

Housing Finance

Fannie Mae and Freddie Mac

Issue Overview

Fannie Mae and Freddie Mac (the Enterprises) have been in conservatorship since 2008. As calls for Congress to restructure the housing finance system have subsided, the focus is now concentrated on the future of the Enterprises. Whether the conservatorships are sustainable in perpetuity, what are the benefits and downsides of releasing the Enterprises from conservatorship, with and without Congress acting, and how important is an explicit federal government guarantee to investors are just a few of the questions that must be considered. One of the central questions of releasing the Enterprises from conservatorship is whether they exit with an explicit federal government guarantee and how this will impact the pricing of mortgages post-conservatorship. It is unclear how quickly any release could happen because the Enterprises currently are very undercapitalized, but estimates suggest that between two and five more years are needed to raise the capital necessary to succeed as private companies.

In conservatorship, the FHFA director has much greater latitude to direct the activities of the Enterprises than they would have solely as regulator. As conservator, Director Thompson has worked to implement policies that reflect the Biden administration's concerns with racial equity and higher pricing for loans it does not see as meeting the core mission of the Enterprises, (i.e., cash-out refinances, jumbo conforming, second homes).

The Enterprises are a critical source of financing for single-family and multifamily housing. Any disruption to the availability and cost of mortgage credit to shrink the footprint of the Enterprises or end conservatorship would be detrimental to the housing market.

Solutions

- Continue to allow Fannie Mae and Freddie Mac to build capital and ensure they maintain their vital role of providing liquidity to the mortgage market.
- Abandon all efforts to have FHFA follow HUD's and USDA's lead in requiring new construction of single-family homes and rental units to be built to the 2021 IECC or ANSI/ASHRAE/IES Standard 90.1-2019.
- Encourage a reduction in loan level price adjustments for cash-out refinances, second homes and investor properties.
- Allow Fannie Mae to consider ways to support acquisition, development and construction financing for single-family and multifamily home builders.
- If a plan to end the conservatorships of Fannie Mae and Freddie Mac is considered, FHFA should ensure adequate capital for exit, ensure maintenance of an explicit federal government guarantee of the Enterprises' mortgage-backed securities (MBS), and ensure the exit will not disrupt the functioning of the primary and secondary mortgage markets.

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Basel III Endgame Proposed Bank Capital Requirements

Issue Overview

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve), and the Federal Deposit Insurance Corporation (FDIC) – collectively, the federal banking regulators – have proposed to revise substantially the capital requirements applicable to large banking organizations and to banking organizations with significant trading activity. These proposed reforms would finalize the Basel III capital framework adopted by the federal banking regulators for the U.S. banking system in July 2013. The proposed revisions are being referred to as the “Basel III Endgame.”

The proposed approach would be more risk-sensitive than the current U.S. standardized approach; in part, changing the risk weights on residential mortgage loans to require banks to hold more capital against mortgage loans in their portfolios. Certain provisions that apply currently only to banks with total assets greater than \$250 billion will apply to banking organizations with total assets of \$100 billion or more and their subsidiary depository institutions. By all accounts, it will significantly increase the capital levels required for banks with assets greater than \$100 billion.

The current housing affordability crisis is a direct result of a lack of an adequate housing supply. Banks play a key role financing new residential housing production, including affordable housing. Overly onerous capital requirements restrict the liquidity of banks and inhibit their ability and incentive to provide financing for acquisition, development, and construction activities for single-family and multifamily housing, as well as permanent financing for home buyers and rental property owners. This would limit the supply of new housing and increase the cost of mortgage financing, thus exacerbating the nation’s affordable housing crisis.

According to NAHB’s Survey on Acquisition, Development & Construction Financing, 75% of respondents listed commercial banks as a source of financing for single-family construction activities. Burdensome capital requirements will restrict an important source of financing for new housing supply.

Solutions

- Federal banking agencies should work with housing finance industry stakeholders to revise and repropose a Basel III Endgame capital rule that does not limit the availability or increase the cost of residential mortgage credit.

