governmentattic.org

"Rummaging in the government's attic"

Description of document:	Written responses or letters from the Federal Housing Finance Agency (FHFA) to a Congressional Committee (not a congressional office or Committee Chair) 2010-2012
Request date:	20-April-2013
Released date:	04-November-2013
Posted date:	27-July-2015
Source of document:	Federal Housing Finance Agency 400 7th Street, SW 8th Floor Washington, D.C. 20024 Phone: 202-649-3803 Fax: 202-649-1073 Email: FOIA@fhfa.gov Online FOIA portal

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.

-- Web site design Copyright 2007 governmentattic.org --

Federal Housing Finance Agency

Constitution Center
400 7th Street, S.W.
Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

November 4, 2013

Re: FHFA FOIA Request No.: 2013-FOIA-071

This letter is in response to your Freedom of Information Act (FOIA) request, dated April 20, 2013. Your request was processed in accordance with the FOIA (5 U.S.C. § 552) and FHFA's FOIA regulation (12 CFR Part 1202).

You requested the following:

"I request a copy of each written response or letter from the Federal Housing Finance Agency (FHFA) to a Congressional Committee (not a congressional office) (or Committee Chair) in calendar years 2012 and 2013 to date."

Please note that FHFA did not locate any responsive documents that met your specific request criteria (responses to "Congressional Committee's"). However, on the chance that we have misinterpreted your request, we have decided to provide you with all congressional committee responses (excluding responses regarding constituents) for the requested time period.

Various documents are being withheld in whole or in part pursuant to exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552 (b)(4), pertaining to trade secrets and commercial or financial information obtained from a person that is privileged or confidential; exemption 5 (5 U.S.C. §552(b)(5)), pertaining to the deliberative process, attorney work product, and/or attorney-client privileges; and exemption 8 (5 U.S.C. § 552 (b)(8)), pertaining to information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

Details of the responsive material are described on the attached spreadsheet. The spreadsheet includes a brief description of each responsive document, the number of pages for each document, which exemption(s) apply (if any) and FHFA's determination of the documents' releasability. A copy of the accessible material is attached.

This is FHFA's final decision on your request. If you wish to appeal any aspect of FHFA's decision, you must forward within 30 days:

- A copy of your initial request;
- A copy of this letter; and
- A statement of the circumstances, reasons, or arguments for seeking disclosure of the affected record(s).

The appeal must be sent either electronically through FHFA's public access link by clicking here https://publicaccesslink.fhfa.gov/palMain.aspx or by mailing to the "FOIA Appeals Officer" at the above address. The envelope and the letter of appeal must be clearly marked "FOIA Appeal." Please note that all mail sent to the FHFA via the United States Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

Your FOIA request is releasable to the public under subsequent FOIA requests. In responding to these requests, FHFA does not release personal information, such as home or email addresses and home or mobile telephone numbers which are protected from disclosure under FOIA Exemption 6 (5 U.S.C. § 552(b)(6)).

If you have any questions regarding the processing of your request, please contact us at foia@fhfa.gov or 202-649-3803.

Sincerely,
/s/
Stacy J. Easter
FOIA/Privacy Officer

FHFA FOIA No.: 2013-FOIA-071 - Responsive Documents Log

Group Count	Description of Responsive Documents	Withhold/Release	Exemption(s) Applied	Page Count
1	01/11/2012 Letter to Committee (Bachus/Frank/Johnson/Shelby) re: Enterprises 2010 Housing Goals Performance with attachment	Release		1
	12/28/2011 Letter to Fannie Mae	Withhold	4,8	3
	12/28/2011 Letter to Freddie Mac	Withhold	4,8	3
2	1/11/2012 Letter to Honorable Johnson re: rulemaking process	Release		1
	Attachment - FHFA memo to Director from General Counsel	Withhold	5	4
3	1/11/2012 Letter to Committee (Neugebauer) re: FHFA Operations	Release		11
4	1/19/2012 Letter to Honorable Issa re: State Laws	Release		14
5	01/20/2012 Letter to Committee (Cummings) re: principal forgiveness w/attachment	Release		3
	FHFA Analyses of Principal Forgiveness Loan Mod	Withhold	4,5,8	20
6	1/25/2012 Letter to Committee (Bachus/Frank/Johnson/Shelby) re: EESA attachment (November 2011 Foreclosure Prevention & Refinance Report) found at http://www.fhfa.gov/webfiles/23123/Nov_2011_Foreclosure_Prev_Rpt.pdf	Release		4
7	2/1/2012 Letter to Committee (Johnson/Lieberman/Shelby/Rockefeller/Collins/Hutchison/Bachus/Issa/Hall/Cummings/Frank/Johnson/Dodaro) re: attached 2011 FISMA reports	Release		12
	PII Report, 10/2011	Release		3
	CIO Report, 2011	Release		15
	Privacy Report, 2011	Release		6
	IG Report, 2011	Release		12
8	4/10/2013 Letter to Committee (Waters) re: LPI	Withhold	4,8	7
9	4/24/2012 Letter to Committee (Johnson) re: homeowner refinance	Release		2
10	7/31/2012 Letter to Committee re: HAMP and PRA: http://www.fhfa.gov/webfiles/24110/PF_LettertoCong73112.pdf	Release		
	Appendix to FHFA Review: http://trakker.fhfa.gov/ccn/20120801018/default.aspx	Release		
	FHFA Review of Options Available for Underwater Borrowers: http://www.fhfa.gov/webfiles/24108/PF_FHFApaper73112.pdf	Release		
	Fanne Mae Analysis re: PF: http://www.fhfa.gov/webfiles/24107/PF_FannieMae73112.pdf	Release		
	Freddie Mac re: HAMP: http://www.fhfa.gov/webfiles/24109/PF_FreddieMac73112.pdf	Release		
11	9/26/2012 Letter to Committee (Johnson/Shelby/Bachus/Frank) re: PCA rule; attachment found at http://www.fhfa.gov/webfiles/24547/2q12fprfinal.pdf	Release		4
12	3/5/2012 Letter to Committee (Frank) re: loan mod	Release		3
Total Pages				**128**

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

January 11, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Ranking Member Frank:

As required by section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, I am pleased to submit the enclosed copies of letters sent to Fannie Mae and Freddie Mac regarding their housing goal performance for calendar year 2010. These letters contain the Federal Housing Finance Agency's final official figures on the housing goal performance of Fannie Mae and Freddie Mac in 2010, including comparisons to the overall market for each goal.

Should you or your staff have any questions regarding this matter, please contact Meg Burns, Senior Associate Director for the Office of Housing and Regulatory Policy, at 202-649-3102.

Sincerely,

Edward J. DeMarco
Acting Director

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

January 11, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510-6075

Dear Chairman Johnson:

In response to your letter regarding the rulemaking process at the Federal Housing Finance Agency (FHFA), I am providing the attached memorandum from our Office of General Counsel to address questions presented. As you know, FHFA has a more discreet and focused mission in overseeing the secondary market than other financial regulators. At the same time, FHFA takes seriously both the content and impact of its rulemaking activities. I would note that FHFA is subject to and adheres to the Administrative Procedure Act in all its rulemaking activity. The Act contemplates clear presentations to permit robust public participation, input of data from varieties of sources and requires that the agency act with a reasonable basis for any interpretations of law. Additionally, FHFA submits its regulations to Congress for congressional review pursuant to the Congressional Review Act.

I hope the attached memorandum addresses fully the specifics and spirit of your inquiry. Please contact me if you have any questions or your staff may contact Alfred Pollard, General Counsel, at 202 414 3788.

Yours truly,

Edward J. DeMarco
Acting Director

1700 G Street, N.W., Washington, D.C. 20552-0003 • 202-414-3800 • 202-414-3823 (fax)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

January 11, 2012

The Honorable Randy Neugebauer
Chairman
Subcommittee on Oversight and Investigations
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neugebauer:

Thank you for your recent letter regarding your questions about the operations of Federal Housing Finance Agency (FHFA) as conservator and safety and soundness regulator for Fannie Mae and Freddie Mac (Enterprises). Below, you will find information responsive to your questions.

Core Activities:
(1) In its annual report to Congress, FHFA stated that "FHFA, in its role as conservator, limits the Enterprises to existing core business activities." Please define with specificity what FHFA believes to be "core business activities." For example, is public relations considered a core business activity? Would new programs such as Fannie Mae's Affordable Advantage Program be a "core activity?"

FHFA Response:
Core business activities are those activities that provide liquidity and stability to the mortgage market. They include purchasing and securitizing mortgages, effectively managing litigation risks, issuing debt to support funding needs, providing loan modifications, mitigating credit losses, and reducing the retained portfolio. Core business activities also include the support functions associated with conducting these business lines, including operational and technology infrastructure, filing timely and accurate financial statements in compliance with the Securities and Exchange Commission (SEC) regulations, managing expenses, personnel management activities, and compliance and control processes surrounding business functions. Support activities may include activities that provide support and information to stakeholders and counterparties on Enterprise business activities and those that respond to media, Congressional and other inquiries that address such business activities. While FHFA has instructed the Enterprises not to participate in new products, they are encouraged to actively support new initiatives to mitigate losses, enhance mortgage market efficiency, and reduce foreclosures, including the servicer alignment initiative and the Home Affordable Refinance Program changes recently announced.

FHFA Strategic Planning:
(2) The principle focus of the conservatorship is to maintain the GSE's secondary mortgage market role until legislation produces a resolution for their future, as well as minimizing losses and limiting risk exposure going forward. However, it is universally acknowledged that there will be an eventual end date of the conservatorship. Does FHFA have a meaningful strategic plan for the eventual wind down of the GSE's? If not, why not? Accordingly what metrics does FHFA use to gauge its success?

FHFA Response:
As I testified before your Subcommittee on December 1, 2011, I anticipate providing a strategic plan for the next phase of the conservatorship in early 2012. Key elements of such a plan have already begun as described below.

FHFA has indicated that, in line with its statutory responsibilities, its efforts are focused on providing policymakers with functioning companies that permit the full range of options to be available on determining the future course of the secondary market. The ultimate resolution of the conservatorships of Fannie Mae and Freddie Mac will be determined by Congress, and any plan to do so is necessarily dependent on the parameters of that resolution. That said, FHFA believes that maintaining and strengthening private sector disciplines within each Enterprise's corporate infrastructure promotes the goals of the conservatorships and maximizes the government's options in a post conservatorship world, including the opportunity to gain some return for taxpayers in a resolution of these companies. Any preservation of value in the Enterprises is directly related to maintaining the value of the intangible assets of these companies, including their human resources and business platforms.

FHFA has begun implementing several initiatives to further the transition to greater private capital participation in housing finance. FHFA is working with the Enterprises to make long-term improvements to the functioning of the housing finance system, improvements that should bring dividends down the road, irrespective of the ultimate outcome of housing finance reform. Many of the activities that FHFA has undertaken are designed to establish standards across the industry to reduce overall risk, simplify the mortgage market, and support sustainable home ownership. Furthermore, these activities are designed to provide legislators the greatest amount of flexibility for designing a new mortgage finance system.

At the beginning of 2011, FHFA announced the Joint Servicing Compensation Initiative. FHFA directed Fannie Mae and Freddie Mac, in coordination with FHFA and HUD, to consider alternatives for future mortgage servicing compensation for their single-family mortgage loans. The goals of the joint initiative are to improve service for borrowers, reduce financial risk to servicers, and provide flexibility for guarantors to better manage non-performing loans, while promoting continued liquidity in the To Be Announced mortgage securities market. Part of the goal in undertaking this initiative is to consider changes to the compensation structure that would improve competition and liquidity in the market for mortgage servicing. The joint initiative released a discussion paper for public comment in September 2011 that put forth two options for reform.

In late April 2011, FHFA announced its servicing alignment initiative, which is designed to produce a single, consistent set of protocols for servicing Enterprise mortgages from the moment they first become delinquent. This initiative responds to concerns about how delinquent mortgages have been getting serviced, and it will simplify the procedures for mortgages servicers by giving them just one set of procedures to follow whether the mortgage is owned by Fannie Mae or Freddie Mac.

In conservatorship, the Enterprises have also greatly strengthened their underwriting standards and improved the risk sensitivity of their pricing. On September 19, 2011, I announced that the Enterprises will continue their gradual increase of guarantee fee pricing in 2012 to better reflect that which would be anticipated in a private, competitive market. FHFA also will be considering a number of other changes to guarantee fee pricing that are consistent with private sector pricing discipline while mindful of the unique circumstances associated with conservatorship.

Enhancing loan-level disclosures on Enterprise mortgage-backed securities (MBS), both at the time of origination and throughout a security's life, is also on FHFA's agenda. FHFA believes that improving Enterprise MBS disclosures over time will help establish consistency and quality of such data. Moreover, it will contribute to an environment in which private capital has the information needed to efficiently measure and price mortgage credit risk, thereby facilitating the shifting of this risk away from the government and back into the private sector. This will take time to accomplish, but this is the direction in which FHFA is heading.

Ultimately, the best measure of the performance of the Enterprises in conservatorship is the quality of the book of business they have taken on since September 2008. FHFA releases a quarterly Conservator's Report, found on the agency website, www.fhfa.gov, that demonstrates the Enterprises' purchase of riskier loans has significantly decreased while under conservatorship, including loans with high loan to value ratios and low credit scores. The new book of business has substantially lower cumulative default rates for the 2009 and 2010 vintages compared to the years leading up to conservatorship. The losses the Enterprises are currently facing are associated with their books of business for 2005 through 2008, before the conservatorships.

FHFA publishes a variety of plans and reports to inform the public of the agency's strategic and performance goals and results. For example, on November 15, 2011, FHFA published its 2011 Performance and Accountability Report (PAR). The PAR describes the agency's record against its FY 2011 goals and performance measures as set forth in the FY 2011 Annual Performance Plan and describes FHFA's ability to meet its responsibilities by showing the agency's performance.

Early in 2012, FHFA anticipates the publication of its FY 2012 Annual Performance Plan and a new agency five-year strategic plan. The performance plan will detail a series of performance goals and measures to support the agency's strategic goals for 2012. The strategic plan will outline FHFA's goals and objectives for the next five years and demonstrate how the agency will work together to fulfill its mission at this critical time in the nation's housing markets.

Receivership Authority

(3) Does the Housing and Economic Recovery Act (HERA) give FHFA the discretion to place Fannie and Freddie into receivership? Are there circumstances in which HERA would require FHF A to place the Enterprises into receivership? To the extent that FHF A does not believe that it has the authority to place the Enterprises into receivership, how does FHFA square the understanding with the text of HERA? See 12 U.S.C. §4617(a)(2), (4) (establishing conditions governing the placement of GSEs into receivership).

