

**HOUSING POLICY COUNCIL  
THE FINANCIAL SERVICES ROUNDTABLE**



**STATEMENT OF**

**JOHN H. DALTON  
PRESIDENT**

**HOUSING POLICY COUNCIL OF  
THE FINANCIAL SERVICES ROUNDTABLE**

**BEFORE THE  
COMMITTEE ON FINANCIAL SERVICES  
OF THE U.S. HOUSE OF REPRESENTATIVES  
ON**

**THE FEDERAL HOUSING FINANCE REFORM ACT OF 2007, H.R. 1427**

**MARCH 15, 2007**

Mr. Chairman and Members of the Committee, I am John Dalton, President of the Housing Policy Council of The Financial Services Roundtable. Thank you for the opportunity to present the views of the Housing Policy Council on the supervision and regulation of Fannie Mae, Freddie Mac and the Federal Home Loan Banks.

The Housing Policy Council is part of The Financial Services Roundtable. The Housing Policy Council is devoted to mortgage finance issues of significance to consumers, the economy and the members of the Roundtable. Today, the Housing Policy Council consists of twenty-three of the nation's leading mortgage lenders. We estimate that our member companies originate over 64 percent of the home mortgages for American home buyers.

#### The Housing Policy Council Strongly Supports GSE Reform Legislation

The housing GSEs are an important part of our nation's housing finance system. As you might expect, the members of the Housing Policy Council do a significant amount of business with Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac guarantee a substantial portion of conforming mortgages and are the largest purchasers of conforming mortgages originated by the members of the Housing Policy Council. Many of our members also are members of the Federal Home Loan Bank System. We want these housing GSEs to be healthy and responsible business partners. Therefore, we strongly support the enactment of legislation to enhance and improve the supervision and regulation of their operations and activities. Appropriate supervision and regulation of the housing GSEs will not only safeguard our housing finance system, but it also will help consumers who seek to become homeowners, and it will protect the interests of all taxpayers.

Recent developments have shown that the current system for regulating and supervising these enterprises is not adequate. The regulation and supervision of Fannie Mae and Freddie Mac is divided between two federal agencies, the Office of Federal Housing Enterprise Oversight (“OFHEO”) and the Department of Housing and Urban Development (“HUD”). The twelve Federal Home Loan Banks are supervised and regulated by yet another federal agency, the Federal Housing Finance Board. The lack of centralized supervision and regulation for these entities has not worked well. During the past 15 years, Fannie Mae and Freddie Mac have grown significantly in size and complexity, and federal regulators have not been able to effectively oversee their operations and activities. As a result, both Fannie Mae and Freddie Mac have experienced serious financial and managerial problems.

Furthermore, these agencies lack the tools and resources to do the job. Fannie Mae and Freddie Mac are major financial institutions that are subject to significant operational risks. Yet OFHEO’s supervisory powers are far weaker than those Congress has given to the federal banking agencies. OFHEO has less authority over capital regulation than the federal banking agencies, and its enforcement powers are much more constrained than those available to the federal banking agencies. Likewise, HUD’s ability to review the programs and activities of Fannie Mae and Freddie Mac is not as broad as the power of the federal banking agencies.

The establishment of a strong, world class regulator for Fannie Mae, Freddie Mac and the Federal Home Loan Bank system is long overdue. The current debate over the regulation and supervision of Fannie Mae and Freddie Mac began in earnest in 2003 after the serious managerial and accounting problems were found at both Freddie Mac and then at Fannie Mae. OFHEO has done a commendable job of addressing these problems with limited resources and

authority. However, OFHEO was able to act effectively largely because of the magnitude of the problems and the publicity they received.

We urge the Committee to act on reform legislation as quickly as possible, so that a bill can be finalized in this session of the Congress. Any further delay in the enactment of legislation increases the danger that reform essential for the well being of our economy will never occur.

We also urge the Committee to resist proposals to water down this reform legislation or weaken the authority of the new GSE regulator.

### Key Features of GSE Reform Legislation

The Housing Policy Council and The Financial Services Roundtable believe that GSE reform legislation should contain the following key provisions.

- *An Independent Regulator* – Federal reform legislation should provide for the creation of an independent regulator for Fannie Mae, Freddie Mac and the Federal Home Loan Banks. A single, independent regulator is central to effective reform. The housing GSEs perform similar functions in our nation’s housing finance system. They should be overseen by one, not three, regulators. A single regulator ensures that each of these institutions will be examined on a comprehensive basis, and permits examiners and analysts to share relevant operational and other information. An independent regulator ensures that the agency will not be subject to undue political influence. Independence has been a benchmark of the federal banking agencies.
- *Comprehensive Supervisory and Regulatory Powers* – The new federal regulator must have clear, strong and broad regulatory and supervisory powers that are comparable to the powers Congress has given to the federal banking regulators. Following the savings

and loan crisis of the 1980's and the banking crisis in the early 1990's, Congress expanded the powers of the federal banking regulators to ensure that they had the tools to supervise our nation's banks and thrift institutions. The federal banking regulators have used these powers wisely, and, today, our banking system is recognized as the strongest in the world. Fannie Mae and Freddie Mac should be subject to a similar, world-class, system of regulation and supervision. Comprehensive supervision and regulation should include the authority to set both risk-based and minimum capital for the housing GSEs, and to place a troubled housing GSE into receivership.

