NCRC
National Community Reinvestment Coalition

July 31, 2019

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump:

There have been a number of recent actions by the White House signaling the first real semblance of an Administration policy on affordable housing and homeownership. At the outset, we want to thank your Administration for including the National Community Reinvestment Coalition (NCRC) in outreach efforts to a wide array of stakeholders around the Memorandum on Federal Housing Finance Reform and the Community Reinvestment Act (CRA). It is difficult for low- and moderate-income (LMI) families outside of Washington policy circles to fully appreciate how consequential numerous policy actions under consideration across several regulators will be to their ability to buy homes and revitalize their communities.

We want to offer some views on the Administration's actions around affordable housing supply constraints and credit access challenges facing LMI families as well as a host of policy changes under review: Federal Housing Finance Agency (FHFA) and the Department of Treasury's next steps on ending the conservatorships and shrinking the mortgage market footprint of Fannie Mae and Freddie Mac -- the government-sponsored enterprises (GSEs); Federal Housing Administration's (FHA) changing appetite for credit risk; Administration proposals about the role of FHA and other federal credit programs vis-à-vis the role of the GSEs; the bank regulators reforms to the CRA regulatory framework; and CFPB's changing rules around mortgage market transparency and qualified mortgage rules. All of these policy changes will impact the extent to which LMI borrowers can access mortgage credit on fair terms, obtain affordable homeownership and build wealth.

I. White House Council on Eliminating Regulatory Barriers to Affordable Housing

We look forward to working with the newly-created White House Council on expanding the nation's affordable housing inventory. We welcome a serious dialogue about restrictive local zoning and land use rules that impede affordable housing construction, as well as other issues that include material prices, land prices and labor shortages. We would caution the Administration, however, against using this effort to undermine critical federal funding, consumer and labor protections and fair housing principles in local communities.

There is a broadening consensus among housing stakeholders across the political spectrum around restrictive local zoning that the Council can harness to accelerate policy change -- some of which has already begun locally. For example, NCRC has co-convened a broad cross-section of the housing industry and community development and civil rights organizations to create the Affordable Homeownership Coalition (AHC). The AHC is developing consensus principles and policies in response to the shortage of affordable homes for LMI families. If the Administration uses a "stick" approach that jeopardizes local budgets and critical federal funding, targets closely-guarded consumer or wage protections, or fair housing principles, then it could fracture a growing consensus, and do more harm than good.

II. Key principles on administrative reform of Fannie Mae and Freddie Mac

NCRC has long supported ending the GSEs conservatorships. We joined with small lenders in supporting the GSEs retaining an appropriate capital buffer that protects against downturns in the housing market and ensuring responsible reforms at the Enterprises that protect the affordable housing goals, related affordability obligations and access to the secondary market for small lenders.[1] We continue to have concerns with the GSEs guarantee fee increases that are charging LMI borrowers for capital that is being swept into the U.S. Treasury for general government spending, instead of being retained to offset any potential credit losses and for affordable housing purposes.

Importantly, as affordable housing advocates, we have come to appreciate that various aspects of the GSEs business operations can affect access for LMI families: whether capital

[1] See Main Street GSE Reform Coalition, Common GSE Reform Principles (July 2017)

requirements are reasonable; whether credit risk transfers are economic; the extent to which a loan insurance pool that includes investor loans, second home loans, high-balances guarantees helps finance low-balance and LMI loans; the significance of the GSEs charter obligations around affordable housing and a reasonable economic return on their tools for addressing LMI access issues; as well as control of and the obligations associated with the secondary market securitization infrastructure that the GSEs have developed. All these issues on the business operations side of the GSEs directly affect the level of cross-subsidization to LMI borrowers, the interest rate and fees they pay for mortgage credit and the level of effort focused on developing research and strategies that bring homeownership within their reach. Fundamentally, we believe the existing system, as reformed, works; it is better capitalized and regulated to withstand market downturns; and it enshrines critical affordable housing obligations that must be protected. [2]

A. The GSEs must have reasonable capital requirements; facilitate affordable pricing of conventional credit

Post-crisis, new federal laws and regulations have shored up capital, liquidity and other safety and soundness standards across the banking system. Consequently, the system is safer and sounder, with the 2008 Housing and Economic Recovery Act (HERA) also enacting stronger prudential oversight of the GSEs. Importantly, FHFA's final capital rule for the GSEs must reflect reforms across the banking system and at the GSEs, the monoline nature of their business, their actual credit and interest rate risk and historical credit performance, which has been far better than the nation's banks.[3]