FHFA Response:

HERA gives FHFA discretion to place any of its regulated entities in receivership and mandates receivership under specified circumstances. The discretionary standards for receivership are very similar to the standards for conservatorship. These are aligned in many aspects to those of the banking regulators. Unlike banking regulation, HERA, however, mandates immediate creation of a Limited Life Regulated Entity (LLRE) upon placing either Fannie Mae or Freddie Mac into receivership. The LLRE would succeed to the existing charters of an Enterprise, and is conceived as a tool to assist in the orderly resolution of the Enterprises and a means of continuing some business activities. The LLRE cannot survive for more than five years, including extensions unless 80 percent or more of the LLRE's stock is sold. Because of the limited term of an LLRE and the possibility that this structure could replicate the Enterprise's existing charters, prior to placing either enterprise in receivership, the future role for the company's business in the housing finance market needs to be known and plans for the LLRE to carry out that role need to be developed. Therefore, without clear guidance from policy makers on the future roles for the Enterprises, FHFA would face challenges to initiate receivership planning for either company. Additionally, any determination to move to receivership would have an effect on the Senior Preferred Stock Purchase agreements with the Treasury Department that would have to be considered.

Conservatorship Decision Making and Staffing

(4) HERA sets forth the powers and duties of the conservator regarding the operation of the Enterprises and the delegation of authority by the conservator to the Enterprises. See 12 U.S.C. §4617(b)(2)(B), (C). Please explain how FHFA divides management authority between the Agency and the directors and officers of the Enterprises. How has FHFA formalized these divisions of authority-by rule, written policy, or otherwise?

FHFA Response:

As conservator, FHFA has the powers of the management, boards, and shareholders of the Enterprises. However, the Enterprises continue to operate as business corporations, as "going concerns." This is the definition of conservatorships founded in Federal Deposit Insurance Corporation practice and interpreted by the courts. In the case of the Enterprises, the conservatorship was crafted to have chief executive officers and boards of directors in place who follow the laws and regulations governing financial disclosure, including requirements of the Securities and Exchange Commission. Like other corporate executives, the Enterprises' executive officers are subject to the legal responsibility to use sound and prudent business judgment in their stewardship of their companies.

While FHFA has very broad authority, the focus of the conservatorships is not to manage every aspect of the Enterprises' operations. Instead, FHFA reconstituted the boards of directors at each Enterprise and charged the boards with ensuring normal corporate governance practices and procedures are in place. The boards are responsible for carrying out normal board functions, but they remain subject to review and approval on critical matters by FHFA as conservator. The Enterprises are large, complex companies, and this division of responsibilities represents the most efficient structure for carrying out FHFA's responsibilities as conservator.

(5) FHFA is currently 520 employees and growing. How many FHFA employees exercise managerial authority with respect to the daily operations of the Enterprises? How many FHFA employees are specifically tasked with discharging the duties of FHFA as conservator? Does FHFA assign different staff to carry out the Agency's duties as regulator?

FHFA Response:
FHFA does not exercise day-to-day operational management of the Enterprises. FHFA has several divisions that work together to maintain the conservatorship and safety and soundness regulatory duties of the agency. The Office of Conservatorship Operations (OCO) was established to be focused on the conservatorships, with the support of offices within the Division of Housing Mission and Goals (DHMG) and the Office of the General Counsel (OGC). In total, FHFA has allocated 168 positions to these offices, of which 152 are currently filled.

FHFA's Division of Enterprise Regulation (DER) carries out FHFA's role as regulator of the Enterprises. FHFA has the statutory responsibility of conducting an annual examination program for the Enterprises. FHFA's annual examination program assesses the Enterprises' financial safety and soundness and overall risk management practices. FHFA examiners use a risk-based approach to supervision. Through examinations, data analysis, and risk monitoring activities, FHFA identifies matters requiring corrective action by the regulated entities and monitors their efforts to correct deficiencies. These core examination teams are supported by the Division of Examination Program and Support, which includes groups focused on various kinds of risk, including credit risk, market risk, model risk and operational risk. In total, FHFA has allocated 174 positions to the examinations of the Enterprises, of which 141 are currently filled. Separate from these staff are another 128 staff in the Division of Federal Home Loan Bank Regulation who are responsible for safety and soundness oversight of the Federal Home Loan Banks.

Loan Level Data

(6) FHFA has previously announced that GSE loan data should be made available to interested third parties so "private capital has the information needed to efficiently measure and price mortgage credit risk, thereby facilitating the shifting of this risk away from the government and back into the private sector." However, 39 months after FHFA has taken over as conservator, the Enterprises still have a corner on the loan level data. Has FHFA engaged in a review of the quality of the GSE data and the file formats in which it is stored? Please provide FHFA's strategic plan, including specific deadlines, to begin disseminating enhanced loan-level disclosures on Enterprise MBS.

FHFA Response:
In May of this year I indicated that FHFA would work to enhance loan-level disclosures on Enterprise MBS, both at the time of origination and throughout a security's life. I also noted that this initiative would take time to accomplish and that each Enterprise starts from a different place. Since December 2005 Freddie Mac has been disclosing loan-level information on single-family MBS backed by fixed- and adjustable-rate loans, both at time of security issuance and monthly thereafter. Fannie Mae's single-family MBS disclosures so far have been largely at the pool level.

Since May we have been working with the Enterprises on planned enhancements to their MBS disclosures. In 2012 we expect Freddie Mac to add additional fields to its existing loan-level disclosures on single-family MBS and for Fannie Mae to begin disclosing most of the single-family data elements that Freddie Mac now discloses.

In addition, FHFA and the Enterprises have been analyzing the amendments to Regulation AB proposed by the SEC, which would require issuers of asset-backed securities (ABS) to make loan-level disclosures. Our goal is for the Enterprises to collect from lenders the data needed to support loan-level MBS disclosures that are comparable to those the SEC has proposed for mortgage-backed ABS.

To achieve that goal for single-family MBS, we will be utilizing the Uniform Mortgage Data Program (UMDP), an initiative begun in early 2010 through which the Enterprises have developed uniform standards for lender reporting of data on single-family mortgage loans and appraisals. Implementation of such standards will enhance the quality of Enterprise data. We will be working with the Enterprises to ensure that data collected in subsequent phases of the UMDP will support enhanced MBS disclosures as well as other business needs.

Guarantee fees
(7) On November 3, 2011 you stated before this Committee that you are "looking to eliminate" the gap between the guarantee fees charged among various financial institutions. As a point of reference, please provide the average Guarantee fee that Freddie and Fannie charged to each client or financial institution by Fannie Mae and Freddie Mac for 2010 and 2011.

FHFA Response:
Guarantee fee payments from lenders to Fannie Mae and Freddie Mac generally take the form of ongoing monthly payments and frequently also include an upfront payment at the time of Enterprise loan acquisition. Fannie Mae refers to the upfront payments as Loan-Level Pricing Adjustments, whereas Freddie Mac refers to them as delivery fees. Enterprise and FHFA practice is to combine both types of payments into an estimated total guarantee fee. To do so, the upfront payment is annualized into an ongoing fee equivalent, based on projected prepayments, and added to the ongoing fee, where both are expressed in basis points of a mortgage's unpaid principal balance, to provide an estimated total guarantee fee.[1]

[1] For further discussion, see Federal Housing Finance Agency, *Fannie Mae and Freddie Mac Single-Family Guarantee Fees in 2009 and 2010* (September 23, 2011).

Attached are tables that provide the estimated average total single-family guarantee fees that Fannie Mae and Freddie Mac charged lenders that delivered loans in 2010 and in the first half of 2011. For each Enterprise and year, fees are displayed separately for three groups of sellers by delivery volume: those ranked in the top 10, those ranked 11-100, and all others. For individual lenders in each group, fees are displayed from the highest to the lowest to indicate clearly the range of fees charged lenders in that group.

A substantial portion of the variation in the average guarantee fees charged different lenders by each Enterprise shown in the attached tables reflects variation in the risk profile of the mortgages delivered by each lender. At the hearing on November 3rd, when I said that FHFA is "looking to eliminate" the gaps between the guarantee fees charged different lenders, I referred to any gaps that do not reflect differences in risk.

I trust that this information is responsive to your request. If you have further questions, please do not hesitate to contact Peter Brereton, Associate Director for Congressional Affairs, at (202) 414-3799.

Sincerely,

Edward J. DeMarco
Acting Director

Attachments

Estimated Average Single-Family Guarantee Fees Charged by Fannie Mae and Freddie Mac, Full Year 2010 and First Half 2011 Acquisitions Including HARP Loans, by Lender Delivery Volume Group (in Basis Points of Unpaid Principal Balance)

Full Year 2010 Acquisitions - Fannie Mae

Large Lenders (1-10 in Delivery Volume)

G-Fee	Count
29	1
27	1
26	1
25	1
24	3
23	2
22	1
Total:	10

Medium Lenders (11-100 in Delivery Volume)

G-Fee	Count
48	1
44	1
41	1
39	1
38	1
36	3
34	1
32	2
31	1

Full Year 2010 Acquisitions - Freddie Mac

Large Lenders (1-10 in Delivery Volume)

G-Fee	Count
30	1
26	2
25	2
24	3
22	2
Total:	10

Medium Lenders (11-100 in Delivery Volume)

G-Fee	Count
40	1
38	1
37	3
36	4
35	2
34	2
33	4
32	5
31	7

1st Half 2011 Acquisitions - Fannie Mae

Large Lenders (1-10 in Delivery Volume)

G-Fee	Count
31	1
30	1
28	2
27	2
26	3
24	1
Total:	10

Medium Lenders (11-100 in Delivery Volume)

G-Fee	Count
60	1
48	2
47	1
46	1
41	1
39	2
38	2
37	1
36	1

1st Half 2011 Acquisitions - Freddie Mac

Large Lenders (1-10 in Delivery Volume)

G-Fee	Count
28	1
27	2
26	1
25	2
24	1
23	1
21	2
Total:	10

Medium Lenders (11-100 in Delivery Volume)

G-Fee	Count
48	1
41	1
40	1
38	1
37	3
36	1
35	9
34	2
33	5

Medium Lenders (11-100 in Delivery Volume)	
G-Fee	Count
30	4
29	4
28	15
27	9
26	17
25	14
24	4
23	6
22	2
21	2
20	1
Total:	90

Medium Lenders (11-100 in Delivery Volume)	
G-Fee	Count
30	12
29	9
28	10
27	9
26	5
25	9
24	1
22	3
21	3
Total:	90

Medium Lenders (11-100 in Delivery Volume)	
G-Fee	Count
35	4
34	5
33	3
32	5
31	11
30	14
29	6
28	10
27	8
26	7
25	2
24	2
23	1
Total:	90

Medium Lenders (11-100 in Delivery Volume)	
G-Fee	Count
32	8
31	7
30	11
29	8
28	11
27	4
26	3
25	3
24	4
23	1
22	5
21	1
Total:	90

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
85	1
83	2
77	1
73	1
69	1
68	1
66	1
65	2
64	1
63	3

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
96	2
85	1
80	1
75	1
66	2
65	2
60	1
59	1
57	1
56	2

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
93	1
87	2
85	1
80	1
79	1
78	1
76	2
74	1
73	1
72	1

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
80	1
78	1
75	1
71	1
70	1
68	1
66	3
64	1
63	1
61	2

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
61	1
60	3
59	1
58	1
57	3
56	5
55	2
54	1
53	2
52	1
51	2
50	4
49	3
48	2
47	4
46	8
45	8
44	15
43	14
42	3
41	14
40	14
39	15
38	31
37	36
36	42
35	69
34	79

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
55	3
54	3
52	4
51	1
50	4
49	3
48	1
47	6
46	8
45	7
44	4
43	9
42	7
41	18
40	23
39	33
38	29
37	46
36	61
35	68
34	98
33	122
32	100
31	97
30	74
29	41
28	14
27	12

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
68	1
67	2
66	2
63	2
62	2
61	3
60	5
59	3
58	1
57	1
56	3
55	4
54	4
53	4
52	3
51	6
50	7
49	7
48	6
47	13
46	20
45	16
44	21
43	17
42	21
41	30
40	36
39	46

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
60	2
59	3
57	3
56	5
55	2
54	2
53	2
52	6
51	3
50	2
49	12
48	9
47	7
46	7
45	6
44	12
43	16
42	23
41	27
40	30
39	44
38	49
37	47
36	57
35	71
34	80
33	78
32	64

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
33	87
32	68
31	68
30	70
29	59
28	46
27	57
26	35
25	38
24	15
23	6
22	3
21	1
20	1
18	1
Total:	952

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
26	14
25	9
24	4
23	5
22	1
21	1
Total:	944

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
38	49
37	47
36	57
35	64
34	62
33	43
32	55
31	47
30	46
29	44
28	23
27	20
26	16
25	9
23	5
22	3
20	1
18	1
Total:	890

Small Lenders (101+ in Delivery Volume)	
G-Fee	Count
31	64
30	44
29	22
28	20
27	8
26	11
25	11
24	1
23	2
22	1
Total:	866

Note: For the approach used to estimate single-family guarantee fees charged, see Federal Housing Finance Agency, *Fannie Mae and Freddie Mac Single-Family Guarantee Fees in 2009 and 2010* (September 23, 2011).

Source: Federal Housing Finance Agency based on data from Fannie Mae and Freddie Mac

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

January 19, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U. S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Issa:

This past fall, you raised the issue of state laws relating to real estate and to foreclosures that adversely impact the movement of homes to sale where borrowers have defaulted and have not qualified for loan modifications or foreclosure alternatives. Clearly, delays created by state laws or by additions to state laws the extend that time frames for legitimate foreclosures harm neighborhoods and add costs for that banks that are portfolio lenders as well as firms such as Fannie Mae and Freddie Mac as well as for investors who support the mortgage finance market. In the case of the Enterprises, added costs for Fannie Mae and Freddie Mac ultimately represent a concern for all taxpayers.

I asked FHFA General Counsel Alfred Pollard to address this issue and to provide both legal and market information for your use. The enclosed memorandum and its attachments highlight that protecting homeowners may be accomplished at the same time that creditor, investor and neighboring homeowners receive due attention and law operates as expected when a mortgage obligation is undertaken.

I hope this information is of assistance to you. Please feel free to contact me or Mr. Pollard at 202-649-3050 if you or your staff have any questions.

