB is responsible for implementing and administering the ability-to-repay requirement and determining the standards for what constitutes a Qualified Mortgage loan. The CFPB is engaged in a review of the existing rule, as noted in its July ANPR, which committed to addressing the temporary nature of the QM patch. The Treasury Housing Reform Plan supports the expiration of the patch and the establishment of a bright-line safe harbor for compliance with required ability-to-repay standards.

Q.17. What will be the impact on African American and Latino home ownership if FHA loans are restricted to primarily first-time home buyers?

Will limiting FHA to first-time home buyers increase or decrease African American and Latino homeownership rates? If so, by how much?

A.17. The Treasury Housing Reform Plan does not make recommendations specific to the FHA program, which is the purview of HUD. However, the Treasury Housing Reform Plan recommends that "FHFA and HUD should develop and implement a specific understanding as to the appropriate roles and overlap between the GSEs and FHA, for example, with respect to the GSEs' acquisitions of high loan-to-value (LTV) and high debt-to-income (DTI) loans and FHA's underwriting of cash-out, conventional-to-FHA, and other refinancing loans, and loans to repeat FHA borrowers."¹²

Q.18. Has Treasury modeled the potential costs of the housing finance system you envision for homeowners and renters across the income and wealth spectrum? If so, what have you found?

A.18. Treasury took great care to formulate its recommendations in ways that would not disrupt the market or raise borrowing costs. Treasury believes any changes to GSE business activities should be carefully calibrated to this objective. While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.19. The Treasury report mentions the Common Securitization Platform as part of reviewing FHFA's accomplishments during conservatorship. This platform has significantly reduced liquidity differences in the companies' mortgage-backed securities. Both

¹²*Id.* at 25.

companies now issue a single security under close supervision and guidance of FHFA. But your report says nothing about how this major development should influence the possible shape of a post-conservatorship regime. Please explain how you propose to incorporate the Common Securitization Platform into any legislative option as outlined in your paper.

A.19. Treasury believes the Common Securitization Platform has made progress toward separating the GSEs' credit guarantee function from their operational function of securitizing MBS—an important enhancement to the pre-conservatorship business model. In the Treasury Housing Reform Plan, Treasury recommends that Congress authorize an explicit, paid-for guarantee by Ginnie Mae of qualifying MBS. As a part of that, "FHFA and Ginnie Mae should identify and assess the operational and other issues posed by authorizing Ginnie Mae to guarantee the timely payment of MBS, including necessary enhancements to existing securitization and bond administration infrastructure."¹³ While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.20. Why shouldn't Congress consider making the CSS a publicly owned utility platform, and compensate Fannie and Freddie for its development that could become the basis of a system built on clear separation of the securitization and credit enhancement functions, as some proposals have suggested? Did Treasury consider this option? If so, what are the reasons you did not recommend or discuss it in your paper?

A.20. While the Treasury Housing Reform Plan recommends a framework for comprehensive housing finance reform, Treasury's preference and recommendation is that Congress enact legislation to address these specific considerations. Treasury looks forward to working with Congress on passing bipartisan legislation.

Q.21. What is the Department of Treasury doing to incentivize affordable housing developments via Opportunity Zones? What specific actions has Treasury taken to ensure that Opportunity Zones are being used to expand affordable housing, and not luxury apartments or hotels? Last, what constitutes "affordable housing" under Treasury's measure?

A.21. To incentivize affordable housing developments via Opportunity Zones, Treasury actively participates in the outreach efforts of the White House Opportunity and Revitalization Council. Also, in drafting guidance (including proposed regulations) to implement the Opportunity Zones statute, Treasury's Office of Tax Policy and the Internal Revenue Service (IRS) made sure that there are no regulatory impediments to combining the Opportunity Zone tax benefits with eligibility for low-income housing tax credits (LIHTCs).

Opportunity Zone guidance does not present a barrier to simultaneous eligibility for both LIHTCs and the several tax benefits that

¹³Treasury, *Housing Reform Plan*, 15.

flow from investing in a qualifying zone. Moreover, nothing in the Opportunity Zone statute or guidance interferes with local land-use and development requirements that contain inclusionary provisions or other rules addressing the need for affordable housing. A basic principle of the Opportunity Zone statute, however, is that taxpayers should have incentives to pour new capital into Opportunity Zones. Beyond that geographic focus, there should be almost no other Opportunity-Zone-specific Federal interference with free-market incentives regarding how that new capital is deployed. The relevant tax guidance seeks to be faithful to that statutory flexibility.

Because there are no Opportunity-Zone-specific incentives for affordable housing, there is no definition of “affordable housing” for Opportunity Zone purposes. However, Treasury does administer the Federal Government’s largest subsidy for the construction and rehabilitation of affordable housing—LIHTCs. To be eligible for these credits (which are received annually over a 10-year period), a residential rental project must in general satisfy one of the three following set-asides:

- No fewer than 20 percent of the units are rent-restricted and occupied by tenants whose income does not exceed 50 percent of area median income.
- No fewer than 40 percent of the units are rent-restricted and occupied by tenants whose income does not exceed 60 percent of area median income.
- No fewer than 40 percent of the units are rent-restricted and occupied by tenants whose average income does not exceed 60 percent of area median income and none of whom has income over 80 percent of area median income.

For this purpose, rent restriction means that gross rent for a unit does not exceed 30 percent of the income limit for that unit, and area median income is determined in the same way that HUD determines it for purposes of its rental assistance programs.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM STEVEN T. MNUCHIN

Q.1. What kind of gaps in affordability do you anticipate as private sector funding of multifamily loans ramps up and funding from Fannie Mae and Freddie Mac winds down? Was a gap in funding during transition, and its effects on affordability, considered in the FHFA’s recent decision to revise Fannie Mae and Freddie Mac’s lending caps?

A.1. FHFA, as conservator, recently announced changes to the restrictions on GSE multifamily loan purchases.¹ Treasury believes these changes are consistent with the recommendations in the Treasury Housing Reform Plan. Furthermore, Treasury recommends that comprehensive housing finance reform legislation ensure that the Federal Government’s support of the multifamily secondary market is tailored to an affordability mission.²

¹ See *FHFA Revises Multifamily Loan Purchase Caps for Fannie Mae and Freddie Mac*.

² Treasury, *Housing Reform Plan*, 21.

Q.2. How do you know the private sector has the capacity to fully serve the multifamily market? Do you believe this capacity will remain sufficient during an economic downturn, and if not, will FHFA allow Fannie Mae and Freddie Mac some flexibility to compensate for a lack of private capital during economic downturns?

A.2. FHFA recently announced changes to the restrictions on GSE multifamily loan purchases.³ Treasury believes these changes are consistent with the recommendations in the Treasury Housing Reform Plan.

Q.3. Our Nation faces a serious multifamily housing shortage. According to the National Multifamily Housing Council, the U.S. will need to build an average of 328,000 units per year by 2030 to meet growing demand. As private capital becomes a growing source for multifamily assets, what measures will the FHFA and Department of the Treasury take to ensure a greater supply of affordable multifamily housing units?

A.3. In Treasury's Housing Reform Plan, Treasury acknowledges the critical challenge of insufficient affordable housing. Pursuant to Executive Order 13878, Treasury is actively supporting the White House Council on Eliminating Regulatory Barriers to Affordable Housing in its efforts to identify practices and strategies that reduce regulatory and other barriers. Successful remediation of these challenges should help create additional housing supply that benefits both borrowers and renters.

**RESPONSE TO WRITTEN QUESTION OF SENATOR BROWN
FROM BENJAMIN S. CARSON, SR., M.D.**

Affordability

Q.1. Secretary Carson, during the hearing you expressed support for affordable housing.

How would you define affordable housing? Please address affordability in the context of home ownership, rental housing, and explicit subsidies.

A.1. The standard measure of housing affordability—and the definition applied for the purposes of HUD programs—is based on the share of a household's income consumed by housing costs, including utilities. In other words, the combination of housing costs and household incomes informs whether housing is affordable.

Several HUD subsidies help lower-income families afford housing. For example, HUD's largest rental subsidy program, the Housing Choice Voucher Program, provides portable rental assistance subsidies that are typically the difference between 30 percent of a very low-income household's adjusted income and the payment standard, which is based off fair market rental costs for each area.

Regulations play a role in limiting affordable housing supply by restricting land use and density, driving up development costs, and delaying construction. The President's Executive Order on Eliminating Regulatory Barriers to Affordable Housing aims to reduce regulatory barriers to the production and preservation of affordable housing.

³See *FHFA Revises Multifamily Loan Purchase Caps for Fannie Mae and Freddie Mac*.

FHA Structural Reforms

Q.2.a. Secretary Carson, HUD's plan proposes to make FHA a separate corporation within HUD. The proposal is silent on the treatment of FHA's receipts, which are currently used to pay for other HUD spending on housing assistance and community development programs.

Does HUD believe that FHA should retain all of its receipts if it becomes a separate corporation?

A.2.a. No. HUD's Housing Reform Plan does not contemplate FHA retaining all or even a portion of its receipts to fund its operations.

Q.2.b. Please provide a detailed explanation of what additional flexibilities and authorities HUD believes are necessary for FHA and how each of those would be achieved through corporation status.

A.2.b. As highlighted in the housing finance reform plan, Congress should re-charter the FHA as an autonomous Government corporation within HUD. HUD's existing procurement and hiring processes inhibit FHA's ability to make appropriate decisions to mitigate risks and respond rapidly to constantly changing market fundamentals.

As the mortgage markets have grown and commoditized over the decades, so has the sophistication and complexity of managing the credit risk in FHA's Mutual Mortgage Insurance Fund. FHA faces challenges in hiring and retaining sufficient staff with the necessary expertise in mortgage finance and asset management. Like GNMA, FHA will explore the targeted use of pay flexibilities available under current law (*e.g.*, Critical Pay) to improve hiring and retention of key positions requiring specialized technical skills. If existing authorities are insufficient to address its human capital challenges, FHA may request new authorities.

Similarly, HUD's procurement process is burdensome and protracted, and HUD has experienced difficulties obtaining qualified contractors to perform critical duties. FHA needs the ability to adopt a streamlined procurement process to ensure awards are able to be made based on expertise and competency. To the extent administrative reforms are insufficient to address procurement challenges, new statutory acquisition authorities may be necessary to address instances where material underperformance of contracting vendors results in substantial quality deficiencies and costs.

FHA Default Rates

Q.3. Secretary Carson, HUD's Housing Finance Reform plan states that since the financial crisis, "the risk profile of FHA's portfolio has increased steadily, endangering FHA's ability to support access to affordable mortgage credit for first-time home buyers."¹ Throughout the report, you compare FHA's current portfolio with its portfolios in 2009, 2010, and 2011, and your graphics on single-family mortgage credit quality begin in 2010 or 2011.

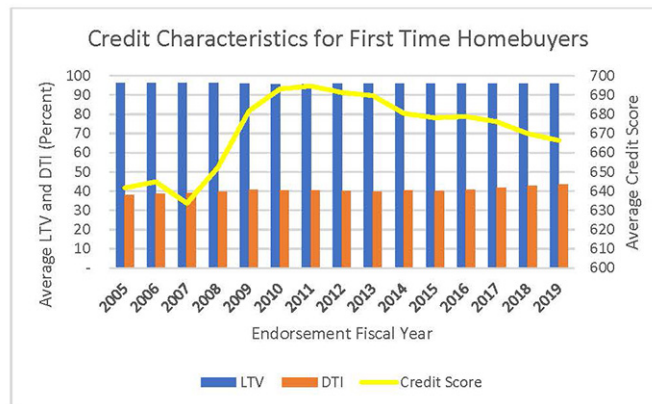
As you know, FHA took on a countercyclical role during and immediately following the financial crisis. With the conventional mortgage market frozen, FHA served borrowers with credit charac-

¹U.S. Department of Housing and Urban Development Housing Finance Reform Plan pg. 1.

teristics that would normally allow them to access conventional mortgage financing. Further, as you stated in your oral testimony, at FHA “substantial delinquency rates or early defaults are at the lowest rate that they have been. So changes have been made.”

Q.3.a. Please provide an updated graphic for figure 2 in HUD’s Housing Finance Reform plan, which in the plan begins in 2010, to show FHA credit characteristics beginning in 1999 or earlier and continuing through 2019.

A.3.a. See graph for 2005 through 2019. Data for 1999–2004 was not included because FHA did not collect credit scores on Single Family mortgages prior to 2004 and the information collected prior to 2004 is incomplete.



Q.3.b. If FHA has historically low default rates and changes have been made, why is HUD proposing “tiered pricing?”² How does HUD propose to establish which borrowers should be in which tiers?

A.3.b. In a dynamic marketplace, FHA may require a mechanism to quickly react to any deterioration in credit quality and protect the MMIF from excessive exposure to riskier loans. Adjusting premiums is a relatively quick way to do so. HUD is not planning to implement tiered pricing or otherwise adjust FHA’s Single Family premiums in the near term.

Q.3.c. How would tiered pricing as described in the answer above effect different populations of FHA borrowers?

A.3.c. Prior to moving forward with tiered pricing, the Department will perform an analysis to determine the impact on FHA borrowers.

Duplication of Support

Q.4. Secretary Carson, both the HUD and Treasury plans express concern about “duplicating support” for families who might be eligible for both FHA-insured and GSE-guaranteed loans.

²*Id.* at pg. 20.

But, as you know, FHA's insurance and the GSEs' guarantee provide two different functions, and most borrowers participate in just one of these programs at a time.

How is a borrower being eligible for an FHA-insured loan and a GSE-guaranteed loan duplicating support? How does a borrower having the option to choose an FHA or conventional loan hurt the programs?

A.4. A central principle of the Administration's housing finance reform plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable borrowing options and choices. Coordination ensures that there is not unhealthy and irresponsible competition between Government-supported programs, which can lead to lower underwriting standards, increase risk to taxpayers, and threaten the long-term availability of credit to qualified borrowers. The GSEs should not be able to selectively choose from the FHA portfolio and leave taxpayers with the riskiest borrowers. Uncoordinated policies create incentives that encourage entities to work at cross-purposes, resulting in little or no change in overall access to credit while increasing taxpayer exposure to uncompensated risk. In recent years, the market overlaps might have increased to the extent that the GSEs expanded credit guidelines to "stretch" into the FHA market.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR
MENENDEZ FROM BENJAMIN S. CARSON, SR., M.D.**

Q.1. The Bipartisan Budget Act of 2018, which provided Puerto Rico with \$18.5 billion in CDBG for Disaster Recovery funding was signed into law nearly 19 months ago. Furthermore, HUD is required by law (P.L. 116-20) to publish all Federal register notices for CDBG-DR mitigation funding for eligible grantees, including \$8.4 billion for Puerto Rico, within 90 days. That term expired 6 days before this hearing took place. According to HUD's latest grant financial report, Puerto Rico has only been allowed access to \$1.5 billion out of which only \$236,000 have reached the island.

Secretary Carson, what is HUD doing to stop slow walking access to much needed relief funding for Puerto Rico nearly 2 years after Hurricane Maria?

A.1. Puerto Rico has more than \$1.5 billion available to them and, as of November 1, has drawn down less than \$3 million. On average, it takes a DR grantee 1.5-2 years to spend \$1.5 billion. Additionally, HUD has approved Puerto Rico's action plan for another \$8.2 billion and is working with the Puerto Rico Department of Housing (Vivienda) to finalize the grant agreements in place for those funds.

Q.2. First-time home buyers have traditionally been the driving force of the housing market and these borrowers traditionally rely on low-downpayment mortgages to purchase their homes. In fact, over the past several years, nearly 80 percent of first-time home buyers with mortgages purchased homes using low-downpayment products. With rising rents, high home price appreciation numbers, and student debt, it is critical that younger buyers have access to

affordable low-downpayment options that will allow them to attain the American Dream of home ownership.

Can you please speak to how your agencies' recommendations will ensure that borrowers can access affordable, prudent low-downpayment mortgage options?

A.2. A central principle of the Administration's housing finance reform plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable borrowing options and choices. Coordination ensures that there is not unhealthy and irresponsible competition between Government-supported programs, which can lead to lower underwriting standards, increase risk to taxpayers, and threaten the long-term availability of credit to qualified borrowers.

FHFA and FHA should coordinate to ensure that the GSEs and FHA serve defined roles within the marketplace. Ideally, coordinated policies would bring out the best that each entity has to offer. Consistent with their charters, each GSE's role should be to perform "activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities." Similarly, and consistent with the Presidential Memorandum, FHA should focus on low- and moderate-income families who cannot be served through traditional underwriting.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT
FROM BENJAMIN S. CARSON, SR., M.D.**

Q.1.a. Secretary Carson, can you describe the steps you are taking to carry out the \$5 million carbon monoxide detectors and alarms installation grant that you announced on May 20, 2019? How many applications have you received for the grants and how many recipients do you anticipate HUD being able to support through it?

A.1.a. The May 20, 2019, announcement set in motion the process to deploy these funds. On August 19, 2019, HUD published the revised Emergency Safety and Security Notice (PIH Notice 2019-22) which modified its grant program to include carbon monoxide detectors as an eligible expense. A week later, on August 27, 2019, HUD notified Public Housing Authorities (PHAs) that the funding round had opened and that the due date for applications was October 25, 2019.

HUD received 140 applications meeting eligibility requirements by the October 25, 2019, application deadline. The total amount of grant funds requested across these 140 applications is \$12.3 million. Under the framework established for Emergency Safety and Security grant funding, HUD will conduct a lottery to select award-ees to receive the full amount of the \$5 million in available funding. Given that PIH Notice 2019-22 established a maximum PHA grant award of \$250,000, HUD expects to announce at least 20 grant awards in the coming weeks.

Q.1.b. Additionally, would legislation, such as the CO ALERTS Act, help expedite the rulemaking process to mandate the presence of carbon monoxide detectors and alarms during the inspections process?

A.1.b. Yes. By bypassing the rulemaking process, the CO ALERTS Act would allow HUD to more quickly implement the bill's requirements. It puts into statute requirements for PHAs and private owners of most HUD-assisted housing to use the standards described in chapters 9 and 11 of the 2018 IFC. Should the Department decide to go beyond the 2018 IFC, it would publish a notice in the Federal Register.

Q.2. Given tools like Credit Score Competition, FHFA benefits from access to more technologically advanced modeling tools and resources. It is a well-known fact, however, that FHA is still largely a paper-based operation. Congress provided \$20 million in IT funding to better assist FHA in getting to an advanced IT infrastructure.

In HUD's reform plan, the Administration proposes re-chartering FHA as an autonomous Government corporation within HUD and to pursue inter-agency agreements. How would FHA's potential role as an autonomous agency allow it to better utilize modeling resources and tools, like those at FHFA and the credit-scoring program, to increase access to home ownership? And better adapt to technological changes in the marketplace?

A.2. FHA's ability to both measure and manage its credit risk in the MMI and GI/SRI Funds is limited because of its antiquated IT systems. More independence would allow FHA greater flexibility to procure the appropriate resources and tools to manage its portfolio. Through a better understanding of risk within its portfolio, FHA could enhance its ability to facilitate sustainable home ownership and to keep pace with the changing credit environment.

Q.3. How would changing the designation of manufactured housing to be an option for affordable housing affect the shortage of affordable homes as well as Americans seeking home ownership?

A.3. As detailed in HUD's housing finance reform plan, the Department believes manufactured housing is an important option to increase housing opportunities throughout the United States. Policies that exclude or disincentivize the utilization of manufactured homes can exacerbate housing affordability challenges because manufactured housing potentially offers a more affordable alternative.

Q.4. Both Treasury and HUD have been heavily involved in the implementation of my Opportunity Zone initiative and I appreciate your hard work. Thus far Opportunity Zones have proven to be instrumental in fostering community development, job creation, and economic development across our Nation. Needless to say, Opportunity Zones have also been extremely impactful in terms of the topics we've covered today.

As you've toured the Nation's opportunity zones, can you highlight some of the benefits to these communities and individuals that you've personally witnessed?

A.4. Throughout their travels to Opportunity Zones, HUD officials have seen firsthand the benefits of this tax incentive to distressed communities. One of the most significant aspects of Opportunity Zone investments has been the construction of affordable multi-family housing. In Opportunity Zones where more housing is need-

ed and affordability is a concern, these investments are crucial. Beyond housing, the decentralized nature of the Opportunity Zones incentive has allowed for many kinds of investments to be made through Qualified Opportunity Funds. Thus, local communities can plan for investments uniquely suited to their needs.

