CUNA REGULATORY ADVOCACY
CUNA REGULATORY COMMENT CALL

**May 16, 2013**

# FHFA Notice on Lender Placed Insurance, Terms and Conditions

## Executive Summary

- The Federal Housing Finance Agency (FHFA) issued a notice to address certain practices relating to lender placed insurance that the agency believes may expose Fannie Mae and Freddie Mac (the Enterprises or GSEs) to potential losses as well as litigation and reputation risks.
- In order to keep lender-placed insurance costs as low as possible, practices that provide incentives for or do not deter higher costs should be avoided.
- 4 months after May 28, 2013, the Enterprises will provide aligned guidance to sellers and servicers, including implementation schedules related to these particular lender insurance practices.[1]
- Practices of concern are those regarding conflicts between parties to the insurance agreement, including:
    - **Certain Sales Commissions.** The Enterprises shall prohibit sellers and servicers from receiving, directly or indirectly, remuneration associated with placing coverage with or maintaining placement with particular insurance providers; and
    - **Certain Reinsurance Activities.** The Enterprises shall prohibit sellers and servicers from receiving, directly or indirectly, remuneration associated with an insurance provider ceding premiums to a reinsurer that is owned by, affiliated with or controlled by the sellers or servicer.
- FHFA is seeking input on the planned practice limitations set forth above.

[1] Actions by the Enterprises only affect loans that they purchase or guarantee; their seller-servicer guides have no effect on practices of insurers except for dealings with the Enterprises.

Comments are due to the FHFA on **May 28, 2013** and may be delivered to Federal Housing Finance Agency, OHRP, Constitution Center, 400 Seventh Street, SW., Ninth Floor, Washington, DC 20004 or via email to LPIinput@fhfa.gov. **Please submit comments to CUNA by May 23, 2013.**

For more information about this proposed rule, contact CUNA Deputy General Counsel Mary Dunn or Associate General Counsel Jared Ihrig.

**Click here for the notice in the *Federal Register*.**

**Detailed Summary**

Lender placed (or forced place) insurance commonly occurs due to a lapse of voluntary insurance coverage for non-payment of premium. When lender placed insurance iso obtained, the coverage is often provided at higher rates and with lower limits than the coverage previously provided. Protection of property values is important, and at the same time, provision of such lender placed insurance products at an appropriate cost is of concern, as well.

Premiums for lender placed insurance are generally double those for voluntary insurance, and, in certain instances, significantly higher. FHFA recognizes that some greater risks are involved with lender placed insurance, and that carriers do not have the opportunity to underwrite the properties they insure, however, the multiples involved may not reflect claims experience and other measures. Loss ratios for lender placed insurance are significantly below those for voluntary hazard insurance and some states already have required or have considered rate reductions of 30% or more.

The Enterprises, operating in conservatorship and supported by taxpayers, may be affected by such costs where a servicer pays the higher premiums and is unable to recoup the cost from the homeowner or at a foreclosure sale, and the expense is passed along to the Enterprise for reimbursement.

Concerns about lender placed insurance costs, compensation, and practices, have been raised by the Consumer Financial Protection Bureau and others. Generally, the focus has centered on excessive rates and costs passed onto borrowers, as well as commissions and other compensation paid to servicers by carriers. In order to keep insurance costs to the Enterprises as low as possible, practices that provide incentives for or do not deter higher costs should be avoided.

The specific practices related to lender placed insurance that FHFA has determined pose risks to the Enterprises or run contrary to the duties of the Conservator and for which actions are specified are practices where there are concerns regarding conflicts between parties to the insurance agreement including:

- **Certain Sales Commissions.** The Enterprises shall prohibit sellers and servicers from receiving, directly or indirectly, remuneration associated with placing coverage with or maintaining placement with particular insurance providers; and
- **Certain Reinsurance Activities.** The Enterprises shall prohibit sellers and servicers from receiving, directly or indirectly, remuneration associated with an insurance provider ceding premiums to a reinsurer that is owned by, affiliated with or controlled by the sellers or servicer.

***Requests to Consider Regarding the Proposal***

**1.** Please provide any input on the planned practice limitations set forth above.

**2.** Please provide suggestions for how to enhance the transparency and consumer and investor protections related to lender placed insurance, as well as other practices that may operate to the detriment of the Enterprises operating in conservatorships.

**3.** Please share any data or information that would run contrary to the intended results sought by FHFA with respect to these proposed limitations.

**4.** How much time and how difficult would it be to alter contracts between contractors and Enterprise servicers that may result from the proposed approach?