Sincerely,

Edward J. DeMarco

Edward J. DeMarco

Enclosure

400 7th Street, S.W., Washington, D.C. 20024 • 202-649-3801 • 202-649-1071 (fax)

MEMORANDUM

January 19, 2012

State Foreclosure and Related Laws

Introduction

The cornerstone of the pricing of credit has centered on the differentiation between secured and unsecured lending. Secured lending, tied to an asset, has enjoyed a lower rate of interest and legal recognition of a higher status than unsecured lending. This holds true not only in lending but as well in securities such as the difference between stocks and bonds. Integral to such secured lending and the priority enjoyed by such lending is the ability to act against collateral when the debt is not paid; an inability to do so, in effect, converts secured lending into unsecured. When such a result occurs, lenders alter their lending practices and pricing. This cornerstone of lending has existed in the United States since its founding.

Another foundation in United States law is that, in all but the few circumstances where the federal government has acted, real estate law in general— including foreclosure and related practices such as evictions— have been governed by state laws and, in most states, delegated in whole or in part to local government entities.

The financial crisis and the exponential rise in delinquencies and nonpayment of mortgage debt has focused attention on the operation of foreclosure laws. While issues such as loan modifications and movements to remedies other than foreclosure have been addressed, the fundamental laws governing foreclosure have not. With investors (including pension funds), lenders, secondary market parties and neighborhoods affected by properties on which payments are not being made and maintenance has declined, attention has turned to the impact of state laws that have the effect of increasing the timelines for foreclosures. Once remedies for avoiding foreclosure are exhausted, delays in the foreclosure process cost investors, other homeowners and local governments while adding little or nothing to borrower protections. At a point when it is clear that a homeowner cannot afford to stay in their home and is unwilling to undertake foreclosure avoidance such as a short sale, then foreclosure is appropriate. Delays contribute to not only losses to the private sector but to other taxpayers as well.

Finally, states and localities have other laws relating to foreclosures such as vacant property ordinances, taxes relating to transfers and bonds to be posted with cities at the beginning of a foreclosure. These contribute to the cost and to the delays in foreclosure and are considered here.

Two central themes have emerged. To address consumer concerns and pressure on state and local tax revenues, states have proposed a large number of new laws or amendments to existing laws and have sought to delay rather than facilitate foreclosures. The impact of these laws— of less impact or consequence in times of low foreclosure activity— have become evident and costly in the current crisis and will have a lasting impact on the pricing and availability of mortgage credit.

Convergence of Interests

Lenders, investors and secondary market parties, such as Fannie Mae and Freddie Mac, have common interests with states, localities and homeowners. All prefer to see homeowners in their homes paying their mortgages and meeting their local tax obligations. All prefer to see neighborhoods vibrant and not inviting crime and illegal conduct. All prefer to have a stable financial market to support sales and re-financings. How to attain and retain these shared goals has been clouded by overreaction to current events, overreaction that will affect investors— foreign and domestic— who have contributed to the liquidity of mortgage markets across the country and can affect borrower conduct when they see others not meeting their obligations.

A fundamental question can be asked of any state legislature, of any neighborhood association or any local government—how long should a person remain in their home without paying and what harm does this produce for other homeowners?

The reality is that at some point, after being offered loan modifications, forbearance on payments and other remedies, a homeowner must enter foreclosure. One has to believe that here, too, there is a convergence of interest, some point where all parties agree that action should be taken to protect communities, the tax base and investor rights. The critical issue is at what point action should be taken—500 days, 700 days or, as it is in some communities, over a 1000 days. Nonpayment of mortgages, taxes and insurance are not "cost free" events for neighborhoods, taxpayers or lenders.

Efforts to maintain home ownership must be actively supported, while, at the same time, for certain homeowners, moving to foreclosure may be necessary. Simply put, when someone defaults on their payments, pensioners holding mortgage-backed securities face losses, neighbors see homes running down and long-posted "for sale" signs and their home values falling and the costs to secondary market parties and the taxpayers increase. When someone defaults, it is not a cost-free event for them or those who extended them credit. At some point, properties maintained in default status produce no income, depress other home prices and, if released all at one time following a suspension of foreclosures, can forestall both housing and general economic recovery.

In some states and communities the backlog of unsold homes, some never occupied, runs up to four years. In some states, where every effort is made to assist defaulted borrowers, some homeowners and lawyers are "gaming the system" to stay in their homes with no intent to pay any amounts of their debts and without making payments until a foreclosure can be made final, sometimes upwards of two and half years. Additionally, some potential purchasers of "real estate owned" by lenders have been stymied in their efforts to purchase homes that would reduce the outstanding inventory and start a return to more normal housing markets; multiple requirements before, during and after a foreclosure and long delays have contributed to this problem.

Importance of Foreclosure

Much of the foundation of success for the financial system of the United States has been the ability of a creditor to know their rights and remedies. In other nations, where bankruptcy laws either do not exist or do not have vigorous enforcement or where one cannot foreclose on certain mortgages,

the willingness of creditors and investors to join those markets has been weak. Clearly, the loss of a home and the need to protect homeowners are no small matters. Nevertheless, this goal must be aligned with the fact that the system that provided homeowners access to and lower cost for homeownership is founded on a settled principle of law— the ability of a creditor to act against the collateral for a loan. It must be remembered that other homeowners deposited funds in banks to be lent for mortgages, other homeowners have pensions or 401k plans that invested in pools of mortgages (pools that support the mortgage markets) and other homeowners live in a neighborhood or building with foreclosed properties that see homeowner association fees not being paid and community services decline for which they, as taxpayers, may bear added costs.

State Laws—Recent Issues

1. Differences in State Foreclosure Laws and their Administration

Two concepts are central to foreclosures— mortgage or deed of trust and judicial or non-judicial state processes. The two are tied together. In a deed of trust, the homeowner agrees to the right of a creditor to act against the property and this predominates in non-judicial states. With a mortgage, the creditor must proceed against the property and this usually requires a judicial process.

In non-judicial foreclosure, state laws provide for an orderly process. Homeowners receive statutorily-required communications and creditors have to file certain papers with the state, making public the borrower's default. Later a notice of sale is provided the homeowner along with public posting and recordation. There is a notice period after which an auction is held. At any point along the process, the homeowner may seek to pay off their debt and, if they dispute any action not comporting with the statutes, the homeowner may go to court to stop further proceedings.

Judicial foreclosure states have much the same law, but the proceedings are overseen by a court. Here, filings are required with the court and here the various steps in the process are presented to a judge for action. The process is very much akin to a lawsuit with filings by the servicer— the company that has been entrusted by the owner of the note to administer the mortgage, including foreclosures— and the availability of defenses. In most cases, the homeowners who have not paid for some time simply do not participate in the proceedings. The judge accepts filings by the servicer of the loan, particularly on the issues of unpaid amounts, costs of the foreclosure process and determines whether or not to proceed. Again, at any point, the homeowner can contest servicer actions or filings.

States laws vary in non-judicial states and in judicial states. In judicial foreclosure states, the variances may be larger as each judge (even judges in the same jurisdiction) may determine to interpret the terms of state law and of procedural rules differently. Most servicers do not act on foreclosure until after a homeowner is 120 days in default; then the servicers calculate home much time state laws permit for homeowners to cure. Foreclosure and homeowner opportunity to cure proceed at the same time; this aligns with the preferred option of servicers and lenders to keep the homeowner in the home. In the end, there must be some likelihood that the homeowner can renew meeting their obligations, if necessary with a loan modification or to avoid foreclosure through a short sale or other avoidance of a foreclosure; if not, then foreclosure is appropriate.

In non-judicial foreclosure states, the actual time period from foreclosure referral to foreclosure sale (assuming the four month default period already has passed) is somewhere over 250 days; in judicial foreclosure states, the time period is closer to 350 days. While not the minimums set by law, if everything runs smoothly, including efforts to keep a homeowner in their home, the period of default may be from 370 to 470 days. Then, it should be noted that the servicer must sell the home and, that is, only if no eviction action is required. This can add another four to six months. In short, foreclosures may represent nearly five hundred days of losses and, in some states, the numbers are higher. Then another period of time for the servicer now the holder of real-estate-owned to move the property to sale; this reduces further the amount of return to the creditor or investor, based not only on unpaid principal and interest, but as well on lowered home values. During all of this time, a homeowner may provide no payments to the creditor and no payments of other housing-related obligations.

The variances in state laws do affect foreclosures and the states should consider actions that would streamline and make even more efficient their processing rules. At the same time, state laws govern the process and parties must operate in line with those requirements.

2. Segregation of Functions and "Paper"

The party extending credit sells the servicing rights to an independent or affiliated firm skilled in collecting debts and providing funds to the creditor or to whomever they have assigned payment (such as to an investor through a securitization). The majority of parties authorize the servicer to act on their behalf in a foreclosure situation. The servicers in turn may seek specialized services from lawyers, appraisers, notaries and other parties to meet the requirements of the foreclosure process. In securitizations, trustees are also parties to the system and their contracts are important to the operation of the mortgage markets.

With a system still based in large part on paper, these parties may hold originals or copies of key documents. While electronic systems are not without weaknesses, clearly paper based systems have created problems. Related to the paper system is the legal issue is assignments. An assignment may be made in various manners, usually by transfer of documents and in other settings by a contractual assignment. It is important that market participants and their attorneys properly execute their responsibilities and assignments.

One development that may emerge from the current market situation is a move toward electronification of the mortgage making process. At present, many originators, servicers, lawyers and court houses rely heavily on paper documents that are copied or held by trustees or document custodians. Moving to a more electronic system of records, digital signatures and a potential repository would certainly appear to improve on what operates today. Naturally, security and privacy questions and attendant costs arise in moving to such a system. While no system can address all human frailties, in the long term, many problems with current foreclosure processes could be alleviated by such an electronic system.

Problems Arising with State Laws

Core state laws on foreclosure center on the process of moving title to a property from a homeowner to another party who has a claim on the property, such as a mortgagee or other lienholder, including a city. At the end of process, the home in almost all instances is sold. Throughout the process, homeowners are protected against improper actions by lienholders and, in some states, even have the right to redeem properties if they can pay off outstanding debts.

State and local officials have been very active in adding to or amending laws related to foreclosures or servicing of mortgages. By one estimate, since 2009, state legislators have introduced over 550 bills in the servicing arena; other estimates run higher. For example, state legislatures have considered bills that would create new or higher foreclosure-filing fees, extend foreclosure timelines, require registration of mortgage assignments and mandate foreclosure mediation. Legislation in these areas can have detrimental consequences for the mortgage finance system, housing markets and for borrowers.

States operate foreclosures either under a judicial or non-judicial system. Beyond consideration before a judicial body, the core elements of what must be demonstrated—nonpayment of debts, ownership of an obligation tied to the property and so forth—generally are the same. Process elements do vary.

Problems that have emerged in the foreclosure process may be listed as follows:

– differences between judicial and non-judicial states, differences between judicial states, differences between non-judicial states and even differences within a state raise problems for carrying out foreclosures;

-- time frames have been extended for aspects of the foreclosure processes either directly or through addition of new procedures;

– states have added new procedures, such as mediation programs, in many cases without appropriate safeguards that mandate good faith participation and slowing the overall foreclosure timeline should mediation fail;

– states have added items to the list of priority liens that must be paid out of any foreclosure sale to a state or locality and thereby affect the return to the lender and investor; these additions are not prospective to mortgage made after enactment, but apply to existing mortgages, thereby altering returns that investors and lenders calculated at the time of their credit extension or investment;

– contemporaneous with foreclosure laws, states have created lending programs with priority liens, again, layering debt extracted from the value of a home;

-- state and localities have added to their vacant property ordinances new requirements and fees that encumber and delay foreclosures as well as add to the costs borne by investors and lenders and, in many cases, other taxpayers; and,

-- states have added bonding and other requirements and charges to undertake foreclosures that are far in excess of any benefits provided to the lender or investor and therefore represent taxes not fees for services.

In sum, both the substance of laws and the volume and layering of legal requirements contribute to the problems for orderly and less costly foreclosures

Considerations for Action

Clearly, everyone must abide by the laws; servicers did not in many instances and bank regulators have acted on those missteps. But now, the question is will the states begin to look to what should occur. Should vacant properties be designated as such by a city and an expedited foreclosure process occur. Should states place short time limits on mediation proceeding, if they exist, and demand good faith participation, not merely another delay by lawyers for homeowners seeking to avoid payments. Should states clarify that redemption periods, where they exist, not be used to hold hostage lenders who have foreclosed, but fear acting before the additional time set forth in these statutes expires.

Some fear that reforms mean an acceleration of foreclosures that will harm homeowners and benefit creditors and investors. The reality is that such acceleration would benefit both. FHFA directed the Enterprises to put in place incentives and penalties to move borrower assistance to the forefront in any delinquency or default situation. This is the time of greatest success. If implemented by servicers as directed and with due attention to homeowner understanding of the process, then a fair review of a modification or foreclosure alternative should come as soon as possible. If this is done, then foreclosure should move more smoothly, with due concern for the interest homeowners, but also with the interest of communities. With movement to earlier intervention, streamlining and shortening foreclosure time frames makes great sense. To find the foundation for such actions, states should consider, among many issues, the following:

If redemption is available in a state, how many homeowners ever take advantage of such a right.

In states with timelines for foreclosures far in excess of what would be expected under judicial and non-judicial requirements, how many homeowners actually modify their mortgages versus simply staying in their homes at no cost to them during this additional time (a time that harms the value of their neighbor's homes, may lead to lower maintenance and a glut of unsold properties).

How many people, who did not pass a modification program, will really benefit from a mediation effort of as long as 120 days, what will be different, in short what value does mediation produce for such individuals versus making every effort to produce a modification or foreclosure avoidance mechanism.

How many people will be harmed because of "overly" protective laws for either those who will not benefit from the law or where, in a rare instance, someone is harmed and a remedy may be made available. In other words, streamlining a process with a remedy may be more preferable to elongating a timeline for everyone which produces adverse reactions to these state laws by creditors and investors and thereby to all homeowners.

Even from the improper foreclosure practices of servicers and lenders—which have been sanctioned by federal bank regulators—how many homeowners were adversely affected, how many had paid any funds to meet their mortgage obligations and in how many situations did the improper actions alter the course of the ultimate foreclosure.

These and other questions need to be addressed and answered to understand the nature of the impact on the market and on homeowners of the variety of state laws affecting the handling of delinquencies and foreclosures. In the end, providing protection for homeowners and providing assurance to neighborhoods that all parties have equal obligations regarding their properties will be of great value. At the same time, affording confidence for lenders and investors that if necessary— and only after consumer protections have been honored— they can act against their collateral before it diminishes further in value will maintain stability for the mortgage market. The certainty and efficiency desired in housing finance markets would benefit from action to streamline and make uniform foreclosure processes in judicial and non-judicial states.