A few examples of projects that have made an impact across the country include:

- PR Mallory (Indianapolis, IN)—This building sat vacant for more than two decades. Now, thanks to its Opportunity Zone designation, it will become home to two affordable housing developments for seniors, including Indiana’s first net positive energy residential development, as well as two charter schools.
- Life Sciences Corridor (Salt Lake City, UT)—Spanning across the city, construction has begun on a “life sciences corridor.” One of the projects was a 200,000-square-foot mixed-use development that will include apartments, the majority of which are affordable, an employment training center for people with disabilities, and commercial space.
- Birmingham Inclusive Growth Partnership (Birmingham, AL)—This partnership identifies local projects that both enhance the lives of residents and provide sound returns for investors, facilitating public-private partnerships. One of the most exciting aspects of Birmingham’s Opportunity Zones strategy is the training of 500 individual residents on Opportunity Zones, which will go a long way toward guiding investments in their neighborhoods.
- Erie Homecoming Weekend (Erie, PA)—In August 2019, Erie hosted an event called Erie Homecoming 2019—Unlocking Capital in Legacy Cities, which showcased investment opportunities to people from across the Nation. In the poorest zip code in the entire United States, Opportunity Zones have brought markets to life. The Erie Downtown Development Corporation was founded in 2017 and has a mission of attracting businesses, residents, and investments to the city. Today, a total of \$60 million in investment in Erie Opportunity Zones is forthcoming.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM BENJAMIN S. CARSON, SR., M.D.**

Q.1. Our housing finance system faces a number of profound challenges. In most parts of the country, prices for starter homes are skyrocketing as much as 10 percent per year.¹ Millions of Americans are cost burdened, paying more than 30 percent of their income on rent, mortgages or other housing costs. Perhaps most perniciously, the legacy of decades of racist Federal housing policy is still too apparent today. The average Black family has about 1/10th

¹Marketwatch “One big reason it’s so hard for first-time buyers to find the right starter home.” Jacob Passy, March 21, 2018, <https://www.marketwatch.com/story/another-hurdle-for-first-time-home-buyers-there-are-barely-any-starter-homes-for-sale-2018-03-21>.

the wealth of the average white family,² and while the Black families made some gains in the healthy housing markets of the 1990s and early 2000s, that progress was wiped out in the subprime crisis. Today, the homeownership gap between Black and white families is as large as it was when housing discrimination was legal.³

Any proposal for housing finance reform must confront these problems. After all, as the U.S. Department of Treasury Housing Reform Plan (“Treasury Report”) points out, “[e]ach GSE’s is unique in that its congressional charter endows the GSE with a public mission.” These public missions make it clear that the GSEs exist to “promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas)” and to perform “activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities.”⁴

I have carefully reviewed the Treasury Report and the Department of Housing and Urban Development’s Housing Finance Reform Plan (“HUD Report”). Both appear to eliminate many of the mechanisms in the current system that support sustainable home ownership among low- and moderate-income and middle-income borrowers, especially in communities of color. The following questions seek more information about the analysis that Treasury, HUD and the Federal Housing Finance Agency (FHFA) undertook to determine the effects of their various proposals on housing prices, access to home ownership for first-time home buyers, and the racial homeownership gap.

The Treasury report recommends getting rid of the affordable housing goals, and, as an alternative, suggests, “collect[ing] a periodic assessment from guarantors that Congress would make available through an appropriation to administer on-budget affordable housing.” The Trump administration budget request for fiscal year 2020 asks Congress to zero out or deeply cut existing appropriated programs that provide access to home ownership to low- and moderate-income Americans including the HOME Investment Partnerships Program, the Self-Help Homeownership Opportunity Program, the Housing Trust Fund, and Native American Housing Block Grants.⁵

- Does HUD agree with this recommendation? Will it be implemented?
- Did HUD analyze the effects of getting rid of the affordable housing goals on home prices? If so, please provide the analysis.

²Brookings, “A conversation about the racial wealth gap-and how to address it,” Michaela Broyles, June 18, 2019, <https://www.brookings.edu/blog/brookings-now/2019/06/18/a-conversation-about-the-racial-wealth-gap-and-how-to-address-it/>.

³Census Bureau, “Quarterly Residential Vacancies and Homeownership, Second Quarter 2019,” July 25, 2019, <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>; National Bureau of Economic Research Working Paper Series, “Race and Home Ownership, 1900 to 1990,” William J. Collins and Robert Margo, August 1999, <https://www.nber.org/papers/w7277.pdf>.

⁴U.S. Department of the Treasury, “U.S. Department of the Treasury Housing Reform Plan,” September 2019, <file:///C:/Users/js42247/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/LTYNPN67/Treasury-Housing-Finance-Reform-Plan.pdf>.

⁵National Low Income Housing Coalition, “FY20 Budget Chart for Selected HUD and USDA Programs,” May 22, 2019, https://nlihc.org/sites/default/files/NLIH_HUD-USDA_Budget-Chart.pdf.

- Did HUD analyze the effects of getting rid of the affordable housing goals on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.
- Did HUD analyze the effects of getting rid of the affordable housing goals on access to sustainable home ownership in communities of color? If so, please provide the analysis.
- Please provide the funding levels that HUD will propose for existing programs in the absence of the GSE affordable housing goals.
- Please describe additional homeownership programs that HUD will propose if the affordable housing goals are abolished, the funding levels HUD will propose, and their expected effects.

A.1. Questions related to the Treasury Report and the GSE affordable housing goals should be directed to the Department of the Treasury. HUD supports its 2020 Budget requests.

Q.2. The Treasury report recommends that “FHFA and HUD should develop and implement a specific understanding as to the appropriate roles and overlap between the GSEs and FHA, for example, with respect to . . . [the] FHA’s underwriting of cash-out, conventional-to-FHA, and other refinancing loans and loans to repeat FHA borrowers.”

- Does HUD agree with this recommendation? Will it be implemented?
- Did HUD analyze the effects of limiting the footprint of the GSEs and FHA on home prices? If so, please provide the analysis.
- Did HUD analyze the effects of limiting the footprint of the GSEs and FHA on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.
- Did HUD analyze the effects of limiting the footprint of the GSEs and FHA on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.2. HUD supports all recommendations in the Treasury and HUD Housing Finance Reform reports. Questions about the GSEs’ footprint should be directed to the Department of the Treasury. With respect to FHA, the HUD Housing Finance Reform report does not target a specific footprint. The goals are to mitigate taxpayer risk, refocus FHA on its core mission and minimize overlap with the GSEs.

Q.3. The HUD Report recommends that “FHA should seek to build its capital ratio well above the statutory 2 percent minimum to ensure that it is able to weather stress events without requiring a taxpayer bailout.”

- Did HUD analyze the effects of higher capital requirements on home prices? If so, please provide the analysis.
- Did HUD analyze the effects of higher capital requirements on access to home ownership for low-, moderate-, and middle-income and first-time home buyers? If so, please provide the analysis.

- Did HUD analyze the effects of higher capital requirements on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.3. By statute, the minimum capital reserve ratio for the MMIF is 2 percent. While 2 percent is a minimum, it may not reflect an appropriate buffer to pay expected claims, particularly during countercyclical periods. In 2013, inadequate capital reserves required FHA to take a \$1.7 billion draw from the U.S. Treasury. By building a larger capital buffer, FHA could weather stress events more successfully, which, ultimately, means that FHA can continue to offer sustainable mortgage credit for borrowers not served by the private market. In a stress event, inadequate capital could require FHA to implement policy changes that would restrict its ability to serve mission borrowers. It is important to note that building capital would not necessarily entail any changes to the current mortgage insurance premium structure.

Q.4. The HUD report recommends that “FHA should assess repeat FHA borrowers to ensure these mortgage loans are consistent with FHA’s mission.”

- Did HUD analyze the effects of disqualifying repeat FHA borrowers on home prices? If so, please provide the analysis.
- Did HUD analyze the effects of disqualifying repeat FHA borrowers on access to home ownership for low-, moderate-, and middle-income and first-time home buyers? If so, please provide the analysis.
- Did HUD analyze the effects of disqualifying repeat FHA borrowers on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.4. HUD’s housing finance reform plan recommends that FHA should assess repeat FHA borrowers to ensure these mortgage loans are consistent with FHA’s mission. It does not recommend disqualifying repeat FHA borrowers. Any further analysis would occur as part of the assessment recommended in the plan. This recommendation was made within the context of the increasing number of borrowers who have used the FHA program to extract equity from their homes. The fiscal year 2018 cash-out refinance volume of 150,883 loans was the highest reported since 2009 and represented 63.31 percent of all FHA refinance transactions. Additionally, by definition, this recommendation would have no effect on first-time home buyers.

Q.5. The HUD report recommends that “FHA should examine incentives to make shorter-term mortgages that accelerate equity accumulation more attractive to FHA’s mission borrowers.”

Q.5.a. Did HUD analyze the effects of shortening the term of mortgages on home prices? If so, please provide the analysis.

Q.5.b. Did HUD analyze the effects of shortening the term of mortgages on access to home ownership for low-, moderate-, and middle-income and first-time home buyers? If so, please provide the analysis.

Q.5.c. Did HUD analyze the effects of shortening the term of mortgages on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.5.a.–c. HUD’s housing finance reform plan does not contemplate eliminating access to FHA’s 30-year fixed-rate mortgage product. Rather, the report recommends that FHA examine incentives to make shorter-term mortgages that accelerate equity accumulation more attractive to FHA’s mission borrowers. The HUD report recommends that “[t]o ensure that FHA and taxpayers are properly compensated for riskier loans, FHA should implement a tiered pricing framework to protect the MMIF [Mutual Mortgage Insurance Fund] from excessive exposure to riskier loans.”

Q.5.d. Did HUD analyze the effects of risk-based pricing for mortgage insurance on home prices? If so, please provide the analysis.

Q.5.e. Did HUD analyze the effects of risk-based pricing on access to home ownership for low-, moderate-, and middle-income and first-time home buyers? If so, please provide the analysis.

Q.5.f. Did HUD analyze the effects of risk-based pricing for mortgage insurance on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.5.d.–f. In a dynamic marketplace, FHA may require a mechanism to quickly react to any deterioration in credit quality and protect the MMIF from excessive exposure to riskier loans. Adjusting premiums is a relatively quick way to do so. HUD is not planning to implement tiered pricing or otherwise adjust FHA’s Single Family premiums in the near term.

Q.6. The Treasury Report is silent about the Housing Trust Fund and the Capital Magnet Fund. Both programs make important contributions to mitigating the affordable rental-housing crisis. Nearly every county in the United States lacks a sufficient stock of available and affordable rental units for residents who make 30 percent of area median income or below—the population targeted by the Housing Trust Fund.⁶ Nearly half of renters are cost burdened, meaning that they pay more than 30 percent of their income in rent.⁷ The private sector cannot and will not fix this gap on its own. How does Treasury recommend funding the Housing Trust Fund and the Capital Magnet Fund and at what level?

A.6. Questions related to the Treasury Report should be directed to the Department of the Treasury. HUD’s 2020 Budget proposes to eliminate the Housing Trust Fund, as it recognizes a greater role for State and local governments and the private sector in addressing affordable housing needs.

⁶National Low Income Housing Coalition, “New Report Concludes that Nearly Every U.S. County Lacks an Adequate Supply of Affordable and Available Homes for Low Income Renters,” June 20, 2019, <https://nlihc.org/news/new-report-concludes-nearly-every-us-county-lacks-adequate-supply-affordable-and-available>.

⁷Housing Wire, “Apartment List: Nearly 50 percent of renters are cost burdened,” Jeremiah Jensen, September 25, 2018, <https://www.housingwire.com/articles/46924-apartment-list-nearly-50-of-renters-are-cost-burdened>.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ
MASTO FROM BENJAMIN S. CARSON, SR., M.D.**

Q.1. What will be the impact of your proposal to limit FHA's investment in multi-family housing? Has HUD modeled the potential costs of the housing finance system you envision for multi-family investments across the income and wealth spectrum? If so, what will the impact be on renters?

A.1. HUD's housing finance reform plan does not propose limiting FHA's insurance of multi-family housing.

Q.2. Why does HUD propose to limit FHA to only first-time home buyers? How do you respond to critics who note that such a limitation would harm African American and Latino home buyers who have had difficulty accessing loans in the private market? Has HUD modeled the potential costs of the housing finance system limiting FHA to first-time home buyers across the income and wealth spectrum? If so, what will the impact be on current homeowners and potential homeowners? What would the impact of such a limitation be on the ability of all homeowners to sell their homes?

A.2. HUD's housing finance reform plan does not propose limiting FHA insurance to first-time home buyers. The plan recommends that FHA examine the impact of repeat borrowers on the MMIF and ensure these loans are consistent with its mission.

Q.3.a. You stated that HUD plans to address some of the "deeper issues" causing the acute housing needs of extremely low-income families and that "just throwing money at the problem has not solved it." Please elaborate with details on this and HUD's plan to ensure that the acute housing needs of extremely low-income families are addressed by your plan.

How many new families received housing assistance from HUD in 2016, 2017, and 2018?

A.3.a. HUD's Picture of Subsidized Households reports annual housing assistance levels for HUD programs. The following chart summarizes the number of households subsidized and the number of people served by HUD's Public Housing, Housing Choice Vouchers, Project-Based Rental Assistance, and Housing for the Elderly and Persons with Disabilities, and other HUD subsidies in 2016, 2017, and 2018.

The programs combined have between 11 percent and 12 percent turnover each year, allowing approximately 500,000 new households to be served each year. Combined over the 3 years, approximately 1.5 million households have moved off housing assistance allowing a similar number to receive housing assistance.

	2016	2017	2018
Total subsidized households	4,676,972	4,650,853	4,628,247
% Units Filled by Turnover	12%	11%	11%
Total people served	9,785,085	9,653,388	9,535,360

Programs such as Indian Housing, HOME and Community Development Block Grants are excluded from these counts, as are households served by the U.S. Department of Agriculture's Rural Housing Service or other State or local programs, unless such households also receive subsidies through a HUD program mentioned above.

Q.3.b. How many individuals, families or households qualify for HUD assistance but are unable to receive any housing assistance?

A.3.b. Tabulations from the American Housing Survey estimate that about 1 in 4 very low-income households receive housing assistance. Among very low-income renters in 2015, 25 percent of households received rental assistance and an additional 43 percent had worst case housing needs due to severe cost burden or unit quality deficiencies. About a third of very low-income renters—32 percent—avoided severe housing problems in the unassisted private rental market in 2015.

Q.4. You recently announced a major policy initiative to help reduce local barriers to development of affordable housing. Are you proposing to limit access to funds like CDBG and HOME in jurisdictions with rent control? Are you considering limiting their use in communities that do not affirmatively encourage affordable housing through inclusionary and high-density zoning?

A.4. No. The White House Council on Eliminating Regulatory Barriers to Affordable Housing, chaired by Secretary Carson, is engaging with Federal agencies that serve on the Council and stakeholder groups who have offered to share their ideas on program regulations, policies or practices that, with modifications, may reduce the cost of market-rate and subsidized housing and expand affordable housing options for all Americans. Per the President's Executive Order creating the Council, member agencies are directed to identify administrative rules and processes that may restrict supply or pose unnecessary barriers to new construction of affordable housing, and submit recommendations for how HUD can encourage communities that want to increase the supply of affordable housing and/or preserve valuable affordable housing stock.

Q.5. Could you please elaborate on this statement: "Congress should establish FHA, VA, and USDA . . . as the sole source of low-downpayment financing for borrowers not served by the conventional mortgage market."? Are you suggesting that Fannie Mae and Freddie Mac should not provide support for responsible, sustainable low-downpayment mortgages originated by private sector lenders in the primary market? What conventional mortgage market are you referring to in this statement?

A.5. A central principle of the Administration's housing finance reform plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable borrowing options and choices. Coordination ensures that there is not unhealthy and irresponsible competition between Government-supported programs, which can lead to lower underwriting standards, increase risk to taxpayers, and threaten the long-term availability of credit to qualified borrowers. The GSEs should not be able to selectively choose from the FHA port-

folio and leave taxpayers with the riskiest borrowers. Uncoordinated policies create incentives that encourage entities to work at cross-purposes, resulting in little or no change in overall access to credit while increasing taxpayer exposure to uncompensated risk. In recent years, the market overlaps might have increased to the extent that the GSEs expanded credit guidelines to “stretch” into the FHA market.

Q.6. The Treasury paper suggests legislative action to authorize Ginnie Mae to provide the full faith and credit guarantee for Fannie, Freddie and possibly other credit enhancing guarantors. Can you please elaborate on what steps, roughly how much funding would be necessary, and a timeline for when you think Ginnie Mae could be made operational for this task?

A.6. Operationalizing the Treasury Plan’s proposal (to extend, via Ginnie Mae, a Federal guarantee of timely payment of principal and interest on qualified Mortgage Backed Securities) can be seen as having three phases:

- Phase One would be to comply with the Treasury Plan’s Recommendation 7, which calls for FHFA and Ginnie Mae to “identify and assess the operational and other issues” involved in the proposal. HUD estimates this would take approximately 6 months.
- Assuming that Congress passed legislation implementing the plan, Phase Two would consist of mobilizing and deploying resources in pursuit of all aspects of the Phase One plan that do not require changes to the current-state operations or material system development. HUD estimates this phase would take approximately 12 months in conjunction with FHFA, Treasury and other stakeholders, including Congress.
- Phase Three, if authorized, would consist of full implementation of operational changes, as per the preparatory work done in the preceding phases. Making projections about this phase, without having the benefit of knowing the outcome of the first two phases, is a highly uncertain exercise, but HUD’s current estimate is that this phase would at a minimum be a 12–24 month project. This timing does not account for any feedback from stakeholders on the impact such a change would have on the industry, and any needed transition time.

Projecting the investment needed to bring about the extended guaranty is similarly uncertain. Our current best estimate is that the funding needed would be minimal for the commencement of Phase One, but a more significant amount may be needed over the course of in Phase Two (though still just a fraction of Ginnie Mae’s annual S&E budget).

Q.7. How will you ensure that Ginnie Mae, which today has no responsibility for assessing the credit quality of the assets in its bonds or the solvency of the primary mortgage guarantor protecting it and taxpayers, is ready to take on such a big role?

A.7. While the expansion of Ginnie Mae’s responsibilities in the Treasury Plan is significant, the exact nature is yet to be decided, and will drive the activities Ginnie Mae will need to perform. We expect that all of the expanded responsibilities derive from, and

relate to, functions Ginnie Mae already performs in connection with approximately \$2 trillion in risk associated with Ginnie Mae's security. It would be a somewhat larger, and reorganized, agency, but the subject matter encompassed would not be materially different from operations conducted over recent years. With respect to the credit quality of security assets backed by individual mortgages, under the Treasury Plan this would primarily be the responsibility of the guarantors, as regulated (including in terms of credit enhancement pricing) by FHFA, not Ginnie Mae.

Q.8. What is the risk of this added responsibility to FHA, VA and USDA, which are currently Ginnie Mae's clients?

A.8. The proposal for an extended Ginnie Mae MBS guaranty should be understood as something that would be effected while separately maintaining the legacy Ginnie Mae MBS program and platform.

Q.9. What is the status of HUD's proposed rule change to allow homeless shelter operators to consider an individual's sex to determine whether an accommodation or admission will be offered at the operator's facility?

A.9. The draft proposed rule, "Revised Requirements Under Community Planning and Development Housing Programs" (FR-6152), is currently undergoing review by the Office of Information and Regulatory Affairs.

Q.10. The new Fair Market Rents considers regional variables. What resources did HUD use to establish the recently released FMRs? Do these resources consider the fast market growth in particular places, like Nevada, where rental rates continue to skyrocket quarterly?

A.10. HUD estimates Fair Market Rents (FMRs) for approximately 600 metropolitan areas and 2,000 nonmetropolitan counties in the United States which are used by local agencies to set housing assistance payment limits for public programs that address the housing needs of low-income families. HUD's calculation of the FY2020 FMRs includes utilizing CPI data at the metropolitan level for 22 CPI areas (containing 69 FMR areas) where data was available, and regional data for all other FMR areas to inflate gross rent estimates for 1 year beyond the American Community Survey data which serves as the basis for most FMR calculations. HUD's research efforts in a 2019 report titled, *Deriving Local Trend Factors for Fair Market Rent Estimation*, helped to inform HUD's approach to the utilization of more localized data inputs in the trend factor component of the FY2020 FMRs. HUD computed 26 trend factors for the FY2020 FMRs (22 CPI-based metropolitan areas and 4 regional CPI areas). The 22 CPI areas where local CPI forecasts are calculated include: Boston, New York, Philadelphia, Chicago, Detroit, Washington, Baltimore, Miami, Atlanta, Dallas, Los Angeles, San Francisco, Seattle, Minneapolis, St. Louis, Tampa, Houston, Phoenix, Denver, San Diego, Urban Hawaii, and Urban Alaska. Regional trend factors are applied to all other FMR areas for the North, South, Midwest, and West.

As a result of this method change the trend factor applied to counties and metropolitan areas in Nevada increased from 1.055 to

1.061, reflecting a faster rent growth in the West relative to other regions of the country.

Q.11. When jurisdictions contest Fair Market Rents, what assistance is available from HUD to local housing authorities to provide rental data?

A.11. HUD provides a questionnaire that can be used for conducting a survey of rents and a spreadsheet for compiling survey responses.

HUD also researches the rental market for an area that would like to have its FMRs reevaluated to determine how large of a survey must be conducted to meet appropriate statistically significant standards. HUD encourages jurisdictions to consider the following when submitting a reevaluation of FMRs:

- No fewer than 100 qualified survey results are considered for an FMR reevaluation.
- Areas with fewer than 10,000 rental units would have difficulty getting 100 qualified results and are encouraged to work with adjacent FMR area(s) of similar economic and demographic factors to conduct such a survey.
- Metropolitan areas are required to get 100–200 qualified survey results for acceptance of their reevaluation. HUD determines the exact number based on their rental population and consistent with other surveys conducted by PHAs.
- Large metropolitan areas are required to get 200 qualified survey results.
- Qualified survey results are 1-, 2-, and in some cases 3-bedroom units that were not built in the past 2 years; where the resident lives year-round; where unit is not owned by a relative; where there is no work done for the landlord; where the rent is the same each month over a 12-month period; where income of the resident is not verified each year; where tenant does not participate in a housing program; and where the tenant does not have a voucher. HUD lists these conditions in its acceptance of the reevaluation.

