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November 26, 2012

Federal Housing Finance Agency
Office of Policy Analysis and Research
400 7th Street SW, Washington, DC 20024

Re: State-Level Guarantee Fee Pricing; Docket No. 2012-N-13

To Whom It May Concern:

This letter represents the views of the Credit Union National Association (CUNA) on the Federal Housing Finance Agency's (FHFA) notice regarding adjustment to the guarantee fees (g-fees) that Fannie Mae and Freddie Mac (the GSEs)[1] charge for single-family mortgages in certain states. Specifically, the adjustment would increase the g-fees for single-family mortgages in states where GSE costs related to state foreclosure practices are higher than the national average; these states are Connecticut, Florida, Illinois, New Jersey, and New York. By way of background, CUNA is the largest credit union advocacy organization in the country, representing approximately 90% of the nation's 7,000 state and federal credit unions, which serve approximately 95 million members.

As CUNA has stated in previous communications to the FHFA, whether the issue is g- fees or any other issue related to the GSEs that may have a direct or indirect impact on credit unions, CUNA and the credit union industry feel it is essential that the federal government's regulation of the secondary market ensure lenders of all types and sizes, including credit unions, have access to a secondary market that is equitable. This means that terms, rates, or conditions for selling loans in the secondary market must be affordable and fair to all lenders, regardless of their size or charter type. We are concerned that increasing g-fees will have a discriminatory effect on smaller entities in the states covered by the notice. CUNA believes the FHFA should continue to work with lenders of all types and sizes, including credit unions, to reform the secondary market and to promote the housing market recovery.

While we appreciate the FHFA's invitation to provide input on its plan to adjust state- level g-fee pricing, we ask the agency to consider issuing a formal request for comment in the *Federal Register* on this important issue. We believe the FHFA should re-publish the plan in the *Federal Register* as a proposal and provide additional data regarding the costs and factors that the agency has used to arrive at the five states that would be charged higher g-fees under its plan. Unfortunately, we believe the information included in the agency's notice is inadequate to make an informed decision on whether the agency's adjustment is appropriate and equitable.

[1] *Government-sponsored enterprises*

The FHFA's methodology used to develop the planned approach to state-level g-fee pricing relies on three primary factors. The first factor is the expected number of days it takes a GSE to foreclose on a home in a particular state. The second factor is the average per-day carrying cost that the GSEs incur in that state. The last factor is the expected national average default rate on single-family mortgages acquired by the GSEs. We are concerned that other factors should be considered, such as the number of foreclosures over a set period of time, and how factors beyond the control of lenders or consumers, such as state law provisions on foreclosures or judicial review of foreclosure proceedings, affect the processing of foreclosures. While some of these other factors may be reflected in the expected number of days it takes a GSE to foreclose on a home in a particular state, the proposal appears to be an exceedingly crude reflection of such factors. Each such factor requires its own identification and analysis to determine what the effect of FHFA's proposal might be on the concerns and policies underlying it. For instance, before concluding that higher guarantee fees should be charged in states with strong consumer protection provisions in their statutes, FHFA should analyze what the effect would be on lenders and consumers if such protections are discouraged.

The FHFA stated in the notice that, "Because the [GSEs] currently set their g-fees nationally, accounting for expected default costs only in the aggregate, borrowers in states with lower default-related carrying costs are effectively subsidizing borrowers in states with higher costs." 77 Fed. Reg 58991. While we do not disagree with this premise, we are concerned that focusing too much on the average length of time of foreclosure could result in lenders rushing to foreclose without adequately assessing other preventative options. Again, we believe the FHFA has not provided enough information on how the "cost" of foreclosure was determined for us to agree or disagree with the agency's comment on subsidizing borrowers in costlier states.

Thank you for the opportunity to express our views on the FHFA's notice regarding an adjustment to g-fee pricing. If you have any questions about our comments, please do not hesitate to give Senior Vice President and Deputy General Counsel Mary Mitchell Dunn or me a call at (202) 508-6743.

Sincerely,

Luke Martone

Luke Martone
Assistant General Counsel