Potential actions center on the following:

-- states acting individually to suspend further modifications or enactments affecting mortgage foreclosures, unless acting to streamline foreclosures where pre-foreclosure actions to modify loans or avoid foreclosure are in place;

-- states acting collectively through a uniform law that provides a model for streamlining and making more uniform judicial and non-judicial foreclosure laws;

-- action by federal regulators to address the problems presented by current foreclosure law and related legal issues; and,

-- action by Congress to address specific elements of foreclosure laws that create unnecessary and counter-productive problems, while preserving the fundamental role of state real estate law.

Clearly, the current financial crisis has prompted action to protect consumers and to re-direct lenders to prudent underwriting. This is an equally auspicious time for states to consider improvements to their laws. Action should be undertaken to avoid unnecessary divergence among states on procedures and standards, to avoid unnecessary delays, to eliminate unfair burdens on mortgagees and servicers and to avoid layering of new requirements to the foreclosure process that exacerbate rather than alleviate problems.

Conclusion

As noted at the beginning, every aspect of the housing finance system merits review and this includes the underlying legal infrastructure contained in state and federal laws, in judicial rulings and in the contracts among the various parties to the system. Foreclosure, the last choice of all parties, should proceed expeditiously and at the lowest cost. Throughout the process, consumer protections and property rights must be honored. Action should be undertaken to simply and not lengthen or complicate pre-foreclosure and foreclosure processes while satisfying these objectives.

Attached are two documents for consideration. The first compares two judicial and two non-judicial states, demonstrating differences faced by national lenders as well as local portfolio lenders and investors in terms of requirements and timelines of such laws and an estimate of the cost of foreclosure delays to Fannie Mae and Freddie Mac. A second document addresses major state legislative issues facing the processing of mortgages that are in default or represent a layering of obligations and liens on homeowners that affect foreclosures.

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency

Attachment 1

Select Comparison of State Laws and Costs to the Enterprises

1. Charts

The attached charts compare two judicial foreclosure states—Florida and New Jersey— and two non-judicial foreclosure states— California and Nevada. The chart sets forth the key, general steps required for foreclosures in the four states and the estimated optimum timeline for each step, as published by a leading trade industry group. These estimated timelines are contrasted with the historical experience of Fannie Mae and Freddie Mac in those same states. No attempt is made here to delineate the cause for any particular delay in foreclosures over the referenced three-year period.

NOTE: FHFA specifically highlights that the information contained in the charts may or may not provide a basis for assessing compensatory damages against servicers and are not reflective of individual servicer performance or what is acceptable under applicable Fannie Mae or Freddie Mac Seller Servicer Guidelines.

2. Costs

Drawn from these charts is a rough estimate of the costs incurred by the government sponsored enterprises from extended foreclosure timelines. The estimate may not correlate to exact credit losses reported by the Enterprises or to the compensatory fees assessed by the Enterprises for foreclosures that exceed their state specific timelines. The methodology reflects the estimated cost of all delays in the foreclosure process and is not limited to delays that result from changes in individual state processes.

The Enterprises looked to the number of completed foreclosure sales for each year from 2009 through 2011, then determined the average foreclosure timeline for those loans and compared it to the standard foreclosure timeline set forth in each Enterprise's Guide. The Enterprises then subtracted standard foreclosure timelines from the average foreclosure timelines. This produced the average days by which foreclosures exceeded state standards— the delays. Then the Enterprises multiplied the average days by which foreclosures exceeded the state standards by the number of foreclosure sales and further multiplied it by the individual Enterprise's estimated daily cost of holding a loan in foreclosure, based on 2011 data. This results in the estimated financial impact on credit losses that the Enterprises experienced due to elongated and delayed foreclosures. While each Enterprise had slight variances in calculation of holding costs, the numbers below reflect a best, but rough, estimates of the costs of extended foreclosure periods.

Estimated cost ranges for extended foreclosure time frames for Fannie Mae and Freddie Mac are as follows:

2009— $650-775 million
2010— $1.86-2.25 billion
2011— $1.46-1.80 billion

Judicial and Non-Judicial GSE Foreclosure Timelines
January 2012

Judicial States—Comparison Florida and New Jersey

State	Current timeline to complete foreclosure under applicable law, assuming no delays*	GSE Actual Average Days**		
		2009	2010	2011
Florida	150	393	514	670
New Jersey	600	550	714	817

State of Florida	Cumulative Days to Foreclosure Sale*
1. File Received	1
2. Received title work	5
3. Examine title work	7
4. Complaint filed	10
5. Complaint served on all defendants	35
6. Send Client Affidavit of Amount Due	40
7. Receive Affidavit of Amount Due and Original Note or Lost Note Affidavit	55
8. File Motion for Judgment, notice of hearing, default any defendants who have not filed answers	65
9. Final Judgment entered and sale set	100
10. Advertising complete	128
11. Receive bid from client	130
12. Sale held	135
13. Certificate of title issued	150

State of New Jersey	Cumulative Days to Foreclosure Sale*
1. File Received	0
2. Complaint Filed	45
3. Complaint served on all defendants	75
4. Final Judgment Entered	440
5. Sale Held	560
6. Redemption Period Expires	570
7. Deed Recorded	600

Florida has taken the following recent actions impacting foreclosure:

1. In December 2009, the Florida Supreme Court mandated that all judicial circuits in the state implement a court managed mediation program. This program required mandatory counseling prior to any mediation meeting; extending the timeline for foreclosures.

2. On December 19, 2011, the Florida Supreme Court discontinued the mandatory program due to mixed results. At this time, it is not known whether the 20 judicial circuits will continue their own mediation programs.

New Jersey has taken the following recent actions impacting foreclosure:

1. On December 20, 2010, the New Jersey Supreme Court, without prior notice, effectively stopped all residential foreclosures by adopting new procedural rules for foreclosures and entering a show cause order against the six largest servicers in the state. That show cause order proceeding lasted through the summer of 2011.

2. On August 8, 2011, a New Jersey Court of Appeals issued an opinion involving statutorily-required notices of intent to foreclosure which decision has, again, had the effect of stopping many foreclosures.

Notes:

*These estimated optimum timelines are published by USFN, which is a leading non-profit network of law firms and trustee companies offering educational and legislative resources relating to servicing of defaulted loans.

** The "GSE Actual Average Days" are an average of actual days to foreclosure, measured from foreclosure referral to foreclosure sale that Freddie Mac and Fannie Mae have historically experienced on GSE loans. These GSE averages are somewhat conservative in that they measure only those foreclosures that have actually gone to sale and do not account for all "active" loans that may be aging in inventory due to an inability to go to sale. The averages significantly exceed the USFN optimum estimated total days for many reasons, including but not limited to, volume of foreclosures, servicer delays due to documentation issues, foreclosure sale postponements, etc. In judicial states, these delays can also be attributed to affidavit issues and court and sheriff delays.

These timelines may or may not provide a basis for assessing compensatory damages against servicers and are not reflective of individual servicer performance or what is acceptable under the GSE Seller Servicer Guidelines.

Judicial and Non-Judicial GSE Foreclosure Timelines
January 2012

Non-Judicial States—Comparison California and Nevada

State	Current timeline to complete foreclosure under applicable law, assuming no delays*	GSE Actual Average Days**		
		2009	2010	2011
California	120	224	273	292
Nevada	118	208	295	393

State of California	Cumulative Days to Foreclosure Sale*
1. Foreclosure Referral	1
2. Record Notice of Default (NOD)	2
3. Send 10-Day notices	12
4. Receive and review Trustee's Sale Guarantee report; Send 1-month notices	32
5. Publication of Notice of Sale for 3 consecutive weeks	93
6. Loan may be reinstated up to 5 Business Days before sale	112
7. Foreclosure Sale is held	117
8. Trustee's Deed is prepared and recorded	120

California has an action pending that could significantly impact foreclosure costs, timing and process:

1. California currently has a bill pending that would require mortgage servicers to pay a loss mitigation charge of $20,000 per case filed.

State of Nevada	Cumulative Days to Foreclosure Sale*
1. Foreclosure referral	1
2. Substitution of Trustee, Assignments, and NOD prepared and executed	1
3. Assignments and Substitution of Trustee recorded; Affidavit of Authority prepared	3
4. Record NOD and Affidavit of Authority	3
5. Receive and review Trustee's Sale Guarantee report	9
6. Send 10-Day notices	12
7. First publication of notice of sale; notice of sale mailed and posted	92
8. Foreclosure Sale is held	116
9. Trustee's deed is prepared and recorded	118

Nevada has taken the following recent actions impacting foreclosure:

1. Effective July 2009, Nevada established a non-judicial mediation program. This program has experienced many operational and procedural problems, creating a substantial delay in the foreclosure process.

2. Effective October 2011, Nevada law requires an affidavit to be signed, prior to filing a notice of default, attesting to personal knowledge of required documentation, including the recording of all assignments. The law has effectively curtailed foreclosure referrals in the state.

3. Nevada revised a law expanding a priority lien on condo units that do not pay dues to nine months and adding legal fees incurred to attempt to recover such dues even if unsuccessful.

Notes:

*These estimated optimum timelines are published by USFN, which is a leading non-profit network of law firms and trustee companies offering educational and legislative resources relating to servicing of defaulted loans.

** The "GSE Actual Average Days" are an average of actual days to foreclosure, measured from foreclosure referral to foreclosure sale that Freddie Mac and Fannie Mae have historically experienced on GSE loans. These GSE averages are somewhat conservative in that they measure only those foreclosures that have actually gone to sale and do not account for all "active" loans that may be aging in inventory due to an inability to go to sale. The averages significantly exceed the USFN optimum estimated total days for many reasons, including but not limited to, volume of foreclosures, servicer delays due to documentation issues, foreclosure sale postponements, etc. In judicial states, these delays can also be attributed to affidavit issues and court and sheriff delays.

These timelines may or may not provide a basis for assessing compensatory damages against servicers and are not reflective of individual servicer performance or what is acceptable under the GSE Seller Servicer Guidelines.

Attachment 2

Significant State Legislative Issues Affecting Defaulted Loans and the Foreclosure Process

1. **Foreclosure Mediation Programs**

At least 26 states have enacted legislation or issued court orders requiring servicers to mediate with borrowers before foreclosing properties.[1] While the overall goal of foreclosure mediation programs may have merit, some mediation programs result in negative unintended consequences for borrowers, lenders and the community. Key concerns include (i) the programs could prohibit or unnecessarily delay inevitable foreclosure sales by requiring mediation in cases where the borrower has already been evaluated for all available alternatives and deemed ineligible. For example, in the District of Columbia, a recently enacted law (DC L19-0041) and its implementing regulations create an ambiguous mediation process that fails to exempt borrowers who have already been determined to be ineligible for alternatives to foreclosures and create an unnecessarily long period for mediation; and (ii) the programs could impose loss mitigation requirements that are contrary to HAMP or other GSE-loss mitigation programs. For example, Michigan has proposed a bill (SB 513) that would allow courts to modify residential owner-occupied mortgages possibly contrary to HAMP requirements and Indiana recently enacted a law (S. 582) that would allow courts to issue temporary orders allowing homeowners to make monthly payments during the pendency of a foreclosure action which may include amounts that are less than payments required under HAMP. Mediation programs vary, do not have consistent or appropriate requirements for participation in mediation, have associated costs, create more tripwires with notices and other requirements and may result in no new outcome; and, (iii) in some cases, the programs could result in a moratorium on non-judicial foreclosures as in the cases of Hawaii law under Act 48, which created a new complex and ambiguous alternative non-judicial foreclosure process and resulted in a temporary moratorium on certain non-judicial foreclosures and of proposed Michigan bill SB 513 which would preclude non-judicial foreclosures for owner-occupied properties.

2. **Significant Foreclosure-Related Fees**

Some states and municipalities have passed or are considering legislation that impose significant foreclosure related fees or bond requirements upon initiation of foreclosure actions; such fees range from $300 up to $20,000 per foreclosure action and include fees in excess of any benefits provided to the lender or investor. Examples of these proposals include New York City Ordinance 494 which would require a servicer to post a $10,000 bond upon initiation of a foreclosure action; California A 935 would require servicers to pay a $20,000 foreclosure mitigation fee upon filing a notice of foreclosure sale; and, Illinois S. 1370 would require a servicer who has commenced a foreclosure action to pay a fee of $1,000 per month during the period a property is vacant.

3. **Mortgage Assignments Prior to Foreclosure**

At least nine states are require or are considering proposals that would require assignments to be recorded before foreclosing on properties. For example, Nevada passed a law (AB 284) that requires all assignments of mortgages to be recorded, including assignments occurring before the date of enactment. Mortgage recording statutes protect the relative priorities of lien holders by providing a system to publicly register lien

[1] *See* http://www.nclc.org/issues/foreclosure-mediationprograms-by-state.html – National Consumer Law Center list of foreclosure mediation programs by state.

interest and thereby allow for the notification of interested lien holders, however, interested parties often confuse the purpose of mortgage recording statutes with the purposes of the Article 3 of the Uniform Commercial Code which governs the enforcement of the mortgage. The Uniform Commercial Code is designed to protect borrowers by determining the identity of the one party entitled to enforce the collection of payments due under the note. Under the Uniform Commercial Code, the note-holder or party in possession of the note acting with the authority of the holder is the party who can enforce the obligations due under the note. Because the common law provides that the rights under the security instrument (either a mortgage or a deed of trust) "follow" the note, common law does not require that the security instrument even be in the name of the party entitled to enforce the note in order for the party with the right to enforce collection of the note to also foreclose the secured property. This common law approach remains the law in most, if not all, judicial foreclosure States. In non-judicial foreclosure States that have adopted a deed of trust method for securing property (most non-judicial States), it is typically necessary for the person appointing the trustee (the only person authorized to sell the secured property at foreclosure sale) to be the beneficiary of the deed of trust, or the assignee of the beneficiary, and in some States that deed of trust or assignment must be recorded in the land records.

4. Vacant Property Registration and Maintenance Requirements Prior to Foreclosure

Over the past year, at least eight cities and municipalities—such as Chicago, Illinois, Cook and Elgin Counties in Illinois, Las Vegas, Nevada, Springfield Massachusetts and Atlanta, Georgia— have passed or are considering imposing increased vacant property registration and maintenance requirements on owners, servicers and investors. These obligations are burdensome, costly and increase liability for servicers and investors. They impose obligations on abandoned property that do not have attendant rights and benefits, that is, they create obligations as for an owner to maintain property, but not the right to dispose of the property as an owner.

