JEB HENSARLING, TX , CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MAXINE WATERS, CA, RANKING MEMBER

March 21, 2016

The Honorable Julian Castro
Secretary, Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

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

Dear Secretary Castro and Director Watt:

We are writing to voice our concerns regarding potential changes to the nonperforming loan (NPL) sales programs operated by the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA) that would negatively impact the fundamental purpose of those programs and taxpayers alike. Such changes should be swiftly and categorically rejected.

Over the last several months there have been several media reports detailing efforts by social activists and Members of Congress to pressure HUD and FHFA to restructure your NPL sales programs to reduce private sector participation. In its place, these advocates want to convert your programs into community development conduits where certain "approved" buyers receive steep discounts on properties and taxpayers are left holding the bag. Indeed, one such letter earlier this month even advocated that certain social goals the authors favor "*should be accepted in lieu of higher priced bids*" at auctions.

Such calls are particularly inappropriate at a time when our country faces enormous fiscal challenges. Today, taxpayers and our economy suffer from an annual budget deficit predicted to exceed $500 billion for the sixth time in the last eight years and a total public debt of over $19.15 trillion, the highest level as a percentage of GDP at any time during our nation's history other than World War II. This crushing debt is structural, unsustainable, and most of all immoral, saddling future generations with obligations they cannot possibly fulfill so that the profligate spending of today can continue unabated. The reckless spending driving these astronomical levels of debt saps our economic vitality, disproportionately hurting the poor and those struggling to make ends meet.

Advocates of amending your NPL sales programs to establish beneficial classes of bidders – based on subjective special interests and not those of the U.S. taxpayers – would violate the solemn responsibility that HUD and FHFA have as public stewards to minimize taxpayer losses on government-backed mortgages by maximizing their recoveries. This duty is especially paramount in light of the recent taxpayer bailout of the Federal Housing Administration and the almost $200 billion in taxpayer expenditures needed to prevent the collapse of the GSEs.

The campaign decrying the sale of NPLs in an open and competitive process seems based on the false notion that doing so is somehow contrary to the goal of "neighborhood stabilization." On the contrary, maintaining – and, wherever possible, increasing – private market participation in NPL sales is essential to that goal because the best outcome for taxpayers is *always* the best outcome for communities. An open and competitive process not only minimizes losses to taxpayers, but it maximizes investment into our communities that have been hardest hit by our housing downturn.

Greater private market participation in distressed mortgage sales has indisputably produced the dual benefits of reducing potential losses to taxpayers and helping homeowners. Independent research published by the Urban Institute's Housing Finance Policy Center in January concluded: "*[T]he data show that borrower outcomes are far better under the nonperforming loan sales than they would be without these programs. What's more, investors compete intensely for these loans, and HUD realizes the benefit of that. And, if the loans are not sold, HUD would lose significantly more money in holding costs, and in repairs on the deteriorating properties, than it does by selling the loans to investors.*"[1] This research shows that both current and future homeowners are helped, not harmed, when private investors have incentives to participate in NPL sales programs.

Furthermore, as the New York Times noted on September 28, 2015, private investors can be "*more nimble and creative than banks with terms for delinquent borrowers.*"[2] That means that for the many NPLs on which borrowers have not made a mortgage payment in years despite access to multiple government modification and mitigation programs, sale to private investors is often a borrower's last hope to stay in their home. FHFA itself recently echoed that point in its 2015 Scorecard Progress Report: "*Sales of [NPLs] can improve outcomes for delinquent borrowers because the purchaser's financial interest is in having borrowers re-perform on their loans and in avoiding foreclosure where possible [and] achieve a mutually beneficial outcome.*"[3] And for those loans that cannot be cured, NPL sales are a less expensive alternative to government foreclosure or real estate-owned (REO) sales, allowing purchased properties to be put back to beneficial use, such as by being converted into rental housing. Or, as Director Watt asserted at a 2015 housing finance conference: "*While NPL sales will not prevent foreclosures in every instance, we do expect NPL sales to produce better outcomes for borrowers, on the whole, than the status quo.*"[4]

[1] Laurie Goodman and Dan Magder, "Selling HUD's Nonperforming Loans: A Win-Win for Borrowers, Investors, and HUD," Urban Institute, January 2016
[2] Matthew Goldstein, "As Banks Retreat, Private Equity Rushes to Buy Troubled Home Mortgages," New York Times, September 28, 2015
[3] FHFA, "2015 Scorecard Progress Report," March 2016
[4] Prepared Remarks of FHFA Director Mel Watt at the Goldman Sachs Housing Finance Conference, March 5, 2015

In the end, a government guarantee on a mortgage is not and cannot be a license to inflict losses on NPLs on taxpayers. As you know, both of your agencies already place significant restrictions on how NPLs may be handled by purchasers to address the exact concerns which have been raised to you. Any additional restrictions on these loans could significantly hamper your agencies' abilities to recover taxpayer losses. NPL sales programs should be about limiting taxpayer losses, not advancing political agendas.

We urge you to reject any calls to convert your NPL sales programs into a means to award some with preferential treatment through special first-look listings, competition-free closed bidding, below-market pricing discounts, and or a prioritization of organizations' missions at the expense of taxpayers. Instead, HUD and FHFA should focus on increasing private market participation in NPL sales programs so that taxpayers and homeowners have the best chance at a successful future. Additionally, we have directed our staffs to conduct regular reviews of the terms of your current NPL sales programs and will not hesitate to convene immediate hearings before our respective Committees to investigate any changes made to these programs that would undermine their fundamental purpose or otherwise make unwise use of taxpayer dollars.

Yours respectfully,

Jeb Hensarling

JEB HENSARLING
Chairman
Committee on Financial Services

Richard Shelby

RICHARD SHELBY
Chairman
Committee on Banking, Housing, and Urban Affairs