United States Senate

WASHINGTON, DC 20510

February 1, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

Dear Director Thompson:

We write to urge you to review Fannie Mae and Freddie Mac's (the Enterprises) nonperforming and reperforming loan sales programs and the effect those programs have on homeowners, communities, and our housing market.

With a severe shortage of available and affordable housing for aspiring homeowners, it is critical that the Enterprises remain committed to keeping families in the homes they have and to keeping our housing stock in the hands of individual homeowners, not institutional investors. Based on data reported from the Enterprises and the Federal Housing Finance Agency (FHFA), it is not clear that the nonperforming and reperforming loan sales programs meet that standard.

Since at least 2015, Fannie Mae and Freddie Mac have sold nonperforming and reperforming mortgage loans by the thousands to investors in an effort to reduce their retained portfolios. In the case of nonperforming loans, FHFA and the Enterprises hoped that sales to new owners would offer borrowers on the verge of losing their homes assistance beyond what the Enterprises could provide.

Unfortunately, nonperforming and reperforming loan sales can also put borrowers' loans in the hands of investors who do not share the same housing mission obligations as the Enterprises.
Purchasers of nonperforming loans have included large alternative investment funds; companies that operate highly profitable single-family rental housing businesses, like Pretium; and private equity firms like Lone Star Funds. Troublingly, a large share of the loans sold through nonperforming loan sales not only lead to the homeowner losing their home, but to the home being lost from the homeownership market altogether.

Of the nearly 115,000 nonperforming loans sold by the Enterprises that have reached a resolution, more than 60 percent of the resolutions resulted in the homeowner losing their home.[1] In fact, nearly 64,000 of those properties went through foreclosure or deed in lieu of foreclosure, and in those cases the buyers of the nonperforming loans controlled how the vast majority of those properties were sold – or not sold.[2] Nearly 36 percent of properties that were lost through foreclosure went to investors or were held by the purchasers of the loans themselves as rental or real estate owned (REO), the same share that were sold to families looking to buy. Just 206 properties – a share so small FHFA reports it as zero percent – were sold to nonprofits focused on expanding homeownership and affordable housing opportunities.[3]

Reperforming loan sales involve borrowers who are at less immediate risk of losing their home, but they effect far more households and lack the transparency that FHFA has required the Enterprises to provide

[1] "Enterprise Non-Performing Loan Sales Report," FHFA, June 2022, pg. 21, available at https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/June-2022-NPL-Sales-Report.pdf.
[2] Id., pg. 22.
[3] Id.

for nonperforming loan sales. Fannie Mae and Freddie Mac have transferred more than 678,000 reperforming loans since 2016. Freddie Mac's transfers have been done through resecuritizations of thousands of loans, while Fannie Mae's transfers are whole loan sales to investors including PIMCO and Goldman Sachs, as well as those affiliated with large single-family rental operations, like Pretium and Cerberus. These investors or their affiliates benefit from easy access to acquiring properties if homeowners default. And once loans are transferred through either resecuritization or whole loan sales, servicers are no longer required to comply with the servicing standards in the Enterprises' servicing guides, making it even harder to know what loss mitigation a borrower might be entitled to.

Because the Enterprises do not report on the outcomes for homeowners whose loans are transferred through reperforming loan sales, it is impossible for FHFA or the public to know how these sales affect borrowers' ability to stay in their homes and what happens to those homes if borrowers are ultimately forced to move. But selling large volumes of loans that had previously experienced distress to organizations without a housing mission makes it more likely that homeowners' well-being will come second to private profits if those homeowners experience a future hardship.

Nonperforming and reperforming loans are sold almost exclusively to large, profitable investors because the sales cater to institutional investors by design. Whole loan pools that are open to all bidders are so large and geographically diverse that it would be impossible for most community organizations to acquire and manage them. We support the Enterprises' ongoing commitment to sell some nonperforming loans to community and nonprofit organizations through their Community Impact Pools and Extended Timeline Pools. However, these sales represent just two percent of the nonperforming loans sold by the Enterprises to date.

The Enterprises must operate in a safe and sound manner while also fulfilling their housing mission. To ensure that all aspects of the Enterprises' operations meet this standard, we urge you to conduct a thorough review of the Enterprises' nonperforming loan and reperforming loan sales programs. We request an update on your review by March 10, 2023. Additionally, we urge you to increase public transparency and accountability in these programs, particularly the reperforming loan program, to ensure that the program benefits homeowners, not just investors.

We look forward to working with you to ensure that all elements of the Enterprises' businesses are supporting homeowners and aspiring homeowners in today's housing market.

Sincerely,

Sherrod Brown
United States Senator

Jack Reed
United States Senator

Ron Wyden
United States Senator

Tina Smith
United States Senator

Elizabeth Warren
United States Senator