5. Priority Liens

At least 30 states have enacted or introduced legislation allowing certain liens to take priority over previously recorded mortgages, referred to as "super liens." The most common types of super liens are associated with (i) unpaid homeowners and condominium assessments and dues; (ii) state or county energy-efficiency loans; (iii) removal and abatement of blighted and hazardous conditions on properties by states and municipalities; and, (iv) repair and improvement of homes by private contractors, such as a mechanic's liens. For example, New Jersey has enacted a law (S 1406), and Pennsylvania HB 1667 and Rhode Island S 327 are considering proposals that would allow municipalities the option to implement energy efficient loan programs that would create priority liens over existing first mortgages. Such super liens affect existing mortgages (negotiated and in existence prior to the creation of the lien), have open-ended costs in many cases and otherwise create a retroactive application of law that affects creditor and investor positions.

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

January 20, 2012

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
2235 Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Cummings:

In response to your request that the Federal Housing Finance Agency (FHFA) provide the Committee with the specific statutory provision that would prohibit the FHFA from allowing Fannie Mae and Freddie Mac (Enterprises) to reduce mortgage principal in all cases and analysis the agency conducted, including the data examined, demonstrating that principal reduction never serves the long-term interest of the taxpayer when compared to foreclosure, I am providing the following information and attachments.

Prior to a specific response, I would like to apologize for the delay in this response. At no time has there been any lack of respect or indifference to the request and I take full responsibility for the time it has taken to provide this response.

Statutory Requirements

As to statutory requirements, FHFA serves as conservator and regulator of the Enterprises under three principal mandates set forth by Congress that direct FHFA's activities and decisions. First, FHFA has a statutory responsibility as conservator to preserve and conserve the assets and property of the regulated entities. Second, the Enterprises have the same mission and obligations as they did prior to the conservatorship. Therefore, FHFA must ensure that Fannie Mae and Freddie Mac maintain liquidity in the housing market during this time of economic turbulence. Third, under the Emergency Economic Stabilization Act of 2008 (EESA), FHFA has a statutory responsibility to maximize assistance for homeowners to minimize foreclosures. Under EESA, FHFA must consider the net present value (NPV) of any action undertaken to prevent foreclosures.

These mandates guide every FHFA policy decision, including the decision not to allow Fannie Mae and Freddie Mac to engage in principal forgiveness at this time. FHFA did not conclude that "principal reduction never serves the long-term interest of the taxpayer when compared to foreclosure." In considering principal forgiveness, FHFA compared taxpayer losses from principal forgiveness versus principal forbearance, which is an alternate approach that the Enterprises currently undertake to fulfill their mission at a lower cost to the taxpayer. FHFA based its conclusion that principal forgiveness results in a lower net present value than principal forbearance on an analysis initially prepared in December 2010, which is attached, along with updated analyses produced in June and December 2011, which are also attached.

400 7th Street, S.W., Washington, D.C. 20024 • 202-649-3801 • 202-649-1071 (fax)

FHFA Considerations

Putting this determination in context, as of June 30, 2011, the Enterprises had nearly three million first lien mortgages with outstanding balances estimated to be greater than the value of the home, as measured using FHFA's House Price Index. FHFA estimates that principal forgiveness for all of these mortgages would require funding of almost $100 billion to pay down mortgages to the value of the homes securing them. This would be in addition to the credit losses both Enterprises are currently experiencing.

Another factor to consider is that nearly 80 percent of Enterprise underwater borrowers were current on their mortgages as of June 30, 2011. (Even for more deeply underwater borrowers – those with mark-to-market loan-to-value ratios above 115 percent, 74 percent are current.) This trend contrasts with non-Enterprise loans, where many underwater borrowers are delinquent.

Given that any money spent on this endeavor would ultimately come from taxpayers and given that our analysis does not indicate a preservation of assets for Fannie Mae and Freddie Mac substantial enough to offset costs, an expenditure of this nature at this time would, in my judgment, require congressional action.

In considering a program of principal reduction for underwater borrowers, FHFA used the net present value model developed to implement the Home Affordable Modification Program (HAMP). Using the HAMP NPV model for borrowers with mark-to-market loan-to-value (LTV) ratios greater than 115 percent, FHFA compared projected losses to Fannie Mae and Freddie Mac from borrowers receiving principal forbearance modifications to borrowers receiving principal forgiveness modifications as allowed in the HAMP program. The model, and hence the analysis, takes into account the sustainability of the modifications and assumes that principal forgiveness reduces the rates of re-default on the loans to a greater extent than would forbearance. However, in the event of a successful modification, forbearance offers greater cash flows to the investor than forgiveness. The net result of the analysis is that forbearance achieves marginally lower losses for the taxpayer than forgiveness, although both forgiveness and forbearance reduce the borrower's payment to the same affordable level.

Additionally, there would be associated costs to upgrade technology, provide guidance and training to servicers, and change accounting and tracking systems in order to implement a principal forgiveness program. Unless there is an expectation that principal forgiveness will reduce losses, we cannot justify the expense of investing in major systems upgrades.

Fannie Mae and Freddie Mac already offer a loan modification option that reduces monthly payments to an affordable rate using principal forbearance– the same monthly payment that would be in place with forgiveness - and this is most consistent with FHFA obligations as conservator.

While it is not in the best interests of taxpayers for FHFA to require the Enterprises to offer principal forgiveness to high LTV borrowers, a principal forgiveness strategy might reduce losses for other loan holders. Indeed, in several of the examples cited, such as Ocwen and Wells Fargo, principal forgiveness is being offered to borrowers whose loans the investor or servicer purchased at a discount, which would likely change the analytics significantly. Also, because of Enterprise requirements for credit enhancement of high LTV loans, a high percentage of Enterprise loans have mortgage insurance or second liens. Consequently, a large share of the potential gains from principal forgiveness on Enterprise loans would go to unrelated beneficiaries than may be the case for forgiveness on non-Enterprise loans.

Additionally, less than ten percent of borrowers with Enterprise loans have negative equity in their homes (9.9 percent in June 2011), whereas loans backing private label securities were more than three times more likely to have negative equity (35.5 percent in June 2011).

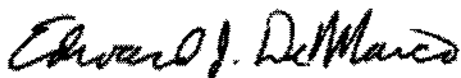
FHFA remains committed to assisting homeowners to stay in their homes and will continue to update and improve our analysis. FHFA would reconsider its conclusions if other funds become available and if the availability of other funds is at a level that would change the analysis to indicate potential savings to the taxpayers. In addition, other factors to consider in implementing any such policy include whether the borrower had defaulted on a previous loan modification, how much equity the borrower had originally invested in the house and the amount of contribution being made by second lienholders and mortgage insurers.

In the meantime, FHFA continues to focus on improving loss mitigation and foreclosure alternatives through a variety of means. Through HAMP and the Standard Modification that are now available through the Servicing Alignment Initiative, delinquent borrowers or borrowers at risk of default will be reviewed for loan modifications that can include principal forbearance. Borrowers who remain current on their loan payments can take advantage of the recent changes to the Home Affordable Refinance Program (HARP), which now permit all current underwater borrowers to refinance into lower interest rate mortgages.

Please note that the attached document provides the analyses presented to me upon which I have based my decisions. The analyses contain internal FHFA and examination-derived information that would not ordinarily be disclosed. As you will see, our determination has been based on projected economic costs to taxpayers, not short-term accounting considerations. Nor have the analyses been affected by considerations of executive compensation.

If you have additional questions, please contact Peter Brereton, Associate Director for Congressional Affairs, on my staff at (202) 649-3022.

Yours truly,



Edward J. DeMarco
Acting Director

xc: Darrell Issa, Chairman, Committee on Oversight and Government Reform

Attachment

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

(b)(4),(b)(5),(b)(8)

Federal Housing Finance Agency

400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

January 25, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Bachus:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

January 25, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Ranking Member Frank:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Federal Housing Finance Agency

400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

January 25, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

January 25, 2012

The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senator Shelby:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton
Associate Director for Congressional Affairs

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Attachments

400 7th Street, S.W., Washington, D.C. 20024 • 202-649-3801 • 202-649-1071 (fax)

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Joseph Lieberman
Chairman
Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Senator Lieberman:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senator Shelby:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable John D. Rockefeller, IV
Chairman
Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510

Dear Chairman Rockefeller:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Susan Collins
Ranking Minority Member
Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Senator Collins:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510

Dear Senator Hutchison:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Bachus:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

Federal Housing Finance Agency
Office of the Director

February 1, 2012

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
United States House of Representatives
Washington, DC 20515

Dear Chairman Issa:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Ralph Hall
Chairman
Committee on Science, Space and Technology
United States House of Representatives
Washington, DC 20515

Dear Chairman Hall:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

400 7th Street, S.W., Washington, D.C. 20024 • 202-649-3801 • 202-649-1071 (fax)

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives
Washington, DC 20515

Dear Ranking Member Cummings:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Ranking Member Frank:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 1, 2012

The Honorable Eddie Bernice Johnson
Ranking Member
Committee on Science, Space and Technology
United States House of Representatives
Washington, DC 20515

Dear Congressman Johnson:

I am pleased to share with you the FY2011 Federal Information Security Management Act (FISMA) annual report for the Federal Housing Finance Agency (FHFA).

FHFA is very aware of the importance of information system security and we are dedicated to ensuring effective security controls are in place to secure FHFA's information systems and our data. This commitment is reflected in the information security program enhancements that we implement each year to address evolving security threats.

Based on the FHFA information system security program report and the independent evaluation performed by the FHFA Office of Inspector General (OIG), I have determined, with reasonable assurance, that as of September 30, 2011, FHFA's information security policies, procedures and practices were adequate and effective.

If you have any questions, please do not hesitate to contact Peter Brereton, Associate Director, Office of Congressional Affairs and Communications at (202) 649-3022.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
Acting Director

Attachments

400 7th Street, S.W., Washington, D.C. 20024 • 202-649-3801 • 202-649-1071 (fax)

Plan to:

- Review and Reduce PII Holdings
- Eliminate the Unnecessary Use of Social Security Numbers (SSNs)

October, 2011

Federal Housing Finance Agency

1. Introduction

Purpose

This document provides an overview of the agency plan to review and reduce the holdings of personally identifiable information (PII) in accordance with OMB Memorandum M 07-16.

Overview of the Federal Housing Finance Agency

The Federal Housing Finance Agency (FHFA) was created on July 30, 2008, when the President signed into law the Housing and Economic Recovery Act of 2008. The Act created a regulator with all of the authorities necessary to oversee vital components of our country's secondary mortgage markets – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. In addition, this law combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the GSE mission office at the Department of Housing and Urban Development (HUD).

2. Review of PII Holdings

IT Systems

FHFA developed a consolidated list of IT systems using the documentation (system inventories, PTAs, and PIAs). The consolidated list was broken down by PII vs. non-PII systems and contractor vs. agency systems. The results of the review are in the table below.

FHFA Inventory	Comments/Notes
• FHFA has a total of 42 systems	• System count includes sub-systems running on the General Support System (GSS)
• FHFA has 11 systems containing social security numbers (SSNs)	• 10 systems are contractor systems • 1 system is an agency system
• FHFA has 30 systems containing PII	• 17 systems are contractor systems • 13 systems are agency systems

Paper Records

The existing systems of records notices (SORNs) are a starting point for the review of paper records that include PII. FHFA has published 13 SORNs and adopted 22 Government wide SORNs.

3. Actions to reduce PII holdings and eliminate the unnecessary collection of SSNs

To reduce the PII holdings and eliminate the unnecessary collection of SSNs, FHFA has taken a number of actions.

- **Privacy Training** -Web-based training is provided to employees and contractors on the appropriate safeguards for handling PII. The training guidance on what information can be collected, how information should be maintained, and specific instructions for sensitive PII including SSNs.
- **Privacy Threshold Analysis (PTAs)** - A screening tool to identify privacy requirements during system development has been developed. The PTA identifies the PII to be collected or maintained by the system (if any).
- **Privacy Act Statement Reviews** - As new data collection forms are created, the forms are reviewed to determine if a Privacy Act Statement is required. This provides an opportunity to review what information will be collected and identify any privacy issues.
- **Policy, Procedures, and Guidance** - FHFA has developed a Breach Notification Policy and Plan to address data breaches. FHFA has drafted policies for the collection and use of PII and procedures for conducting workspace audits to identify violations with respect to safeguarding agency sensitive information and equipment.
- **Secure Paper Shredding Services** - Locked consoles have been placed in the mail rooms and copy rooms in order to assist in the appropriate destruction of documents that documents that contain sensitive information. Documents placed in the secure consoles are shredded on a bi-weekly basis.
- **Unique Identifiers** - FHFA has worked with agency vendors (e.g. benefit providers) to eliminate the use of SSN as the unique identifier of an individual in a vendor system.

Plans for FY 12

The following actions that are planned for FY 12.

- Conduct semi-annual workspace audits;
- Continue to update the FHFA systems inventory;
  - Update Privacy Threshold Analysis (PTAs) for all FHFA systems
  - Review results and update the systems containing PII as needed
- Continue to update Privacy Impact Assessments (PIAs) for all systems, as needed; and
- Implement OPM's eOPF solution to replace paper official personnel folders.

Chief Information Officer

Section Report

2011

Annual FISMA Report

Federal Housing Finance Agency

Section 1: System Inventory

1. **For each of the FIPS 199 system categorized impact levels in this question, provide the total number of Agency operational, FISMA reportable, systems by Agency component (i.e. Bureau or Sub-Department Operating Element).**

Agency/ Component		1a. Agency Operated Systems	1b. Contractor Operated Systems on Behalf of the Agency.	Total Systems	1c. Number of systems in 1a. and 1b. combined with security authorization to operate.	1d. Systems or Services leveraging a public cloud.	1e. Number of Systems and Services in 1d. with a Security Assessment and Authorization to utilize.
FHFA	High	0	0	0	0	0	0
	Moderate	4	0	4	4	0	0
	Low	0	0	0	0	0	0
	Not Categorized	0	0	0	0	0	0
	Sub-Total	*4*	*0*	*4*	*4*	0	0
	FHFA is not reporting on externally hosted systems certified and accredited by other Federal agencies.						
Agency Totals	High	0	0	0	0	0	0
	Moderate	4	0	4	4	0	0
	Low	0	0	0	0	0	0
	Not Categorized	0	0	0	0	0	0
	Sub-Total	*4*	*0*	*4*	*4*	0	0

Section 2: Asset Management

2.1 **Provide the total number of Agency Information Technology assets (e.g. router, server, workstation, laptop, Blackberry, etc.)**

1690

2.1a. **Provide the number of Agency information technology assets, connected to the network, (e.g. router, server, workstation, laptop, etc.) where an automated capability provides visibility at the Agency level into asset inventory information.**

1690

2.1b. **Provide the number of Agency information technology assets where an automated capability produces Security Content Automation Protocol (SCAP) compliant asset inventory information output.**

1088

2.1c. **Provide the number of Agency information technology assets where all of the following asset inventory information is collected: Network address, Machine Name, Operating System, and Operating System/Patch Level.**

1027

2.2 **Has the Agency implemented an automated capability to detect and block unauthorized software from executing on the network?**

Partial Coverage

2.3 **Has the Agency implemented an automated capability to detect and block unauthorized hardware from connecting to the network?**

Partial Coverage

2.4 **For your Agency, which type(s) of assets are the most challenging in performing automated asset management? Rank the asset types below from 1-4 with 1 being the most challenging.**

2.4a. **Servers**

4

2.4b. **Workstations/Laptops**

2

2.4c. **Network Devices**

3

For Official Use Only

Section 2: Asset Management

2.4d. Mobile Devices

1

Section 3: Configuration Management

3.1 Provide the number of Agency information technology assets where an automated capability provides visibility at the Agency level into system configuration information (e.g. comparison of Agency baselines to to installed configurations).

