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National Association of Federally-Insured Credit Unions

March 8, 2021

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th Street SW
Washington, D.C. 20024

RE: Enterprise Liquidity Requirements (RIN 2590-AB09)

Dear Mr. Pollard:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the notice of proposed rulemaking issued by the Federal Housing Finance Agency (FHFA) to implement four liquidity requirements for the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 123 million consumers with personal and small business financial service products. NAFCU has long supported the goal of allowing the GSEs to rebuild capital and ensuring the GSEs are in a safe and sound financial condition before exiting conservatorship to guarantee a healthy and sustainable secondary mortgage market. It is critical that any regulatory changes during this process do not impinge on credit unions' ability to offer affordable mortgage loans to their members and sell their mortgage loans to the GSEs at a fair and reasonable price. The FHFA should also establish more stringent financial eligibility requirements as well as an extended liquidity backstop for non-bank financial institutions that service loans sold to the GSEs to better protect housing markets.

General Comments

The FHFA should work with lawmakers to ensure certain legislative changes are adopted before the GSEs are released from conservatorship so smaller lenders like credit unions have guaranteed, fair access to the secondary mortgage market. But until Congress enacts broader housing finance reform, NAFCU supports administrative efforts that focus on moving the GSEs toward a more stable financial footing so they are not forced to again rely on their U.S. Department of Treasury lines of credit and pose a burden to American taxpayers. A countercyclical model for capital and liquidity requirements is most appropriate for supporting housing finance markets in the long run and ultimately transitioning the GSEs out of conservatorship. Although strong liquidity and funding requirements are an important step toward preventing another government bailout in the event of an economic downturn, this should not come at the cost of increased guarantee fees.

Considering the recently finalized capital requirements rule, changes to the Preferred Stock Purchase Agreements (PSPAs), and now this proposed liquidity requirements rule, guarantee fees and mortgage costs may increase. This proposed rule would codify existing liquidity management

requirements but also include certain assumptions about stressed cash inflows and outflows so the GSEs invest in more assets to support their short, intermediate, and long-term liquidity needs. Excessive liquidity requirements that treat the GSEs like large banks and establish enhanced regulatory and supervision requirements will likely increase compliance costs for the GSEs. This has the potential to lead to negative impacts on credit unions and their members in the form of higher mortgage costs. Increased guarantee fees on the sale of loans should not be the trade-off for the short-term liquidity build-up and other changes at the GSEs as this will serve to limit access to credit to the communities that are most in need. Now is not the time to impose additional costs on borrowers who are relying on access to mortgage credit through a loan that will be sold to the GSEs. Accordingly, NAFCU requests the FHFA transparently communicate its expectations regarding guarantee fees during this difficult economic time and on a consistent basis as the GSEs move closer to a release from conservatorship.

Additionally, credit unions provide high-quality, strongly underwritten mortgage loans, many of which are sold to the GSEs through the cash window. NAFCU appreciates the FHFA's focus on supporting small lenders in the event of an economic stress event, specifically through an increased cash outflow through cash window sales, by purchasing more U.S. Treasury securities and other high quality liquid assets. The recently modified PSPAs establish a cap on the GSEs' cash window purchases of $1.5 billion per lender. Considering this new cap, the proposed liquidity investments in this rule should not in any way create trade-offs that indirectly lead to further limitations in access to the cash window.

A liquidity framework for the GSEs also should be structured so as not to create any moral hazard in terms of increased risk-taking on the types of mortgages the GSEs purchase. The FHFA should ensure that any incentives for excessive risk-taking are eliminated but the FHFA should be encouraging the GSEs to focus on increasing opportunities for very-low, low-, and moderate-income individuals to purchase a home. NAFCU supports the GSEs' role as a market-maker in the secondary mortgage market and has previously encouraged the FHFA to consider pilot programs for low- or zero-down payment mortgage loans that help borrowers build wealth.

These types of loans are especially helpful for very low- and low-income borrowers and should be supported by the FHFA and the GSEs as part of their annual housing goals, which would, in turn, help credit unions make more of these loans to support their communities. One such loan is the Wealth Building Home Loan (WBHL), as developed by the American Enterprise Institute, which is structured as either a 15- or 20-year fully amortizing loan with either a fixed interest rate or a two-step rate structure (an initial fixed-rate for about 7 years and then an adjustable rate), strong underwriting, and zero or low-down payment. NAFCU again reiterates its support for products like this that encourage wealth building among the communities most in need.

