MORTGAGE BANKERS ASSOCIATION

May 24, 2023

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
2221 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the Mortgage Bankers Association (MBA)[1], I am writing to share our views on the planned Financial Services Committee markup of an Amendment in the Nature of a Substitute (ANS) to H.R. 3564, the *Middle-Class Borrower Protection Act of 2023*, scheduled for today.

MBA appreciates the opportunity to offer our comments on this ANS to the bill originally noticed in conjunction with the May 17 Housing and Insurance Subcommittee hearing regarding the Federal Housing Finance Agency's (FHFA) recent pricing changes for the housing Government Sponsored Enterprises (the GSEs), Fannie Mae and Freddie Mac.

The Recent Pricing Changes

As expressed in MBA's February 3 letter to FHFA Director Sandra Thompson, our members were concerned about the unfortunate timing of the new fees at the peak of the spring homebuying season. MBA was particularly troubled and consistently voiced our concerns to FHFA about the addition of a Loan Level Pricing Adjustment (LLPA) for loans with a debt-to-income ratio (or "DTI") greater than 40 percent. The implementation of a DTI-based LLPA would have led to several problems, including multiple changes to a borrower's pricing throughout the loan application process, operational and system issues, compliance implications related to TILA-RESPA Integrated Disclosures (TRID), compromised borrower trust, and post-closing quality control (QC) issues.

In response to MBA's concerns and to the more recent inquiries about the LLPA changes voiced by this Committee, **FHFA announced on May 10 that it is rescinding the DTI-based LLPA.** We are pleased that FHFA engaged with stakeholders, recognized the negative impacts of the fee, reacted to this Committee's expressed concerns, and rescinded its implementation.

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

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Concurrently with the rescission of the fee, FHFA also issued a Request for Input (RFI) to provide additional transparency and receive public comment on the process for setting single-family guarantee fees.

ANS to H.R. 3564, *The Middle-Class Borrower Protection Act*

With respect to the problematic DTI proposal, MBA appreciates that Section 4 of the legislation explicitly prohibits the FHFA Director and the GSEs from imposing any "loan-level pricing adjustment fee that is based on the ratio of the debt of the mortgagor to the income of the mortgagor."

While we welcome FHFA's recent rescission of the DTI-based LLPA and anticipate that Section 4's statutory directive may prove to be unnecessary going forward, MBA supports the proposed protection such a prohibition would provide against any future use of this unworkable methodology.

Section 3 of the legislation prohibits FHFA from further revising the single-family pricing framework subject to certain conditions including:

1. Restricting FHFA from implementing any newly revised pricing framework from at least 90 days until after the publication of a report commissioned by the Government Accountability Office (GAO) in Section 5 of the legislation,
2. Requiring future single-family pricing changes, as close as possible, follow the requirements set forth by the Administrative Procedures Act (APA),
3. To the greatest extent possible, requiring future pricing changes to consider "risk posed by the mortgage loan to the enterprise."

Section 5 of the legislation directs the GAO to publish a report on FHFA's recent single-family pricing changes. The GAO is required to analyze in the report to Congress the following:

1. The methodology, policy considerations, and any other objectives as the basis for such revisions, including the justification for ensuring "safety and soundness" as a consideration,
2. Data, inputs, and any other modeling used by FHFA to justify the pricing changes,
3. How the recent pricing changes are in accordance with the Enterprise Regulatory Capital Framework[2], and
4. The economic impact on lenders and borrowers.

The GAO study is also to determine whether FHFA relied on risk-based pricing methodology for the price adjustments, how data and economic modeling informed the pricing changes, and whether revisions have impacted the profitability gap or negative rate of return on the targeted rate of return on capital for any business segment.

With respect to Sections 3 and 5 of the text of the ANS, we are concerned that requiring notice and comment processes in all pricing matters and adjustments would reduce the GSEs' ability to quickly respond to changing market conditions – thereby undermining safety and soundness objectives in times of market stress.

[2]https://www.fhfa.gov/SupervisionRegulation/Rules/RuleDocuments/Enterprise%20Capital%20Final%20Rule%20for%20Website.pdf

Rather than requiring all pricing changes to go through the notice and comment process, an alternative suggestion would be for FHFA to provide more transparency regarding the GSEs' pricing framework and pricing principles. Beyond the annual Guarantee Fee Report FHFA is already required to publish, the agency could be required (perhaps every three to five years) to provide much more specific detail describing how its pricing methodologies are meeting its stated goals, suggesting any areas for possible refinement, and inviting robust stakeholder comment – in keeping with the spirit of FHFA's recently-proposed RFI.

MBA welcomes the legislation's call for more clarity and transparency into the GSEs' pricing process but believes that FHFA – if subjected to rigorous and appropriate congressional oversight – is closest to the risk-related issues that have been highlighted in recent months – and best able to balance the twin objectives of risk and mission.

Conclusion

The recent debate regarding FHFA's pricing approach serves as a reminder that the GSEs' failure to exit government conservatorship after nearly fifteen years has consequences. In light of this, MBA believes it is critical that this Committee – and the full Congress – tackle the remaining work of comprehensive housing finance reform.

Access to affordable, sustainable housing is a necessity for all Americans, and as such, it requires a system of financing that is robust in all parts of the country, through all parts of the credit cycle. Comprehensive legislative reform of the GSEs, no matter how thorny the journey, still offers the best path to reach this desired end state.

MBA looks forward to engaging further with this Committee in such a comprehensive effort, and continuing to be a resource to this panel's members as the *Middle-Class Borrower Protection Act of 2023* moves beyond committee to the House floor.

Thank you in advance for your consideration of the views expressed within this letter.

Sincerely,

Bill Killmer
Senior Vice President
Legislative & Political Affairs

cc: All Members, House Committee on Financial Services