



September 4, 2019

The Honorable Lawrence Kudlow
Director
National Economic Council
Eisenhower Executive Office Building, Room 235
Washington, D.C., 20502

Dear Mr. Kudlow,

As you consider proposals to restructure our nation's housing finance system as required by the March 2019 Presidential Memorandum,¹ the undersigned civil rights organizations write to express our collective view that any effort to comprehensively reform Government Sponsored Entities (GSEs)—Fannie Mae and Freddie Mac—must recognize the importance of preserving and strengthening access to stable, affordable, and equitable homeownership opportunities for all American families. We view failure to maintain these goals in any forthcoming proposals, including but not limited to the report mandated by the Presidential Memorandum, as antithetical to meaningful and comprehensive housing finance reform, and stand ready to vehemently oppose any such efforts.

As organizations representing the majority of future homebuyers, including many communities of color and low-to-moderate income (LMI) families that have traditionally been underserved in mortgage lending, we are committed to ensuring that any effort to restructure GSE operations builds on the critical affordable housing reforms adopted since the 2008 financial crisis that have allowed the GSEs to continue to fulfill their public mission.

As you know, the President's March 2019 memorandum directed the Departments of Treasury and Housing and Urban Development to conduct a broad review of our housing finance

¹ The White House. Memorandum on Federal Housing Finance Reform (March 27, 2019) Available at: <https://www.whitehouse.gov/presidential-actions/memorandum-federal-housing-finance-reform/>

system, including the GSEs. The memorandum outlined principles with which the agencies' review of our nation's housing finance system should comport, including maintaining "equal access to the Federal housing finance system for lenders of all sizes, charter types, and geographic locations" and making "sustainable homeownership for American families our benchmark of success," among other things. The principles outlined in this letter align with many of the stated goals of the memorandum with respect to upholding the federal government's longstanding housing policy objective to eliminate housing discrimination and promote access to sustainable mortgage credit opportunities for all American families.

The GSEs—and the expanded homeownership opportunities they provide for LMI American families—did not cause the 2008 financial crisis. Rather, perverse incentives in the secondary mortgage market drove unscrupulous brokers and loan officers to target otherwise creditworthy borrowers in communities of color with abusive and predatory loans, which they bundled into poorly-regulated private securitizations that nearly brought the global economy to its knees.

The Financial Crisis Inquiry Commission has long made clear that the crisis was precipitated by a confluence of devastating factors including deregulation, the availability of highly risky non-traditional lending products, and the securitization of those risky mortgage loans into private-label securities to appease investors' appetites for excessive profits.² At the same time, senior leadership at the GSEs was too focused on increasing profits for shareholders through the GSEs' own investments and gave too little attention to ensuring Americans would continue to have access to safe and affordable homeownership opportunities.

In the lead up to the financial crisis, lending practices in the mortgage market not only failed to promote sustainable homeownership opportunities, but also established a dual credit market where factors other than one's creditworthiness determined the type and terms of mortgage loans they were offered. Too often, creditworthy families were denied the best credit for which they qualified and were instead pushed into subprime loans with unsustainable mortgage rates because brokers received higher profits for placing them in more expensive loans.

Moreover, when borrowers faced challenges paying these loans off, the housing finance system failed to provide them with the home-saving options they were due. These pre-crisis lending practices had far reaching negative consequences for many communities of color and LMI families in America. Many families in these communities faced staggering financial setbacks that may take a generation or more to overcome—if at all. For example, the homeownership rate for black families in 2019 is lower than it was in 1968 when the Fair Housing Act was signed into law by President Lyndon B. Johnson.

Equally troubling is the widening gap in the homeownership rate between black and white households in America, with white households at 73.1% and black households at 40.6%, according to July 2019 data from the U.S. Census Bureau. Other communities of color experience this gap, as well. In the Asian American Pacific Islander (AAPI) community, the homeownership rate for Asian Americans is 60%, while for the rate for Pacific Islanders is even

² Financial Crisis Inquiry Commission. Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (January 2011). Available at: <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>.

lower at 41%, according to 2017 data from the U.S. Census Bureau. It is with our nation's long and unfortunate history of excluding communities of color from sustainable credit and homeownership opportunities in mind that civil rights organizations continue to be extensively engaged in the housing finance reform debate.

The Housing and Economic Recovery of 2008 and the Dodd-Frank Wall Street Reform and Consumer Protection Act empowered federal financial regulatory agencies to undertake important reforms to improve the safety and soundness of the GSEs after the 2008 financial crisis.³ To date, these reforms have addressed the most dangerous pre-crisis lending practices and maintained essential elements that allow the system to build more equity. They have also supported our nation's longstanding goal to protect against lending discrimination and to ensure that the secondary market provides fair and equitable access to borrowers in all markets, including underserved areas. Crucial to this effort have been the current system's access and affordability provisions, especially the affordable housing goals, which have created accountable mechanisms to ensure that opportunities brought about by homeownership such as wealth-building and financial stability are likewise afforded to creditworthy borrowers in underserved markets and communities of color.

The American economy benefits when the GSEs fulfill their mandate to serve the full market at all times. As a result, capital markets have the liquidity they need to withstand periods of instability, American families—particularly those who have traditionally faced barriers accessing credit—are able to find stable and affordable home loans, and small lenders—often the only sources of mortgage credit in underserved areas—can continue lending to creditworthy borrowers in their communities throughout the economic cycle. In 2018, GSEs helped more than 3 million families buy or refinance their homes and made it possible for another 1.5 million to find an apartment, including nearly 900,000 low- and very-low income renters. In 2017, GSEs made it possible for nearly 2 million families to purchase or refinance homes; 25% of these borrowers were LMI families, over 600,000 were borrowers of color, and roughly 300,000 lived in rural areas nationwide.

