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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

September 29, 2021

The Honorable Janet Yellen  
Secretary of the Treasury  
Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, D.C. 20220

Dear Secretary Yellen:

I write to urge you to reinstate the restrictions on Fannie Mae and Freddie Mac (each, a “GSE”) under the Preferred Stock Purchase Agreements (each, a “PSPA”) that the Department of the Treasury (“Treasury”) recently suspended.

Pursuant to the original PSPAs, Treasury committed to invest in each GSE to the extent necessary to ensure the GSEs’ positive net worth (subject to certain caps). That Treasury commitment exposed taxpayers to the risk of future taxpayer bailouts and conferred a significant funding cost advantage to each GSE, enabling them to grow their footprints. Since entry into the PSPAs, Treasury has insisted on and amended PSPA restrictions to mitigate against the risk of another bailout and limit their footprints, including twice during the Obama administration. The role of the PSPAs in mitigating these risks is especially important given that the Federal Housing Finance Agency (“FHFA”) has not always effectively regulated the GSEs’ underwriting, and also given the limits on FHFA’s regulatory authority outside of conservatorship to restrict GSE activities that are authorized by their charters.

I was particularly dismayed by the suspension of restrictions on higher risk loans. FHFA should not be encouraging higher risk lending, especially when there is inadequate housing supply and home prices are increasing faster than income. Besides increasing the risk of another bailout, this suspension will likely put less creditworthy borrowers into highly leveraged homeownership at what could be the market’s peak. That will not materially change homeownership rates, but it will put low-income, first-time, and minority borrowers at risk of foreclosures that again wipe out generational wealth.

I also cannot see a rationale for suspending the PSPA restrictions on the GSEs’ multifamily footprints and investor and second home loan acquisitions. Since early 2008, the GSEs have increased their multifamily footprint from 25 percent of multifamily debt outstanding to almost 40 percent. The January 2021 PSPA restrictions prompted a quick and significant increase in private-label securitizations backed by investor property loans. This suspension will enable each GSE to further crowd out private capital while also increasing risk to taxpayers.

While I was relieved to see that Treasury did not suspend the requirement that each GSE comply with FHFA’s regulatory capital rule as finalized in December 2020, I am concerned by FHFA’s

recently proposed reduction in these requirements. As you may recall, last September the Financial Stability Oversight Council found that a material reduction in the GSEs' capital requirements could pose a risk to financial stability. I hope Treasury will join me in scrutinizing FHFA's proposal, particularly the proposed reduction in the leverage buffer and FHFA's suggestion that it might reduce the minimum credit risk capital requirement on mortgage exposures.

I continue to stand ready to support comprehensive housing finance reform consistent with the reform principles I released on March 16, 2021. With some support from Treasury, I am optimistic we can agree on legislation that addresses this last unfinished business of the 2007-08 financial crisis. To that end, I eagerly look forward to Treasury's submission to Congress of the GSE recapitalization proposal contemplated by the January 2021 PSPA amendments.

Sincerely,

A handwritten signature in blue ink that reads "Pat Toomey". The signature is written in a cursive style with a large, looping initial "P".

Pat Toomey  
Ranking Member

cc: The Honorable Sherrod Brown, Chairman, Senate Committee on Banking, Housing, and Urban Affairs