Last, when a PHA conducts a local survey, the information may be used until more current data becomes available. Depending on when the survey data is collected, a local survey will be used for a minimum of 2 FMR years, but are typically used for 3 FMR years because of the age of the data. This is based on statutory language that FMRs must be calculated using “the most recent available data.” As an example, local surveys conducted to reevaluate the FY2019 FMRs were typically conducted between October and December of 2018. These surveys were used to reevaluate the FY2019 FMRs and were used as the basis for the FY2020 FMR calculations. The FY2021 FMRs will be calculated using 2018 ACS tabulations; however, because all of the local survey observations were obtained after the mid-point of 2018, HUD considers the local survey to be more current than the ACS and continues to use the local survey as the basis for the FY2021 FMRs as well. In FY2022, the FMRs will be based on 2019 ACS data, all of which was collected after the 2018 local surveys. Additionally, the results may be used for up to 5 FMR years when the survey is conducted in smaller

nonmetropolitan counties where statistically significant 1-year ACS data for the FMR area is not available.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM MARK A. CALABRIA, PH.D.**

Affordability

Q.1. Director Calabria, you stated that you would continue to direct the GSEs to send annual contributions to the Housing Trust Fund and Capital Magnet Fund as “long as the conditions in the statute are met for funding it.” Please describe what conditions in the statute must be met, and please provide your interpretation, as FHFA Director, of what may cause such conditions not to be met.

A.1. By statute, the FHFA Director must temporarily suspend Enterprise allocations to the Housing Trust Fund and the Capital Magnet Fund upon a finding that the allocations (1) are contributing or would contribute to the financial instability of the Enterprise, (2) are causing or would cause the Enterprise to be classified as undercapitalized; or (3) are preventing or would prevent the Enterprise from successfully completing a capital restoration plan. Because FHFA suspended Enterprise capital requirements when the Enterprises were placed in conservatorships, the latter two conditions have not been applicable. To assess financial stability, FHFA considers Enterprise earnings and income, among other performance measures.

Q.2. Director Calabria, the Treasury Department’s Housing Finance Reform plan expresses support for affordable housing.

How would you define affordable housing as you seek to implement the Treasury Department’s recommendations? Please address affordability in the context of home ownership, rental housing, and explicit subsidies.

A.2. FHFA defines affordable housing using generally recognized definitions, primarily by comparing the cost of housing to the income of the resident, and by comparing the income of the resident to the area median income (AMI). Generally speaking, housing is affordable if it consumes less than thirty percent of household income. Explicit subsidies can help make housing affordable, but most people with incomes low enough to qualify for help do not actually live in subsidized housing or receive housing assistance. It should be kept in mind that demand-side subsidies, such as interest rate reductions, may have little or even negative effects on affordability in the presence of tight supply constraints.

In a homeownership context, affordability usually focuses on the monthly payment of principal, interest, taxes, and insurance. Efficient delivery of mortgage capital helps to keep the cost of borrowing down and makes housing more affordable. FHFA oversees efforts by the Enterprises and the FHLBanks to support mortgage financing for low-income households earning 80 percent of AMI or less, very low-income households earning 50 percent of AMI or less, and households in low-income areas.

In a rental context, affordability compares monthly rent (and related housing costs such as utilities) to monthly income. The affordable housing need is greatest at the lowest income levels, especially

households earning 30 percent of AMI or less. Extremely low-income renters generally cannot afford housing without rental subsidy. Affordability challenges for renters occur at higher income levels, too. In some extremely high-cost markets, even renters at 120 percent of AMI struggle with housing costs.

I should note that FHFA is currently reviewing Treasury's reform plan and there is yet no decision on which recommendations will be implemented or how. As FHFA is an independent regulator, Treasury's recommendations will be given appropriate consideration, but will be treated as recommendations.

Underwriting Improvements

Q.3. Director Calabria, during your oral testimony you could not name any actions that had been taken in the prior 11 years to address misaligned incentives and poor underwriting during the financial crisis.

In the years following the crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created risk retention requirements and an ability to repay standard, among other changes. The GSEs have also reduced their retained portfolios as required under the terms of the senior preferred stock purchase agreements and continually updated their automated underwriting systems and seller/servicer guides.

Do you believe that any of these changes have helped to address the pre-crisis underwriting problems and incentives for GSE-guaranteed loans, for mortgages held on a lender's balance sheet, and for loans sold into private-label securities? If not, why not?

A.3. While I do not recall using the word "any," as I have documented elsewhere (<https://www.cato.org/publications/working-paper/mortgage-reform-under-dodd-frank-act>) the post-crisis Dodd-Frank mortgage reform efforts have had at best limited and very modest impacts on loan performance. This is due to the fact that such reforms have ignored the largest drivers of default, borrower credit history and loan-to-value. Some evidence of this is displayed by the fact that GSE loan performance today, in terms of delinquencies, is very similar to that witnessed before the crisis. I would also point you to a recent FHFA working paper for further evidence on trends in credit risk: <https://www.fhfa.gov/PolicyProgramsResearch/Research/Pages/wp1902.aspx>. I remain deeply troubled by the overall complacency regarding credit risk in today's mortgage market. It bears too strikingly a similarity to that I regularly witnessed before the crisis.

Q.4.a. Director Calabria, in response to a question about why a lender would make a loan without verifying a borrower's income, you agreed that the lender would make such a loan because they could sell it to the GSEs.

Are the GSEs currently guaranteeing loans with no documentation of income?

A.4.a. I do not believe I stated or implied during the oral testimony that the GSEs were buying no documentation loans. My recollection was that the question was a hypothetical. To the best of my knowledge, the Enterprises are not acquiring or guaranteeing loans that do not have documentation of income, nor is FHFA aware of

any terms of business with specific lenders that allow for them to deliver loans to the Enterprises without any documentation of income. The Enterprises have automated the collection, verification, and assessment of a borrower's income and assets in their respective automated underwriting systems, which increases efficiency and reduces fraud in loan origination. Fannie Mae's data validation service in Desktop Underwriter, commonly referred to as Day 1 Certainty, enables lenders to electronically obtain employment, income, and asset documentation directly from the source rather than relying on collecting the documents from the borrower. Freddie Mac has a similar service in Loan Product Advisor called Asset and Income Modeler, which automates the manual process of assessing income and assets, particularly for self-employed borrowers. All that said, as is reflected in the logic behind "risk retention," if an originator can pass along the risk of a mortgage, said originator is likely to make riskier mortgages.

Q.4.b. In the years leading up to the financial crisis, what percentage of subprime and Alt-A, low- or no-documentation loans were securitized into private-label securities, and what percentage of such loans were securitized and guaranteed by the GSEs?

A.4.b. There is no single, universally accepted definition for what might be called a subprime or Alt-A loan.

For example, "subprime" may be defined in terms of borrower characteristics such as credit scores, in terms of loan characteristics such as interest rates, or even in terms of whether the lender originating the loan is considered a "subprime lender." "Alt-A" traditionally referred to alternative documentation but not necessarily higher credit risks, while in the years leading up to the crisis the proliferation of low- and no-documentation loans was often associated with higher credit risk borrowers and loans.

Another challenge in measuring "subprime" and "Alt-A" is that data from before and during the financial crisis is sometimes missing or incomplete. Given these data challenges, FHFA can only provide estimates comparing the prevalence of some types of loans in private label securities and Enterprise portfolios.

For purposes of this response, FHFA categorized loans with Vantage Scores at or below 660 as "Low Score Loans." Such loans could be seen as one proxy for "subprime" because they generally reflect borrowers who had weakened credit histories that included payment delinquencies and possibly more severe problems such as charge-offs, judgments, and bankruptcies. The share of "Low Score Loans" increased significantly for PLS in the years leading up to the crisis. For example, in 2001, approximately 39 percent of all "Low Score Loans" originated were for Enterprise portfolios, with 11 percent in PLS and 50 percent in "Other." In 2006, the Enterprise share of all "Low Score Loans" remained at 40 percent while the PLS share had increased to 37 percent, with 23 percent in "Other."

A similar pattern existed for "Alt-A." For purposes of this response, FHFA categorized loans with combined loan-to-value ratios of 97 percent and without full income documentation or not owner-occupied as "Other Risky Loans." In 2001, approximately 33 percent of all "Other Risky Loans" originated were for Enterprise port-

folios, with 12 percent in PLS and 55 percent in “Other.” In 2006, the Enterprise share of all “Other Risky Loans” fell to 22 percent while the PLS share had increased to 44 percent, with 34 percent in “Other.”

The PLS share of “Low Score Loans” and “Other Risky Loans” reached their largest percentages as house prices were peaking in 2005 and 2006. In later years, the PLS share quickly dropped to zero as private label securities stopped being issued almost entirely. It is critical to note, however, that during the largest growth period in PLS, Fannie Mae and Freddie Mac were the largest single purchasers of those securities, adding considerable investor demand to the PLS market. It is extremely unlikely that the subprime PLS market would have reached such levels if Fannie Mae and Freddie Mac had not been such larger investors in that market.

Q.5. Director Calabria, during your oral testimony you stated that underwriting at the GSEs has “gotten worse, not better.”

Please describe all underwriting changes that have been made at the GSEs since 2008. Please indicate which of these changes you believe have made underwriting worse.

A.5. During the financial crisis, the Enterprises tightened their eligibility and underwriting standards, and their overall risk appetite, as did many other mortgage market participants. Some of these changes included:

- Eliminating mortgage products that featured negative amortization
- Requiring borrowers to be qualified at the fully indexed interest rate (QM driven)
- Not permitting less-than-full documentation of the borrower’s income or other risky lender variances
- Adding and raising the minimum credit score required
- Aligning their manual underwriting policies with their automated underwriting systems
- Changing debt-to-income (DTI) requirements
- Collecting data and building systems to verify/validate the property appraisal
- Lowering the maximum loan to value (LTV) and combined loan to value (CLTV) ratios permitted
- Adjusting pricing, adding an adverse market charge, and establishing risk-based pricing in the form of delivery fees or loan level pricing adjustments

In recent years, the Enterprises have also relaxed some of those standards, for example by re-establishing maximum LTV ratios above 95 percent for certain mortgage products and by recently relaxing DTI requirements, both of which are problematic and have been a source of increased risk for both Enterprises.

The evolving debt-to-income standards are a good example. In July 2017, Fannie Mae removed compensating factors from its automated underwriting system, Desktop Underwriter (DU), that were required for loans to exceed 45 percent DTI up to 50 percent. With this change, all loans became eligible for a maximum DTI up

to 50 percent as part of the comprehensive risk assessment performed by DU. Within months, Fannie Mae saw a significant increase in loans with ratios exceeding 45 percent DTI that also exhibited other high risk factors that included very high LTV ratios and low credit scores. This practice is commonly referred to as risk layering and loans with multiple layers of risk tend to default at a higher rate. Freddie Mac also experienced a similar increase in loans with risk layering because it acquires loans that are assessed by DU. In March 2018 and again in December 2018, Fannie Mae made some adjustments to DU's risk assessment to limit risk layering. However, those changes have not had the desired effect and Fannie Mae plans to make additional changes later this year.

Another critical factor is the large increase in high LTV loans. In 2008, less than 4 percent of Fannie's acquisitions had LTV's in excess of 95 percent, in 2018, almost 8 percent had LTV's in excess of 95 percent. Such low levels of borrower equity leave borrowers exposed to a possible downturn in home prices.

De-risking the GSEs

Q.6.a. Director Calabria, in your oral testimony you stated you will be "de-risking" the GSEs and that the GSEs "cannot make loans that are almost guaranteed to go bad."

Are there loans that the GSEs are guaranteeing today that you believe are almost guaranteed to go bad? If so, please describe the characteristics of those loans, the volume of those loans, and their current default rates.

A.6.a. During the financial crisis loans with multiple risk factors, often called risk-layering, defaulted at much higher rates than loans without multiple risk factors. For example, loans with loan-to-value ratios greater than 90 percent and credit scores less than 620 defaulted at rates more than double the average default rate for all loans with loan-to-value ratios greater than 90 percent.

Since the beginning of 2017, the Enterprises have been acquiring an increasing share of loans with multiple risk factors. This happens when a mortgage has more than one of higher risk factors such as:

- Borrower's debt-to-income ratio greater than 43 percent,
- investor loan,
- second or vacation home,
- borrower with a credit score of less than 680,
- cash out refinance, and/or
- loan-to-value ratio greater than 80 percent.

Since the beginning of 2017, the Enterprises have acquired 1.76 million loans with more than one of the mentioned risk factors. As of June 30, 2019, 0.28 percent of those loans were seriously delinquent (three or more payments past due).

Q.6.b. What other products or activities would you alter or end to "de-risk" the GSEs? Please provide a list of activities and the changes you believe would be appropriate.

A.6.b. FHFA is currently reviewing the Enterprises' products and activities with the goal to lower the risk profile of the Enterprises,

including a review of Enterprise pilot programs, the risks within their book of business, and their risk management practices. We expect the review of the Enterprises products and activities to continue through the next year.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT
FROM MARK A. CALABRIA, PH.D.**

Q.1. The final rule published this past August on the implementation of the Credit Score Competition Act, which would allow for the use of alternative credit-scoring models by the GSEs, will increase home ownership and put more Americans on a path to success.

I am glad to see FHFA's work to implement this and, importantly, to reflect the intent of Congress in fostering competition.

Do you view the use of alternative credit scoring as integral to increasing access to home ownership? As I understand the final rule, it may take the industry anywhere from 18 to 24 months to fully adopt a new credit score model. Will you commit to fully seeing this through until the new models have become fully adopted?

A.1. I am fully committed to seeing through the completion of this process. FHFA is committed to the validation and approval process laid out in law and in FHFA's final credit score regulation, and we believe the Enterprises will be able to validate and approve a new credit score model using this process. We want to ensure we allow the industry the appropriate amount of time to prepare for any change to the Enterprises credit score requirements. Based on analysis and industry outreach, we do not believe that updating the credit score model will have a significant impact on access to credit; however, there is opportunity to increase access to credit through the Enterprises no-score automated underwriting systems. The nonscore AUS allows potential borrower who lack traditional credit to be evaluated through automation, eliminating the need for a manual underwrite.

Q.2. Given tools like Credit Score Competition, FHFA benefits from access to more technologically advanced modeling tools and resources. It is a well-known fact, however, that FHA is still largely a paper-based operation. Congress provided \$20 million in IT funding to better assist FHA in getting to an advanced IT infrastructure.

In HUD's reform plan, the Administration proposes re-chartering FHA as an autonomous Government corporation within HUD and to pursue inter-agency agreements. How would FHA's potential role as an autonomous agency allow it to better utilize modeling resources and tools, like those at FHFA and the credit-scoring program, to increase access to home ownership? And better adapt to technological changes in the marketplace?

A.2. We cannot comment on the potential for FHA to utilize modeling resources and tools, since that is outside our authority. However, we do believe it is important that the two agencies coordinate with respect to credit scores, to alleviate any bifurcation in the industry. This has been explicit feedback we have received from the industry and we believe there is a benefit to having FHA and the Enterprises aligned on their credit score requirements.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM MARK A. CALABRIA, PH.D.**

Our housing finance system faces a number of profound challenges. In most parts of the country, prices for starter homes are skyrocketing as much as 10 percent per year.¹ Millions of Americans are cost burdened, paying more than 30 percent of their income on rent, mortgages or other housing costs. Perhaps most perniciously, the legacy of decades of racist Federal housing policy is still too apparent today. The average Black family has about $\frac{1}{10}$ th the wealth of the average white family,² and while the Black families made some gains in the healthy housing markets of the 1990s and early 2000s, that progress was wiped out in the subprime crisis. Today, the homeownership gap between Black and white families is as large as it was when housing discrimination was legal.³

Any proposal for housing finance reform must confront these problems. After all, as the U.S. Department of Treasury Housing Reform Plan (“Treasury Report”) points out, “[e]ach GSE’s is unique in that its congressional charter endows the GSE with a public mission.” These public missions make it clear that the GSEs exist to “promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas)” and to perform “activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities.”⁴

I have carefully reviewed the Treasury Report and the Department of Housing and Urban Development’s Housing Finance Reform Plan (“HUD Report”). Both appear to eliminate many of the mechanisms in the current system that support sustainable home ownership among low- and moderate-income and middle-income borrowers, especially in communities of color. The following questions seek more information about the analysis that Treasury, HUD and the Federal Housing Finance Agency (FHFA) undertook to determine the effects of their various proposals on housing prices, access to home ownership for first-time home buyers, and the racial homeownership gap.

Q.1. The Treasury Report recommends that “Congress should restrict the permissible activities of guarantors to the business of securitizing Government-guaranteed MBS,” including “cash-out refinancings, investor loans, vacation home loans, higher principal balance loans [in high-cost areas], or other subsets of GSE-acquired mortgage loans,” and in the absence legislation “FHFA should assess whether each of the current products, services, and other

¹Marketwatch “One big reason it’s so hard for first-time buyers to find the right starter home.” Jacob Passy, March 21, 2018, <https://www.marketwatch.com/story/another-hurdle-for-first-time-home-buyers-there-are-barely-any-starter-homes-for-sale-2018-03-21>.

²Brookings, “A conversation about the racial wealth gap—and how to address it,” Michaela Broyles, June 18, 2019, <https://www.brookings.edu/blog/brookings-now/2019/06/18/a-conversation-about-the-racial-wealth-gap-and-how-to-address-it/>.

³Census Bureau, “Quarterly Residential Vacancies and Homeownership, Second Quarter 2019,” July 25, 2019, <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>; National Bureaus of Economic Research Working Paper Series, “Race and Home Ownership, 1900 to 1990,” William J. Collins and Robert Margo, August 1999, <https://www.nber.org/papers/w7277.pdf>.

⁴U.S. Department of the Treasury, “U.S. Department of the Treasury Housing Reform Plan,” September 2019, <file:///C:/Users/js42247/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/LTYNPN67/Treasury-Housing-Finance-Reform-Plan.pdf>.

single-family activities of each GSE is consistent with its statutory mission.”

Q.1.a. Do you agree with this recommendation?

A.1.a. Yes. As Congress thinks through housing finance reform, it will be critically important to define the role of Fannie Mae and Freddie Mac, including permissible activities. In the meantime, our mission will remain unchanged and focus on ensuring that the housing Government-sponsored enterprises operate in a safe and sound manner so that they serve as a reliable source of liquidity and funding for housing finance and community investment. I believe it is appropriate and necessary for all financial regulators to regularly insure that the activities of regulated entities are consistent with their charters.

Q.1.b. Did FHFA analyze the effects of limiting the activities of the guarantors on home prices, especially in high-cost areas? If so, please provide the analysis.

A.1.b. FHFA to date has not done an impact analysis on recommendations made by the Treasury. I do, however, largely concur with the analysis and argument you advance in Chapter 6 of *The Two-Income Trap*. As you so accurately describe there, “as housing prices leveled off, more families would be able to afford a home . . .”

Q.1.c. Did FHFA analyze the effects limiting the activities of the guarantors on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers, especially in high-cost areas? If so, please provide the analysis.

A.1.c. FHFA to date has not done an impact analysis on recommendations made by the Treasury. Again, I largely agree with your assessment contained in Chapter 6 of *The Two-Income Trap*, which very clearly describes how demand-side housing subsidies can actually make housing less affordable. As you also note in Chapter 6, between 1980, which largely predates the growth of the GSEs, and the publication of *The Two-Income Trap* in 2003, the increase in home ownership was modest, at best.

Q.1.d. Did FHFA analyze the effects of these changes on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.1.d. FHFA to date has not done an impact analysis on recommendations made by the Treasury. However, FHFA conducts fair lending analysis of any proposed policy change to identify and assess potential impacts to protected classes, including communities of color. Again, I largely concur with the arguments you advance in Chapter 6 of *The Two-Income Trap*. As you so eloquently put it, “credit was not supposed to be an end in itself.” Unfortunately, the area of GSE dominance has seen almost no long-term increase in sustainable homeownership rates in communities of color.

Q.2. The Treasury Report recommends that “[p]ending legislation, FHFA should consider more efficient mechanisms for the GSEs to achieve the statutory affordable housing” than the affordable housing goals.

Q.2.a. Do you agree with this recommendation? Will FHFA implement it?

Q.2.b. Please describe the “more efficient mechanisms” that the FHFA is considering.

Q.2.c. Did FHFA analyze the effects of getting rid of the affordable housing goals on home prices? If so, please provide the analysis.

Q.2.d. Did FHFA analyze the effects of getting rid of the affordable housing goals on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

Q.2.e. Did FHFA analyze the effects of getting rid of the affordable housing goals on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.2.a.–e. Treasury included a number of administrative actions related to FHFA matters. As the current Enterprise Housing Goals Regulation runs through 2020, we expect to engage with the Treasury Department on the specifics of its recommendation as we formulate our 2021–2023 goals regulation next year. FHFA conducts fair lending analysis of any proposed policy change to identify and assess potential impacts to protected classes, including communities of color.

Q.3. The Treasury report recommends that “FHFA and HUD should develop and implement a specific understanding as to the appropriate roles and overlap between the GSEs and FHA, for example, with respect to the GSEs’ acquisitions of high LTV and high DTI loans and FHA’s underwriting of cash-out, conventional-to-FHA, and other refinancing loans and loans to repeat FHA borrowers.”

Q.3.a. Do you agree with this recommendation? Will FHFA implement it?

A.3.a. It is appropriate to further greater coordination between FHFA and HUD, ensuring efforts are complementary, in support of a well-functioning housing finance system.