While the GSEs play a critical role in expanding access to credit, robust oversight is necessary to ensure they effectively meet their public interest mission. In that context, we are opposed to a multiple guarantor structure for our housing finance system. A system with multiple guarantors and little regulatory oversight would increase costs because guarantors would no longer be required or incentivized to pool risk. Rather, guarantors would be incentivized to chase the most lucrative markets, serving only the most profitable borrowers or regions of the country. This would have disastrous consequences for fair access to safe and affordable mortgage credit for people of color and other hardworking families.

Further, meaningful housing finance reform must also position the GSEs to play an increasing role in addressing the ongoing affordable housing crisis facing the nation. In 2019, homeownership—long a core element to achieving the American Dream—has become increasingly unattainable for American families. There is clear evidence that the private market has exacerbated existing inequalities. For example, as the need for new affordable housing development continues to go unmet—in large part because developers make more money for

³ Public Law 110-289; Public Law 111-203

building high-cost developments—prices for existing homes are going up, thereby increasing property values for existing homeowners while exacerbating the housing crisis for renters.

It is important to note that the challenges facing the housing market today reflect, in large part, a failure of the private market to make necessary investments to meet demand, making clear the need for federal government’s engagement in addressing this crisis. This isn’t a new phenomenon; history demonstrates that the private market, left solely to its own devices, has left major parts of the housing market underserved.

Left unaddressed, the inequities of the affordable housing crisis will continue to have far reaching negative consequences that fall most heavily on working families in our society. Proposals that would reduce transparency or raise costs to homebuyers and renters to generate returns for investors would only serve to exacerbate these disparities while eliminating the government oversight we need to assure fair play and practices.

In light of these concerning developments, it is critical for the GSEs to continue providing access to affordable and equitable homeownership opportunities to families across the country. To this end, the GSEs’ affordable housing goals along with their duty serve all markets must be preserved and strengthened, and additional efforts must be undertaken to expand fair lending opportunities to creditworthy families.

To ensure all creditworthy borrowers have fair access to mortgage credit and to protect taxpayers, any framework to reform GSEs must align with the principles outlined below:

Preserve and Strengthen the System’s Affordable Housing Mission:

- Preserve and strengthen the affordable housing goals as a mechanism to ensure that housing finance needs in underserved rural and urban communities are met.
- Preserve the broad Duty to Serve public interest mandate in the GSEs’ charters.
- Preserve the Duty to Serve regulation to address shortages in underserved markets for affordable rental, rural, and manufactured housing.
- Ensure that the GSEs make full and regular contributions to the Housing Trust Fund and the Capital Magnet Fund.

Preserve and Enhance Fair Housing and Anti-Discrimination Protections:

- Protect longstanding fair lending laws and regulations with well-resourced oversight mechanisms.
- Provide increased transparency to ensure the public has information about the ways in which the system is serving different types of borrowers and communities.
- Ensure that creditworthy borrowers in underserved communities have access to affordable conventional loans and are not limited to government-insured or guaranteed mortgages.
- Remedy the historical marginalization of communities of color and discriminatory practices within the mortgage market due to federal policies.
- Ensure that employment and supplier channels are diverse and inclusive.

Provide Broad Access for Borrowers, Institutions and Regions:

- Provide access to mortgage credit on safe, sustainable terms for all creditworthy borrowers.

- Ensure that the system provides liquidity in all regions at all times.

Promote Access and Affordability in the Housing Finance System:

- Provide community lenders and credit unions access to the full benefits of the housing finance system, including equal access to the cash window.
- Ensure that rural lenders, which rely heavily on GSEs, have fair, broad and affordable access to the housing finance system.
- Ensure that the housing finance system is adequately serving the needs of Minority Depository Institutions.
- Provide effective support to Community Development Financial Institutions (CDFIs).

Preserve the Availability of Inclusive Loan Products and Services:

- Promote cost-effective loan modifications.
- Preserve FHA-insured lending, responsible low-down payment mortgage loans, and ensure access to existing down payment assistance programs.
- Integrate HUD-approved housing counseling agencies into the home buying process with borrowers to improve outreach to underserved communities and strengthen mortgage applications by LMI borrowers; utilize HUD approved housing counseling agencies to help existing borrowers who are experiencing financial stress.
- Preserve and expand financing for affordable rental housing options.
- Significantly expand the National Housing Trust Fund and the Capital Magnet Fund.

Protect Taxpayers:

- Protect post-crisis reforms that required stronger capital standards for all parties in the housing finance system and set strong standards for sustainable mortgages.
- Eliminate excessive and/or unfair risk-based pricing as working families were not the cause of the 2008 housing crash and thus should not bear the burden of the risk by being forced to pay for the probability cost of another financial meltdown created by systemic failures.
- Provide utility-type regulation, including regulation of products, pricing, and rates of return to further the GSEs' public mission and curb risky business practices.

Should you have any questions, please feel free to contact Julius Niyonsaba (jniyonsaba@nul.org) at the National Urban League's Washington Bureau or any of the undersigned organizations. Thank you for your consideration of our views on this critical matter.

Sincerely,

National Urban League
Center for Responsible Lending
The Leadership Conference on Civil and Human Rights
NAACP
National Coalition for Asian Pacific American Community Development
National Fair Housing Alliance
UnidosUS (formerly National Council of La Raza)
National Community Reinvestment Coalition

CC: United States Senate Committee on Banking, Housing, and Urban Affairs
United States House Committee on Financial Services
United States Department of the Treasury
United States Department of Housing and Urban Development