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Federal Tenant Protection Initiatives

Issue Overview

The federal response to the COVID-19 epidemic included new measures to protect tenants who were unable to pay their rents. For example, the CARES Act required landlords with federally assisted properties or federally backed mortgages (including Fannie Mae and Freddie Mac) to provide a 30-day notice prior to eviction. As the pandemic wound down, the Biden administration sought opportunities to permanently extend and expand on the tenant protections.

As part of the 2023 Scorecard for Fannie Mae, Freddie Mac and Common Securitization Solutions, the FHFA instructed Fannie Mae and Freddie Mac (the Enterprises) to explore the feasibility of expanding multifamily tenant protections. On July 12, 2024, FHFA announced three new tenant protections, applicable to all multifamily properties financed with mortgages backed by the Enterprises. Under the new policy, which will be effective Feb. 28, 2025, affected multifamily housing providers must provide tenants: 1) a 30-day notice of a rent increase; 2) a 30-day notice of a lease term's expiration; and 3) a minimum five-day grace period for late rent payments.

Tenant protection policies make Enterprise-backed loans less attractive to multifamily borrowers because of the increased compliance costs and administrative burdens and alternative sources of financing may not be available on terms that would allow the borrower to serve low- to moderate-income residents, may not be available in all markets and may not be available during economic contractions. The likely outcome of making rent-restrictions, lease requirements, eviction restrictions or other new tenant protections conditions of Enterprise-backed multifamily mortgage loans will be a reduced supply of housing available to the low- to moderate-income renters who are targeted to be served under the Enterprises' missions.

Multifamily apartment owners and managers generally operate small businesses and they are already subject to myriad tenant protection and fair housing statutes, regulations, administrative policies and case laws from all levels of government. Any attempt to federally supersede these state and local landlord-tenant laws and their many decades of legal precedent will only create confusion, litigation, and thus more costs and headaches to property owners and managers.

Solutions

- Direct federal agencies to defer to state and local landlord-tenant laws.
- Direct Fannie Mae and Freddie Mac to permanently refrain from implementing requirements for multifamily borrowers to provide tenants a 30-day notice of a rent increase, a 30-day notice of a lease term's expiration and a minimum five-day grace period for late rent payments.
- Withdraw all federal policies requiring landlords to provide tenants with a 30-day notice of eviction for nonpayment of rent.
- Support legislation clarifying that the CARES Act requirement to provide tenants a 30-day notice of eviction for nonpayment has expired.

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Federal Housing Programs

Issue Overview

America's home builders utilize and rely on several federal programs administered by federal agencies to help them supply new homes and apartments and build communities. While the following list is not all-inclusive, it represents the most widely used and influential programs for NAHB members and the modest-income Americans they serve:

- Tax programs, such as the Low Income Housing Tax Credit (LIHTC);
- FHA Mortgage Loan insurance for single-family and multifamily housing;
- HUD's HOME Investment Partnership (HOME) and Community Development Block Grant (CDBG) programs;
- HUD Rental Assistance, primarily Section 8 Project Based Rental Assistance (PBRA) and the Housing Choice Voucher (HCV) programs;
- USDA Rural Housing Service single-family and multifamily programs; and
- Veterans Affairs (VA) Home Loan Program.

Each of these programs serves an important purpose and constituency; they are not interchangeable but are complementary. Different strategies are necessary to meet the housing needs of households with different income levels in different parts of the country. The array of federal government programs that have been developed over the years in response to identified needs are essential elements in ensuring that there are affordable options for providing housing across the country.

Solutions

- Improve the implementation and operation of these federal programs to make them more efficient and effective and to reduce regulatory burdens on housing providers.
- Provide full funding for all HUD and USDA rental assistance contracts.
- Provide robust funding for HUD's HOME program.
- Provide strong budgets for the USDA homeownership direct loan programs and multifamily housing programs.
- Provide additional resources for LIHTCs.
- Ensure borrowers continue to have access to FHA-insured single-family and multifamily loans and VA homeownership programs.