We oppose anything approaching "bank-like" capital for the GSEs. They are not banks; their business-models are entirely different and post-crisis a number of limitations have been imposed on their business operations and the size of their retained portfolio. Bank-like capital would make conventional mortgage credit largely unaffordable for many LMI families who have historically demonstrated an ability to sustain homeownership and build home equity and

[2] Protecting the Duties to Serve in Housing Finance, NCRC (September 2015)

[3] "Historical data on single-family residential mortgage delinquencies and defaults for Fannie and Freddie versus commercial banks are readily available from the companies themselves and from the FDIC and Federal Reserve, and they tell a clear and consistent story…. single family mortgage delinquency and default rates at commercial banks consistently exceed the comparable rates recorded at Fannie and Freddie, by a factor of three." *Assessing the FHFA Capital Rule*, Howard on Mortgage Finance, June 2019.

wealth over time. We joined a coalition letter identifying several ways in which FHFA's proposed rule disadvantaged LMI borrowers.[4] We urge FHFA to address those issues and ensure that the GSEs final capital rule does not overcharge LMI borrowers, including for catastrophic risk. The more than doubling of the GSEs guarantee fees, increases in mortgage insurance pricing by private mortgage insurers and excessive risk-based pricing are also among the factors impacting the availability and affordability of mortgages for LMI borrowers.

FHFA capital requirements are arcane and highly technical, but their link to mortgage rates and fees are enormously consequential and can determine whether many LMI borrowers can access conventional lending. They can also determine whether the GSEs can set and meet affordable housing goals that, among other considerations "lead the market" in making mortgage credit available,[5] particularly where negative externalities and market failures leave segments of the market underserved. We have joined others in supporting a utility rate of return that could help mitigate inappropriately high capital requirements at the GSEs. Apparently, FHFA and the GSEs have made great strides towards utility-type regulation of the GSEs guarantee fees.[6] This is one key to ensuring that mortgage credit remains affordable and accessible for many LMI families and that the GSEs fulfill their mission. The goal should be clear: affordable and sustainable mortgage credit that is accessible to the broadest spectrum of LMI families. Quite simply, bank-like capital requirements and more guarantee fee increases will further undermine that goal.

B. Affordable loan products, pricing/cross-subsidization and outreach are critical policy tools

Traditionally, Fannie Mae and Freddie Mac have played the critical role for which they were created: facilitating access to credit for LMI families, including minorities. There is no disputing the criticism that FHFA Director Mark Calabria has aptly and often noted that the growth in mortgage securitization has not coincided with a narrowing of the racial homeownership gap – *specifically*, between black and white families. The gap remains higher today than in 1980 when

[4] See Coalition letter on Enterprise Capital Requirements. See also Analysis of FHFA's Proposal on Enterprise Capital, Urban Institute.
[5] 12 U.S.C. 4562(e)(2)(B)(iv).
[6] Donald Layton, Housing Perspectives: Why Is the Administration Not Talking About Utility-Style Regulation of G-Fees?, JCHS of Harvard University (July 2019)

bank balance sheets dominated mortgage lending.[7] In our view, however, there is little evidence that any particular financing system has been determinative. Rather, the nation's commitment to fair outcomes has. The brief narrowing in the black to white homeownership gap around 1980 came after more than a decade of enormous public pressure, on-going national debate and media attention to decades of redlining and racial discrimination in U.S. housing and lending markets. New laws and regulations pried open the nation's credit markets for the first time. CRA in 1977, the Home Mortgage Disclosure Act (HMDA) in 1975, the Equal Credit Opportunity Act (ECOA) in 1974, the Fair Housing Act in 1968 and related litigation all contributed to the brief phenomenon.

The record on improvements in the homeownership rate for minorities is also mixed.[8] The white to Asian/other homeownership gap has narrowed from 19.4 percent in 1988 to 16.0 percent in 2018, and the white to Hispanic homeownership gap has narrowed from 28.6 percent in 1988 to 26.0 percent in 2018. However, the black to white homeownership gap has persisted and widened from 26.2 percent in 1988 to 30.1 percent in 2018, and targeted approaches to it are critically needed.

