

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

June 25, 2020

The Honorable Dr. Benjamin S. Carson  
Secretary  
U.S. Department of Housing and Urban  
Development  
451 7th Street S.W.  
Washington, DC 20410

The Honorable Mark Calabria  
Director  
Federal Housing Finance Administration  
400 7th Street, SW  
Washington, DC 20219

Dear Secretary Carson and Director Calabria:

In response to the current pandemic, the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA) have both enacted policies that impose significant fees and increased costs for loans that go into early forbearance prior to endorsement by the Federal Housing Administration (FHA) or purchase by Fannie Mae or Freddie Mac (collectively, the Enterprises). These policies unfairly penalize lenders for loans that were fully underwritten according to FHA or Enterprise requirements, they have contributed to significant credit overlays<sup>1</sup> that may be disproportionately impacting access to credit for minority and other underserved borrowers,<sup>2</sup> and they may also be preventing borrowers from accessing forbearance and other protections available for federally backed loans. We urge you to amend these policies to prevent these harmful impacts in the midst of the already difficult conditions that this pandemic is causing.

Prior to this pandemic, both HUD and FHFA had policies in place that prohibited FHA endorsement or Enterprise purchase of loans in forbearance. Under normal economic conditions, these policies only affect a small number of loans that go into forbearance in the period of time between the origination of the loan and the point at which FHA endorses or an Enterprise purchases the loan (typically a few days or weeks). But under the current economic and health crisis, early forbearance is a much greater risk despite responsible underwriting on the part of the lender. HUD and FHFA have both amended those policies to allow for FHA insurance and Enterprise purchase of loans in forbearance but only with significant fees assessed and increased costs on lenders for those loans. This means that if a borrower receives a mortgage and requests forbearance before their mortgage is sold to an Enterprise or insured by FHA, the lender will either have to retain a mortgage that they had no intention, and may not have the capacity to retain, or pay a steep penalty to Fannie or Freddie, or in the case of FHA, agree to retain

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<sup>1</sup> HousingWire, "[Lenders get stricter as some borrowers think they don't have to pay rent](#)," Apr. 10, 2020.

<sup>2</sup> Bankrate, "[Mortgage rate widens between higher and lower credit score borrowers](#)," May 5, 2020.

additional risk. To guard against this risk, many lenders have begun limiting the loans they make to exclude creditworthy individuals with higher credit risks, thus limiting access to credit at a time when borrowers and the economy need it most. For example, some lenders are requiring higher downpayments and minimum credit scores that exceed the minimum scores required by FHA (500-580) or the Enterprises (620).<sup>3</sup> These credit overlays are also disproportionately affecting borrowers of color and other underserved borrowers at a time when all-time low mortgage rates would otherwise open up affordable homeownership and refinance opportunities.<sup>4</sup> Moreover, if a lender chooses to retain a loan to avoid the penalty associated with the loan due to a request for forbearance, the loan never becomes a federally-backed loan, and is therefore not eligible for the forbearance and other protections that are only associated with federally-backed loans under the CARES Act and federal regulations, leaving the borrower more vulnerable to foreclosure.

As of June 5, 2020, mortgage applications reached their highest level since January with new purchase loan applications outpacing last year's market by 13 percent as borrowers take advantage of low mortgage rates,<sup>5</sup> but due to HUD and FHFA policies, minority and other underserved borrowers are being disproportionately locked out of these opportunities. Following the 2008 financial crisis, we saw an onslaught of foreclosures that disproportionately affected homeowners of color,<sup>6</sup> followed in domino effect by tight credit requirements that locked 6.3 million families out of homeownership between 2009 and 2015,<sup>7</sup> with Black and Latinx families disproportionately locked out.<sup>8</sup> It is no surprise, then, that since the Great Recession, we have seen Black homeownership rates drop to an all-time low,<sup>9</sup> an increase in rentership,<sup>10</sup> and a rise in rental costs<sup>11</sup> that are contributing to increases in rates of homelessness.<sup>12</sup> At a time when the pandemic threatens to worsen housing inequality further, HUD and FHFA's policies should be helping, not exacerbating existing disparities.

We understand the need for HUD and FHFA to appropriately manage risks, and we believe that you can do so without resorting to the policies you have in place today. Specifically, HUD and FHFA should spread the costs associated with those risks across the broader single-family portfolio, which will

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<sup>3</sup> American Banker, "[Can government do anything to stop mortgage market contraction?](#)," Apr. 17, 2020.

<sup>4</sup> HousingWire, "[Mortgage rates hit another all-time low](#)," May 30, 2020.

<sup>5</sup> Mortgage Bankers Association, "[Mortgage Applications Increase in Latest MBA Weekly Survey](#)," Jun. 10, 2020.

<sup>6</sup> Rugh and Massey, "[Racial Segregation and the American Foreclosure Crisis](#)," Oct. 1, 2010

<sup>7</sup> Urban Institute, "[Overly tight credit killed 1.1 million mortgages in 2015](#)," Nov. 20, 2016.

<sup>8</sup> Urban Institute, "[Tight credit has hurt minority borrowers the worst](#)," Apr. 7, 2015.

<sup>9</sup> Wall Street Journal, "[Black Homeownership Drops to All-Time Low](#)," Jul 15, 2019.

<sup>10</sup> Joint Center for Housing Studies of Harvard University, "[America's Rental Housing 2020](#)," 2020.

<sup>11</sup> HousingWire, "[Cost of renting continues to steadily rise](#)," Feb. 19, 2020.

<sup>12</sup> U.S. Department of Housing and Urban Development, "[The 2019 Annual Homeless Assessment Report to Congress](#)," Jan. 2020.

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result in near-negligible costs on any individual loan. This would appropriately balance the need to manage risks to the taxpayer while serving your agencies' missions of promoting access to credit. Given what is at stake, we urge you to amend your policies as quickly as possible to avoid the harmful impacts of your current policies on borrowers, lenders, and housing inequality. If you have any questions about this letter, please contact Alia Fierro with Chairwoman Waters' staff at (202) 225-4247.

Sincerely,



MAXINE WATERS  
Chairwoman



The Honorable Wm. Lacy Clay  
Chairman  
Subcommittee on Housing, Community  
Development and Insurance



The Honorable Juan Vargas  
Member of Congress