

Congress of the United States
Washington, DC 20515

January 25, 2019

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St. SW
Washington, DC 20219

Dear Comptroller Otting,

As Chair and Ranking Member of the Committees with jurisdiction over the Federal Housing Finance Agency (FHFA), we note that President Trump announced his intention to designate you to serve as Acting Director of FHFA, and that you began your tenure at FHFA on January 7, 2019. The Housing and Economic Recovery Act (HERA) of 2008¹ provides that the President may select one of the FHFA Deputy Directors to designate as FHFA Acting Director. We are concerned that President Trump has chosen not to select an Acting Director using the process Congress outlined in HERA.² However, since you have assumed this role, we are writing to seek information about your planned tenure there. In your appearances before the House Financial Services Committee and Senate Banking, Housing, and Urban Affairs Committee, while you have provided your views on bank regulation as Comptroller of the Currency, we have not had an opportunity to explore your views on the housing finance system and the policies you hope to pursue at FHFA.

As you know, Congress has given the FHFA Director responsibility to ensure that Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBs) carry out their statutory missions and comply with all legal requirements. This includes oversight of the safety and soundness of each entity's operations and their contributions to a liquid national housing finance market, including for low- and moderate-income households.³ Each part of this charge is critical to the continued stability of our housing finance system.

The Enterprises' activities are especially impactful in traditionally underserved parts of the market, including low- and moderate-income households, rural areas, affordable rental housing, and manufactured housing. In the two most recently enacted bills to strengthen oversight of the Enterprises, Congress expressed bipartisan support for the Enterprises' continued and expanded role in serving underserved markets. To ensure that the Enterprises fulfilled this duty, Congress directed their regulator, FHFA, to monitor and enforce the Enterprises' activity across each of these market segments.

¹ 12 U.S.C. 4512(f).

² See "Another Legally Questionable Acting Official Who's Not Wasting Any Time Before Making Big Decisions," Brianne J. Gorod (Chief Counsel, Constitutional Accountability Center), Take Care Blog, January 15, 2019, <https://takecareblog.com/blog/another-legally-questionable-acting-official-who-s-not-wasting-any-time-before-making-big-decisions>.

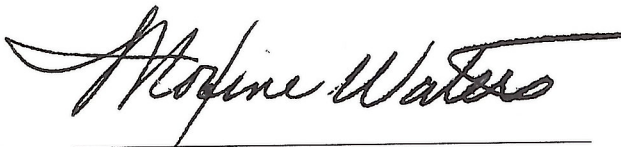
³ 12 U.S.C. 4513.

In addition to these responsibilities, you recently indicated that FHFA may pursue new policies under your leadership. In an interview on January 10, 2019, you stated that there was “a clear mission that’s outlined by the Treasury and the White House, what they want to accomplish” at FHFA and indicated that you would pursue that mission in your new role.⁴ It has also been reported that you told FHFA employees that you would soon announce a plan to move Fannie Mae and Freddie Mac out of conservatorship.⁵ To date, we have not seen a comprehensive statement from the White House and Treasury Department under the Trump Administration providing their views on regulation of the housing finance system. Additionally, your comments call into question the independence of the FHFA under your leadership. So, too, does your decision to direct the FHFA to change its position in a case currently pending before the Fifth Circuit Court of Appeals.⁶

To facilitate our Committees’ oversight of FHFA and the Enterprises and to ensure that any action taken by the Agency will continue to meet Congress’s direction, we request that you provide our Committees a copy or detailed description of the mission that Treasury and the White House have outlined to which you referred no later than February 1, 2019.

We look forward to hearing more about your goals at the FHFA and what steps you will take to ensure that the Enterprises continue their work to facilitate a liquid national mortgage market and access to affordable rental housing under your leadership.

Sincerely,



Maxine Waters
Chairwoman
House Committee on Financial Services



Sherrod Brown
Ranking Member
Senate Committee on Banking, Housing,
and Urban Affairs

⁴ See “Otting: ‘A lot’ can get done during acting FHFA tenure,” Victoria Guida, Politico, January 10, 2019.

⁵ See “Fannie Mae and Freddie Mac regulator discussing plan to end conservatorship,” Steve Goldstein and Andrea Riquier, MarketWatch, January 19, 2019.

⁶ See “Otting’s FHFA drops defense of agency’s constitutionality,” Katy O’Donnell and Victoria Guida, January 15, 2019.