1629

3.1a. Provide the number of Agency information technology assets where an automated capability produces SCAP compliant system configuration information output.

1629

3.2 Provide the number of types of operating system software in use across the Agency

8

3.2a. Provide the number of operating system software in use across the Agency for which standard security configuration baselines are defined. Consider an Agency approved deviation as part of the Agency standard security baseline.

8

3.3 Provide the number of enterprise-wide applications (e.g. Internet Explorer, Adobe, MS Office, Oracle, SQL, etc.) in use at the Agency.

42

3.3a. Provide the number of enterprise-wide applications for which standard security configuration baselines are defined. Consider an Agency approved deviation as part of the Agency standard security configuration baseline.

36

Section 4: Vulnerability Management

4.1 Provide the number of Agency information technology assets where an automated capability provides visibility at the Agency level into detailed vulnerability information (Common Vulnerabilities and Exposures - CVE)

1065

4.1a. Provide the number of Agency information technology assets where an automated capability produces SCAP compliant vulnerability information output.

1065

Section 5: Identity and Asset Management

For Official Use Only

Section 5: Identity and Asset Management

5.1 What is the number of Agency network user accounts (Exclude system and application accounts utilized by processes)?

673

5.1a. How many network user accounts are configured to require PIV to authenticate to the Agency network(s)?

0

5.1b. How many network user accounts are configured to optionally use PIV to authenticate to the Agency network(s)?

0

5.2 What is the number of Agency privileged network user accounts (e.g. system administrators)?

19

5.2a. What is the number of Agency privileged network user accounts that are configured to require PIV credentials to authenticate to Agency network(s)?

0

5.2b. What is the number of Agency privileged network user accounts that are configured to optionally use PIV credentials to authenticate to the Agency network(s)?

0

Section 6: Data Protection

6.1 Provide the total number of:

6.1a. Mobile computers and devices (excluding laptops)

6.1a(1) Netbooks

1

6.1a(2) Tablet-type computers

0

6.1a(3) Blackberries

602

6.1a(4) Smartphones

0

6.1a(5) USB devices (Flash drives and external hard drives)

142

Section 6: Data Protection

6.1a(6). Other

0

6.1b. Laptops Only

837

6.2 Provide the number of devices in 6.1 that have all user data encrypted with FIPS 140-2 validated encryption.

6.2a. Mobile computers and devices (excluding laptops)

6.2a(1). Netbooks

1

6.2a(2) Tablet-type computers

0

6.2a(3). Blackberries

602

6.2a(4) Smartphones

0

6.2a(5) USB devices (Flash drives and external hard drives)

142

6.2a(6) Other

0

6.2b. Laptops only

837

6.3 Provide the percentage of Agency email systems that implement encryption technologies to protect the integrity of the contents and sender information when sending messages to government agencies or the public such as S/MIME, PGP, or other.

100%

Section 7: Boundary Protection

Section 7: Boundary Protection

7.1 **Provide the percentage of the required TIC 1.0 capabilities that are implemented. (Applies only to Federal Civilian Agency TIC Access Providers (TICAP) only. All others should respond N/A.)**
N/A

7.1a **Provide the percentage of TIC 2.0 Capabilities that are implemented. (Applies only to Federal Civilian Agency TIC Access Providers (TICAP) only. All others should respond N/A.)**
N/A

7.2 **Provide the percentage of TICS with operational NCPS (Einstein 2) deployment. (Applies only to Federal Civilian Agency TIC Access Providers (TICAP) only. All others should respond N/A.)**
N/A

7.3 **Provide the percentage of external network capacity passing through a TIC/MTIPS. (Applies to all Federal Civilian Agencies. DOD should respond N/A.)**
100%

7.4 **Provide the percentage of external connections passing through a TIC/MTIPS. (Applies to all Federal Civilian Agencies. DOD should respond N/A.)**
100%

7.5 **Provide the percentage of Agency email systems that implement sender verification (anti-spoofing) technologies when sending messages to government agencies or the public such as DKIM, SPF, or other.**
100%

7.6 **Provide the percentage of Agency email systems that check sender verification (anti-spoofing technologies) to detect possibly forged messages from government agencies known to send email with sender verification such as DKIM or SPF or other.**
100%

7.7 **Provide the frequency with which the Agency conducts thorough scans for unauthorized wireless access points.**
Never

7.8 **Provide the frequency in which the Agency maps their cyber perimeter (e.g. externally visible systems and devices).**
Never

Section 8: Incident Management

Section 8: Incident Management

8.1 **What is the number of Agency operational networks on which controlled network penetration testing was performed in the past year?**

0

For the testing conducted above, provide the following information:

8.1a. **Percentage of incidents detected by NOC/SOC. (Per NIST 800-61, an incident is defined as a violation or imminent threat of violation of computer security policies, acceptable use policies, or standard security practices.)**

0%

Comments: The FHFA did not conduct formal penetration testing during FY2011.

For the incidents above detected by NOC/SOC during penetration testing provide the following information:

8.1a(1) **Mean-time to incident detection, in hours. (The mean time-to-incident detection metric is calculated by subtracting the Date of Occurrence from the Date of Discovery. These metrics are then averaged across the number of incidents detected by the NOC/SOC during penetration testing.)**

0 hours 0 minutes

Comments: Not Applicable

8.1a(2) **Mean-time to incident remediation, in hours. (The mean time-to-incident remediation is calculated by dividing the difference between the Date of Occurrence and the Date of Remediation for each incident remediated in the metric time period, by the total number of incidents remediated in the metric time period.)**

0 hours 0 minutes

Comments: Not Applicable

8.1a(3) **Mean-time to incident recovery, in hours. (The mean time-to-incident recovery is calculated by dividing the difference between the Date of Occurrence and the Date of Recovery for each incident recovered in the metric time period, by the total number of incidents recovered in the metric time period.)**

0 hours 0 minutes

8.1b. **Percentage of penetration testing incidents detected from other sources or business processes.**

0%

8.2 **For FY11, what percentage of applicable US-CERT SARs (Security Awareness Report or Information Assurance Vulnerability Alerts for DOD) has been acted upon appropriately by the Agency?**

100%

Section 8: Incident Management

8.3 **Provide the number of times in the past year the Agency participated in the Joint Agency Cyber Knowledge Exchange (JACKE). (These meetings are monthly) (DOD should respond N/A.)**

0

Section 9: Training and Education

9.1 **What is the average frequency with which users receive supplemental cybersecurity awareness training content beyond the annual training requirement (content could include a single question or tip of the day)?**

Comments: IT Security bulletins and awareness messages are disseminated to staff on a monthly basis. These bulletins are security best practices that are used to increase awareness.

Bureau	Frequency with which users receive supplemental cybersecurity awareness training
FHFA	Monthly

9.2 **Provide the total number of Agency sponsored phishing attack exercises, if conducted.**

0

9.2a. **Provide the number of Agency sponsored phishing attack exercises that revealed results of potential compromise (e.g., users clicked on an embedded link).**

0

9.3 **Provide the number of Agency users with network access privleges.**

673

9.3a. **Provide the number of Agency users with network access privileges that have been given security awareness training annually.**

647

Comments: As of September 30, 2011, 647 FHFA users successfully completed annual security awareness training. The remaining 26 users were on travel or extended leave status as of September 30, 2011 and will be required to complete training upon their return.

9.4 **Provide the number of Agency network users with significant security responsibilities.**

4

Comments: The FHFA is currently evaluating its methodology for identifying agency network users with significant security responsibilities. A Plan of Action and Milestone (POA&M) is used to monitor this activity.

Section 9: Training and Education

9.4a. Provide the number of Agency network users with significant security responsibilities that have been given specialized, role based, security training annually.

4

Comments: The FHFA is currently evaluating its methodology for identifying agency network users with significant security responsibilities.

9.5 At what frequency is security awareness training content (that is provided to users) updated by the Agency or training provider?

Annual

9.5a Comments:

FHFA's ISSLOB provider (DISA) updates the security awareness training content on an annual basis.

9.6 At what frequency is specialized, role based, security training content (that is provided to users) updated by the Agency or training provider?

Other

Comments: The FHFA is currently evaluating its methodology for identifying agency network users with significant security responsibilities.

9.6a. Comments:

This is an open POA&M for FY2012

Comments: The FHFA is currently evaluating its methodology for identifying agency network users with significant security responsibilities.

9.7 Provide the estimated percentage of new users to satisfactorily complete security awareness training before being granted network access.

100%

9.8 Does your Agency's annual security awareness training include:

9.8a. Information on the security risks of wireless technologies and mobile devices?

Yes

9.8b. Awareness of the organization's security policies/procedures for mobile devices?

Yes

Section 9: Training and Education

9.8c. **Mitigation of risks by maintaining physical control of mobile devices, encrypting sensitive information, disabling wireless functionality when not in use, and procedures for reporting lost or stolen mobile devices?**

Yes

9.8d. **Content on how to recognize and avoid phishing attacks?**

Yes

Section 10: Remote Access

10.1 **Provide the number of remote access connection methods (e.g. Dial-up, VPN, Clientless-VPN or SSL, etc.) the Agency offers to allow users to connect remotely to full access of normal desktop Agency LAN/WAN resources/services. Connection methods refer to options the Agency offers to users allowing them to connect remotely.**

2

10.1a. **For those methods provided above, provide the number that:**

10.1a(1) **Require only UserID/password.**

0

10.1a(2) **Require only PIV credentials.**

0

10.1a(3) **Optionally accepts PIV credentials.**

0

10.1a(4) **Require other forms of two-factor authentication.**

1

10.1a(5) **Utilize FIPS 140-2 validated cryptographic modules.**

1

10.1a(6) **Prohibit tunneling and/or dual connected laptops where the laptop has both an active wired and wireless connection.**

0

10.1a(7) **Are configured, in accordance with OMB M-07-17, to time-out after 30 minutes of inactivity which requiring re-authentication.**

0

Section 10: Remote Access

10.1a(8) **Scan for malware upon connection.**

0

10.1a(9) **Require Government Furnished Equipment (GFE).**

1

10.1b. **For those connection methods that require GFE as in question 10.1a(9) above, provide the number of connection methods that:**

10.1b(1) **Assess and correct system configuration upon connection.**

0

10.2 **List the remote access connection methods identified in 10.1:**

Remote access connection method
VPN (IPSEC) and Citrix (SSL)

Section 11: Network Security Protocols

11.1 **Provide the number of:**

11.1a. **External facing DNS names (second-level, e.g. www.dhs.gov).**

3

11.1b **External facing DNS names (second-level) signed.**

3

11.1c **Provide the percentage of external facing DNS hierarchies with all sub-domains (second-level and below) entirely signed.**

100%

Section 12: Software Assurance

12.1 **Provide the number of information systems, developed in-house or with commercial services, deployed in the past twelve months.**

2

Section 12: Software Assurance

12.1a. **Provide the number of information systems above (12.1) that were tested using automated source code testing tools. (Source code testing tools are defined as tools that review source code line by line to detect security vulnerabilities and provide guidance on how to correct problems identified.)**

0

12.1b. **Provide the number of the information systems above (12.1a) where the tools generated output is compliant with:**

12.1b(1) Common Vulnerabilities and Exposures (CVE)

0

12.1b(2) Common Weakness Enumeration (CWE)

0

12.1b(3) Common Vulnerability Scoring System (CVSS)

0

12.1b(4) Open Vulnerability and Assessment Language (OVAL).

0

Section 13: Continuous Monitoring

13.1 **What percentage of data from the following potential data feeds are being monitored at appropriate frequencies and levels in the Agency:**

13.1a **IDS/IPS**

100%

13.1b **AV/Anti-Malware/Anti-Spyware**

100%

13.1c **System Logs**

100%

13.1d **Application Logs**

100%

13.1e **Patch Status**

100%

Section 13: Continuous Monitoring

13.1f **Vulnerability Scans**
100%

13.1g **DNS logging**
100%

13.1h **Configuration/Change Management system alerts**
100%

13.1i **Failed logins for privileged accounts**
100%

13.1j **Physical security logs for access to restricted areas (e.g. data centers)**
100%

13.1k **Data loss prevention data**
0%

13.1l **Remote access logs**
100%

13.1m **Network device logs**
100%

13.1n **Account monitoring**
100%

13.1n(1) **Locked out**
100%

13.1n(2) **Disabled**
100%

13.1n(3) **Terminated personnel**
100%

13.1n(4) **Transferred personnel**
100%

Section 13: Continuous Monitoring

13.1n(5) Dormant accounts

100%

13.1n(6) Passwords that have reached the maximum password age

100%

13.1n(7) Passwords that never expire

100%

13.1o Outbound traffic to include transfers of data, either encrypted or unencrypted.

100%

13.1p Port scans

100%

13.1q Network access control lists and firewall rules sets.