Liquidity for Non-Bank Seller/Servicer Shortfalls

The proposed rule outlines requirements for ensuring liquidity in the event of a decreased cash flow due to the assumed failure of the GSEs' top five non-bank servicers to make timely principal, interest, tax, and insurance payments to the GSEs during an economic stress event. The proposed rule assumes that the non-bank servicers would be able to resume payments on day 61. Non-bank

mortgage servicers play an important part in the housing finance system, especially in helping low- and moderate-income individuals obtain mortgage credit. Non-bank mortgage servicers originated nearly 60 percent of new mortgages in 2019 and service about half of all mortgage debt.[1]

As the impacts of the COVID-19 pandemic demonstrated, non-bank seller/servicers are particularly at risk of liquidity shortfalls because they generally rely on short-term funding. But a shortfall at a large non-bank servicer could, in turn, impact the GSEs' cash flow and threaten the stability of the entire mortgage market. Accordingly, the FHFA should assume a longer than 61-day period before repayment to establish stronger liquidity support in the event of a shortfall at a non-bank servicer. Additionally, instead of relying on liquidity support on the back end, NAFCU recommends the FHFA strengthen its financial eligibility requirements for non-bank servicers to better avoid such scenarios in the first place.

The Financial Stability Oversight Council (FSOC) has identified non-bank mortgage companies as a potential emerging threat to the U.S. economy, specifically with respect to the origination and servicing of mortgage loans held by Fannie Mae, Freddie Mac, and Ginnie Mae.[2] In its 2020 Annual Report, the FSOC encouraged "relevant state and federal regulators to take additional steps to coordinate, collect and share data and information, identify and address potential risks, and strengthen the oversight of non-bank companies involved in the origination and servicing of residential mortgages."[3] On an annual basis, the FHFA updates its financial eligibility requirements for non-bank mortgage servicers, but the incremental changes that are made through these eligibility requirements, specifically with respect to non-performing loans, are unlikely to protect the mortgage market in another economic downturn.

Especially with respect to liquidity, it was evident in March 2020 that many mortgage servicers would have been in a dire position had the FHFA not imposed a four-month limit on the payment of interest and principal and other fees as a significant number of consumers entered forbearance on their mortgage loans amid the pandemic. A surge in mortgage refinances, largely due to the low interest rate environment, also helped prop up non-bank servicers during this difficult time. In June 2020, the FHFA announced that it would reassess and re-propose the eligibility requirements that were originally proposed on January 31, 2020 to incorporate lessons learned from the COVID-19 pandemic. This is further indication that the financial eligibility requirements for non-bank servicers are inadequate to weather a significant financial downturn. Moreover, in its 2020 Annual Report, FSOC recommended that relevant regulators ensure that the largest and most complex non-bank servicers are prepared should refinances decrease or forbearance rates increase.

Failures at a non-bank, third-party servicer or sub-servicer that services credit union loans could snowball into additional impacts on credit unions and their borrowers. For example, many credit unions that rely on third-party servicers do not have their own systems in place to process mortgage loan payments. In these situations, the sub-servicers process payments, complete all accounting on

[1] Financial Stability Oversight Council, 2020 Annual Report, https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf
[2] Financial Stability Oversight Council, 2019 Annual Report, https://home.treasury.gov/system/files/261/FSOC2019AnnualReport.pdf.
[3] Financial Stability Oversight Council, 2020 Annual Report, https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf

the members' account, and report payments to the credit reporting agencies. If these mortgage servicers were to fail, credit union members would experience significant delays as credit unions work to notify all members to send payments directly to the credit union, develop new systems to process payments and credit their members' accounts. Those credit unions that retain servicing rights on their loans, but use a third-party servicer, would be unable to process mortgage payments for months until they could operationalize their own systems.

It is critical to the safety and soundness of the entire housing finance ecosystem that non-bank servicers, which comprise the most rapidly growing segment of the mortgage market, are held to stringent capital and liquidity requirements. Without such strong standards, the credit union lenders for which they service loans, consumers, and investors in mortgage-backed securities, are all likely to be negatively impacted. Even beyond financial eligibility standards, in the interest of transparency and to demonstrate commitment to oversight, the FHFA should provide regular reports on their progress in enhancing oversight of non-bank mortgage companies, including their impact on lending for affordable housing.

Conclusion

NAFCU appreciates the opportunity to comment on the proposed rule for enterprise liquidity requirements. NAFCU urges the FHFA to thoroughly consider the impact of this liquidity requirements rule on the cost and availability of mortgage loans for the most vulnerable consumers. Further, the FHFA should reevaluate its financial eligibility requirements for non-bank servicers in light of the economic impacts of the COVID-19 pandemic and this proposed liquidity rule. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2212 or akossachev@nafcu.org.

Sincerely,

Ann C. Kossachev
Director of Regulatory Affairs