Q.3.b. Did FHFA analyze the effects of limiting the footprint of the GSEs and FHA on home prices? If so, please provide the analysis.

A.3.b. To date, FHFA has not done an impact analysis on recommendations made by the Treasury.

Q.3.c. Did FHFA analyze the effects of limiting the footprint of the GSEs and FHA on access to home ownership for low-, moderate- and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.3.c. To date, FHFA has not done an impact analysis on recommendations made by the Treasury.

Q.3.d. Did FHFA analyze the effects of limiting the footprint of the GSEs and FHA on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.3.d. To date, FHFA has not done an impact analysis on recommendations made by the Treasury. However, FHFA conducts fair lending analysis of any proposed policy change to identify and

assess potential impacts to protected classes, including communities of color.

Q.4. The Treasury Report recommends that “FHFA’s eventual regulatory capital requirements should require that each guarantor, or each GSE pending legislation, be appropriately capitalized by maintaining capital sufficient to remain viable as a going concern after a severe economic downturn and also to ensure that shareholders and unsecured creditors, rather than taxpayers, bear losses.” It later recommends, “would be . . . to more fully align the GSEs’ credit risk capital charges with those of other fully private regulated financial institutions for holding similar assets.”

Q.4.a. Do you agree with this recommendation? Will FHFA implement it?

A.4.a. I believe that the Enterprises are woefully undercapitalized and it is a priority of mine to correct that. FHFA proposed an Enterprise capital rule in 2018 and received extensive comments in 2019. Because those comments were provided under a different set of assumptions about the future of the Enterprises, I determined that FHFA would repropose the capital rule in 2020. The rule will be re-proposed and finalized within a timeline fully consistent with ending the conservatorships. Requiring the Enterprises to build capital that can properly support their risk ensures that taxpayers will never be on the hook again during an economic downturn.

Q.4.b. Did FHFA analyze the effects of bank-like capital requirements on home prices? If so, please provide the analysis.

A.4.b. No. FHFA has not analyzed the effects of bank-like capital requirements on home prices.

Q.4.c. Did FHFA analyze the effects of bank-like capital requirements on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.4.c. No. FHFA did not analyze the effects of bank-like capital requirements on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers.

Q.4.d. Did FHFA analyze the effects of bank-like capital requirements on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.4.d. FHFA conducts fair lending analysis of any proposed rule-making to identify and assess potential impacts to protected classes, including communities of color. I believe having stronger capital levels would improve the ability of the GSEs to provide access during all phases of the business/housing cycle.

Q.5. The Treasury report recommends that “[f]ollowing any change to the CFPB’s ability-to-repay rule, FHFA should revisit the determination as to which single-family mortgage loans should be eligible for acquisition by the GSEs (with appropriate amendments to the PSPAs) or, following legislation, should be eligible to secure Government-guaranteed MBS.”

Q.5.a. Do you agree with this recommendation? Will FHFA implement it?

A.5.a. Yes. As conservator and regulator, FHFA must assess any rule changes that may impact the Enterprises. Following updates to the ability to repay rule, both FHFA and each of the Enterprises will assess the impact of the new rule on the Enterprises' businesses and the Agency will determine whether any additional changes to eligibility requirements are necessary.

Q.5.b. Did Treasury analyze the effects of further limiting the footprint of the GSEs on home prices? If so, please provide the analysis.

A.5.b. N/A

Q.5.c. Did Treasury analyze the effects of further limiting the footprint on access to home ownership for low-, moderate-, and middle-income borrowers and first-time home buyers? If so, please provide the analysis.

A.5.c. N/A

Q.5.d. Did Treasury analyze the effects of further limiting the footprint of the GSEs on access to sustainable home ownership in communities of color? If so, please provide the analysis.

A.5.d. FHFA is unaware of Treasury analysis regarding the effect of acquisition eligibility of loans on access to sustainable home ownership.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR COTTON
FROM MARK A. CALABRIA, PH.D.**

Q.1. Is FHFA aware of increased GSE multifamily volumes in the Class A high-end market rate space?

A.1. FHFA monitors the Enterprises' multifamily activities through monthly volume reporting and outreach to multifamily market participants, and requires the Enterprises to report their business under Conservatorship Scorecard cap and in the targeted affordable categories. In addition, FHFA meets with multifamily market participants, including Fannie Mae and Freddie Mac, on a quarterly basis to discuss market conditions and the Enterprises' multifamily business activities to ensure that we have a strong handle on what is happening in the market.

Q.2. Do you believe it is appropriate for the GSEs to crowd out private capital in these markets?

A.2. No, it is not appropriate for the GSEs to crowd out private capital. FHFA sets the multifamily volume caps utilizing market forecasts, expertise from industry participants, and other market information in order to prevent the Enterprises from crowding out private capital. FHFA also closely monitors the Enterprises' business activities in the multifamily market through monthly reporting and quarterly meetings with other multifamily market participants to identify potential areas of concern.

Q.3. Is the Agency considering how it can refocus the GSEs on their mission and supporting the supply of affordable housing, rather than Class A apartments?

A.3. Examples of Class A high-end projects where the GSEs narrowly outbid the private market (there are many more, this is just a small sample):

- A 146-unit luxury apartment complex in **Florida** that was constructed in 2017. 1-bedroom units rent for \$2,430/month while local area “A” quality 1 bedroom apartments average \$1,800 and “B” quality 1-bedroom apartments average \$1,500 or lower. In 2018, the property owner was seeking a \$26 million 7-year mortgage. A private market participant quoted the mortgage at T + 150 bps, but Fannie Mae reportedly won with a quote of T + 106 bps—*[equates to less than 50 bps spread]*.
- A 280-unit apartment community in **Florida** that was constructed in 2018. The average asking rent per unit for the property is \$1,520 per month while local area class A rents average \$1,300. In 2019, the property owner was seeking a \$44.5 million loan. A private market participant bid aggressively, but Fannie Mae reportedly offered a lower spread and was chosen by the borrower.
- A 252-unit multifamily project in an affluent area of **Pennsylvania**. The multifamily recently stabilized and the sponsor is renewing tenants at proforma rents. In 2019, the property owner requested financing for \$59MM, 10-year fixed. A private market participant was quoting the mortgage at T + 215 bps for full proceeds, but Freddie Mac reportedly won with a quote of T + 176 bps—*[39 bps less]*.
- A newly constructed, 135-unit Class A multifamily property located in **Minnesota**. The sponsor was seeking a \$30MM, 10-year fixed-rate loan to pay off its existing construction loan and return a portion of its equity in 2019. A private market participant was quoting the mortgage at T + 190 bps for \$27.5MM (68 percent LTV), but Fannie Mae reportedly won with a quote of T + 165 bps for more proceeds at \$30.25MM (75 percent LTV)—*[25 bps less with \$2.75MM more proceeds]*.

FHFA recognizes that the private sector plays a key role in the multifamily market and should not be crowded out of the market. On September 13, 2019, FHFA announced the multifamily volume caps for the fourth quarter of 2019 through the fourth quarter of 2020 and a revised cap structure that it is intended to ensure that the Enterprises do not grow their share of the market to the detriment of private investors, while still ensuring that they maintain a presence and a strong focus on affordable housing and traditionally underserved markets. To accomplish this, FHFA directed that at least 37.5 percent of the Enterprises’ multifamily business be mission-driven, affordable housing. Traditionally, one-third of Enterprise business, outside of Green loans, has fallen into the mission-driven space. This new minimum of 37.5 percent responsibly assures that the Enterprises’ multifamily businesses have a strong and growing commitment to affordable housing finance.

**RESPONSE TO WRITTEN QUESTION OF SENATOR TILLIS FROM
MARK A. CALABRIA, Ph.D.**

Q.1. Given your previous commitment to transparency and risk-based pricing, can you assure me that the release of any new capital standards will abide by the Administrative Procedures Act (APA)?

A.1. Yes, absolutely. FHFA intends to fully comply with the Administrative Procedures Act in finalizing a capital rule for the Enterprises.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN
FROM MARK A. CALABRIA, Ph.D.**

Q.1. The Treasury report detailed recommendations to support a level playing field for new participants in the housing finance system. These regulatory requirements touch on items like capital relief, data standardization, and third-party credit risk transfers; however the report does not address the technological infrastructure that the enterprises have built up over the past decade while in conservatorship. Post conservatorship, how do we limit the competitive advantage Fannie & Freddie would have over new competitors due to the technological infrastructure they have accrued over the past decade on the taxpayers' dime?

A.1. Related to the technology infrastructure for the securitization of single family loans, the Enterprises have established a joint venture (Common Securitization Solutions, LLC), which owns and operates a new common securitization platform (CSP). The CSP is used to perform key activities related to security issuance, bond administration, disclosures and tax reporting. The CSP was developed so that it would be adaptable for use by additional market participants, in part by leveraging industry-standard interfaces, industry software and industry data standards, wherever possible. In addition, earlier this year, the Enterprises, leveraging the CSP, implemented the new Uniform Mortgage-Backed Security (UMBS), creating a new common security, with common security characteristics and disclosure requirements. FHFA believes that the development and implementation of the CSP and UMBS will not only lead to a more efficient, resilient, and liquid secondary mortgage market, but also they will support a more level playing field for new participants in the housing finance system, by providing the potential for third parties to participate in using them.

Q.2. The Treasury report details the harmonization of regulatory requirements applicable to the GSEs, including the standardization of data practices that the GSEs use and those of the greater housing finance system. Do you see increased transparency and the sharing of GSE data and other information with industry—which has given the enterprises an almost unassailable competitive advantage—as a precondition for release from conservatorship?

A.2. FHFA supports improvements in Enterprise data quality and standardization of information submission requirements from market participants. At the same time, greater transparency by the Enterprises is merited. For example, as part of risk-sharing transfers, the Enterprises have increased the amount of public data

regarding their loans and their characteristics. These have enhanced investor and public understanding of the loan composition of Enterprise underwriting. Continued expansion of data production will be part of FHFA attention going forward.

Q.3. In the report from the U.S. Department of the Treasury, recommendation #6 is that “pending legislation, each GSE should be recapitalized so that private capital takes the first-loss position on the GSE’s exposure to risk and loss.” To best protect taxpayers from mortgage-related credit risk, do you agree that the entities taking the first-loss risk should be dedicated to the housing finance system, highly regulated, and available during all market cycles?

A.3. To best protect taxpayers from mortgage related credit risk, entities taking credit risk should have capital requirements that are sufficient for the risks. I believe that an appropriate amount of capital commensurate with the Enterprises’ risk as well as with a strong and effective regulator will best protect the taxpayers from future losses.

Q.4. I appreciate that the report recognized the impact to housing affordability that local jurisdictions are causing through myriad barriers such regulations, land use and rent control. What impact can the GSEs, through direction from FHFA, have on breaking down these barriers or incenting localities to modify their rent control initiatives?

A.4. One driver in the rising cost of housing throughout the United States is a lack of housing supply caused by regulatory barriers, inclusionary zoning and growth management controls, rent controls, and a variety of other State and local regulations. FHFA continuously monitors State and local regulations and their effects on the Enterprises’ multifamily loan purchases.

FHFA has worked directly with State and local authorities to ameliorate the impact of unnecessary, antiquated or counter-productive rules that adversely affect the availability of housing including affordable housing. Rules that impose fees that actually are taxes, rules that delay foreclosures and the restoration of housing to the market, rules that prevent in some instances Enterprises from maintaining properties and in other instances mandate overly prescriptive local rules for such maintenance all evidence adverse pressures on affordable housing supply. In the coming months, FHFA plans to explore State and local laws, identify roles the Enterprises can play in addressing these regulatory barriers, and look into approaches to encourage responsible changes to these laws or ordinances while assuring safe conditions remain for properties.

Q.5. The report mentions the deleterious effect that rent control policies can have on housing affordability—why not be more explicit about what FHFA should do about underwriting loans eligible for the GSEs to purchase from jurisdictions that have enacted rent-control laws and regulations?

A.5. FHFA continuously monitors State and local regulations and their effects on the Enterprises’ multifamily loan purchases. In the coming months, FHFA plans to explore State and local laws, and identify roles the Enterprises can play in addressing these regulatory barriers.

Q.6. The report identifies that housing affordability is a major concern but then calls for contracting the GSEs' multifamily footprints and reducing liquidity in the market. What measures does FHFA propose to create more supply of multifamily assets to put downward pressure on rents?

A.6. On September 13, 2019, FHFA announced a revised cap structure on the multifamily businesses of the Enterprises. The revised structure caps new multifamily loan purchases at \$100 billion for each Enterprise, a combined total of \$200 billion in support to the multifamily market, for the five-quarter period Q4 2019–Q4 2020. The new caps apply to all multifamily business—no exclusions. This new cap regime will ensure the Enterprises do not crowd out private market participants. However, to ensure a strong focus on affordable housing and traditionally underserved markets, FHFA directs that at least 37.5 percent of the Enterprises' multifamily business be mission-driven, affordable housing. This new minimum of 37.5 percent responsibly assures that the Enterprises' multifamily businesses have a strong and growing commitment to affordable housing finance. FHFA's priority is to ensure the provision of liquidity where needed, without crowding out private capital.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ
MASTO FROM MARK A. CALABRIA, PH.D.**

Q.1. Congress required Fannie Mae and Freddie Mac have a duty-to-serve rural communities and manufactured home buyers and preserve affordable housing. Is it your understanding that the FHFA must implement those requirements until Congress rescinds them?

A.1. As I have consistently said, including at my confirmation hearing before this Committee, I fully intend to carry out the law as enacted. This includes the Duty-to-Serve provisions of HERA. During my tenure at FHFA, I intend to hold the Enterprises accountable for meeting their statutory responsibilities to serve the rural, manufactured housing, and affordable housing preservation markets.

Q.2. FHFA has the responsibility to monitor the housing finance market for discrimination, inequities and risks. Has the elimination of some loan quality criteria from small banks and credit unions reported through the Home Mortgage Disclosure Act banks and credit unions hindered your ability to monitor for discrimination in lending?

A.2. The recent changes to the Home Mortgage Disclosure Act reporting requirements have not hindered our ability to monitor for discrimination in lending. FHFA uses loan-level acquisition data provided by the Enterprises for fair lending monitoring. This data provides a robust, complete, and accurate view of Enterprise activities.

Q.3. In your confirmation hearing, you said that you would recruit and expand career staff hires with a background in financial regulation. Please list the hires made since your confirmation and note their background.

A.3. Over the last 5 months, FHFA hired 12 career staff employees with financial regulation experience. These hires include five examiners, three economists, two financial analysis/research specialists, and two attorneys. I also approved 19 new positions for the fiscal year in financial regulation functional areas.

Q.4.a. In your confirmation hearing, you said that you would expand the research and economics function at the FHFA.

Who have you hired to lead the research department?

A.4.a. We have not hired anyone to lead the research department. I am using my recently appointed Senior Advisor for Economics to evaluate the Agency's research functions and make a recommendation on if/how it should be organized into a single department.

Q.4.b. Who have you hired to work there?

A.4.b. Although we have not established a single Agency-wide research function, we have filled five positions in economic and research analysis functions since my arrival. In addition, I approved six economic and research positions for FY2020.

Q.4.c. Have you created an economics and statistics function with a direct report to the Director? If so, please explain its function. If not, what is your timeframe to do this?

A.4.c. Yes, I appointed a Senior Advisor for Economics on May 20, 2019. This employee is responsible for formulation, establishment, and promulgation of economic practices and policies for the Agency.

Q.4.d. In what forums has FHFA staff presented research?

A.4.d. Speaking engagements have included academic conferences, university seminars, think tank forums, and special topic research symposiums. Below is a list of organizational names for which FHFA's research has been presented during the past 5 years.

- 2019–11 Association for Public Policy Analysis and Management
- 2019–10 American Enterprise Institute
- 2019–07 Office of Financial Research
- 2019–07 Federal Reserve Board
- 2019–06 North American Econometric Society
- 2019–06 American Real Estate and Urban Economics
- 2019–04 American Real Estate Society
- 2019–04 Federal Reserve Bank of Cleveland
- 2019–03 Federal Deposit Insurance Corporation
- 2019–03 U.S. Department of Housing and Urban Development
- 2019–01 American Economic Association
- 2018–12 Housing Statistics Users Group
- 2018–11 National Association of Regional Science Council
- 2018–11 National Association of Realtors
- 2018–10 National Community Stabilization Trust
- 2018–10 Fannie Mae, Appraisal Institute, University of Connecticut

- 2018–09 Workshop on Improving the American Community Survey for The National Academies of Science Engineering and Medicine

2018-09 Federal Reserve Bank of Richmond
 2018-06 Federal Reserve Board, Consumer Financial Protection
 Bureau Research, Federal Reserve Bank of Philadelphia
 2018-05 Consumer Financial Protection Bureau Research Con-
 ference
 2018-05 Housing Statistics User Group
 2018-04 American Real Estate Society
 2018-04 Florida State University, University of Florida, Univer-
 sity of Central Florida
 2018-01 CoreLogic Federal Symposium
 2017-11 Federal Reserve Bank of Philadelphia
 2017-11 National Association of Realtors
 2017-11 Urban Economics Association
 2017-10 Federal Deposit Insurance Corporation Consumer Re-
 search Symposium
 2017-09 University of South Alabama
 2017-06 Freddie Mac
 2017-06 American Real Estate and Urban Economics
 2017-05 Housing Statistics Users Group
 2017-04 Urban Institute, Lincoln Institute of Land Policy
 2017-04 Homer Hoyt Group
 2017-04 American Real Estate Society
 2017-02 National Association of Realtors
 2017-02 CoreLogic Federal Symposium
 2017-01 American Economic Association
 2016-10 Florida Atlantic University, Florida International Uni-
 versity
 2016-10 University of Michigan Conference on Big Data in Fi-
 nance
 2016-09 Association of Public Data Users Annual Conference
 2016-09 Regulatory Data Workshop
 2016-08 American Enterprise Institute
 2016-07 Society for Economic Measurement Conference
 2016-06 George Washington University
 2016-05 American Real Estate and Urban Economics
 2016-05 Experian Vision Conference
 2016-04 American Real Estate Society
 2016-04 Freddie Mac
 2016-03 U.S. Department of Housing and Urban Development
 2016-02 Americans for Financial Reform
 2016-01 Federal Deposit Insurance Corporation
 2015-09 CoreLogic Property Data Roundtable
 2015-09 University of Wisconsin Real Estate and Economic Out-
 look Conference
 2015-09 Association of Public Data Users Annual Conference
 2015-05 American Real Estate and Urban Economics

2015–04 American Real Estate Society

Besides presenting work at forums, FHFA researchers also received their first patent for the invention, “Data Analytics Database and Platform System and Method (U.S. Patent No. 10,282,781),” issued by the U.S. Patent and Trademark Office (USPTO) in May 2019.

Q.4.e. Were there research forums where FHFA staff were invited to participate but they did not attend, if so, why did they not attend?

A.4.e. While there are occasional schedule constraints, funding is prioritized to allow FHFA researchers to attend most domestic forums, conferences, or seminars when invited. FHFA’s staff participation in international events is less frequent, although invitations have been extended from a variety of entities (*e.g.*, Bank of England, ESCP Europe Business School).

Q.5.a. In your confirmation hearing, you promised to expand the borrower education and financial literacy activities under FHFA.

How have you done that?

A.5.a. At the direction of FHFA the Enterprises are working to enhance their homeownership education and financial education curriculum. In September, Fannie Mae previewed many changes, including waiving the \$75 fee for Fannie Mae’s online education platform Framework and expanding their homeownership education requirement to apply to all first-time time home buyers with greater than 95 percent loan-to-value ratios. Freddie Mac, by end of 2019, will introduce enhancements their homeownership education and financial literacy curriculum provided through their online education platform Credit Smart. Additionally, it’s important to mention our efforts with the Mortgage Translations clearinghouse. The Mortgage Translations clearinghouse houses a collection of translated documents and tools to assist lenders, servicers, housing counselors, and other parties involved in the mortgage process to help mortgage borrowers who have limited English proficiency (LEP). Created by FHFA, Fannie Mae, and Freddie Mac in collaboration with industry, consumer, and Government partners, the Mortgage Translations clearinghouse contains resources such as translated documents, borrower education materials, a standardized glossary of mortgage terms, and more. Today, the Mortgage Translations clearinghouse has English and Spanish content; we are working toward having content in the five most common non-English languages spoken by LEP households in the United States which include Spanish, Chinese, Vietnamese, Korean, and Tagalog.

Q.5.b. Some argue that your decision to eliminate language related to housing counseling and language preference from the Uniform Residential Loan Applications undermines borrower education and fair treatment. How does eliminating housing counseling and language preference from the URLA affect borrowers, especially those concerned that borrowers might marketed a loan in one language but sign documents in English that they cannot understand?

A.5.b. Including housing counseling and language preference on the URLA does not have a key impact on the experience of borrowers who need to sign documents in English they may not understand. This is because only the English version of the redesigned

URLA is a legally executable document. FHFA recognizes that some industry participants see benefits in asking questions about language preference. The Enterprises will develop and make available a new Voluntary Consumer Information Form to capture the language preference and housing counseling questions and thus support industry participants that choose to collect this information.

