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United States House of Representatives
One Hundred Eighteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

March 15, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

Dear Director Thompson:

We write today to express our serious concerns with the Federal Housing Finance Agency (FHFA)'s announcement on March 7, 2024, to approve a new "Title Acceptance Pilot." Your decision to allow Fannie Mae to circumvent taxpayer protections regarding the use of lender's title insurance on refinanced loans unnecessarily inserts new risks into the housing market and broader financial system. Moreover, both the timing and substance of the announcement raise serious questions about the transparency and independence of FHFA under your direction.

Eliminating the use of title insurance on any loan backed by Fannie Mae and Freddie Mac (the GSEs), and therefore taxpayers, is a significant change and one that requires rigorous scrutiny. The "Prior Approval for Enterprise Products" final rule, which you approved and implemented in April 2023, was created to ensure any pilot program could be examined in an open and transparent process. Rather than abiding by this process, including allowing for notice and comment, FHFA approved this new pilot behind closed doors.

Equally disturbing, this decision directly contradicts your previous statements to Congress. In your May 23, 2023 testimony to the House Financial Services Committee, you indicated that FHFA had neither seen such a proposal from Fannie Mae, nor would it ever approve such a pilot program in a manner inconsistent with the Prior Approval for Enterprise Products rule.[1] You also provided similar assurances to this Committee on other occasions that any such pilot would automatically be subject to the Prior Approval for Enterprise Products rule.[2] It is troubling that less than a year later FHFA is going ahead with this proposal directly contradicting your previous assurances.

Separately, as you know, FHFA was established as an *independent* agency by the Housing and Economic Recovery Act of 2008 to serve as the regulator, and later conservator, of the GSEs. Its independence from the interference of any other federal official or agency is integral to

[1] *FHFA Oversight: Protecting Homeowners and Taxpayers: Hearing Before the H. Comm. on Financial Services*, 118th Cong. (2023) (statement of Honorable Sandra Thompson, Director, Federal Housing Finance Agency).
[2] Conversation with Committee Republicans on April 19, 2023 and May 15, 2023.

FHFA's mission. This independence is critical to ensuring the safe and sound operation of the GSEs and their more than $7 trillion in combined mortgage debt. We are concerned that the announcement to change the GSEs' taxpayer protection rules made in unison with President Biden's State of the Union claim that he was "eliminating title insurance on federally backed mortgages" reveals a partisan agenda that is in direct contrast to FHFA's mission and to the detriment of the housing market and broader financial system. The implication that FHFA would undertake an action that could impact the safety and soundness of the GSEs to advance a political talking point is unacceptable.

Congress has a duty to ensure that the decisions made at FHFA, particularly those with the potential to increase GSE risks to taxpayers, are transparent, independent, and consistent. As such, we are informing you that the Committee intends to fully investigate this matter to understand how FHFA arrived at its decision, why the appropriate regulatory procedure was not followed, and the involvement of officials at FHFA or elsewhere, including the White House, who participated in the process to fast-track the timing or approval of this new pilot program.

Respectfully,

Warren Davidson
Chairman of the Subcommittee on
Housing and Insurance

Bill Huizenga
Chairman of the Subcommittee on
Oversight and Investigations

Andrew R. Garbarino
Member of Congress