

## MEMORANDUM

**To:** Members of the Committee on Financial Services

**From:** Committee Staff

**Date:** May 18, 2023

**Subject:** May 23, 2023, Full Committee Hearing entitled, “FHFA Oversight: Protecting Homeowners and Taxpayers”

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On Tuesday, May 23<sup>rd</sup>, at 10am, in Room 2128 of the Rayburn House Office Building, the Committee will hold a hearing entitled, “FHFA Oversight: Protecting Homeowners and Taxpayers.” Testifying at the hearing will be:

- **The Honorable Sandra L. Thompson**, Director, Federal Housing Finance Agency (FHFA)

### *General FHFA/GSE Background*

The Federal Housing Finance Agency (FHFA) is an independent regulatory agency responsible for overseeing the housing Government Sponsored Enterprises (GSEs), Fannie Mae, Freddie Mac, as well as the Federal Home Loan Banks (FHLBs). FHFA was created by the Housing and Economic Recovery Act (HERA) of 2008 (P.L. #110–289), which merged the Federal Housing Finance Board, the FHLBs’ previous regulator, and the Office of Federal Housing Enterprise Oversight, the former safety-and-soundness regulator for Fannie Mae and Freddie Mac. FHFA is headed by a single Director appointed by the President and confirmed by the Senate to a five-year term. The current Director, Sandra Thompson, was sworn in following her confirmation in June of 2022. She previously served as FHFA’s Acting Director.

FHFA’s primary statutory mission is to regulate the GSEs. FHFA’s Director is charged with ensuring that “each regulated entity operates in a safe and sound manner.”<sup>1</sup> The GSEs are private corporations chartered by the federal government with special benefits to help make homeownership more available and affordable for lower- and middle-income Americans. Congress established Fannie Mae during the New Deal. It later created Freddie Mac in 1970 as Fannie Mae’s competitor. The GSEs were chartered to provide liquidity in the mortgage market and promote homeownership for underserved groups and locations. The GSEs are not mortgage lenders. They do not lend directly to individual borrowers. Instead, they purchase mortgages from lenders, guarantee them, and package them in mortgage-backed securities, which they either keep as investments or sell to institutional investors.

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<sup>1</sup> 12 U.S.C. 4513(a)(1)(B)(i).

In addition to being their regulator, FHFA also serves as conservator for each GSE, a role it has played since their respective financial collapses in September 2008. As a conservator, FHFA has the statutory authority to take action, "...necessary to put the regulated entity in a sound and solvent condition..." and, "...appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity." Fifteen years later, Fannie and Freddie remain under government conservatorship.

### ***Oversight of FHFA***

As the primary regulator of our housing finance system, FHFA plays a unique role in how the mortgage market functions. At the end of 2022, the GSEs combined owned or guaranteed approximately \$7.4 trillion in single-family and multifamily mortgages. This amount is over half of the \$13 trillion plus U.S. mortgage market. The regulatory decisions that FHFA makes, which cover the GSEs and the FHLBs, coupled with the operational decisions it has been making as the conservator of the GSEs, gives it tremendous influence over the availability of and access to mortgage credit for millions of Americans. In light of recent rate increases and inflationary pressures, it remains essential that Congress conduct regular oversight of FHFA and, by extension, the activities of Fannie Mae and Freddie Mac.

Director Thompson last testified before the Committee on July 20, 2022. Prior to that, it had been two full years since the Committee held an FHFA oversight hearing (which was with now-former Director Dr. Mark Calabria). In addition, this Committee has historically received testimony from FHFA's Director at least once a year since 2017. Given the current economic challenges in the housing market coupled with a host of recent policy changes under Director Thompson, it is increasingly important that Congress and the American public receive timely updates on the activities of the GSEs and actions of FHFA.

### ***Recent FHFA Actions Under Director Thompson***

Since starting as Acting Director, Director Thompson has been very active on a whole host of regulatory fronts both as the regulator and conservator of the GSEs. These decisions, both big and small, have far-reaching impacts on all aspects of our housing finance system. FHFA's new policies have impacted everything from the price of mortgages paid directly by borrowers to the accounting rules regarding credit risk transfer (CRT) transactions. Taken as a whole, these actions reflect an attempt by Director Thompson to use her broad powers to overhaul the housing finance system. As she has previously testified: "safety and soundness and equitable access to credit are not mutually exclusive....We have taken some important steps to advance FHFA's mission of ensuring the safety and soundness of the regulated entities and ensuring access to affordable and sustainable housing."<sup>2</sup>

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<sup>2</sup> Statement of Director Sandra Thompson to the House Financial Services Committee, "Hybrid Hearing Entitled: Housing in America: Oversight of the Federal Housing Finance Agency," July 20, 2022, available at: <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408391>.