As part of the 2019 Conservatorship Scorecard, the Enterprises are tasked with addressing the needs of limited English proficiency (LEP) borrowers, and ensure understanding of their documentation, through the development of a Mortgage Translations clearinghouse, a website geared toward industry and other market participants who serve LEP borrowers. The clearinghouse is a repository of key mortgage documents and educational materials, including, the URLA translated into the top five languages spoken in the U.S. according to the U.S. Census Bureau. To date, the URLA and other loan documents have been translated into Spanish. Chinese translations are set to launch on the website in October 2019, with Vietnamese, Korean and Tagalog to follow. FHFA and the Enterprises intend to add glossaries of key mortgage terms in these languages as well.

Q.6. In your confirmation hearing, you promised to strengthen the core human resources function at FHFA. Please explain how FHFA has reached out to historically underrepresented communities for your open positions.

A.6. FHFA maintains a recruiting presence at a number of career fairs that represent historically underrepresented communities. Since August 2018, we have attended or are scheduled to attend eight career fairs that target underrepresented communities to include veterans, Blacks, Hispanics, and candidates with disabilities. We also announce all our entry-level positions via Handshake. Handshake allows us to simultaneously post our vacancy announcements to hundreds of schools' career websites. These schools include a large number of Historically Black Colleges and Universities and Hispanic Association of Colleges and Universities.

Q.7. In your confirmation hearing, you promised to be a vocal spokesperson for "an affordable and vibrant national housing market." Please provide a list of your speeches, articles, *etc.*, where you spoke about expanding the affordable housing market.

A.7. I have made an effort as FHFA Director to reach out to stakeholders of all kinds, listen to different perspectives, and advocate for a strong national housing market that has more affordable housing. For example:

- *Meetings with Stakeholders:* As of November 25, 2019, I had met with 57 stakeholder, advocacy, and industry groups to discuss and solicit ideas for addressing the Nation's affordable housing shortage.
- *Visits to Affordable Housing Developments:* On September 19 and 20, I visited and toured two affordable housing developments in Newport, KY, and Indianapolis, IN, which were financed in part by the Federal Home Loan Banks of Cincinnati and Indianapolis, respectively. The Northern Kentucky Scholar

House is made up of 48 temporary rental units for low- and very low-income single parents who are enrolled in post-secondary education, and provides child care for their children and other services aimed at achieving self-sufficiency. Illinois Street Senior is made up of 63 housing units that are reserved for low-income residents 55 years and older.

- *Public remarks, interviews, and articles:* I've given numerous speeches, remarks and interviews and published an op-ed calling for action to resolve the Nation's housing affordability crisis in a number of public venues, including:
 - Interview with Jennifer Schonberger, Fox Business—May 10, 2019 [Video and Written Summary, <https://video.foxbusiness.com/v/6035185923001#sp=show-clips>]
 - Mortgage Bankers Association National Secondary Market Conference & Expo 2019—May 20, 2019 [Remarks as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Prepared-Remarks-of-Dr-Mark-A-Calabria-Director-of-FHFA-at-Mortgage-Bankers-Association-National-Secondary-Market-Conference-Expo-2019.aspx>]
 - HUD and NAHB's Innovative Housing Showcase—June 3, 2019 [Remarks as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Prepared-Remarks-of-Dr-Mark-A-Calabria-Director-of-FHFA-at-Mortgage-Bankers-Association-National-Secondary-Market-Conference-Expo-2019.aspx>]
 - Housing Wire, Article by Kelsey Ramirez, "Mark Calabria: New Director Changes Course for FHFA"—September 3, 2019 [<https://www.housingwire.com/articles/49939-mark-calabria-new-director-changes-course-for-fhfa/>]
 - U.S. Senate Banking Committee Hearing, "Housing Finance Reform: Next Steps"—September 10, 2019 [Testimony as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-Mark-A-Calabria-Director-FHFA-Before-the-US-Senate-Committee-on-Banking-Housing-and-Urban-Affairs-09102019.aspx>]
 - National Association of Federally Insured Credit Unions congressional Caucus—September 11, 2019
 - National Multifamily Housing Council Fall Meeting—September 13, 2019
 - American Credit Union Mortgage Association Fall Conference—September 23, 2019
 - The Cincinnati Enquirer, Opinion Editorial, "The future of affordable housing depends on finance reform"—September 30, 2019 [https://www.cincinnati.com/story/opinion/2019/09/30/opinion-future-affordable-housing-depends-finance-reform/2423345001/?utm_medium=email&utm_source=govdelivery]
 - U.S. House of Representatives Committee on Financial Services Hearing, "The Future of Affordable Housing Depends on Mortgage Finance Reform"—October 22, 2019 [Testimony as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-Mark-A-Calabria-Director>]

FHFA-Before-the-US-House-of-Reps-Comm-on-Financial-Services-10222019.aspx]

- Boston Business Journal, “Why Boston needs housing finance reform”—October 24, 2019 [<https://www.bizjournals.com/boston/news/2019/10/24/viewpoint-why-boston-needs-housing-finance-reform.html>]
- Mortgage Bankers Association 2019 Annual Convention & Expo—October 28, 2019 [Remarks as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Prepared-Remarks-of-Dr-Mark-A-Calabria-at-MBA-2019-Annual-Con-vention-and-Expo.aspx>]
- Structured Finance Association Residential Mortgage Finance Symposium—November 4, 2019 [Remarks as Prepared for Delivery, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Prepared-Remarks-of-Dr-Mark-A-Calabria-at-SFA-Residential-Mortgage-Finance-Symposium.aspx>]
- Indianapolis Business Journal, “Why Indianapolis needs housing finance reform”—November 15, 2019

Q.8. What is the current delinquency rate of loans guaranteed to Fannie Mae, Freddie Mac and the Federal Home Loan Banks through their MPF/MPP programs? For Fannie and Freddie, please break out the single-family from the multi-family portfolio. How do these delinquency rates compare over the past 20 years?

A.8. As of September 30, 2019, Fannie Mae had a serious delinquency rate of 0.68 percent for its single-family portfolio and 0.06 percent for its multifamily portfolio. Freddie Mac had a serious delinquency rate of 0.61 percent for its single-family portfolio and 0.04 percent for its multifamily portfolio. The MPF/MPP program only includes single-family loans. As of September 30, 2019, the serious delinquency rate was 0.34 percent for the MPF/MPP program.

The following data table shows the serious delinquency rates for the last 15 years. It should be noted that the MFP/MPP program largely shut down in the mid-2000s (when acquisitions decreased from 603,000 in 2003 to 35,000 in 2007), so the MFP/MPP program largely missed the low underwriting standards that characterized loans leading up to the financial crisis.

Single-Family Serious Delinquency Rates

Year	Fannie Mae	Freddie Mac	MFP/MPP
2004	0.63%	0.73%	0.10%
2005	0.79%	0.71%	0.15%
2006	0.65%	0.54%	0.12%
2007	0.98%	0.76%	0.15%
2008	2.42%	1.83%	0.26%
2009	5.38%	3.98%	1.22%
2010	4.48%	3.84%	1.66%
2011	3.91%	3.58%	1.95%
2012	3.29%	3.25%	1.96%
2013	2.38%	2.39%	1.91%
2014	1.89%	1.88%	1.66%
2015	1.55%	1.32%	1.31%
2016	1.20%	1.00%	0.98%
2017	1.24%	1.08%	0.76%
2018	0.76%	0.69%	0.49%
2019Q3	0.68%	0.61%	0.34%

Data source: Fannie Mae and Freddie Mac 10K SEC filings, and FHFA. Seriously delinquent is defined as the percentage of loans that are 90 days or more delinquent as of the date indicated, consistent with public disclosures in the SEC filings and credit supplements.

Q.9. In your confirmation hearing, you said “my first actions would be to conduct a series of stress-tests on the regulated entities.” Have you undertaken such an analysis? What have you found?

A.9. In August 2019, FHFA published the results of the annual Dodd-Frank Act Stress Tests (DFAST). The 2019 DFAST includes a Severely Adverse scenario, which assumes a severe global recession accompanied by stressed commercial real estate and corporate debt markets.

The scenario is not a forecast, but instead is a hypothetical future economic environment designed to assess the strength of the Enterprises and other financial institutions and their resilience to unfavorable market conditions. The planning horizon for the implementation of the 2019 DFAST is over a nine-quarter period from December 31, 2018 through March 31, 2021.

In the 2019 DFAST Severely Adverse scenario, U.S. real GDP declines by about 8 percent from its pre-recession peak. The rate of unemployment increases from 3.8 percent at the beginning of the planning horizon to a peak of 10.0 percent in the third quarter of 2020. The annualized consumer price inflation rate falls to about

1.25 percent in the first quarter of 2019 and then rises to approximately 2 percent by the second half of 2020.

Both Enterprises simulated their portfolios under the Severely Adverse scenario using their internal models. Fannie Mae estimated a comprehensive loss of \$9.5 billion and Freddie Mac estimated a comprehensive loss of \$8.4 billion under the assumption that they would not need to establish a valuation adjustment for deferred tax assets. Fannie Mae estimated a comprehensive loss of \$26.1 billion and Freddie Mac estimated a comprehensive loss of \$17.2 billion under the assumption that they would need to establish a valuation adjustment for deferred tax assets.

Q.10. Will you change policies to allow Fannie Mae and Freddie Mac to resume providing financing to investors to purchase homes in bulk through the REO program or something similar?

A.10. No, FHFA has no plan to allow the Enterprises to resume investor financing for bulk sales of REO. In 2012, FHFA worked with Fannie Mae on a bulk sale of REO properties that were largely tenant occupied. The REO properties were both large in number and heavily concentrated in certain geographies (CA, AZ, NV, IL and FL). To incentivize investment, the transaction included a financing tool to encourage large institutional buyers capable of providing property and asset management to undertake the scattered site single family homes. The transaction structure was also specifically designed to incentivize qualified bidders to partner with regional and local property management companies to stabilize and improve market conditions. In contrast to the REO portfolio characteristics at the time (large size, strong geographic concentration), today's portfolios are much smaller and more disperse. These changes to the REO portfolio make the future bulk sales uneconomical for the Enterprises and taxpayers. The Enterprises continue to provide targeted financing in certain challenged markets for their REO properties to support owner-occupant purchases.

Q.11. Do you seek any changes to the number of staff focused on affordable housing at the Enterprises; do you believe today's number of staff focused on affordable housing is too low, too high or just about right? Do you seek any changes in the areas of focus?

A.11. FHFA does not establish the Enterprises' staffing levels focused on affordable housing; that is the responsibility of Enterprises' Boards of Directors and management. FHFA has not requested that the Enterprises make any changes to these staffing levels or in the areas of focus.

Q.12. Nationwide, nearly 20 million families live in manufactured homes; about 7 percent of the housing stock. The quality of the homes is good, but, at times, the financing can be predatory. Just recently, Fannie Mae and Freddie Mac were assigned a duty-to-serve manufactured homeowners. They are in the early stages of meeting the financing needs of manufactured homeowners. In Nevada, Fannie Mae estimates it owns approximately 3,500 loans with a little under 1,000 purchased last year.

What changes would you make to the GSEs' requirements to serve people who buy manufactured homes either with mortgages or with chattel loans?

A.12. Manufactured housing is an important segment of the Nation's housing stock and a historically underserved market. Additionally, we agree with you that newer manufactured housing is usually high quality and is an important part of the affordable housing supply solution. We find the existing legal authority sufficient to serve this market.

Manufactured housing is part of the Enterprises' specific Duty to Serve under the Housing and Economic Recovery Act of 2008. The law does not permit FHFA to set requirements for the Enterprises; rather, the Enterprises set their own targets and FHFA's responsibility is to annually evaluate how well the Enterprises do at enhancing how they serve the Duty-to-Serve markets.

As you note, both Enterprises are in the early stages of meeting the financing needs of manufactured homeowners. In 2018, Fannie Mae increased its purchase of loans on manufactured housing titled as real estate by 26 percent year-over-year, while Freddie Mac increased its purchase of loans titled as real estate by 8.6 percent over the previous 3 year average.

Q.13.a. Fannie Mae and Freddie Mac finance manufactured housing communities. In Nevada, in 2018, they purchased 62 loans of manufactured housing investors.

What changes will you implement to ensure that those loans facilitate community ownership for owners who provide robust tenant protections?

A.13.a. FHFA's Duty-to-Serve program includes a specific Regulatory Activity which is a part of both companies' current Duty-to-Serve Plans to incentivize community owners to adopt certain minimum tenant protections for residents of manufactured housing communities who lease the land under their unit. FHFA believes that allowing the Enterprises to continue to work through the private market to encourage leases that treat tenants fairly is the best approach.

Q.13.b. Are there things Fannie and Freddie can do to ensure that the manufactured home communities they finance do not have abusive practices such as high lot rents and fines, unfair evictions, limitations on tenant associations, *etc.*?

A.13.b. The Enterprises require that MHC borrowers follow all applicable State and local laws regarding tenant protections; however, these laws can vary from State-to-State. FHFA is aware of the business practice of some MHC owners who raise pad rents or unexpectedly cancel leases where the land has appreciated in value. In order to encourage MHCs to adopt pad lease protections for tenants, or enhance existing pad lease protections, the Duty-to-Serve program offers credit for MHCs with tenant pad lease protections. In 2019, Fannie Mae began offering pricing reductions to MHC owners that provide tenant pad lease protections in their pad leases. Without the pricing reduction facilitated by the Conservatorship Scorecard, MHC owners may not be able to access the necessary capital to maintain the communities and provide the tenant protections encouraged by the Duty-to-Serve program.

Our current Duty-to-Serve Program also addresses some of these practices, including some eviction practices. There are limits to how much Enterprise financing can do to curb abusive landlord prac-

tices. Since landlord/tenant practices are a matter of State law, the most direct way to address potential abuses is through action by a State and local governments.

Q.14. Do you support the Federal Home Loan Banks affordable housing goals as recently proposed? If not, what changes would you make? How will the goals help bridge the ever-widening homeownership gap between whites and Latinos and African Americans? What do you think would increase homeownership rates for Latinos and African Americans?

A.14. FHFA published in the Federal Register a notice of proposed rulemaking to amend the existing FHLBank housing goals regulation on November 2, 2018. The 90-day comment period ended January 31, 2019. It would not be appropriate for me to comment on a rulemaking in progress, other than to say that we are hard at work developing a final rule to amend the FHLBank housing goals to make them both meaningful in terms of mission impact and achievable for the FHLBanks, consistent with safety and soundness. Housing goals for the FHLBanks fulfill a statutory requirement, but as they affect less than 1 percent of the mortgage market, they are only one tool among many to address homeownership gaps.

The gap in homeownership rates between white borrowers and Latino or African American borrowers is of concern, as is the devastating loss of wealth in those communities as a result of the housing crash and Great Recession. FHFA's focus on addressing the homeownership gap is to emphasize safe and sound lending that encourages sustainable home ownership that can be a path to long-term wealth building. Unless the secondary market is safe and sound, we risk leading minority borrowers into another last-in, first-out repeat of the Great Recession.

Two recently updated tools that FHFA uses to help ensure that the mortgage market serves all potential homeowners well are 1) the recent credit score rule to allow validation and approval of third-party credit score models that the Enterprises can use to more accurately measure risk; and 2) the mortgage translations clearinghouse (<https://www.fhfa.gov/MortgageTranslations>).

Q.15. In your confirmation hearing, you said that you would consider "increased data collection and evaluation" of Federal Home Loan Banks economic development mission activities. Have you been able to undertake such an analysis? If so, what have you found? If not, what is your timeframe for ensuring that the FHLBanks provide small business, small agricultural and community development investments in rural, urban and low-income communities?

A.15. FHFA is currently very focused on working with the FHLBanks to implement the recent amendments to the Affordable Housing Program. We do continue to monitor community development activities and you will be able to read more about that when we release our Annual Report on the Low Income Housing and Community Development Activities of the FHLBanks later this month.

The FHLBanks' support community development activities through their Community Investment Program (CIP) and their Community Investment Cash Advance Program (CICA). In 2018,

CIP generally funded housing projects while CICA generally funded economic development projects. CIP advance commitments for economic development projects increased from \$96.9 million in 2017 to \$105.1 million. But economic development projects continue to constitute a minority of total CIP projects. In 2018, 74 of 483 CIP projects funded with advances were economic development projects.

Total CICA advance commitments were approximately \$3.1 billion in 2018, a decrease from about \$3.8 billion in 2017. CICA grants in 2018 increased by about \$2.1 million from 2017, and CICA advance commitments for mixed-use projects decreased to approximately \$4.6 million in 2018 from about \$21.1 million in 2017.

Q.16. What are you doing to ensure that the Federal Home Loan Banks meet their OMWI requirements regarding board leadership? How are you ensuring that public interest board members have deep affordable housing and community development experience?

A.16. Since 2016, FHFA staff have served as advisors to the Federal Home Loan Bank's Diversity Task Force, comprised of representatives from each of the 11 FHLBanks. One of the task force's activities has been to develop best practices for soliciting and nominating diverse candidates for both member and independent board director positions.

On September 9 of this year, the FHLBanks disbanded the task force and, in its stead, created a six-member Subcommittee on Board Diversity comprised of FHLBank chairs and vice chairs. To support the Subcommittee, another subcommittee comprised of Bank presidents will serve as its staff. The president's subcommittee has authority to appoint OMWI officers and other FHLBank employees as needed. FHFA is supportive of this recent reorganization as it places the responsibility for diversity and inclusion on the collective leadership of the System.

At the September meeting, FHFA's Office of Minority and Women Inclusion (OMWI) met with the FHLBank chairs and vice-chairs to share expectations and recommendations for diversity competencies applicable to both existing and incoming directors. OMWI staff has also met with FHLBank leadership to identify challenges and opportunities for the recruitment and election of diverse board directors. This dialogue will culminate in an FHFA Advisory Bulletin on Board Diversity, which will provide guidance to the FHLBanks on diversity and inclusion competencies, as well as clarification of legal authorities for the recruitment and election of diverse directors.

By statute, the board of each Federal Home Loan Bank must include at least two "public interest" independent directors having significant experience representing consumer or community interests in one or more of four designated areas: banking services, credit needs, housing, or financial consumer protections. It is the province of each Bank's board of directors to nominate candidates for its public interest directorships, although FHFA reviews the qualifications of all nominees to ensure that they meet statutory requirements. While each public interest director must have experience in at least one of the areas mentioned in the statute, there

is no legal requirement that any of a Bank's public interest directors have experience in affordable housing in particular.

Nonetheless, experience representing consumers on affordable housing matters falls within the "housing" area, and many of the Banks have public interest directors with significant experience in affordable housing, as well as in community development. Other types of Bank directors—that is, regular independent directors and member directors—also may have significant experience in providing or promoting affordable housing, even though they are not designated as public interest directors. In addition, each Bank has an Affordable Housing Advisory Council of between 7 and 15 members, all of whom must be drawn from community organizations actively involved in providing and promoting low- and moderate-income housing and community lending in the Bank's district. The Advisory Council is required by statute to advise the board of directors on how best the Bank can identify and meet the affordable housing and community lending needs of persons in its district.

Q.17. Has FHFA changed the criteria for the Home Possible and the HomeReady programs to only serve people at the 80 percent AMI threshold or below instead of the 100 percent threshold? If so, what analysis was done to support that change? With the new limit of 80 percent, how many households are excluded that used to be eligible?

A.17. Yes, FHFA has permitted the Enterprises to change the criteria for the HomeReady and Home Possible programs to better serve households at or below 80 percent of AMI in order to focus Enterprise attention and resources on low-income and very low-income borrowers who are in need of down payment assistance. FHFA's housing goals define low-income households as households whose income is at 80 percent or below of AMI while very low-income households have incomes at or below 50 percent of AMI. FHFA's analysis based on preliminary January through March 2019 data, showed that approximately 38 percent of Fannie Mae's HomeReady loans were to borrowers with household income above the 80 percent AMI threshold and would no longer be eligible for a HomeReady loan. These households would need to seek alternative mortgage products. The decision was communicated through Lender Letter 2019-06 (<https://www.fanniemae.com/content/announcement/111906.pdf>), where Fannie Mae noted that this change would go into effect at the same time as changes to DU Eligibility that would find certain loans with multiple-high risk factors to be ineligible. Freddie Mac also aligned to these changes through changes to its Home Possible product (announced through its Bulletin 2019-16, <https://guide.freddiemac.com/app/guide/content/article/1003267>).

Both Enterprises recently made changes to the area median income (AMI) requirements for their affordable lending programs HomeReady and Home Possible to better target subsidy to low-income borrowers (< or = to 80 percent AMI) and align with the Enterprises' statutory housing goals. These changes set the income requirements of both programs at 80 percent AMI and were approved by FHFA. The Enterprises project that these changes will reduce the volume of HomeReady and Home Possible acquisitions. The

Enterprises also expect that the vast majority of the borrowers who no longer meet the Home Possible and Home One income requirements will still be eligible for Fannie Mae's Standard 97 percent LTV product, Freddie Mac's Home One, or the Federal Housing Administration programs.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM MARK A. CALABRIA, PH.D.**

Q.1. What kind of gaps in affordability do you anticipate as private sector funding of multifamily loans ramps up and funding from Fannie Mae and Freddie Mac winds down? Was a gap in funding during transition, and its effects on affordability, considered in the FHFA's recent decision to revise Fannie Mae and Freddie Mac's lending caps?