Because minority families largely build wealth through homeownership, the nation's racial wealth gaps are also growing. Black neighborhoods and homeowners were hit hardest by the housing crisis and the resulting loss of wealth.[9] They are also having the slowest recovery in housing values; a phenomenon juxtaposed with the run-up post-crisis in other asset prices that, quite simply, are not a big part of portfolios and wealth building for most minority families, nor LMI families more broadly. For black families and LMI households, homeownership continues to be the essential wealth-building tool. Importantly, for LMI families and the broader market, mortgage securitizations provided a more stable way to fund long-term fixed-rate mortgages than bank balance sheets following the Savings and Loans crisis.

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[7] Mark Calabria, Coming Full Circle on Housing Finance, Urban Institute (April 2016). Testimony of Testimony of Mark A. Calabria, Ph.D.,Director, Financial Regulation Studies, Cato Institute, Before the House Committee on Financial Services, July 18, 2013. Prepared Remarks of Dr. Mark A. Calabria, Director of FHFA, May 20, 2019.

[8] Sean Veal, Rebounds in homeownership have not reduced the gap for black homeowners, JCHS of Harvard University (July 2019)

[9] Homes in black neighborhoods twice as likely to be underwater as homes in white neighborhoods, Zillow, January 11, 2017; Minorities hit hardest by the crisis, Reuters, November 25, 2007; The nation's housing recovery is leaving blacks behind, Washington Post; Race and uneven recovery: Neighborhood home value trajectories in Atlanta before and after the housing crisis, Piece by Piece Atlanta (January 2015); Black homeowners saw greater home price appreciation than whites in some areas, CityLab, (November 28, 2018); The devaluation of assets in black neighborhoods, Brookings Institutions (2018); This can't happen by accident, Washington Post.

Fortunately, Fannie Mae and Freddie Mac have placed sustainable homeownership within reach for LMI and underserved families through their affordable loan products, affordable pricing, extensive outreach and capacity building efforts with effective intermediaries in LMI and minority communities. The GSEs' amended charters include statutory affordable housing mandates which ensure they are focused on developing programs and financing products that can leverage federal, state and local government housing assistance; help insured banks meet their obligations under CRA; establish relationships with organizations that develop and finance housing with state and local governments, including housing finance agencies; and, assist primary lenders to make mortgage credit available in areas with concentrations of low-income and minority families and rural areas.

In conservatorship, the GSEs have remained a central player, but all of these policy tools have shrunk – fewer affordable products, a 250% increase in guarantee fees/pricing, a much smaller outreach budget and less local capacity-building. Quite simply, the GSEs have been hamstrung in their ability to respond to gaps in affordable housing and access and mortgage market failures. Getting the balance right is critical for the next generation of LMI families, and targeted and specific strategies will be particularly key for black families.

C. Concerns about duplication in federal credit programs are largely unwarranted

We are concerned that your directive that the GSE's promote affordable housing "without duplicating the support" provided by FHA and other federal programs will create an unnecessary wall between the two programs. Such a bifurcation would be inconsistent with their statutory purposes and Congressional intent that the entire government-supported housing finance system – primary and secondary markets, government-insured nonconventional and government-guaranteed conventional – serve and facilitate mortgage credit to LMI families, including prime and non-prime borrowers. Importantly, FHA has largely not competed with conventional lenders historically.[10] Like all federal credit programs covered

[10] *The FHA Single-Family Insurance Program: Performing a Needed Role in the Housing Finance Market*, HUD Working Paper No. HF-019, HUD PD&R (December 2012). To a large extent, FHA does not compete with conventional lenders. To illustrate this, the Office of Policy Development and Research at the U.S. Department of Housing and Urban Development (HUD) compared characteristics of FHA and GSE first-time homebuyer loans below FHA loan limits. The vast majority of FHA home purchase loans over a 15 year period (1997-2012) were made to first-time homebuyers. Except for the peak housing boom years, first-time homebuyers tended to rely

by the Federal Credit Reform Act of 1990, FHA can draw on permanent and indefinite budget authority with the U.S. Treasury to cover unanticipated increases in the cost of the loans that it insures, if necessary, without additional congressional action. By contrast, the federally-chartered GSEs are shareholder-owned, private companies that have not. Both executions should remain available to lenders of all sizes to ensure the availability of mortgage credit in all markets and at all times.

