

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

December 20, 2011

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW - 4th Floor
Washington, DC 20552

Dear Mr. DeMarco,

On December 16, 2011, the Securities and Exchange Commission (SEC) charged six former Fannie Mae and Freddie Mac ("Enterprises") executives with securities fraud, alleging they "knew and approved of misleading statements claiming the companies had minimal holdings of higher-risk mortgage loans, including subprime loans." We have subsequently become aware that the defendants named in this lawsuit have an open-ended commitment from the Enterprises to receive full advancement of all legal expenses. We write to inquire about FHFA's oversight of disbursing legal fees for former executives of Fannie Mae and Freddie Mac.

Since FHFA has taken over as conservator, former Enterprise executives have been advanced \$72.6 million in legal expenses to defend against securities fraud allegations. These advancements occurred notwithstanding FHFA's authority to repudiate indemnification contracts under section 4617 of the Housing and Economic Recovery Act (Pub. L. No. 110-289). Also, despite your recent testimony that there are "circumstances under which funds must be repaid," there have been no instances where funds have been recovered by the Enterprises or FHFA. These expenses have simply been added to the nearly \$200 billion tab the Enterprises have already amassed with the American people.

To address our concerns about the cost of legal expenses for the American taxpayers, the Oversight and Investigations Subcommittee held a hearing on February 15, 2011 entitled "An Analysis of the Post-Conservatorship Legal Expenses of Fannie Mae and Freddie Mac." We also sent numerous letters expressing concern about the lack of administrative policies, procedures and guidelines related to the advancement of legal expenses for former Enterprise executives with indemnification contracts..

Despite our efforts, we have seen little progress in addressing our concerns. There are no written policies in place to minimize taxpayer exposure for legal fees for former executives with indemnification contracts. There are no administrative

guidelines to define what will be considered “reasonable” legal fees related to the indemnification of these former executives. There are no procedures in place to ensure that the Enterprises themselves pay for their legal expenses by selling physical assets or portions of their portfolios.

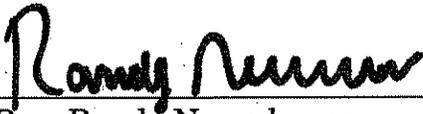
You have noted in testimony before the Financial Services Committee that there would be difficulties in reversing FHFA’s policy of an open-ended commitment to advance legal expenses for Enterprise defendants. However, we firmly believe that advancing hundreds of millions of taxpayer dollars in legal fees without administrative guidance or an outright cap is not in the best interest of the American taxpayers. Given the new lawsuits levied by the SEC, our concerns have been heightened. Thus, we request that you respond to the following inquiries and requests:

1. According to documents provided to the Oversight and Investigations Subcommittee, the Enterprises have spent over \$120 million defending against government investigations since the companies entered into conservatorship. The SEC’s new charges against six former top executives at Fannie Mae and Freddie Mac will undoubtedly add to that tab. In announcing these lawsuits the SEC stated that they “considered the unique circumstances presented by the companies’ current status, including the financial support provided to the companies by the U.S. Treasury, the role of the Federal Housing Finance Agency as conservator of each company, and the costs that may be imposed on U.S. taxpayers.” Please detail what specific steps, if any, FHFA has taken to limit the costs to taxpayers related to these charges.
2. Beginning January 31, 2012, on a monthly basis, please provide this Committee with all submitted expenses related to the defense, indemnification, and advancement of legal expenses for all former Enterprise executives, including the six individuals named in the SEC lawsuit.
3. Has FHFA explored the possibility of requiring current or former executives accused of fraud or breach of fiduciary duty to post collateral to guarantee repayment of legal expenses actually advanced if it is later determined that such persons are not entitled to indemnification for such amounts advanced? If not, why not?
4. Please provide written policies, procedures or guidelines that can be used by FHFA to minimize taxpayer exposure for legal fees for Enterprise employees –and former employees - with indemnification provisions in their contracts.

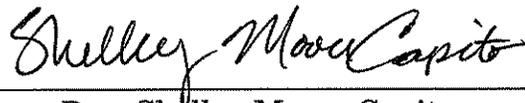
5. Please provide written policies, procedures or guidelines that can be used by FHFA to determine what constitutes "reasonable" legal fees related to indemnification of current and former employees of the Enterprises.
6. Please provide written policies, procedures or guidelines that can be used by FHFA to ensure that the Enterprises themselves pay for their legal expenses by selling physical assets or portions of their portfolio of loans and mortgage backed securities.

Please respond at your earliest convenience, but no later than January 4, 2012. Should you or your staff have any questions or need additional information, please contact the Committee on Financial Services at 202-225-7502.

Sincerely,



Rep. Randy Neugebauer
Chairman
Subcommittee on Oversight and
Investigations



Rep. Shelley Moore-Capito
Chairman
Subcommittee on Financial
Institutions



Rep. Judy Biggert
Chairman
Subcommittee on Insurance,
Housing and Community Opportunity



Rep. Edward R. Royce
Member of Congress