A.1. One of FHFA's top priorities is maintaining a strong affordable housing market, without driving out private capital. In 2015, FHFA developed Scorecard caps to ensure consistent liquidity in the affordable housing market. The revised cap paradigm, adopted in September 2019, seeks to improve on the existing cap structure, by setting an overall cap of \$100 billion for each Enterprises. The new cap also directs that at least 37.5 percent of the Enterprises' business must be mission driven and eliminates green loans as part of the Enterprises' mission driven activities. FHFA believes these changes will balance the need to eliminate loopholes that have crowded out private capital in the multifamily market, while simultaneously increasing affordable housing support over previous years' production levels. I do not foresee any additional gaps in affordability, beyond those already existing in the market, developing from the recent change in the GSE multifamily caps.

Q.2. How do you know the private sector has the capacity to fully serve the multifamily market? Do you believe this capacity will remain sufficient during an economic downturn, and if not, will FHFA allow Fannie Mae and Freddie Mac some flexibility to compensate for a lack of private capital during economic downturns?

A.2. FHFA is committed to fulfilling the Enterprises' affordability mission and addressing the Nation's shortage of rental housing. In recent years, however, the multifamily market has grown considerably, and the Enterprises' share of multifamily loan originations has expanded in a procyclical manner. To address this issue, FHFA modified the multifamily lending cap structure and eliminated green loans from the mission driven category. These changes to the cap are intended to limit the amount of multifamily debt that is purchased by the Enterprises in an expanding economy and will allow the Enterprises to participate more meaningfully when the economy is in a downturn. FHFA is certainly open to revisiting the caps in a time of market stress, if there is evidence of private capital leaving the market.

Q.3. Our Nation faces a serious multifamily housing shortage. According to the National Multifamily Housing Council, the U.S. will need to build an average of 328,000 units per year by 2030 to meet growing demand. As private capital becomes a growing source for multifamily assets, what measures will the FHFA and Department

of the Treasury take to ensure a greater supply of affordable multifamily housing units?

A.3. FHFA announced on September 13, 2019, that to ensure a strong focus on affordable housing and traditionally underserved markets, FHFA directs that at least 37.5 percent of the Enterprises' multifamily business be mission-driven, affordable housing during from now until the end of 2020, when the next year's scorecard will be published. This new minimum of 37.5 percent responsibly assures that the Enterprises' multifamily businesses have a strong and growing commitment to affordable housing finance. FHFA continues to work in collaboration with the Enterprises to identify potential solutions to the growing affordability crisis.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD



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Urban League

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March 27, 2019

Mike Crapo
Chairman
US Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Sherrod Brown
Ranking Member
US Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

Thank you for the opportunity to comment on the state of the housing finance system. Below is a list of principles that the National Urban League and the undersigned organizations agreed must be included in a successful housing finance reform plan to increase access to the housing market for underserved borrowers, and to protect taxpayers from the risk of default. We distributed the following principles below in March 2018:

Promote Access and Affordability in the Housing Finance System

Decent, affordable housing for both renters and homeowners is the foundation for social and economic security for American families. Homeownership has long been the path by which most individuals and families in this country, particularly families of color, have built wealth and entered the middle class. Whether or not they aspire to homeownership, access to affordable rental housing is critical to enable individuals and families to meet basic expenses and save for longer-term financial goals. America needs a housing finance system that will serve all communities, one that provides access for the homebuyers of the future, who are increasingly people of color.

The system we have now has not historically and does not currently serve these households well. Changes are needed to ensure that the housing finance system focuses on providing broad access to qualified borrowers, helping to grow the middle class, and working to diminish the racial and economic inequality that undermines our collective prosperity.

The housing market is making a steady recovery due to sensible improvements in mortgage lending by the Dodd-Frank Act, and reform of the housing finance system by the Housing and Economic Recovery Act of 2008. Together, these efforts revamped the system and prevent reckless, unsustainable lending practices like those that caused the financial crisis and led to a devastating loss of wealth for people of color. Now, some want to return to a loosely regulated system that could lead to another housing crash. Such action is dangerous and likely to lead to another systemic failure that will harm our communities

and put taxpayers at risk. To ensure all credit-worthy borrowers have fair access to mortgage credit and to protect taxpayers, any reform of Freddie Mac and Fannie Mae must:

Preserve and Enhance Fair Housing and Anti-Discrimination Protections

- Protect longstanding fair lending laws and regulations
- Create an effective and well-resourced structure for oversight and enforcement of fair lending and consumer protections
- Provide transparency so that regulators, other public officials, lenders and members of the public have information about whether and how the system is serving different types of borrowers and communities
- Ensure that credit-worthy borrowers in underserved communities have access to affordable conventional loans and are not limited to government-insured or guaranteed mortgages
- Remedy the historical marginalization of communities of color and discriminatory practices within the mortgage market due to federal policies
- Ensure that employment and supplier channels are diverse and inclusive

Provide Broad Access for Borrowers, Institutions and Regions

- Afford access to mortgage credit on safe and sustainable terms for all credit-worthy borrowers, rural as well as urban
- Ensure that the system provides liquidity in all regions at all times

Promote Access and Affordability in the Housing Finance System

- Provide community banks and credit unions access to the full benefits of the housing finance system, including equal access to the cash window, so they can compete on a level playing field with larger banks
- Ensure that rural lenders, which rely heavily on Fannie Mae and Freddie Mac, have fair, broad and affordable access to the housing finance system
- Ensure that Minority Depository Institutions have fair, broad and affordable access to the housing finance system and that the system adequately serves their needs
- Provide meaningful and effective support for Community Development Financial Institutions (CDFIs)

Preserve the System's Affordable Housing Mission, and the Availability of Inclusive Loan Products and Services

- Preserve the affordable housing goals as a mechanism to ensure that housing finance needs in underserved rural and urban communities are met
- Preserve the Duty to Serve underserved markets, including the markets for preserving affordable rental housing, rural housing, and manufactured housing
- Promote cost-effective loan modifications

- Preserve FHA insured lending, responsible low-down payment mortgage loans, and ensure access to existing down payment assistance programs
- Integrate HUD approved housing counseling agencies into the home buying process with borrowers to improve outreach to underserved communities and strengthen mortgage applications by low and moderate-income borrowers; utilize HUD approved housing counseling agencies to help existing borrowers who are experiencing financial stress
- Significantly expand the Housing Trust Fund, the first new housing resource exclusively targeted to households with the lowest incomes, and Capital Magnet Fund, whose non-profit affordable housing developer and CDFI grantees have leveraged the federal investment to date tenfold

Protect Taxpayers

- Taxpayers cannot be first in line, or disproportionately exposed to risks; protect and implement fully the reforms passed in 2008 and 2010 that require strong capital standards for all parties in the housing finance system and set strong standards for sustainable mortgages
- Eliminate excessive and/or unfair risk-based pricing; working families were not the cause of the 2008 housing crash and should not bear the burden of the risk by being forced to pay for the cost of the probability of another financial meltdown
- Regulate products, pricing, and rates of return to curb risky business practices

The following organizations have endorsed these principles:

Capital Impact Partners
 CDFI Coalition
 Center for Responsible Lending
 Consumer Federation of America
 Enterprise Community Partners, Inc.
 Housing Partnership Network
 IFF
 The Leadership Conference on Civil and Human Rights
 Local Initiatives Support Corporation
 Low Income Investment Fund
 NAACP
 National Association of Affordable Housing Lenders
 National CAPACD
 National Fair Housing Alliance
 National Housing Conference
 National Housing Resource Center
 National Housing Trust
 National Low Income Housing Coalition
 National Rural Housing Coalition
 National Urban League
 Opportunity Finance Network
 UnidosUS (formerly National Council of La Raza)



September 4, 2019

The Honorable Lawrence Kudlow
 Director
 National Economic Council
 Eisenhower Executive Office Building, Room 235
 Washington, D.C., 20502

Dear Mr. Kudlow,

As you consider proposals to restructure our nation's housing finance system as required by the March 2019 Presidential Memorandum,¹ the undersigned civil rights organizations write to express our collective view that any effort to comprehensively reform Government Sponsored Entities (GSEs)—Fannie Mae and Freddie Mac—must recognize the importance of preserving and strengthening access to stable, affordable, and equitable homeownership opportunities for all American families. We view failure to maintain these goals in any forthcoming proposals, including but not limited to the report mandated by the Presidential Memorandum, as antithetical to meaningful and comprehensive housing finance reform, and stand ready to vehemently oppose any such efforts.

As organizations representing the majority of future homebuyers, including many communities of color and low-to-moderate income (LMI) families that have traditionally been underserved in mortgage lending, we are committed to ensuring that any effort to restructure GSE operations builds on the critical affordable housing reforms adopted since the 2008 financial crisis that have allowed the GSEs to continue to fulfill their public mission.

As you know, the President's March 2019 memorandum directed the Departments of Treasury and Housing and Urban Development to conduct a broad review of our housing finance

¹ The White House. Memorandum on Federal Housing Finance Reform (March 27, 2019) Available at: <https://www.whitehouse.gov/presidential-actions/memorandum-federal-housing-finance-reform/>

system, including the GSEs. The memorandum outlined principles with which the agencies' review of our nation's housing finance system should comport, including maintaining "equal access to the Federal housing finance system for lenders of all sizes, charter types, and geographic locations" and making "sustainable homeownership for American families our benchmark of success," among other things. The principles outlined in this letter align with many of the stated goals of the memorandum with respect to upholding the federal government's longstanding housing policy objective to eliminate housing discrimination and promote access to sustainable mortgage credit opportunities for all American families.

The GSEs—and the expanded homeownership opportunities they provide for LMI American families—did not cause the 2008 financial crisis. Rather, perverse incentives in the secondary mortgage market drove unscrupulous brokers and loan officers to target otherwise creditworthy borrowers in communities of color with abusive and predatory loans, which they bundled into poorly-regulated private securitizations that nearly brought the global economy to its knees.

The Financial Crisis Inquiry Commission has long made clear that the crisis was precipitated by a confluence of devastating factors including deregulation, the availability of highly risky non-traditional lending products, and the securitization of those risky mortgage loans into private-label securities to appease investors' appetites for excessive profits.² At the same time, senior leadership at the GSEs was too focused on increasing profits for shareholders through the GSEs' own investments and gave too little attention to ensuring Americans would continue to have access to safe and affordable homeownership opportunities.

In the lead up to the financial crisis, lending practices in the mortgage market not only failed to promote sustainable homeownership opportunities, but also established a dual credit market where factors other than one's creditworthiness determined the type and terms of mortgage loans they were offered. Too often, creditworthy families were denied the best credit for which they qualified and were instead pushed into subprime loans with unsustainable mortgage rates because brokers received higher profits for placing them in more expensive loans.

Moreover, when borrowers faced challenges paying these loans off, the housing finance system failed to provide them with the home-saving options they were due. These pre-crisis lending practices had far reaching negative consequences for many communities of color and LMI families in America. Many families in these communities faced staggering financial setbacks that may take a generation or more to overcome—if at all. For example, the homeownership rate for black families in 2019 is lower than it was in 1968 when the Fair Housing Act was signed into law by President Lyndon B. Johnson.

Equally troubling is the widening gap in the homeownership rate between black and white households in America, with white households at 73.1% and black households at 40.6%, according to July 2019 data from the U.S. Census Bureau. Other communities of color experience this gap, as well. In the Asian American Pacific Islander (AAPI) community, the homeownership rate for Asian Americans is 60%, while for the rate for Pacific Islanders is even

² Financial Crisis Inquiry Commission. Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (January 2011). Available at: <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>.

system, including the GSEs. The memorandum outlined principles with which the agencies' review of our nation's housing finance system should comport, including maintaining "equal access to the Federal housing finance system for lenders of all sizes, charter types, and geographic locations" and making "sustainable homeownership for American families our benchmark of success," among other things. The principles outlined in this letter align with many of the stated goals of the memorandum with respect to upholding the federal government's longstanding housing policy objective to eliminate housing discrimination and promote access to sustainable mortgage credit opportunities for all American families.

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Moreover, when borrowers faced challenges paying these loans off, the housing finance system failed to provide them with the home-saving options they were due. These pre-crisis lending practices had far reaching negative consequences for many communities of color and LMI families in America. Many families in these communities faced staggering financial setbacks that may take a generation or more to overcome—if at all. For example, the homeownership rate for black families in 2019 is lower than it was in 1968 when the Fair Housing Act was signed into law by President Lyndon B. Johnson.

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lower at 41%, according to 2017 data from the U.S. Census Bureau. It is with our nation's long and unfortunate history of excluding communities of color from sustainable credit and homeownership opportunities in mind that civil rights organizations continue to be extensively engaged in the housing finance reform debate.

The Housing and Economic Recovery of 2008 and the Dodd-Frank Wall Street Reform and Consumer Protection Act empowered federal financial regulatory agencies to undertake important reforms to improve the safety and soundness of the GSEs after the 2008 financial crisis.³ To date, these reforms have addressed the most dangerous pre-crisis lending practices and maintained essential elements that allow the system to build more equity. They have also supported our nation's longstanding goal to protect against lending discrimination and to ensure that the secondary market provides fair and equitable access to borrowers in all markets, including underserved areas. Crucial to this effort have been the current system's access and affordability provisions, especially the affordable housing goals, which have created accountable mechanisms to ensure that opportunities brought about by homeownership such as wealth-building and financial stability are likewise afforded to creditworthy borrowers in underserved markets and communities of color.

The American economy benefits when the GSEs fulfill their mandate to serve the full market at all times. As a result, capital markets have the liquidity they need to withstand periods of instability, American families—particularly those who have traditionally faced barriers accessing credit—are able to find stable and affordable home loans, and small lenders—often the only sources of mortgage credit in underserved areas—can continue lending to creditworthy borrowers in their communities throughout the economic cycle. In 2018, GSEs helped more than 3 million families buy or refinance their homes and made it possible for another 1.5 million to find an apartment, including nearly 900,000 low- and very-low income renters. In 2017, GSEs made it possible for nearly 2 million families to purchase or refinance homes; 25% of these borrowers were LMI families, over 600,000 were borrowers of color, and roughly 300,000 lived in rural areas nationwide.

While the GSEs play a critical role in expanding access to credit, robust oversight is necessary to ensure they effectively meet their public interest mission. In that context, we are opposed to a multiple guarantor structure for our housing finance system. A system with multiple guarantors and little regulatory oversight would increase costs because guarantors would no longer be required or incentivized to pool risk. Rather, guarantors would be incentivized to chase the most lucrative markets, serving only the most profitable borrowers or regions of the country. This would have disastrous consequences for fair access to safe and affordable mortgage credit for people of color and other hardworking families.

Further, meaningful housing finance reform must also position the GSEs to play an increasing role in addressing the ongoing affordable housing crisis facing the nation. In 2019, homeownership—long a core element to achieving the American Dream—has become increasingly unattainable for American families. There is clear evidence that the private market has exacerbated existing inequalities. For example, as the need for new affordable housing development continues to go unmet—in large part because developers make more money for

³ Public Law 110-289; Public Law 111-203

building high-cost developments—prices for existing homes are going up, thereby increasing property values for existing homeowners while exacerbating the housing crisis for renters.

It is important to note that the challenges facing the housing market today reflect, in large part, a failure of the private market to make necessary investments to meet demand, making clear the need for federal government's engagement in addressing this crisis. This isn't a new phenomenon; history demonstrates that the private market, left solely to its own devices, has left major parts of the housing market underserved.

Left unaddressed, the inequities of the affordable housing crisis will continue to have far reaching negative consequences that fall most heavily on working families in our society. Proposals that would reduce transparency or raise costs to homebuyers and renters to generate returns for investors would only serve to exacerbate these disparities while eliminating the government oversight we need to assure fair play and practices.

In light of these concerning developments, it is critical for the GSEs to continue providing access to affordable and equitable homeownership opportunities to families across the country. To this end, the GSEs' affordable housing goals along with their duty serve all markets must be preserved and strengthened, and additional efforts must be undertaken to expand fair lending opportunities to creditworthy families.

To ensure all creditworthy borrowers have fair access to mortgage credit and to protect taxpayers, any framework to reform GSEs must align with the principles outlined below:

Preserve and Strengthen the System's Affordable Housing Mission:

- Preserve and strengthen the affordable housing goals as a mechanism to ensure that housing finance needs in underserved rural and urban communities are met.
- Preserve the broad Duty to Serve public interest mandate in the GSEs' charters.
- Preserve the Duty to Serve regulation to address shortages in underserved markets for affordable rental, rural, and manufactured housing.
- Ensure that the GSEs make full and regular contributions to the Housing Trust Fund and the Capital Magnet Fund.

Preserve and Enhance Fair Housing and Anti-Discrimination Protections:

- Protect longstanding fair lending laws and regulations with well-resourced oversight mechanisms.
- Provide increased transparency to ensure the public has information about the ways in which the system is serving different types of borrowers and communities.
- Ensure that creditworthy borrowers in underserved communities have access to affordable conventional loans and are not limited to government-insured or guaranteed mortgages.
- Remedy the historical marginalization of communities of color and discriminatory practices within the mortgage market due to federal policies.
- Ensure that employment and supplier channels are diverse and inclusive.

Provide Broad Access for Borrowers, Institutions and Regions:

- Provide access to mortgage credit on safe, sustainable terms for all creditworthy borrowers.

- Ensure that the system provides liquidity in all regions at all times.

Promote Access and Affordability in the Housing Finance System:

- Provide community lenders and credit unions access to the full benefits of the housing finance system, including equal access to the cash window.
- Ensure that rural lenders, which rely heavily on GSEs, have fair, broad and affordable access to the housing finance system.
- Ensure that the housing finance system is adequately serving the needs of Minority Depository Institutions.
- Provide effective support to Community Development Financial Institutions (CDFIs).

Preserve the Availability of Inclusive Loan Products and Services:

- Promote cost-effective loan modifications.
- Preserve FHA-insured lending, responsible low-down payment mortgage loans, and ensure access to existing down payment assistance programs.
- Integrate HUD-approved housing counseling agencies into the home buying process with borrowers to improve outreach to underserved communities and strengthen mortgage applications by LMI borrowers; utilize HUD approved housing counseling agencies to help existing borrowers who are experiencing financial stress.
- Preserve and expand financing for affordable rental housing options.
- Significantly expand the National Housing Trust Fund and the Capital Magnet Fund.

Protect Taxpayers:

- Protect post-crisis reforms that required stronger capital standards for all parties in the housing finance system and set strong standards for sustainable mortgages.
- Eliminate excessive and/or unfair risk-based pricing as working families were not the cause of the 2008 housing crash and thus should not bear the burden of the risk by being forced to pay for the probability cost of another financial meltdown created by systemic failures.
- Provide utility-type regulation, including regulation of products, pricing, and rates of return to further the GSEs' public mission and curb risky business practices.

Should you have any questions, please feel free to contact Julius Niyonsaba (jnnyonsaba@nul.org) at the National Urban League's Washington Bureau or any of the undersigned organizations. Thank you for your consideration of our views on this critical matter.

Sincerely,

National Urban League
Center for Responsible Lending
The Leadership Conference on Civil and Human Rights
NAACP
National Coalition for Asian Pacific American Community Development
National Fair Housing Alliance
UnidosUS (formerly National Council of La Raza)
National Community Reinvestment Coalition

CC: United States Senate Committee on Banking, Housing, and Urban Affairs
United States House Committee on Financial Services
United States Department of the Treasury
United States Department of Housing and Urban Development



Jim Nussle
President & CEO

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99 M Street SE
Suite 300
Washington, DC 20003-3799

September 9, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking,
Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's credit unions, thank you for holding the hearing entitled, "Housing Finance Reform: Next Steps." The Credit Union National Association (CUNA) represents America's state and federal credit unions and the 115 million members that they serve.

We believe that the Administration's recently released proposal, along with the Chairman's early blueprint for housing finance reform, are important first steps in beginning the work of rebuilding the secondary mortgage market and accomplishing the objective of housing finance reform. CUNA and our credit union members are committed to working with both Congress and the Administration to refine and build upon those proposals to ensure that they accomplish a strong and sustainable secondary mortgage market for the future.

Credit Unions' Relationship to the Secondary Mortgage Market

The nation's 5,500 credit unions are unique, member-owned, democratically-controlled, not-for-profit financial cooperatives. Many of those members rely on their credit union to meet their housing finance needs. In each of the past three years, credit unions extended nearly \$140 billion in first mortgages to members and nearly two-thirds of that total consisted of fixed-rate loans.

A robust, smoothly functioning national housing finance system with an efficient, effective and fair secondary market that provides equal access to lenders of all sizes is a key concern for credit unions and the members they serve.

Credit unions are a small, but increasingly important, source for working Americans to obtain safe, affordable mortgages. Collectively, credit unions held a total of \$432 billion in first mortgages at year-end 2018. This represents 41% of total loans in these institutions – up from 25% of total loans at yearend 2000.

Credit union first mortgage originations accounted for nearly 9% of total U.S. first mortgage originations in 2018 – up significantly from 2% of total originations annually prior to the start of the financial crisis.

cuna.org

According to 2017 Home Mortgage Disclosure Act (HMDA) data the average first mortgage loan size at credit unions is approximately \$200,000 – roughly 28% lower than the average loan size at banks. Credit union mortgage loan applicant incomes are about 15% lower than the average at banks.

Credit unions are primarily portfolio lenders, reflected in the fact that only 30% of these institutions sold mortgages into the secondary market in 2018. However, credit union mortgage operations depend on a smoothly-functioning secondary market: As a group, credit unions sold one-third of their first mortgage originations into the secondary market in 2018 and sold an average of 39% of their originations since 2000. Sales peaked at nearly 55% of originations in both 2009 and 2012.