100%

13.2 To what extent is the data collected, correlated, and being used to drive action to reduce risks? Please provide a number on a scale of 1-5, with 1 being that "All continuous monitoring data is correlated"

2

For Official Use Only

Senior Agency Official For Privacy

Section Report

2011

Annual FISMA Report

Federal Housing Finance Agency

Question 1: Information Security Systems

	a. Number of Federal systems that contain personal information in an identifiable form			b. Number of systems in column a. for which a Privacy Impact Assessment (PIA) is required under the E-Government Act			c. Number of systems in column b. covered by a current PIA				d. Number of systems in column a. for which a System of Records Notice (SORN) is required under the Privacy Act			e. Number of systems in column d. for which a current SORN has been published in the Federal Register			
Agency/ Component	Agency Owned Systems	Contractor Owned Systems	Total Systems	Agency Owned Systems	Contractor Owned Systems	Total Systems	Agency Owned Systems	Contractor Owned Systems	Total Systems	% Complete	Agency Owned Systems	Contractor Owned Systems	Total Systems	Agency Owned Systems	Contractor Owned Systems	Total Systems	% Complete
FHFA	12	18	30	3	16	19	3	16	19	100%	2	16	18	2	16	18	100%
Agency Totals	***12***	***18***	***30***	***3***	***16***	***19***	***3***	***16***	***19***	***100%***	***2***	***16***	***18***	***2***	***16***	***18***	***100%***

Question 2: Links to PIAs and SORNs

2a. **Provide the URL of the centrally located page on the Agency web site that provides working links to Agency PIAs or N/A if not applicable.**

http://www.fhfa.gov/Default.aspx?Page=236

2b. **Provide the URL of the centrally located page on the Agency web site that provides working links to the published SORNs or N/A if not applicable.**

http://www.fhfa.gov/Default.aspx?Page=236

Question 3: Senior Agency Official for Privacy (SAOP) Responsibilities

3a. **Can your Agency demonstrate with documentation that the SAOP participates in all Agency information privacy compliance activities?**

Yes

3b. **Can your Agency demonstrate with documentation that the SAOP participates in evaluating the privacy implications of legislative, regulatory, and other policy proposals, as well as testimony and comments under OMB Circular A-19?**

Yes

3c. **Can your Agency demonstrate with documentation that the SAOP participates in assessing the impact of the Agency's use of technology on privacy and the protection of personal information?**

Yes

Question 4: Information Privacy Training and Awareness

Question 4: Information Privacy Training and Awareness

4a. Does your Agency have a policy in place to ensure that all personnel (employees, contractors, etc.) with access to Federal data are generally familiar with information privacy laws, regulations, and policies, and understand the ramifications of inappropriate access and disclosure?

Yes

4b. Does your Agency have a program for job-specific and comprehensive information privacy training for all personnel (employees, contractors, etc.) that handle personal information, that are directly involved in the administration of personal information or information technology systems, or that have significant information security responsibilities?

Yes

Question 5: PIA and Web Privacy Policies and Processes

5. Does the Agency have a written policy or process for each of the following?

5a. PIA Practices

5a(1). Determining whether a PIA is needed.

Yes

5a(2). Conducting a PIA.

Yes

5a(3). Evaluating changes in technology or business practices that are identified during the PIA process.

Yes

5a(4). Ensuring systems owners, privacy officials, and IT experts participate in conducting the PIA.

Yes

5a(5). Making PIAs available to the public as required by law and OMB policy.

Yes

5a(6). Monitoring the Agency's systems and practices to determine when and how PIAs should be updated.

Yes

5a(7). Assessing the quality and thoroughness of each PIA and performing reviews to ensure that appropriate standards for PIAs are maintained.

Yes

5b. Web Privacy Practices

Question 5: PIA and Web Privacy Policies and Processes

5b(1). Determining circumstances where the Agency's web-based activities warrant additional consideration of privacy implications.

Yes

5b(2). Making appropriate updates and ensuring continued compliance with stated web privacy policies.

Yes

5b(3). Requiring machine-readability of public-facing Agency web sites (i.e., use of P3P).

Yes

Question 6: Mandated Reviews

Component / Bureau	a. Section (m) Contracts	b. Records Practices	c. Routine Uses	d. Exemptions	e. Matching Programs	f. Training	g. Violations: Civil Action	h. Violations: Remedial Action	i. System of Records Notices	j. (e)(3) Statement	k. Privacy Impact Assessments and Updates	l. Data Mining Impact Assessment
FHFA	N	N	Y	0	0	Y	N	N	12	0	6	N
TOTAL				*0*	*0*				*12*	*0*	6	

Question 7: Written Privacy Complaints

7. **Indicate the number of written complaints for each type of privacy issue received by the SAOP or others at the Agency.**

7a. Process and Procedural — consent, collection, and appropriate notice.

0

7b. Redress — non-Privacy Act inquiries seeking resolution of difficulties or concerns about privacy matters.

0

7c. Operational — inquiries regarding Privacy Act matters not including Privacy Act requests for access and/or correction.

0

7d. Referrals — complaints referred to another agency with jurisdiction.

0

Question 8: Policy Compliance Review

Question 8: Policy Compliance Review

8a. **Does the Agency have current documentation demonstrating review of the Agency's compliance with information privacy laws, regulations, and policies?**

Yes

8b. **Can the Agency provide documentation of planned, in progress, or completed corrective actions necessary to remedy deficiencies identified in compliance reviews?**

Yes

8c. **Does the Agency use technologies that enable continuous auditing of compliance with stated privacy policies and practices?**

No

8d. **Does the Agency coordinate with the Agency's Inspector General on privacy program oversight?**

Yes

Question 9: Information About Advice and Guidance Provided by the SAOP

9. **Please select "Yes" or "No" to indicate if the SAOP has provided formal written advice or guidance in each of the listed categories, and briefly describe the advice or guidance if applicable.**

9a. **Agency policies, orders, directives, or guidance governing the Agency's handling of personally identifiable information.**

Yes

Comments: Yes through publication of agency policies, periodic email reminders and annual and new employee training.

9b. **Written agreements (either interagency or with non-Federal entities) pertaining to information sharing, computer matching, and similar issues.**

No

Comments: Not applicable

9c. **The Agency's practices for conducting, preparing, and releasing SORNs and PIAs.**

Yes

Comments: Published procedures on PTAs/PIAs. SORN procedures have been published in FY2012.

9d. **Reviews or feedback outside of the SORN and PIA process (e.g., formal written advice in the context of budgetary or programmatic activities or planning).**

No

Comments: Not applicable.

Question 9: Information About Advice and Guidance Provided by the SAOP

9e. **Privacy training (either stand-alone or included with training on related issues).**

Yes

Comments: Annual privacy training is conducted for all employees and contractor personnel in conjunction with annual IT security awareness and rules of behavior training. In addition, all new employees and contractor personnel are required to attend in person training on privacy as part of their on-boarding process.

Question 10: Agency Use of Web Management and Customization Technologies (e.g., "cookies," "tracking technologies")

10a. **Does the Agency use web management and customization technologies on any web site or application?**

No

10b. **Does the Agency annually review the use of web management and customization technologies to ensure compliance with all laws, regulations, and OMB guidance?**

No

Comments: Not applicable.

10c. **Can the Agency demonstrate, with documentation, the continued justification for, and approval to use, web management and customization technologies?**

No

Comments: Not applicable

10d. **Can the Agency provide the notice language or citation for the web privacy policy that informs visitors about the use of web management and customization technologies?**

No

Comments: Not applicable.

Inspector General

Section Report

2011

Annual FISMA Report

Federal Housing Finance Agency

Section 1: Risk Management

1a. **The Agency has established and is maintaining a risk management program that is consistent with FISMA requirements, OMB policy, and applicable NIST guidelines. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:**

1.a(1). **Documented and centrally accessible policies and procedures for risk management, including descriptions of the roles and responsibilities of participants in this process.**
Yes

1.a(2). **Addresses risk from an organization perspective with the development of a comprehensive governance structure and organization-wide risk management strategy as described in NIST 800-37, Rev.1**
Yes

1.a(3). **Addresses risk from a mission and business process perspective and is guided by the risk decisions at the organizational perspective, as described in NIST 800-37, Rev.1.**
Yes

1.a(4). **Addresses risk from an information system perspective and is guided by the risk decisions at the organizational perspective and the mission and business perspective, as described in NIST 800-37, Rev. 1.**
Yes

1.a(5). **Categorizes information systems in accordance with government policies.**
Yes

1.a(6). **Selects an appropriately tailored set of baseline security controls.**
Yes

1.a(7). **Implements the tailored set of baseline security controls and describes how the controls are employed within the information system and its environment of operation.**
Yes

1.a(8). **Assesses the security controls using appropriate assessment procedures to determine the extent to which the controls are implemented correctly, operating as intended, and producing the desired outcome with respect to meeting the security requirements for the system.**
Yes

1.a(9). **Authorizes information system operation based on a determination of the risk to organizational operations and assets, individuals, other organizations, and the Nation resulting from the operation of the information system and the decision that**

For Official Use Only

Section 1: Risk Management

this risk is acceptable.

Yes

1.a(10). Ensures information security controls are monitored on an ongoing basis including assessing control effectiveness, documenting changes to the system or its environment of operation, conducting security impact analyses of the associated changes, and reporting the security state of the system to designated organizational officials.

Yes

1.a(11). Information system specific risks (tactical), mission/business specific risks and organizational level (strategic) risks are communicated to appropriate levels of the organization.

Yes

1.a(12). Senior Officials are briefed on threat activity on a regular basis by appropriate personnel. (e.g., CISO).

Yes

1.a(13). Prescribes the active involvement of information system owners and common control providers, chief information officers, senior information security officers, authorizing officials, and other roles as applicable in the ongoing management of information system-related security risks.

Yes

1.a(14). Security authorization package contains system security plan, security assessment report, and POA&M in accordance with government policies.

Yes

Section 2: Configuration Management

2.b. The Agency has established and is maintaining a security configuration management program. However, the Agency needs to make significant improvements as noted below.

2.b(1). Configuration management policy is not fully developed (NIST 800-53: CM-1)

No

2.b(2). Configuration management procedures are not fully developed (NIST 800-53: CM-1).

No

2.b(3). Configuration management procedures are not consistently implemented (NIST 800-53: CM-1).

No

Section 2: Configuration Management

2.b(4). **Standard baseline configurations are not identified for software components (NIST 800-53: CM-2).**

Yes

2.b(5). **Standard baseline configurations are not identified for all hardware components (NIST 800-53: CM-2).**

No

2.b(6). **Standard baseline configurations are not fully implemented (NIST 800-53: CM-2).**

No

2.b(7). **FDCC/USGCB is not fully implemented (OMB) and/or all deviations are not fully documented (NIST 800-53: CM-6).**

No

2.b(8). **Software assessing (scanning) capabilities are not fully implemented (NIST 800-53: RA-5, SI-2).**

No

2.b(9). **Configuration-related vulnerabilities, including scan findings, have not been remediated in a timely manner, as specified in Agency policy or standards. (NIST 800-53: CM-4, CM-6, RA-5, SI-2).**

Yes

2.b(10). **Patch management process is not fully developed, as specified in Agency policy or standards. (NIST 800-53: CM-3, SI-2).**

Yes

2.b(11). **Other**

No

Section 3: Incident Response and Reporting

3.b. **The Agency has established and is maintaining an incident response and reporting program. However, the Agency needs to make significant improvements as noted below.**

3.b(1). **Incident response and reporting policy is not fully developed (NIST 800-53: IR-1).**

No

3.b(2). **Incident response and reporting procedures are not fully developed or sufficiently detailed (NIST 800-53: IR-1).**

No

Section 3: Incident Response and Reporting

3.b(3). **Incident response and reporting procedures are not consistently implemented in accordance with government policies (NIST 800-61, Rev1).**

Yes

3.b(4). **Incidents were not identified in a timely manner, as specified in Agency policy or standards (NIST 800-53, 800-61, and OMB M-07-16, M-06-19).**

No

3.b(5). **Incidents were not reported to US-CERT as required (NIST 800-53, 800-61, and OMB M-07-16, M-06-19).**

Yes

3.b(6). **Incidents were not reported to law enforcement as required (SP 800-86).**

No

3.b(7). **Incidents were not resolved in a timely manner (NIST 800-53, 800-61, and OMB M-07-16, M-06-19).**

No

3.b(8). **Incidents were not resolved to minimize further damage (NIST 800-53, 800-61, and OMB M-07-16, M-06-19).**

No

3.b(9). **There is insufficient incident monitoring and detection coverage in accordance with government policies (NIST 800-53, 800-61, and OMB M-07-16, M-06-19).**

No

3.b(10). **The Agency cannot or is not prepared to track and manage incidents in a virtual/cloud environment.**

No

3.b(11). **The Agency does not have the technical capability to correlate incident events.**

No

3.b(12). **Other**

No

Section 4: Security Training

4.a. **The Agency has established and is maintaining a security training program that is consistent with FISMA requirements, OMB policy,**

Section 4: Security Training

and applicable NIST guidelines. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:

4.a(1). **Documented policies and procedures for security awareness training.**

Yes

4.a(2). **Documented policies and procedures for specialized training for users with significant information security responsibilities.**

Yes

4.a(3). **Security training content based on the organization and roles, as specified in Agency policy or standards.**

Yes

4.a(4). **Identification and tracking of the status of security awareness training for all personnel (including employees, contractors, and other Agency users) with access privileges that require security awareness training.**

Yes

4.a(5). **Identification and tracking of the status of specialized training for all personnel (including employees, contractors, and other Agency users) with significant information security responsibilities that require specialized training.**

Yes

Section 5: POA&M

5.b. **The Agency has established and is maintaining a POA&M program that tracks and remediates known information security weaknesses. However, the Agency needs to make significant improvements as noted below.**

5.b(1). **POA&M Policy is not fully developed.**

No

5.b(2). **POA&M procedures are not fully developed and sufficiently detailed.**

No

5.b(3). **POA&M procedures are not consistently implemented in accordance with government policies.**

Yes

5.b(4). **POA&Ms do not include security weaknesses discovered during assessments of security controls and requiring remediation. (OMB M-04-25).**

Yes

Section 5: POA&M

5.b(5). Remediation actions do not sufficiently address weaknesses in accordance with government policies (NIST SP 800-53, Rev. 3, Sect. 3.4 Monitoring Security Controls).

No

5.b(6). Source of security weaknesses are not tracked (OMB M-04-25).

No

5.b(7). Security weaknesses are not appropriately prioritized (OMB M-04-25).

No

5.b(8). Milestone dates are not adhered to. (OMB M-04-25).

Yes

5.b(9). Initial target remediation dates are frequently missed (OMB M-04-25).

Yes

5.b(10). POA&Ms are not updated in a timely manner (NIST SP 800-53, Rev. 3, Control CA-5, and OMB M-04-25).

No

5.b(11). Costs associated with remediating weaknesses are not identified (NIST SP 800-53, Rev. 3, Control PM-3 and OMB M-04-25).

No

5.b(12). Agency CIO does not track and review POA&Ms (NIST SP 800-53, Rev. 3, Control CA-5, and OMB M-04-25).

No

5.b(13). Other

No

Section 6: Remote Access Management

6.a. The Agency has established and is maintaining a remote access program that is consistent with FISMA requirements, OMB policy, and applicable NIST guidelines. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:

6.a(1). Documented policies and procedures for authorizing, monitoring, and controlling all methods of remote access.

For Official Use Only

Section 6: Remote Access Management

Yes

6.a(2). Protects against unauthorized connections or subversion of authorized connections.

Yes

6.a(3). Users are uniquely identified and authenticated for all access.

Yes

6.a(4). If applicable, multi-factor authentication is required for remote access.

