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MORTGAGE BANKERS ASSOCIATION

May 22, 2024

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

RE: Freddie Mac Proposed Purchase of Single-Family Closed-End Second Mortgages

Dear Director Thompson,

The Mortgage Bankers Association[1] (MBA) thanks the Federal Housing Finance Agency (FHFA) for the opportunity to comment on a new product proposal[2] from Freddie Mac which would allow them to purchase certain closed-end second mortgages. MBA was pleased to see that this proposal will be following the process established in FHFA's New Products and Activities Final Rule, as it could significantly impact many of the public interest factors that are considered. While the proposal outlines the basic parameters of Freddie Mac's proposed new product, there are several critical details that remain unknown. These missing elements make it difficult to fully assess how this new product would fit into the current market or its potential impacts and benefits. To ensure this new product addresses mission-related needs in the market and does not supplant existing similar offerings or cause unintended market disruption, MBA recommends that FHFA address the outstanding questions before rendering a decision on product approval.

MBA acknowledges that Freddie Mac's proposal to purchase closed-end second mortgages likely aligns with one or more of the statutory purposes within its charter. The Enterprises have previously engaged in the purchase of closed-end second mortgages. While today's market dynamics may be different, there is some level of existing knowledge of how these

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

[2] "Freddie Mac Proposed Purchase of Single-Family Closed-End Second Mortgages; Comment Request" (April 22, 2024) available at https://www.federalregister.gov/documents/2024/04/22/2024-08479/freddie-mac-proposed-purchase-of-single-family-closed-end-second-mortgages-comment-request

loans may perform and how that could impact Freddie Mac's credit risk profile. We were pleased to see that the proposal notes that Freddie Mac would specifically review and develop compliance and technology risk mitigation strategies for this proposed new product and also allow for Credit Risk Transfer opportunities that would be assessed in subsequent phases.

We also recognize the potential benefits that could be gained for various market participants through offering this new product. This product could expand and improve the options available for borrowers to access the equity in their homes while preserving an underlying low-rate first mortgages and providing a cost-effective alternative to cash-out refinances at today's higher rates. Lenders, both banks and nonbanks, who currently offer closed-end second mortgages and other home equity products could see potential benefits from this new product as well. The prospect of quick delivery into an agency TBA market if created, not to mention the access to the scale, efficiency, and liquidity of agency execution, could increase overall participation in home equity lending and expand competition in the sector. A more liquid and efficient market ultimately benefits current homeowners by lowering the net cost of financing their home equity.

While there are theoretical benefits, there are also major concerns that this new product could harm the existing market. In evaluating the proposed product, a fundamental question is whether it will solve for a true liquidity shortfall in the home equity lending marketplace today or, alternatively, will it merely cannibalize share from an existing efficient, growing, and robust market backed by private capital. Stated differently, will it provide enhanced liquidity that expands participation and affordability, or will it crowd out other market participants, supplant a developing private label securities market for the product and reduce competition?

Over the past several months, particularly given the emergence of the "lock-in" effect due to rate disparities and the unwillingness of homeowners to sell and/or to prepay their first mortgage, demand for second-lien financing has grown considerably. Accordingly, private capital has begun to step up to the plate, with a variety of home equity products coming to market. These include balance sheet and securitized home equity lines of credit (HELOCs) as well as securitized closed-end second mortgages, among other innovative products. Many of these offerings have brought new life to the private label securitization (PLS) market that has not been seen in over a decade. Some MBA members have raised concerns about the timing of Freddie Mac's announcement – just as the PLS market for second liens is gaining steam – and fear this new product will capture share from other market participants and disrupt or reverse the progress that has been made.

It remains unclear if the proposed product will provide a benefit and healthy competition for those who currently offer this product or if it will displace them. Prior to considering approval of the proposed new product, MBA urges FHFA to determine if its pricing and loan features: a) will meaningfully expand liquidity and participation in home equity lending; and b) will not supplant current private market participation in the sector.

The lack of critical information necessary to effectively evaluate the impact of introducing this new product is the most pressing issue related to this proposal. The submission guidelines in the New Product and Activities Final Rule includes several items, one of which requires the Enterprises to describe the impact of the new product on the public interest and provide information to address the factors listed in § 1253.4(b).” There are several listed public interest factors[3] which include:

- describing the degree to which the new product serves underserved markets and housing goals,
- the degree to which the new product is being or could be supplied by other market participants, and
- the degree to which the new product promotes competition in the marketplace or, to the contrary, would result in less competition.

Unfortunately, the proposal makes no mention of how the new product serves underserved or “mission” borrowers and as mentioned previously, fails to fully explore how introducing this new product would play out from all angles in the current market.

While we are able to weigh certain positive and negative impacts of the proposed new product, MBA maintains that key variables missing from the proposal make it difficult to determine the full scope of effects, especially given a 30-day comment period. In order to better assess the potential impact of the proposal on the housing finance market, MBA is hopeful that FHFA will address the following outstanding questions, which were not addressed in the written proposal:

- What does Freddie Mac estimate base loan pricing will look like? Will pricing be equitable for lenders of all sizes?
- Will there be an LLPA grid, and if so, to what extent will the program be geared toward “mission” borrowers?
- Will the program explicitly permit a seller other than the current servicer to originate a closed-end second mortgage?
- What would be the implication of cancelation of mortgage insurance on the first mortgage?
- Will Freddie Mac allow the use of Automated Valuation Models (AVMs) or property inspection waivers as alternatives to a traditional appraisal?
- Will Freddie Mac allow recording via e-notes?
- Will individual lenders be capped on the number of closed-end second mortgages that can be sold to Freddie Mac?
- To the extent that certain large lenders are subject to volume caps on cash window delivery for first mortgages, will delivery of closed-end second mortgages to cash window-only execution option count against this cap?
- Does Freddie Mac anticipate imposing a global volume cap on acquisition of closed-end second mortgages?
- Has a loan amount cap that would target “mission” borrowers been considered?
- What considerations have been made regarding performance of the Uniform Mortgage-Backed Security (UMBS) with only Freddie Mac currently seeking approval for closed-end second mortgages?

[3] See Section 1253.4(b)

The answers to these questions are crucial to the ability of stakeholders to properly evaluate the mission and market-related impacts and benefits of this program. Ideally these key details would have been included in the proposal, but failure to address these questions could cause market disruption, create unfair advantages/disadvantages for certain market participants, or reverse meaningful progress in the private market – ultimately jeopardizing increased diversity and stability in the secondary mortgage market. We urge the FHFA to request the information that appears to be missing from the initial submission for this new product and further evaluate the issues raised in our comments prior to considering approval. MBA appreciates the opportunity to provide feedback on Freddie Mac's proposed new product and we look forward to continuing our ongoing partnership with FHFA.

Sincerely,

Pete Mills
Senior Vice President
Residential Policy and Strategic Industry Engagement
Mortgage Bankers Association