The Principles that Should Guide Housing Finance Reform

Accordingly, as Congress and the Administration work together to reform the current housing finance system, it will be essential for any final reform proposal to prioritize the following principles:

Equal Access: The secondary market must be accessible to lenders of all sizes on an equitable basis;

Affordability: The housing finance system must continue to provide qualified consumers with access to predictable, affordable mortgage payments; Affordability includes recognition of the fact that smaller lenders, such as credit unions, often meet mortgage needs that banks are unwilling or unable to address in rural and working-class communities that require greater flexibility in underwriting requirements and weigh against mandatory minimum downpayments.

A Reasonable and Orderly Transition: Any transition to a new housing finance system must be reasonable and orderly; Accordingly, efforts to transfer guarantee oversight authority to entities, such as Ginnie Mae, must honestly assess and plan for the operational, staffing, and intellectual know-how deficits that exist at those entities and could frustrate the operation of the secondary mortgage market if not acknowledged, addressed, and corrected well in advance of any transition.

Strong Oversight and Supervision: Secondary market entities must be subject to appropriate regulatory and supervisory oversight to ensure their safety and soundness;

Durability: The housing finance system should include an explicit federally insured or guaranteed component to ensure that, even in troubled economic times, the secondary mortgage market continues to exist; and

Preserving What Works: The housing finance system should preserve the things that work, such as cost-effective and member-oriented credit union mortgage servicing options, emphasizing consumer education and home-purchase counseling, and applying reasonable conforming loan limits that adequately consider local real estate expenses in higher cost areas.

The future secondary mortgage market must build upon and strengthen the existing partnerships between credit unions, guarantors, and Federal Home Loan Banks in ensuring access to responsible and affordable mortgage credit for millions of credit union members.

The Essential Features Necessary for Credit Unions and Other Small Lenders to Continue to Provide Affordable Conventional Mortgage Credit

Yet, as important as it is to act to reform the secondary mortgage market, it's even more important to get it right. CUNA and our members continue to believe that for credit unions and our members, getting it right should mean one thing:

Community lenders must be at the core of the future secondary mortgage market.

Consumers want and need responsible, affordable mortgage credit. Historically, it has been community lenders—credit unions and community banks—that have provided access to mortgage credit minus predatory features and without having to first be prompted by their regulators to do so. It bears repeating that retail credit unions—rural, urban, large, and small—did not play a role in the subprime meltdown and ensuing financial crisis. Instead, as careful lenders and not-for-profit cooperatives, incentives at credit unions were already aligned in a way that helped ensure that lenders prioritized member owners' interests over financial profits. Credit unions continue to prioritize member owners' interests today by offering responsible, affordable mortgage loans.

Equity

The ability to offer these products is highly dependent upon the liquidity that the secondary mortgage market provides. So, it is critical that any serious housing finance proposal start with the proposition that the future system should function well for lenders of all shapes and sizes.

That means the future secondary mortgage market must be equitable. Acceptable reform proposals must prevent community lenders from being priced out of the secondary market by giveaways to big banks and huge mortgage finance companies in the form of volume pricing discounts, exceptions from complying with certain terms, and other forms of preferential treatment. All lenders should feel confident that they can access the secondary market on a level playing field with everyone else. Ultimately, both consumers and the market benefit when community lenders can fairly compete for mortgage business.

Pricing parity is a crucial change in the way that Fannie Mae and Freddie Mac do business that only occurred as a result of their conservatorship. It is also a feature of Sen. Crapo's housing finance reform outline. Going forward, it must be a core component of the modern secondary market.

Anti-Discrimination Principle

By itself, however, pricing parity will not achieve equity for community lenders. Proposals for a private multi-guarantor model must go one step further and include an obligation for guarantors to serve all lenders. Absent this obligation, the secondary market of the future may devolve into a system where guarantors simply "cherry-pick" and exclusively do business with lenders offering larger volumes of loans. That result would be detrimental to community lenders and borrowers, who are increasingly turning to smaller, community-based financial institutions to meet their mortgage needs. Ensuring community lenders' equal access to the secondary mortgage market and protecting them from discrimination honors consumer preference.

Preservation of the Cash Commitment Window

Finally, in order to ensure equity for community lenders, the modern secondary market must preserve the cash commitment window. Smaller lenders need to be able to deliver a single conforming mortgage

and receive funding the next day. The simplicity of the cash commitment window is critical for community lenders who are attempting to meet their consumers' needs for mortgage credit without operating a full-scale secondary mortgage market operation. Access to a simplified program allows community lenders to lend to consumers and manage the risk on their books without delving into the complexity of the securitization process.

Each of these features—pricing and term parity, an obligation to serve all lenders, and the simplicity of a cash commitment window—are crucial components of any secondary market housing finance reform proposal that honestly seeks to ensure community lenders can compete and offer consumers an alternative to big banks and huge mortgage finance companies. Given the increasing market share that credit unions have gained in the primary mortgage market over the years, it is clear that our member owners want to be able to count on their community lender when it comes to buying a home.

Conclusion

On behalf of America's credit unions and their 115 million members, thank you again for holding this hearing to continue the discussion on the next steps for housing finance reform. We appreciate your consideration of our views and welcome the opportunity to work with both the Administration and Congress to develop Administrative actions and legislation that ensures that the future secondary mortgage market successfully meets the needs of smaller lenders and the consumers that they serve.

Sincerely,



Jim Nussle
President & CEO

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Boston Properties



The Real Estate Roundtable

September 9, 2019

Senator Mike Crapo
Chairman
Senate Committee on Banking,
Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington DC 20510

Senator Sherrod Brown
Ranking Member
Senate Committee on Banking,
Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington DC 20510

Dear Chairman Crapo and Ranking Member Brown:

We commend you on holding a hearing to address the next steps in the important process of reforming the nation's house finance system.

Housing finance is a vital sector of the American economy. As such, it is important for Congress to guide the housing finance reform process to maintain stable, sustainable housing markets that best serve our nation's communities.

While we appreciate the Treasury Department's constructive proposal for both legislative and administrative reforms to the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, we continue to urge both the Treasury and the Federal Housing Finance Agency (FHFA) to work with Congress to end conservatorship through comprehensive, bipartisan, legislative reforms.

We are pleased that the Treasury plan includes a number of useful reform principles, including an explicit, fully paid for guarantee, taxpayer protection, an emphasis on more private sector involvement in housing finance, and a recognition of the disincentives posed by regulatory barriers such as rent control. We are also encouraged by Treasury's effort to enhance private involvement in multifamily lending by refocusing the GSEs on affordable and workforce housing. In particular, the GSEs are increasingly competing with the private market to finance class "A" high-end market rate apartments, which already have liquidity and capital availability from private sources. We believe this is an area that warrants further exploration by FHFA. However, care must be taken to appropriately calibrate any restrictions on multifamily lending to avoid any unintended consequences to aggregate credit capacity – particularly in times of economic distress.

We appreciate the Committee's commitment to addressing the long-term housing finance reform efforts necessary to end GSE conservatorship permanently and maintain the foundation for stronger, stable system that helps ensure all in America have access to affordable housing opportunities.

We remain committed to working with Congress and the Administration to enhance a sustainable housing finance system that meets the housing finance needs of the American economy while protecting the taxpayer and appreciate this opportunity to comment.

Sincerely,

Jeffrey D. DeBoer
President and Chief Executive Officer



September 10, 2019

Senator Mike Crapo
Chairman
Senate Committee on Banking, Housing &
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Senator Sherrod Brown
Ranking Member
Senate Committee on Banking, Housing &
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the Commercial Real Estate Finance Council (CREFC), I commend you for your continued leadership in evaluating potential reforms to our nation's housing finance system.

CREFC and the CRE finance industry are looking forward to today's hearing on the Administration's Housing Reform Plans, including recommended legislative and administrative changes to Fannie Mae and Freddie Mac, the Department of Housing and Urban Development, and Ginnie Mae. Multifamily finance and affordable housing are essential aspects of any housing reform plan. CREFC and the entire CRE finance industry are now hard at work analyzing the details of the plans and their ramifications for the US housing finance market.

CREFC is the trade association for lenders, investors, and servicers engaged in the \$4.3 trillion commercial real estate finance industry. More than 315 companies and 10,000 individuals are members of CREFC. Member firms include balance-sheet lenders, (bank, insurance companies, publicly-traded commercial mortgage REITs, and non-bank private lending platforms) and securitized lenders, loan and bond investors, private equity firms, servicers, and rating agencies, among others.

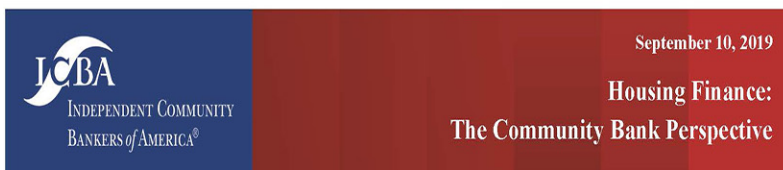
CREFC members believe it is critical that any housing finance reforms strike the appropriate balance between public and private sector funding for multifamily finance and affordable housing, while ensuring that the overall stability of the system is not undermined.

CREFC is grateful for the continued opportunity to add our voices to this important debate and to serve as a resource for the Administration, Congress, and the appropriate regulatory bodies to ensure that all forms of multifamily finance are available to property owners and the renters they serve.

Sincerely,

Lisa Pendergast
Executive Director
CRE Finance Council

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Chairman Crapo, Ranking Member Brown, members of the Committee, the Independent Community Bankers of America, representing community banks across the nation with more than 52,000 locations, appreciates the opportunity to provide this statement for the record in connection with today's hearing "Housing Finance Reform: Next Steps."

ICBA greatly appreciates Chairman Crapo's efforts to support the recently released reports from the Treasury and the Department of Housing and Urban Development (HUD) regarding housing finance reform by holding this hearing with the agency heads responsible for carrying out the Administration's housing plan. ICBA strongly supports reform, but it is essential to borrowers and the broader economy that the details of reform are done right. ICBA looks forward to working with the Administration, the Federal Housing Finance Agency (FHFA), HUD, and this Committee by providing ongoing input on the impact of any proposed reform on community banks and their customers.

Immediate Focus Must Be on Recapitalization

The Treasury Report outlines various proposals to strengthen the capital position of the housing government-sponsored enterprises (the GSEs), Fannie Mae and Freddie Mac. Some of these proposals require legislation while others can be done administratively by FHFA and Treasury. ICBA urges FHFA and Treasury to move quickly to end the net worth sweep of GSE earnings which will allow both entities to begin to rebuild their capital buffers. This action could be accomplished prior to the release of the final GSE capital framework that FHFA is currently contemplating. Retaining earnings between now and January 1, 2020 will aid both GSEs in complying with the implementation of the Current and Expected Credit Loss (CECL) accounting requirements for provisioning for loan losses. It has been estimated that without any additional capital one or both GSEs could face a negative equity situation due to CECL and require a draw from the Treasury. Retaining both second and third quarter earnings this year should prevent any possible negative equity situation.

As outlined in the Treasury Report, once the FHFA has finalized the GSE capital framework, FHFA will direct the GSEs to develop and file capital restoration plans, as required by the Housing and Economic Recovery Act (HERA), which should provide a road map towards full recapitalization for the industry, taxpayers, and policy makers. The plans must detail the GSEs' capital framework, activities, milestones, and timeframe to achieve desired capital levels. FHFA will need to clearly articulate the milestones each GSE must pass in order to exit from conservatorship. These plans are critical for all stakeholders. They must ensure the process is transparent with robust oversight by FHFA. Recapitalization cannot wait for legislative reform to occur. However, legislative reform can and should complement and support the recapitalization efforts by FHFA.



Community Banks and the Mortgage Market

Community bank mortgage lending is vital to the strength and breadth of America's housing market. Community banks represent approximately 20 percent of the mortgage market, but more importantly, our mortgage lending is often concentrated in the rural areas and small towns of this country, which are not effectively served by large banks. For many rural and small-town borrowers, a community bank mortgage loan is the only option.

A vibrant community banking sector makes mortgage markets everywhere more competitive, and fosters affordable and competitive interest rates and fees, better customer service, and more product choice. The housing market is best served by a diverse group of lenders of all sizes and charter types. More than 10 years after the beginning of the financial crisis, an already concentrated mortgage market has become yet more dangerously concentrated. We must promote beneficial competition and avoid further consolidation and concentration of the mortgage lending industry.

Fair Access to the Secondary Market

Secondary market sales are a significant line of business for many community banks. According to an ICBA survey, nearly 30 percent of community bank respondents sell half or more of the mortgages they originate into the secondary market.¹ When community banks sell their well-underwritten loans into the secondary market, they help to stabilize and support that market. Community bank loans sold to Fannie Mae, Freddie Mac, and the Federal Home Loan Banks are underwritten as though they were to be held in the bank's portfolio. Selling loans to the GSEs allows the community bank to retain the servicing on those loans, thereby keeping their relationship with that borrower. Loans that are serviced by locally based institutions tend to lead to better outcomes for borrowers and their communities. Many non-GSE secondary market investors require transfer of servicing when they purchase a loan.

While community banks choose to hold many of their loans in portfolio, it is critical for them to have robust secondary market access to support lending demand with their balance sheets. Selling mortgage loans into the secondary market frees up capital for more residential mortgages or other types of lending, such as commercial and small business lending, which support economic growth in our communities.

Even those community banks that hold nearly all of their loans in portfolio need to have the option of selling loans in order to meet customer demand for long-term fixed rate loans. Meeting this customer demand is vital to retaining other lending opportunities and preserving the relationship banking model. As a community bank, it is not feasible to use derivatives to offset the interest rate risk that comes with fixed rate lending. Secondary market sales eliminate this

¹ ICBA Mortgage Lending Survey, September 2012.



risk. The ability to sell a single loan for cash, not securities, is critical because most community banks do not have the lending volume to aggregate loans and create mortgage-backed securities (MBS), before transferring them to Fannie Mae or Freddie Mac. In addition, the GSEs will not appropriate data from loans sold to solicit customers with other banking products.

Key Features of a Successful Secondary Market

The stakes involved in getting housing-finance market policies right have never been higher. Housing and household operations make up 20 percent of our economy and thousands of jobs are at stake.

ICBA's approach to GSE reform is simple: use what is in place today and is working and focus reform on aspects of the current system that are not working or that put taxpayers at risk. If reform is not done right, the secondary market could be an impractical or unattractive option for community banks. Proposals that would break up, wind down, sell or transfer parts of the GSEs' infrastructure to other entities would end up further concentrating the mortgage market in the hands of the too-big-to-fail players, putting taxpayers and the housing market at greater risk of failure. Further such proposals run the risk of disrupting liquidity in the \$5 trillion housing market that community banks and homebuyers depend on.

Below are some of the key principles community banks require in a first-rate secondary market.

- ***The GSEs should be allowed to rebuild their capital buffers.*** As stated above, ICBA believes the first step in GSE reform must be restoring the GSEs to a safe and sound condition. Regardless which approach or structure reform takes, the existing system must be well capitalized to prevent market disruption or additional taxpayer support in the event of one or both GSEs requiring a draw from the U.S. Treasury during what is likely to be a lengthy debate and transition period to any new structure or system.
- ***Lenders should have competitive, equal, direct access on a single-loan basis.*** The GSE secondary market should continue to be impartial and provide competitive, equitable, direct access for all lenders on a single-loan basis that does not require the lender to securitize its own loans. Pricing to all lenders should be equal regardless of size or lending volume.
- ***An explicit government guarantee on GSE MBS is needed.*** For the market to remain deep and liquid, government catastrophic loss protection on mortgage backed securities must be explicit and paid for through the GSE guaranty fees, at market rates. This guarantee is needed to provide credit assurances to investors, sustaining robust liquidity even during periods of market stress.
- ***The TBA market for GSE MBS should be preserved.*** Most mortgage lenders are dependent on a liquid to-be-announced (TBA) market that allows them to offer interest rate locks while hedging interest rate risk with GSE mortgage-backed securities that will be created and delivered at a later date. Creating new GSE MBS structures, or using customized capital markets structures that provide front end credit risk transfers, generally makes the resulting MBS "non-TBA."



- ***Strong oversight from a single regulator will promote sound operation.*** Weak and ineffective regulation of the GSEs enabled them to stray from their primary mission as aggregators, guarantors, and securitizers. As required by HERA, the FHFA must ensure the secondary market operates in a safe and sound manner so taxpayers are not put at risk. It is incumbent upon FHFA to ensure the GSEs are adequately capitalized commensurate with their risks and compliant with their primary mission.
- ***Originators should have the option to retain servicing, and servicing fees must be reasonable.*** Originators should have the option to retain servicing after the sale of a loan. In today's market, the large aggregators insist that lenders release servicing rights along with their loans. Transfer of servicing entails transfer of customer data which can be used for cross-selling. While servicing is a low-margin business, it is a crucial aspect of the relationship-lending business model, giving originators the opportunity to meet the other lending or financial services needs of their customers. Additionally, in general, consumers receive better service when their loans are serviced on a local level than when they are serviced by entities that did not originate their loan and are located out of their market area.
- ***Complexity should not force consolidation.*** Under the current GSE model, selling loans is relatively simple. Sellers take out commitments to sell loans on a single-loan basis and are not required to obtain complex credit enhancements, except for private mortgage insurance for loans exceeding 80 percent loan-to-value or other guarantees. Any future secondary market/GSE structure must preserve this relatively simple process for community banks and other small lenders that individually do not have the scale or resources to obtain and manage complex credit enhancements from multiple parties.
- ***GSE shareholder rights must be upheld.*** Any reform of the housing finance system must address the claims of GSE shareholders and respect the rule of law that governs the rights of corporate shareholders.

ICBA's Way Forward

ICBA's approach to GSE reform is simple: Use what is in place today and is working and modify the parts of the current system that are not. Our approach has two parts: Reforms that can be accomplished administratively by FHFA within HERA and reforms that require Congressional action. These reforms are categorized below.

Administrative Reforms

- End the net worth sweep and retain earnings to rebuild capital.
- GSEs develop and file capital restoration plans with FHFA for approval.
- FHFA approves plans, directs the GSEs to implement.
- FHFA provides recapitalization plans to marketplace along with milestones and clear path to full recapitalization and eventual release from conservatorship.
- FHFA and Treasury resolve preferred stock purchase agreements (PSPAs)/dividend/commitment fee issue as well as any other covenants to PSPAs that may be needed to address any Treasury support /guaranty.

Legislative Reforms



- Provide the explicit government guaranty on the MBS.
- Permanent caps on GSE retained portfolios.
- Permanent elimination of preferential pricing/loan sale terms for lenders based on production volume or market share.
- Convert FHFA's governance structure to 5-member board rather than single Director.
- Change GSE charters to shareholder-owned financial utilities.
- Provide FHFA additional authority to regulate the GSEs as utilities.

ICBA Does Not Support

- Chartering of additional guarantors or entrants who could access the GSE guaranty.
- Selling off GSE assets and intellectual property to other market entities.
- Use of Ginnie Mae (GNMA) platform or MBS structure.
- FHFA control or managing of GSE market share.

ICBA Concerns with Multiple Guarantor Model

The Treasury Plan provides for the chartering of additional guarantors that would be able to apply the government guaranty on MBS similar to Fannie Mae and Freddie Mac. The stated purpose of adding more guarantors into the system is to enhance competition in the secondary market by providing more choices for lenders when they sell their loans. Moreover, it has been argued that additional guarantors would reduce market reliance on the GSEs thereby shrinking their footprint. While encouraging competition sounds attractive, we are concerned that competition in this space would not be helpful and could even be dangerous. Below we describe some of our concerns with the multiple guarantor model.

There is robust competition in the private secondary market which aligns with the goal of increasing private capital. The private secondary market comprised of aggregators, real estate investment trusts (REITs), portfolio lenders and issuers of private label MBS (PLMBS) offer a broad range of products and programs to the lending industry. These secondary market entities compete on price and credit, buying loans that may or may not be eligible for sale to the GSEs. Jumbo loans are a good example where the private market provides better execution than competing high balance loan programs of the GSEs. Additionally, the private market for "non-qualified mortgage" and "just outside GSE guidelines" has developed and is quite robust. Competition should be in the private market where there is no government guaranty and taxpayers are not put at risk. Chartering additional guarantors to compete with the GSEs, as envisioned by the Treasury would result in a degradation of credit standards as these entities compete to build market share to generate returns for their shareholders, likely culminating in an event similar to the housing market collapse of 2007. The only difference would be that now the government and the taxpayers would be obligated to support those MBS.

The current duopoly of the GSEs provides a more controlled level of innovation and competition within the confines of their statute and mission overseen by a strong regulator.

Multiple guarantors may increase taxpayer risk rather than reduce it. One of the primary goals of GSE reform is



to protect taxpayers from having to bail out or step in to support the housing market in times of stress or if an entity fails. As proposed in the Treasury Plan, the government would provide an explicit guaranty on the MBS issued by certain approved guarantors, including the GSEs. If any guarantor fails, the government would be obligated to continue to make the principal and interest payments on the MBS issued by the failed entity. The more chartered entities there are, the more likely it is that a failure will occur and that taxpayers will be tapped to cover the losses.