- *Independent Funding* – To ensure the independence of the new federal regulator, the regulator should not be subject to the Congressional appropriations process. A regulator cannot effectively oversee complex organizations with trillion dollar balance sheets, such as Fannie Mae and Freddie Mac, if it is not certain that the regulator will have the examiners, accountants and financial experts to do the job. OFHEO is the only federal safety and soundness regulator that is subject to the Congressional appropriations process.
- *Product Review and Approval* – The new federal regulator should have authority to review all products and activities of the housing GSEs. The authority to review current and proposed products and activities is a fundamental power for any effective regulator. The federal banking agencies have such authority. OFHEO does not, and HUD has testified to the Committee that its authority over Fannie Mae and Freddie Mac in this area is inadequate. Giving the new regulator authority over all products and activities will help ensure the safe and sound operation of Fannie Mae and Freddie Mac.

- *Market Discipline* – Fannie Mae and Freddie Mac should be subject to transparency and disclosure requirements similar to other publicly-traded companies.
- *Strong Affordable Housing* – Fannie Mae and Freddie Mac should be required to increase their commitment to low- and moderate-income borrowers. The definitions of low- and moderate-income that apply to the affordable housing requirements should be consistent with the definitions used in other federal housing programs and the Community Reinvestment Act (e.g., reduce moderate-income definition to 80 percent of area median income from 100 percent, and reduce low-income to 50 percent of area median income from 80 percent). Such a change would focus the affordable housing programs on the borrowers most in need.

#### Pending Legislation

During the last Congress, the Housing Policy Council supported H.R. 1461. We were pleased that the Committee and the House approved that legislation. Now, our initial review of H.R. 1427 is that the bill, while not perfect, addresses the core issues needed for effective reform.

- *Minimum Capital* – H.R. 1427 would give the federal regulator adequate authority to increase the minimum capital requirements for the housing GSEs, as well as the authority to make temporary adjustments in capital based upon the condition of the enterprise or its activities. These are appropriate changes. Our principal concern is that these capital provisions not be weakened. The federal banking agencies have the unconditional authority to increase minimum capital requirements in response to safety and soundness problems. The new GSE regulator should have the same authority.

- *Portfolio Limits* – H.R. 1427 would give the federal regulator broad authority to place limitations on the portfolios of Fannie Mae and Freddie Mac in response to safety and soundness concerns. This is an improvement over current law. However, we would recommend that the amendment be modified to specifically permit the regulator to base portfolio restrictions upon systemic risk, as well as safety and soundness concerns.
- *Product Review and Approval* – H.R. 1427 would require Fannie Mae and Freddie Mac to notify the new federal regulator before engaging in any new “activity, service undertaking or offering,” and would require the affirmative approval of the regulator, following a public notice and comment period, if an activity, service, undertaking or offering is deemed to be a product. We view this procedure as an improvement over current law, which does not reach “activities,” and does not provide for public notice and comment. We would recommend that the standards for reviewing a product track the standards in S. 190, as approved last year by the Senate Banking Committee, that the Committee define the term “product” in order to avoid any ambiguity over the scope of that term, and that the term “program” in Sections 112 and 129 of the bill be replaced with the term “product.”
- *Affordable Housing Fund* – The Housing Policy Council has long supported the creation of an affordable housing fund as an additional means for Fannie Mae and Freddie Mac to serve low- and moderate- income Americans. The Federal Home Loan Banks contribute to an Affordable Housing Program that has worked very well in providing financing for affordable housing. Fannie Mae and Freddie Mac could also contribute to a similar effort. We support allocating this new fund to State housing finance agencies, trust funds or other appropriate state-based conduits based upon a national formula. These

organizations are staffed with individuals, who exercise their duties in a professional and non-political manner to meet the needs of State residents.

- *Conforming Loan Limits* – We do not support any increase in the conforming loan limits for high cost markets for Fannie Mae and Freddie Mac. There is an active, growing, highly competitive secondary market for larger loans outside of the housing GSEs. Thus, we do not believe an increase in the conforming loan limits is necessary to serve this segment of the market. Moreover, increasing the loan limits will further remove Fannie Mae and Freddie Mac from maintaining their mission focus on serving -low- and moderate-income households.

- Conclusion

In conclusion, we believe that H.R. 1427 would be an improvement over current law. We do have concerns with some specific provisions, especially the proposed change in the conforming loan limits, and we believe others, like the product review and program approval process, could be improved even further. However, this effort has been a long, hard fight. We do not want to make the perfect the enemy of the good. It is time to enact legislation to improve the regulatory structure for the GSEs. It will help consumers, the housing economy and the GSEs. We urge the Committee to approve H.R. 1427, with the compromises developed by Chairman Frank and the Treasury Department, and to resist any amendments that would undermine the difficult compromises that have been achieved or otherwise weaken the authority of the new federal regulator. The Housing Policy Council and the Financial Services Roundtable look forward to working with the Committee to enact GSE reform