One of the most significant changes to take effect under her tenure has been the implementation of a new capital rule for the GSEs called the Enterprise Regulatory Capital Framework (ERCF). The ERCF is an important step in updating the required amounts of risk-based and leverage capital the GSEs are required to hold to buffer against operational risks. In February of 2022, FHFA announced its Final Rule which would lower the GSEs' total capital requirements by about \$75 billion from the prior ERCF proposed by former Director Calabria in 2020.

In a related change, in January of 2023, FHFA announced a series of pricing adjustments to the framework of upfront fees the GSEs charge lenders on single-family loans, or Loan-Level Price Adjustments (LLPAs). This announcement, which increases and decreases the fees for the vast majority of purchase and rate-term refinance loans acquired by the GSEs, represents the first change to the overall pricing grids previously in place since 2008. The new fees announcement follows two targeted changes made in 2022 to alter prices for a limited set of loan products. Two weeks after the price changes took effect on May 1, FHFA issued a [Request for Input](#) to gather public feedback on “on the goals and policy priorities that FHFA should pursue in its oversight of the pricing framework.”

In addition to the ERCF and LLPA initiatives, additional changes recently announced by Director Thompson include:

- [Rescission of Upfront Fees Based on Debt-to-Income Ratio](#)

On May 10, 2023, FHFA announced a rescission to a rule that would have increased upfront fees for single-family borrowers based on debt-to-income (DTI) ratios. This rescission occurred after numerous complaints that the new fee would be extremely challenging to implement. FHFA had previously [proposed](#) the imposition of this new DTI fee in January 2023 with an effective date of May 1, before [announcing](#) a delay of that effective date until August.

- [Notice of Proposed Rule on Fair Lending Practices](#)

On April 19, 2023, FHFA announced that it would seek comment on a proposed rule to codify FHFA's fair lending oversight requirements for the GSEs and the FHLBs, the requirements for the GSEs' to maintain Equitable Housing Finance Plans, and the requirements for the GSEs to collect and report homeownership education, housing counseling, and language preference information.

- [Request for Input on Multifamily Tenant Protections](#)

As part of the White House's “Blueprint for a Renters Bill of Rights,” FHFA announced on April 13, 2023, that it would conduct public outreach to address the challenges of renters, including exploring, “...the feasibility of expanding multifamily tenant protections,” as well as looking at ways to expand the supply of affordable rental housing.

- [Release of Updated Equitable Housing Finance Plans for Fannie Mae and Freddie Mac](#)

On April 4, 2023, FHFA released several updates to the GSE's annual Equitable Housing Finance Plans. These plans, which Director Thompson first mandated the GSEs begin producing in September

2021, reflect “goals and actions to advance equity in housing finance for the next three years.” The new updates reflect the inclusion of actions to remove barriers to Latino renters and homeowners, as well as changes to loss mitigation support, financial coaching, and other programs and activities to “provide equitable access to affordable and sustainable housing.”

- [Request for Input on Environmental, Social, and Governance \(ESG\) Bonds](#)

On February 16, 2023, FHFA issued a formal request for input on the GSEs’ issuance of social bonds as part of a framework for ESG securities. According to FHFA, “[t]hrough this [information request], FHFA seeks to inform future actions by the Enterprises to develop and issue such social bonds. The Enterprises’ establishment of a social bond program should provide investors with the additional information that they seek and promote sustainability, affordability, and equity in homeownership.”

- [Additional Standards for Radon for Multifamily Properties](#)

On January 19, 2023, FHFA announced it would require additional radon testing for GSE-backed multifamily properties, including increasing the amount of required testing from 10 percent of ground floor units to 25 percent.

- [Advance Notice for New Enterprise Products and Activities](#)

On December 20, 2022, FHFA published a final rule requiring the GSEs to provide advance notice on new activities and to obtain FHFA’s approval before launching new products. FHFA determines whether activities require notice-and-comment as well as the products that would require prior approval.

- [Comprehensive Review of the Federal Home Loan Bank \(FHLB\) System](#)

On August 31, 2022, FHFA announced that it would conduct a comprehensive review of the FHLB system. The review would focus on:

- General mission and purpose in a changing marketplace;
- Organization, operational efficiency, and effectiveness;
- Role in promoting affordable, sustainable, equitable, and resilient housing and community investment;
- Ability to address the unique needs of rural and financially vulnerable communities;
- Member products, services, and collateral requirements; and
- Membership eligibility and requirements.