Multiple guarantors threaten liquidity in the current system and TBA market. The vast liquidity of the GSE secondary market depends on the TBA “good delivery” status of the GSEs’ MBS. In June both GSEs began issuing the Uniform Mortgage Backed Security or UMBS. The key change is that the UMBS will co-mingle loans from both GSEs which will help increase the overall liquidity in the MBS market. However, in order to maintain this liquidity, the GSEs will be required to maintain near perfect alignment of programs and underwriting guidelines to keep prepayment speeds of their respective loans/securities nearly identical. FHFA and the GSEs have agreed to a very intensive monitoring process to ensure security performance remains aligned. Adding loans into the UMBS from additional guarantors would make this process even more challenging and would likely lead to the loss of the “good delivery” TBA status. This in turn would harm community banks and other smaller lenders more than the large national aggregators and banks.

Finally, given the high levels of capital that would be required to be a guarantor, only the largest financial entities would be able to form, capitalize, and run a guarantor which would further consolidate the mortgage market within Wall Street and the too-big-to-fail banks.

Problems with Using GNMA

The Treasury Plan proposes to create a new class of MBS which would be backed by conventional, not government insured, loans and would be “wrapped” by the Government National Mortgage Association (GNMA) to achieve the explicit government guaranty on the MBS. GNMA currently provides this guaranty on MBS backed by FHA/VA and USDA rural housing loans, all of which are insured or guaranteed by the government. This would be a completely new class of MBS. While this sounds like a novel way to obtain the explicit government guaranty on conventional MBS issued by the GSEs, there are major hurdles to implementing this idea. These include:

- GNMA, with less than 200 staff, is critically under-resourced, overly reliant on outside contractors, and subject to the appropriations process. The agency can barely support the 400 approved issuers and servicers and its current \$1.5 trillion book of business. Contrast that to the GSEs’ nearly 3000 approved seller-servicers and \$5.4 trillion book of business supported by nearly 8,000 staff. Being subject to the appropriations process will create uncertainty and could put taxpayers at risk due to operational failure. Current issues with prepayments, liquidity, and concentration of GNMA servicing rights highlight some of the flaws of the GNMA model.
- GNMA is an issuer model not a guarantor model. Obtaining sale treatment on conventional loans with private risk sharing would be very expensive. As stated above, GNMA currently provides a guaranty on the MBS backed by loans where the government assumes most if not all of the credit risk. While GNMA does not assume or manage credit risk, it does manage counterparty risk and liquidity risk but does not acquire or guaranty the loans themselves. Issuers of GNMA MBS get sale treatment of their loans because the government assumes the credit risk. The Treasury Plan is unclear how this model would work with conventional loans. However, to achieve sale treatment would require very deep credit support from a guarantor which would be very expensive to achieve, making the price execution to the lender uncompetitive. It is also unclear how the servicing contract would work



as the GNMA servicing contract is very different than the GSE servicing contract and not as attractive to community banks and others as evidenced by the small number of approved issuers/servicers, most of which tend to be larger non-bank servicers.

Closing

Whatever course housing finance reform takes, the worst outcome would be to allow a small number of mega-firms to mimic the size and scale of Fannie and Freddie under the pretense of creating a private sector solution strong enough to assure the markets in all economic conditions. Moral hazard derives from the concentration of risk, and especially risk in the housing market because it occupies a central place in our economy. Any solution that promotes consolidation is only setting up the financial system for an even bigger collapse than the one we have been through.

The GSEs must not be turned over to the firms that fueled the financial crisis with sloppy underwriting, abusive loan terms, and an endless stream of complex securitization products that disguised the true risk to investors while generating enormous profits for the issuers. These firms must not be allowed to reclaim a greater systemic risk profile in our financial system.

ICBA is pleased to see a robust debate emerging on housing finance reform and we are encouraged by the release of the Treasury's plan.

Thank you for holding today's hearing and for the opportunity to submit this statement today. It is critically important the details of reform are done right to ensure community banks and lenders of all sizes are equally represented and communities and customers of all varieties are served.



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National Association of Federally-Insured Credit Unions

September 9, 2019

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's Hearing: Housing Finance Reform: Next Steps

Dear Chairman Crapo and Ranking Member Brown:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in regard to tomorrow's hearing entitled "Housing Finance Reform: Next Steps." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 118 million consumers with personal and small business financial service products. NAFCU has long advocated for housing finance reform because the current conservatorship of Fannie Mae and Freddie Mac (the GSEs) is unsustainable in the long term. We are pleased to see the Committee continue this important discussion.

NAFCU's Housing Finance Reform Principles (see [here](#)) recognize the importance of a strong, independent regulator for the GSEs. The reports released last week from the Administration were another important step in the housing finance reform debate and NAFCU is encouraged to see this dialogue move forward. As NAFCU has previously communicated to the Committee, a legislative solution is essential and should be the primary focus prior to major administrative action. Congressional action is the only way to ensure key elements from NAFCU's Housing Finance Reform Principles, such as guaranteed access for community financial institutions, fair pricing based on quality and not quantity of loans sold, and a level playing field allowing institutions of all sizes to compete, are included in reforms. Furthermore, any major changes should come gradually, so as not to disrupt the market. We are pleased to see the continued focus on ensuring the GSEs are well capitalized so that taxpayers will never again have to bail out the mortgage giants in the event of a severe economic downturn. The stability of this nation's housing finance system depends on the safety and soundness of the GSEs.

NAFCU appreciates the Committee's continued attention to housing finance reform. NAFCU looks forward to continuing to review these proposals and work with Congress and the Administration as you continue to examine the next steps for reform. Should you have any questions or require additional information, please do not hesitate to contact me or Max Virkus, NAFCU's Associate Director of Legislative Affairs, at 703-842-2261.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee



September 9, 2019

The Honorable Michael Crapo
Chairman
U.S. Senate Committee on
Banking, Housing, and Urban Affairs
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on
Banking, Housing, and Urban Affairs
503 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown,

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) are writing to commend you for taking the lead in examining the recently released Administration plan for reforming the housing finance system. The apartment industry relies on access to financing for multifamily properties in all markets at all times and has a keen interest in getting housing finance reform right.

We share the Administration's desire to move toward a more stable, lasting housing finance system envisioned in the report request to the Department of the Treasury and Department of Housing and Urban Development's (HUD). There are several aspects of their respective plans that are encouraging, such as continued support of Fannie Mae and Freddie Mac (the Enterprises) during conservatorship, recommending an explicit, paid-for government guarantee, identifying the barriers to building apartments, and recognizing the important role of the Enterprises in providing financial liquidity to the apartment industry.

As Congress and the Federal Housing Finance Agency consider legislative and regulatory action impacting the Enterprises, we do want to voice our concerns about several aspects of the proposals that could have a negative impact on the apartment industry at a time when our nation's housing supply is stretched well beyond its ability to serve many American households, making access to capital more important than ever:

- Private capital is a critical contributor to apartment finance, yet the Treasury report suggests that the Enterprises' footprints should be constrained in ways that could disrupt capital flows to our industry.
- The Treasury report broadly calls for more first-loss risk sharing in housing finance, broadly, but fails to recognize the considerable risk sharing that is an integral part of the Enterprises' multifamily programs. In fact, such risk sharing

insulated Fannie Mae and Freddie Mac's multifamily programs from loss during the economic downturn.

- The Treasury report recommends elimination of affordable housing goals and replaces them with a market share target. Taken together, this could reduce the flow of capital to multifamily units housing moderate and lower-income Americans.
- The Treasury report recommends modifying the Preferred Stock Purchase Agreements (PSPA) that Treasury has with the Enterprises to limit the types of multifamily loans that Fannie Mae and Freddie Mac may guarantee. This constraint has no place in the PSPA and could have the consequence of limiting capital available to the multifamily industry, particularly during periods of economic distress and capital dislocation.

We thank you once again for taking the lead to hear how the recommendations in these reports could have an impact to the apartment industry. As Congress considers legislative changes, we look forward to working with the Committee to ensure that capital continues to be available to serve the multifamily industry in all markets at all times.

Sincerely,



Douglas M. Bibby
President
National Multifamily Housing Council



Robert Pinnegar
President & CEO
National Apartment Association

September 10, 2019

Statement for the Record

On behalf of the

American Bankers Association

before the

Banking, Housing, and Urban Affairs Committee

Of the

United States Senate

September 10, 2019



*September 10, 2019***Statement for the Record***On behalf of the***American Bankers Association***before the***Banking, Housing and Urban Affairs Committee****United States Senate****September 10, 2019**

Chairman Crapo, Ranking Member Brown and Members of the Committee, the American Bankers Association (ABA) is pleased to submit this statement for the record on the important topic of Government Sponsored Enterprise (GSE) reform and bank access to the secondary market. The ABA is the voice of the nation's \$17 trillion banking industry, which is composed of small, mid-size, regional and large banks that together employ more than 2 million people, safeguard \$13 trillion in deposits and extend more than \$9 trillion in loans.

We appreciate the work this committee has done thus far to refine proposals for GSE reform and the further efforts undertaken by the Administrations to move reform forward. The ABA, through input and deliberation from banks of all sizes and from all parts of the country, has developed a set of principles to guide the reform of Fannie Mae and Freddie Mac, which, as you know, have been in conservatorship for over a decade. These principles that should form the basis for legislative reform efforts, many of which are reflected in the Treasury report. We will withhold detailed comments on the Treasury's Reform Plan pending further review, analysis and feedback from our members, but we do commend the Administration for moving the process forward with this report. The report provides both legislative and administrative recommendations for reform and recognizes that legislative action is necessary in order to lock in durable reforms to the government's role in the secondary mortgage market – a point with which we strongly agree.

Below, we share again our principles for reform, along with initial commentary on how the Treasury report reflects or differs from those principles.

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1. **The GSEs or their successors must be strictly confined to a secondary market role of providing stability and liquidity to the primary mortgage market for qualified low- and moderate income borrowers and must be strongly regulated, thoroughly examined and subject to immediate corrective action for any violation.**

A reformed system must ensure that the GSEs or their successors stay focused purely on ensuring qualified borrowers are able to access affordable mortgage credit by advancing stable, affordable and readily available secondary market access to the primary market. Shareholder returns or other investment goals cannot be allowed to drive their mission. While a certain level of competition is desirable to ensure innovation and responsiveness to the market, competition cannot be allowed to spin out of control and take the existing or any future GSEs into other businesses or investment areas. Strong regulation will be necessary to keep the GSEs or any future competitors focused on their defined role.

The Treasury report recommends legislative action to lock in durable reforms to the GSE's, including restrictions on their investment portfolios and the scope of their activities. This is consistent with ABA's principles.

2. **In return for the GSE status and any benefits conveyed by that status, these entities must agree to support all segments of the primary market, as needed, in all economic environments and to provide equitable access to all primary market lenders.**

While the Treasury report is not explicit on serving all markets in all conditions, it does recommend that the GSEs or any future competitors be mono-line businesses serving only the secondary mortgage market. We urge the Congress, when considering reforms and potential future competitors to the GSEs, to make explicit the requirements to serve all markets in all economic conditions and to ensure equitable access to all eligible primary market lenders.

3. **Access must also include preservation of the "To Be Announced" (TBA) market and both servicing retained and sold options.**

The TBA market, also known as the Cash Window, allows originators to sell loans on an individual basis to the GSEs. This option must be preserved to ensure access to the secondary market for lower volume lenders or those who choose for business purposes to sell individual loans. Similarly, to ensure that originators may continue to service loans consistent with their chosen business model, flexibility to sell loans servicing retained or servicing released must be preserved in any reformed system.

The Treasury report explicitly recommends maintenance of the "Cash Window" for the existing GSEs and any future competitors.

4. **Mortgage Backed Securities issued by Fannie Mae, Freddie Mac or any future competitor should carry an explicit, fully-priced and fully transparent guarantee from the federal government.**

The key benefit conveyed by these entities to the primary market is access to long-term affordable liquidity for mortgage lending. To preserve that liquidity, the government

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guarantee is necessary, but taxpayers need to be fully compensated for the risks they bear in providing that guarantee. Fees necessary to support the guarantee must be charged and must be transparent so that they reflect the true cost of the guarantee, and only that cost. Fees should not be assessed to offset other government spending or priorities. It may be desirable to establish a segregated insurance fund to cover potential losses in the event that the guarantee is tapped in a crisis. Further, to ensure equitable access, the fees must be assessed equally on all lenders and in proportion to their volume of business with the GSEs.

The Treasury report recommends legislation to make the government guarantee explicit, and fully priced and fully paid for through the appropriate fees.

5. Fannie Mae, Freddie Mac and any future competitors must be capitalized appropriately to the risks borne and regulated to ensure that they remain so in all market conditions.

Currently, Fannie Mae and Freddie Mac are operating under conservatorship, with little capital and with all profits being swept to the U.S. Treasury as compensation for the federal investment and risks borne on behalf of taxpayers. It will be essential that going forward the GSEs or their successors have adequate capital relative to their exposures in order to withstand market downturns and must take into account the fact that they will be monoline businesses whose risks may be concentrated in certain circumstances. The ongoing risk to the taxpayer is perhaps the strongest reason that legislative reform is necessary.

We would note that FHFA has set forth a proposed capital structure for the existing GSEs on which ABA provided extensive commentary. We commend that to the committee for further detail on our views on capital requirements going forward and are including our comment letter as an attachment to this testimony.

The Treasury report recommends both administrative and legislative actions to establish more appropriate capital requirements for the GSEs and makes the meeting of such capital requirements a condition of the GSEs being removed from conservatorship.

6. Regulation of Fannie Mae, Freddie Mac and any future competitor must include establishment of sound and fair underwriting standards for the loans they purchase, and must be based upon and coordinated with underwriting standards applicable to the primary market.

Significant underwriting requirements imposed under the Dodd-Frank Act, most notably Ability to Repay (ATR) and Qualified Mortgage (QM) rules, while less than perfect, have significantly strengthened mortgage underwriting in the primary market. Going forward we believe it is desirable that these primary market underwriting requirements serve as a basis that supports all secondary market activity, regardless of whether residential mortgages are sold to the GSEs or their successors or to private label purchasers. As a general matter, mortgages sold into the secondary market with government guarantees should meet QM standards, whereas private label securitizations will only require the less stringent ATR standard as a baseline, although investors may establish additional standards at their discretion.

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For the primary market, loans originated and held in portfolio should automatically be granted QM status so long as they meet basic Ability-to-Repay requirements and do not run afoul of safety and soundness regulations. There is a powerful incentive that such loans are underwritten conservatively, as portfolio lenders hold 100 percent of credit risk and thus will only make loans that have a high degree of ability to be repaid.

For the secondary market, the so-called GSE Patch currently in place effectively allows Fannie Mae and Freddie Mac to confer Qualified Mortgage status to any loan they are willing to purchase. As a result, Fannie Mae and Freddie Mac define the nature and extent of risks to which taxpayers are exposed. This was a necessary but flawed mechanism to ensure that the new rules did not overly restrict mortgage credit when regulations in 2014 subdivided ATR mortgages into QM and non-QM categories and was deemed to be manageable as long as the GSEs were in conservatorship.

We are pleased that the Consumer Financial Protection Bureau has begun an effort to revise the QM standard and stated its intention to let the GSE Patch expire and replace the existing framework with a new one which is more broadly applicable, regardless of loan destination. We encourage the CFPB to work with the industry, the GSEs, the FHFA and all other interested parties work toward a smooth and seamless transition to avoid constricting credit availability.

No matter what regulatory definition replaces the open ended GSE patch, GSE guarantees should be limited to loans that have well-defined criteria. GSEs should adhere to a properly designed QM requirement to “earn” a federal guarantee that limits risk to taxpayers and will help to guide needed non-QM mortgages to a private label secondary market without taxpayer exposure.

The Treasury report endorses the CFPB’s view that the patch should expire. Treasury also calls for “further revisions to the ATR rule to ensure that mortgage lenders continue to have a bright line safe harbor after expiration of the QM patch.” The report recommends that Appendix Q, a set of preexisting guidelines used to comply with the CFPB rule, should be “revised or removed,” and that Congress and the CFPB should consider alternative approaches to establishing bright line safe harbors for ATR compliance that do not rely on prescriptive underwriting requirements, including setting a simple threshold for financing cost, below which a loan is considered QM. Another option would be to establish that a loan is QM after a specified seasoning period.

7. Credit Risk Transfers required by FHFA should be continued and expanded. Credit risk transfer must be a real transfer of risk and must be economically viable for the GSEs and the lenders they serve.

Several mechanisms for credit risk transfers have been critically important innovations introduced to the GSE model in recent years. They have helped to bring private market participation back to the mortgage markets and have had a real impact on reducing taxpayer exposure to GSE risks. They should become a permanent feature of secondary market financing. However, they must continue to be developed in ways that make economic sense for the GSEs, investors, primary market lenders, and for the borrowers they serve. Also,

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credit risk transfers must truly transfer credit risk in a permanent fashion to ensure taxpayer protection.

The Treasury report recommends FHFA use its existing authority – and recommends further legislation to allow for appropriate capital relief for the GSEs when they transfer mortgage credit risk through a diverse mix of approved credit risk transfers.

8. Any reform of the secondary mortgage market must consider the vital role played by the Federal Home Loan Banks and must in no way harm the traditional advance businesses of Federal Home Loan Banks or access to advances by their members.

The Federal Home Loan Banks (FHLBs) have provided mortgage financing in the form of collateralized advances to their member/owners for over 80 years. They have performed as intended, ensuring liquidity even in times of market crisis. Their effective crisis performance is traceable in part to incentives inherent to mutual ownership status, relatively high statutory capital requirements and fully collateralized lending. Changes to Fannie and Freddie may affect the FHLBs, even if unintended or indirect, and potential effects must be considered, accounted for, and preferably avoided. Additionally, the FHLBs may have the potential to play an expanded role in a revised secondary market system, but any expanded role that exposes members' investment in the System to additional risk must be separately capitalized and regulated in such a manner that it does not put at risk the traditional advance business of the FHLBs.

The Treasury report recommends legislators consider expansion of FHLB membership eligibility. This recommendation is of concern to ABA and our members, as it has the potential to destabilize the FHLB system, which is a member-owned cooperative. Introducing new members with different (or no) capital and a different risk profile for their business has the potential to undermine the operation of the FHLB system and to put existing members' capital at risk. ABA urges extreme caution to legislators looking at any potential changes to the FHLB system.

9. Affordable housing goals or efforts undertaken by the GSEs to expand the supply of affordable rental housing should be delivered through and driven by the primary market, and should be structured in the form of affordable housing funds available to provide subsidies for affordable projects.

The bright line between the primary and secondary market in the single family housing finance area should also broadly apply to the affordable housing and multifamily market. Primary market lenders should be the originators of these loans supported by access to stable, long term liquidity from the GSEs. Only in complex originations where the primary market lacks capacity should the GSEs be involved in direct financing, and strong regulation and oversight should be employed to ensure that there is no "cherry picking" of deals by the GSEs from the primary market.

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We believe the Federal Home Loan Bank Affordable Housing Program (AHP) provides a good model for other GSE affordable housing programs. The AHP is a competitive grant program created by Congress in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and began operations in 1990. The AHP is designed to address local housing needs. It is administered regionally by each Federal Home Loan Bank, working through its financial institution members and those members' community-based partners. Such community-based partners are working at the grass roots level and most closely understand the housing needs of their communities. To further ensure that AHP-funded projects serve local housing needs, each Federal Home Loan Bank is advised by an Advisory Council made up of community and nonprofit affordable housing and economic development organizations from within the Federal Home Loan Bank's district. This model helps to ensure that affordable housing funds are directed by actual needs in a community as identified by community groups and private market lenders in that community. The participation and guidance of local partners is a powerful tool when combined with the resources that can be made available through any GSE-based affordable housing fund or program. To date, the Federal Home Loan Bank AHP has awarded more than \$5.4 billion that has assisted in the purchase, construction or rehabilitation of more than 827,000 units of affordable housing across our nation.

The Treasury report recommends that Congress replace the GSE's statutory affordable housing goals with a more efficient, transparent, and accountable mechanism for delivering tailored support to first-time homebuyers and low-and -moderate income, rural, and other historically underserved borrowers, with a portion of the associated funding potentially transferred to the Department of Housing and Urban Development to expand affordable housing activities. Pending legislation, the report recommends that FHFA consider alternative and more efficient mechanisms to achieve the existing statutory goals.

Reform Need Not Be Radical or Extreme, but Comprehensive in Effect

Some have said the least disruptive path is to recapitalize and release the GSEs, without legislative reform – relying instead upon continuing regulatory actions such as those that have been put in effect during the conservatorship and are unique to the powers of conservatorship.

We reject that approach, as it would return us to the untenable situation of public risk-taking to the benefit of private investors. Even with current reforms in place it would encourage future abuses, instability and undue risks to U.S. taxpayers. Further, legislation is necessary to establish the explicit and targeted government guarantee that virtually all have come to accept as necessary.

Legislation should establish directed and limited activities, strong capital standards and a clear set of benchmarks for implementing and meeting those standards and a mandate to provide equitable access to all primary market participants, regardless of size or geographic location along

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with the ability to sell individual or groups of loans. A strong regulator must be part of reform, so too must be clear statutory guidance in this area.

It will also be necessary to ensure that a reformed system can meet these standards in practice and that reform is not overly complicated or uncertain in ways which could disrupt the housing finance system.

The Treasury report recommends specific legislative actions to lock in reforms and to set clear and defined standards. Administrative reforms that are recommended, including the rebuilding of capital by the GSEs will make legislative reform essential to prevent a repeat of past abuses, but the report also recommends safeguards pending legislative action – both to prevent abuses, and to ensure the stability of the mortgage markets.

The ABA appreciates the work of the committee and the Administration in keeping this focus on reform and moving the process forward. We look forward to working with Congress and the Administration to achieve lasting and significant reform.