D. Will LMI families or taxpayers really benefit from greater competition in the secondary mortgage market?

We are also concerned about the aim of various proposals to facilitate competition in the housing finance market. This includes the GSEs credit risk transfer (CRT) program and the Common Securitization Platform (CSP). According to FHFA, the CRT program has been used since 2013 to shift a portion of credit risk on more than $2.8 trillion in unpaid mortgage principal balance (UPB) to private sector investors, with an additional $1.2 trillion UPB credit risk transferred to primary mortgage insurers. FHFA and some in Congress have placed increasing pressure on the GSEs to share even more credit risk and related GSE income with the private sector, and beyond the normal charter-required mortgage insurance. Among other questions that should be asked, however, is whether taxpayers are more protected, whether the interest payments private investors receive are justified by their risk of loss, and whether more CRT will lower or increase cost for LMI borrowers. In a 2016 Connecticut Avenue Securities (CAS) deal, for example, the prospectus models projected credit losses in 64 different combinations of annual default under various prepayment scenarios for investors in the 1M-1 tranche, and in none of those instances do private investors sharing risk experience credit losses because the tranche is structured to pay off early, before losses occur.[11] For no or very low projected levels of credit losses, 1M-1 tranche investors receive the LIBOR rate plus 1.45% in interest payments from the GSEs, and the 1M-2 tranche investors receive the LIBOR rate plus

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more heavily on FHA financing—by two to three times as much—than on GSE conventional financing, and that reliance grew dramatically from 2010-2012. FHA's first-time buyer percentage has been consistently 80 to 90 percent for borrowers under 35, and overall, nearly 80 percent. Among FHA's first-time buyers, nearly 70 percent have been below age 35—consistent with the notion that FHA provides greater opportunities than the conventional market to families starting out. FHA has also long been known to serve a disproportionately larger number and share of minority homebuyers, particularly African-American and Hispanic buyers. For example, in 2001, FHA served more than twice as many minority first-time buyers (about 220,000) than Fannie Mae and Freddie Mac combined (about 100,000).

[11] See NCRC letter to the House and Senate appropriators (September 2016).

4.25%. Quite simply, credit risk transfers must make economic sense and LMI borrowers should see some benefit in the GSEs pricing.

Similarly, proposals to spin-off and open the CSP to the broader private market should not occur without significant benefit for LMI borrowers. The CSP was built with enormous public subsidy and entirely by the staff and with the know-how of the GSEs, plain and simple. If it is to be open to all private market participants (e.g. private label securitizers), it must carry at least the same affordable housing requirements, affirmative obligations and duty to serve a broad national market that Fannie Mae and Freddie Mac have today. To circumvent charter and statutory affordable housing mandates would be inconsistent with the law and Congressional intent.

E. Expiration of the "GSE Patch" and changes to other agency patches should not undermine access for LMI and minority borrowers

The Dodd-Frank Act and the Consumer Financial Protection Bureau's (CFPB) qualified mortgage (QM) rule limiting product and borrower credit characteristics provides critical protections for borrowers, lenders and taxpayers. Importantly, almost 19% of the loans the GSEs purchased from financial institutions over the last five years would not have provided those institution's the rule's safe harbor from lawsuits, without the rule's so-called "GSE Patch".[12] Borrowers over the 43% debt-to-income (DTI) ratio that are covered by the GSE Patch are more likely to be first-time homebuyers and minority borrowers[13] – two LMI segments that FHFA data and other data indicate have faced significant challenges accessing homeownership post-crisis. The GSEs have an obligation to respond to this and other market failures. They have a statutory obligation to set and comply with housing goal targets that consider a variety of factors, including national housing needs and the ability of the enterprises to lead the industry in making mortgage credit available to LMI segments that remain underserved by the conventional market.

Importantly, the data is clear that compensating factors have and can continue to ensure that higher DTI borrowers do not have a significantly higher risk of default. While some have

[12] A smarter qualified mortgage can benefit borrowers, taxpayers and the economy, Center for Responsible Lending (July 2019).
[13] New data confirm the urgency of addressing the expiration of the GSE Patch, Urban Institute (March 2019).

advocated for one industrywide standard on DTI, the exceptions provided in the CFPB's rule, and at FHA, are completely consistent with the GSEs charters and the mission of federal credit programs - to facilitate the financing of affordable housing for LMI families in a manner consistent with their overall public purposes while maintaining a strong financial condition. Quite simply, letting the GSE Patch and other agency patches expire, without alternatives, will foreclose viable and sustainable paths to homeownership for many LMI and minority households.[14]