Yes

6.a(5). Authentication mechanisms meet NIST Special Publication 800-63 guidance on remote electronic authentication, including strength mechanisms.

Yes

6.a(6). Defines and implements encryption requirements for information transmitted across public networks.

Yes

6.a(7). Remote access sessions, in accordance to OMB M-07-16, are timed-out after 30 minutes of inactivity after which re-authentication are required.

Yes

Section 7: Identity and Access Management

7.a. The Agency has established and is maintaining an identity and access management program that is consistent with FISMA requirements, OMB policy, and applicable NIST guidelines and identifies users and network devices. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:

7.a(1). Documented policies and procedures for account and identity management.

Yes

7.a(2). Identifies all users, including federal employees, contractors, and others who access Agency systems.

Yes

7.a(3). Identifies when special access requirements (e.g., multi-factor authentication) are necessary.

Yes

Section 7: Identity and Access Management

7.a(4). If multi-factor authentication is in use, it is linked to the Agency's PIV program where appropriate.

Yes

7.a(5). Ensures that the users are granted access based on needs and separation of duties principles.

Yes

7.a(6). Identifies devices that are attached to the network and distinguishes these devices from users.

Yes

7.a(7). Ensures that accounts are terminated or deactivated once access is no longer required.

Yes

7.a(8). Identifies and controls use of shared accounts.

Yes

Section 8: Continuous Monitoring Management

8.a. The Agency has established an enterprise-wide continuous monitoring program that assesses the security state of information systems that is consistent with FISMA requirements, OMB policy, and applicable NIST guidelines. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:

8.a(1). Documented policies and procedures for continuous monitoring.

Yes

8.a(2). Documented strategy and plans for continuous monitoring.

Yes

8.a(3). Ongoing assessments of security controls (system-specific, hybrid, and common) that have been performed based on the approved continuous monitoring plans.

Yes

8.a(4). Provides authorizing officials and other key system officials with security status reports covering updates to security plans and security assessment reports, as well as POA&M additions and updates with the frequency defined in the strategy and/or plans.

Yes

Section 8: Continuous Monitoring Management

Section 9: Contingency Planning

9.a. **The Agency established and is maintaining an enterprise-wide business continuity/disaster recovery program that is consistent with FISMA requirements, OMB policy, and applicable NIST guidelines. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:**

9.a(1). **Documented business continuity and disaster recovery policy providing the authority and guidance necessary to reduce the impact of a disruptive event or disaster.**

Yes

9.a(2). **The Agency has performed an overall Business Impact Analysis (BIA).**

Yes

9.a(3). **Development and documentation of division, component, and IT infrastructure recovery strategies, plans and procedures.**

Yes

9.a(4). **Testing of system specific contingency plans.**

Yes

9.a(5). **The documented business continuity and disaster recovery plans are in place and can be implemented when necessary.**

Yes

9.a(6). **Development of test, training, and exercise (TT&E) programs.**

Yes

9.a(7). **Performance of regular ongoing testing or exercising of business continuity/disaster recovery plans to determine effectiveness and to maintain current plans.**

Yes

Section 10: Contractor Systems

10.a. **The Agency has established and maintains a program to oversee systems operated on its behalf by contractors or other entities, including Agency systems and services residing in the cloud external to the Agency. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:**

10.a(1). **Documented policies and procedures for information security oversight of systems operated on the Agency's behalf by contractors or other entities, including Agency systems and services residing in public cloud.**

Section 10: Contractor Systems

Yes

10.a(2). The Agency obtains sufficient assurance that security controls of such systems and services are effectively implemented and comply with federal and Agency guidelines.

Yes

10.a(3). A complete inventory of systems operated on the Agency's behalf by contractors or other entities, including Agency systems and services residing in public cloud.

Yes

10.a(4). The inventory identifies interfaces between these systems and Agency-operated systems.

Yes

10.a(5). The Agency requires appropriate agreements (e.g., MOUs, Interconnection Security Agreements, contracts, etc.) for interfaces between these systems and those that it owns and operates.

Yes

10.a(6). The inventory of contractor systems is updated at least annually.

Yes

10.a(7). Systems that are owned or operated by contractors or entities, including Agency systems and services residing in public cloud, are compliant with FISMA requirements, OMB policy, and applicable NIST guidelines.

Yes

Section 11: Security Capital Planning

11.a. The Agency has established and maintains a security capital planning and investment program for information security. Although improvement opportunities may have been identified by the OIG, the program includes the following attributes:

11.a(1). Documented policies and procedures to address information security in the capital planning and investment control process.

Yes

11.a(2). Includes information security requirements as part of the capital planning and investment process.

Yes

11.a(3). Establishes a discrete line item for information security in organizational programming and documentation.

Yes

For Official Use Only

Section 11: Security Capital Planning

11.a(4). **Employs a business case/Exhibit 300/Exhibit 53 to record the information security resources required.**

Yes

11.a(5). **Ensures that information security resources are available for expenditure as planned.**

Yes

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

(b)(4),(b)(8)

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

April 24, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
136 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

Thank you for the March 30th letter you authored with fellow members of the Senate regarding homeowner refinances. I agree it is important to help families take advantage of the low mortgage rates currently available to responsible homeowners.

On October 24, 2011, the Federal Housing Finance Agency (FHFA) announced changes to the Home Affordable Refinance Program (HARP) aimed at reaching responsible borrowers who have not yet taken advantage of historically low interest rates and refinanced their mortgage. FHFA believes that these changes will help create refinancing opportunities for these borrowers, while reducing risk for Fannie Mae and Freddie Mac (Enterprises) and bringing a measure of stability to housing markets. These changes included:

- Eliminating certain risk-based fees for borrowers who refinance into shorter-term mortgages and lowering fees for other borrowers;
- Removing the current 125 percent LTV ceiling for fixed-rate mortgages backed by Fannie Mae and Freddie Mac;
- Waiving certain representations and warranties that lenders commit to in making loans owned or guaranteed by Fannie Mae and Freddie Mac;
- Eliminating the need for a new property appraisal where there is a reliable AVM (automated valuation model) estimate provided by the Enterprises; and
- Extending the end date for HARP until December 31, 2013, for loans originally sold to the Enterprises on or before May 31, 2009.

To date, Fannie Mae and Freddie Mac have helped over 10 million families refinance into a lower cost or more sustainable mortgage product, approximately 10 percent of those via HARP. HARP is unique in that it is the only refinance program that enables borrowers who owe more than their home is worth to take advantage of low interest rates and other refinancing benefits. Lenders have indicated that there is strong demand for the revised HARP program. Data for January and February 2012 show more than a two-fold increase in HARP lending since December 2011.

Among the changes announced in October 2011 was a reduction in the loan-level price adjustments for HARP refinances. Homeowners who choose shorter term mortgages, a 20-year term or less, are no longer required to pay these fees. This price incentive is intended to encourage borrowers to choose shorter term loan products that would realign their outstanding mortgage debt with the value of their home more quickly, through accelerated amortization. Additionally, for those remaining borrowers who choose a term greater than 20 years, the loan-level price adjustments have been capped at 75 basis points, or 0.75 percent of the loan balance, which translates into less than one-eighth percent increase in the mortgage rate. This reduction represents a dramatic change from the previous cap of 200 basis points, or 2 percent. The remaining fee generates sufficient income to cover the routine administrative and operational costs to Fannie Mae and Freddie Mac. In addition, borrowers refinancing into a mortgage term of greater than 20 years are, in most cases, extending the remaining term on their loan, and thereby extending the risk to the Enterprises. The fee is intended to cover those costs as well.

HARP focuses on borrowers with loan-to-value ratios greater than 80 percent. Both Fannie Mae and Freddie Mac offer streamlined refinance programs to all other borrowers with loans backed by the Enterprises. The standard streamline refinance product does not require full re-qualification of the borrower, nor involve the same level of documentation associated with a complete re-underwriting of a new loan. Similar to HARP, borrowers who have been making their payments on time and who have a source of income are eligible. Fannie Mae and Freddie Mac also offer standard rate and term refinance options for these borrowers.

In FHFA's efforts to reach more responsible borrowers and encourage them to refinance, FHFA also significantly reduced the repurchase risk to servicers by relieving many of the standard representations and warranties that Fannie Mae and Freddie Mac traditionally required. Servicers completing a HARP refinance are relieved of any responsibility as it pertains to the old loan that is being refinanced. For the new loan, the servicer is simply required to represent and warranty that the loan meets the HARP guidelines and that accurate information is being provided. This reduction in repurchase risk through reduced rep and warrant requirements has addressed many of the concerns expressed by servicers.

While we believe the steps described here represent substantial efforts to enhance refinancing opportunities for borrowers whose loans are owned by the Enterprises, we are carefully monitoring implementation of these changes. If necessary, we will look to make additional adjustments to ensure the program's success, including the specific areas you cite.

Thank you for your support of FHFA's efforts to provide more borrowers with an opportunity to refinance. I hope you find this information useful. If you have additional questions, please contact Peter Brereton on my staff at (202) 649-3022.

Yours truly,

Edward J. DeMarco
Acting Director

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

September 26, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Attachments

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

September 26, 2012

The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senator Shelby:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Attachments

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

September 26, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Bachus:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Attachments

Federal Housing Finance Agency
400 7th Street, S.W., Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

September 26, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Ranking Member Frank:

I am transmitting the Federal Housing Finance Agency's (FHFA) Federal Property Manager's report in accordance with Section 110 of the Emergency Economic Stabilization Act of 2008 (EESA), titled *Assistance to Homeowners*. Section 110 of EESA directs Federal Property Managers (FPM) to develop and implement plans to maximize assistance for homeowners and encourage servicers of underlying mortgages to take advantage of programs to minimize foreclosures. FHFA is a designated FPM in its role as conservator for Fannie Mae and Freddie Mac. Each FPM is also required to report to Congress the number and types of loan modifications and the number of foreclosures during the reporting period.

Reducing Enterprise losses by preventing avoidable foreclosures through loan modification and mortgage refinances remains a top priority at FHFA. We continue to explore ways to maximize assistance for homeowners and minimize preventable foreclosures consistent with the intent of EESA.

Sincerely,

Peter Brereton

Peter Brereton
Associate Director for Congressional Affairs

Attachments

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

March 5, 2012

The Honorable Barney Frank
Ranking Member
U.S. House Financial Services Committee
2252 Rayburn House Office Building
Washington, DC 20515

The Honorable Michael E. Capuano
U.S. House of Representatives
1414 Longworth House Office Building
Washington, DC 20515

The Honorable Stephen F. Lynch
U. S. House of Representatives
221 Cannon House Office Building
Washington, DC 20515

Dear Ranking Member Frank & Representatives Capuano and Lynch:

Thank you for your letter of February 3, 2012 in support of the sentiments expressed by Massachusetts Attorney General Martha Coakley in her February 2, 2012 correspondence to me.

As Members of the Financial Services Committee, I value your opinions and concerns. I am enclosing my response to the Attorney General for your consideration. The Federal Housing Finance Agency (FHFA) shares your concerns for homeowners facing difficulty with their mortgage payments and will continue to work to prevent unnecessary foreclosures.

As indicated in my reply to Attorney General Coakley, I will be pleased to make the FHFA team available to meet with the Attorney General to discuss these issues further.

Again, thank you for your correspondence. I look forward to continuing to work with you to stabilize the housing market and reform our housing finance system.

Yours truly,

Edward J. DeMarco
Acting Director

FEDERAL HOUSING FINANCE AGENCY
Office of the Director

February 27, 2012

The Honorable Martha Coakley
Attorney General
Commonwealth of Massachusetts
One Ashburton Place
Boston, Massachusetts 02108

Dear Attorney General Coakley:

Thank you for your February 2nd letter. While I share the concern you have for homeowners facing difficulty with their mortgage payments, I must take exception to your characterization of Fannie Mae and Freddie Mac's "inability to achieve loan modifications generally…"

Since entering conservatorship, each company has been a leader in loan modifications and other foreclosure prevention transactions. Together, the two companies have undertaken more than two million foreclosure avoidance transactions, including more than one million loan modifications. More than 85 percent of these transactions allowed the homeowner to retain homeownership. Moreover, Fannie Mae and Freddie Mac have been instrumental as the Treasury Department's financial agents in developing and maintaining the Home Affordable Modification Program (HAMP). Recognizing HAMP's limitations, the Federal Housing Finance Agency (FHFA) together with the two companies developed the so-called Standard Modification, which we introduced last year as part of the Servicing Alignment Initiative. The success of this modification program led the Treasury Department to recently expand HAMP to include the Standard Modification in the HAMP menu.

Fannie Mae and Freddie Mac's foreclosure prevention efforts are well-documented. Each month, FHFA provides Congress with a "Federal Property Manager's Report" detailing all loan modification, foreclosure avoidance, and mortgage refinancing activities. You cite this report in your letter, expressing dismay that loan modification numbers have been trending down recently. At this point in the cycle, that should be the trend. Delinquency rates are declining and loan modifications are not necessarily the best response for what drives the latest wave of delinquencies, namely high unemployment. This is not evidence of any shortcoming by Fannie Mae and Freddie Mac.

Finally, I take the main purpose of your letter as expressing your objection to FHFA's position on principal forgiveness. The decisions regarding principal forgiveness are directly in line with FHFA's responsibilities and authorities as conservator and conform to prior actions taken to determine what form of loss mitigation activities—such as HAMP, the Home Affordable

Refinance Program (HARP), unemployment forbearance, and support for short sale and other foreclosure avoidance devices-- would best meet those requirements.

In our view, the proper measure of the benefit derived from reducing a borrower's loan balance is not calculated through a simple comparison of principal forgiveness to foreclosure; rather, the comparison must be to existing loss mitigation options that do not reduce principal. For example, Fannie Mae and Freddie Mac currently offer borrowers a HAMP modification that would restructure the monthly payment to 31 percent of the borrower's monthly income, the same as with the HAMP principal reduction alternative. The payment reduction for underwater borrowers is often achieved with a rate reduction, term extension, and principal forbearance. My previous public communications to Congress detail why FHFA has not found loan modifications using principal forgiveness to be superior to or more effective than the tools currently being employed by the Enterprises.

You mentioned the 49-state settlement that has been announced but not yet published. FHFA will examine the provisions of the agreement, when it is finalized and approved by the court, to see if any change in our ongoing efforts to assist borrowers and protect taxpayers is warranted.

You requested an opportunity for discussion of these matters and I am glad to make my team available to you and your staff. The point of contact for such discussions is Alfred Pollard, General Counsel of FHFA. Mr. Pollard may be reached at 202-649- 3050.

Yours truly,

Edward J. DeMarco
Acting Director