



April 20, 2021

The Honorable Mark A. Calabria
Director
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, DC 20219

Dear Director Calabria,

The Massachusetts Mortgage Bankers Association (MMBA) and our members are concerned about recent regulatory changes at the Consumer Financial Protection Bureau (CFPB) combined with policy decisions made between the Treasury and the Federal Housing Finance Agency (FHFA) which are causing unrest and unsurety in the mortgage lending industry and may ultimately lead to consumer harm.

On behalf of lenders in Massachusetts who are striving to meet the credit needs of our consumers, we are asking you to reconsider the position of the Treasury and PSPA amendments to allow for flexibility in the implementation of the GSE purchase caps and provide proper notice to lenders before implementing technology changes.

As a background:

- On December 10, 2020, the CFPB issued two significant rulemakings pertaining to Qualified Mortgages (QM). In the first general QM rule, the CFPB terminated the “QM patch” and significantly revised underwriting criteria for what constitutes a QM loan. This QM patch will expire on July 1, 2021 or the date the GSE exit conservatorship. In the second “seasoned” QM rule: the rule created a pathway to “safe harbor” QM status for performing non-QM loans. Both rules were to take effect on March 1, 2020.
- On January 14, 2021 the Treasury and FHFA executed a document further amending the Preferred Stock Purchase Agreement (originally executed September 26, 2008 with subsequent amendments on May 6, 2009, December 24, 2009, August 17, 2012, December 21, 2017, and September 27, 2019). This agreement significantly reduces Fannie Mae and Freddie Mac’s secondary market presence.
- On February 23, 2021, the CFPB announced that it intends to delay the general qualified mortgage rule’s mandatory compliance date and may amend or revoke the “seasoned” QM rule that was supposed to become effective on March 1st.

- On April 7, 2021 both Fannie Mae and Freddie Mac issued lender letters with changes to loan eligibility for second homes and investment properties due to the amended PSPA.
- On April 8, 2021 both Fannie Mae and Freddie Mac issued lender letters with changes to loan eligibility due to the PSPA and Qualified Mortgage Rule. Specifically, these notices announced that the GSE's will no longer purchase loans that are GSE Patch loans that fail to meet the Revised QM Rule. There was an exception granted for HUD Section 184 loans and Rural Development Section 502 loans.

These changes in policies were put into place with no opportunity for discussion or review. The regulations have created confusion in the marketplace which we believe will be harmful specifically to consumers. It is apparent that FHFA, in preparation for ending the GSE's conservatorship, is gradually reducing their exposure and footprint for loans that are perceived as higher risk.

The implementation deadline for imposing these changes was woefully inadequate forcing lenders and consumers to act with undue haste to avoid significant and unnecessary hardship.

In addition, limiting access to the cash window as method of selling loans was something that most agreed needed to be preserved without limitations under any GSE reform.

QM Rule:

The April 8th lender letters prohibit the GSE's from purchasing loans that do not meet the revised QM rule, even if the CFPB extends beyond July 1, 2021 the mandatory compliance date of the new general QM rule. These loans must also be closed and fully funded by August 31, 2021.

Loan Origination Systems (LOS), Point of Sale systems (POS) and other lender deployed technologies must now be able to compute the APR and APOR rate spread with 100% certainty to enable a lender to determine if a loan meets the new General QM rule. Many LOS and POS system vendors will not be able to upgrade software in time for the July 1st deadline.

FHFA and the GSE's gave vendors and lenders less than a 90-day advance notice to implement this new measurement which is grossly insufficient.

In addition, there are pre-approvals and new construction loans already in the system and underwritten to the old QM standards which may not now meet secondary market QM standards and will be unable to close and fund by August 31st.

When the FHFA directs drastic policy changes without sufficient notice for implementation, this causes harm to consumers already in process. This is the second time in less than one year that the FHFA and Fannie/Freddie under their regulatory authority have unexpectedly changed important policies without providing a sufficient timeline for implementation.

GSE Purchase Caps:

The amended PSPA imposed caps on loans exhibiting "higher risk" characteristics – mortgages with 2 or more of the following features: credit scores below 680, combined loan-to-value ratios above

90%, or debt-to-income ratios above 45%. With the new caps, the GSE's are limited to a maximum portfolio exposure of 6% on purchases and 3% on refinances of such "higher risk" loans. If Fannie Mae and Freddie Mac already have the loans seeking refinances on their books, why are they limiting refinances of these same loans and harming consumers who seek to take advantage of lower interest rates or debt consolidation to help improve their financial position?

Limiting "higher risk" loans will have a disproportionate impact on low-to-moderate income borrowers and communities. This may impact Fair Lending. Once Fannie and Freddie reach their 6% cap -what happens to consumers needing to purchase or refinance? Do lenders say "sorry, you are too late"? Or maybe, "we can't offer you this lower fixed rate mortgage but can offer you a higher priced loan product"? What if a lender is unable to provide the best product and pricing to a LMI borrower because FHFA has reached their capacity and is more concerned with exiting conservatorship than it is with their mission of providing a reliable source of liquidity and funding for the housing finance market?

The PSPA amendment also limits their purchase of second homes and investment properties to no more than 7% of their combined loans. Consumers may not be able to refinance their second home for a lower payment or purchase a second home. Financing investment properties will and has increased dramatically. For every investment property financed, there are consumers renting those apartments. The higher cost of financing because of additional pricing adjustments for riskier loans will result in a higher the cost for renters, many of whom are LMI consumers.

Capping these various loan types and characteristics will likely increase the expense for the consumer to obtain these types of loans potentially pushing them into non-QM higher priced loans. Fannie Mae/Freddie Mac have continuously monitored loan risk and default probability through their various systems and have imposed significant pricing adjustments (LLPA'S) paid by borrowers to compensate for additional loan risk. Fannie and Freddie have not offered empirical proof as to why these so-called high-risk loans, are indeed high-risk loans.

The GSE's Mission

From the Fannie Mae website:

"Fannie Mae was chartered by U.S. Congress in 1938 to provide a reliable source of affordable mortgage financing across the country. Today, our mission continues to provide a stable source of liquidity to support low- and moderate-income mortgage borrowers and renters. One of the ways we do this by enabling greater access to affordable home and rental housing finance in all markets and at all times."

From the Freddie Mac website:

"We keep mortgage capital flowing by purchasing mortgage loans from lenders so they in turn can provide more loans to qualified borrowers. Our mission – to provide liquidity, stability and affordability to the U.S. housing market in all economic conditions – extends to all communities from coast to coast."

Has the mission of Fannie Mae and Freddie Mac changed? Is it more important to limit their lending footprint to end conservatorship than to provide mortgage capital for affordable mortgage financing?

On behalf of lenders in Massachusetts who are striving to meet the credit needs of our consumers, please reconsider the position of the Treasury and PSPA amendments to allow for flexibility in the implementation of the GSE purchase caps and provide proper notice to lenders before implementing technology changes.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah J. Sousa".

Deborah J. Sousa, Executive Director