III. The importance of CRA to LMI homeownership and transparent mortgage lending

Regulatory reform of CRA could have enormous consequences for access to affordable housing, particularly homeownership.[15] It is critical that CRA exams remain laser-focused on how bank activities are benefiting LMI borrowers, including those seeking a single-family mortgage. Federal Reserve economists have documented the decline in lending to LMI borrowers, with notably steeper declines among the nation's largest banks.[16] Much, but not all, of the decline in LMI lending can be explained by the decline in FHA lending by the nation's largest banks. Importantly, smaller bank lenders have also reduced their LMI share to levels as well as non-bank lenders. Overall, this has meant fewer LMI households being able to become homeowners. In addition, some recent snapshot data has indicated that banks are receiving a disproportionate share of CRA credit for mortgage lending to middle- and upper-income borrowers in low-income areas. These phenomena present in some markets around the country argue for strengthening CRA examinations for all banks for single-family lending and sharpening the focus on LMI borrowers.

Relatedly, financial institutions of all sizes must continue to report data about their mortgage lending in order for the financial marketplace to remain fair, safe and sound. It would be a fundamental setback to fair lending, safety and soundness and undermine resources to

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[14] *The CFPB must provide paths for LMI home buyers that will be harmed by the expiration of the GSE Patch*, NCRC press release, July 26, 2019.

[15] See NCRC comment letter on CRA reform.

[16] 16 The Decline in Lending to Lower-Income Borrowers by the Biggest Banks, FEDS Notes, September 28, 2017. Three banks--Wells Fargo, Bank of America and JPMorgan Chase--together originated about 9 percent of all mortgages reported in the 2016 HMDA data and account for nearly one-third of all deposits in the United States. The LMI share among these three banks declined 17 percentage points, from 32 percent in 2010 to 15 percent in 2016. Over the same period, smaller banks and non-bank lenders (including credit unions and independent mortgage companies) reduced their LMI share by 9 percentage points overall.

underserved communities if banks and non-banks are required to report less about their mortgage lending today then they did before the financial crisis. Such an outcome is counter-intuitive and contrary to a number of critical lessons learned from the run-up to the financial crisis.

IV. Conclusion

Affordable housing policy changes across several regulators will determine the extent to which this Administration is prioritizing access to sustainable homeownership and opportunities for wealth-building and economic mobility for the next generation of LMI families, and particularly low-income and black borrowers. The nation has learned key lessons from the financial crisis and, importantly, developed appropriate legal and regulatory responses that have ushered in a safer and sounder financial system. It is critical that the Administration finalize policy approaches that close the widening wealth gaps, invest in affordable housing supply and ensure that LMI and minority families can access mortgage credit on fair terms.

Thank you for considering our views and if you should have any further questions, please contact Gerron Levi, NCRC's Director of Government Affairs at 202-464-2708.

Sincerely,

National Community Reinvestment Coalition
Affordable Homeownership Foundation Inc.
Birmingham Business Resource Center
Building Alabama Reinvestment
CAARMA Consumer Advocates Against Reverse Mortgage Abuse
California Reinvestment Coalition
CASA of Oregon
CASH Community Development
Ceiba
Centre for Homeownership & Economic Development
Chicanos Por La Causa, Inc.
City of Toledo
Community Action Akron Summit
Community Action Association of Alabama
Community Link
Community Reinvestment Alliance of South Florida

Community Service Network Inc.
Cornerstone West CDC
Empire Justice Center
Fair Finance Watch
Georgia Advancing Communities Together, Inc.
Harlingen CDC
Hawai'i Alliance for Community-Based Economic Development
Henderson and Company
HomesteadCS
H.O.P.E. Through Divine Intervention Inc
Housing Education and Economic Development (HEED)
HousingNola
HousingWorks RI
Maryland Consumer Rights Coalition
Metropolitan Milwaukee Fair Housing Council
Metropolitan St. Louis Equal Housing and Opportunity Council
National Housing Counseling Agency
National NeighborWorks Association
Neighborhood Housing Services of Kansas City, Inc.
Neighborhood Housing Services of Waterbury
New Jersey Citizen Action
Northwest Indiana Reinvestment Alliance
Peoples' Self-Help Housing
Pittsburgh Community Reinvestment Group
Portland Housing Center
Rural Housing, Inc.
Step Up Suncoast, Inc.
Titusville Development Corp
Toledo City Council
Urban Land Conservancy
Vision of Restoration
Woodstock Institute
Working In Neighborhoods

cc: Secretary of Treasury, Secretary of HUD, FHFA Director, FHA Commissioner, Director of the CFPB