

**Senate Banking, Housing, and Urban Affairs Committee hearing  
entitled “Oversight of Federal Housing Regulators”  
April 18, 2024**

**Key Takeaways**

- ***Brown targets institutional buyers & manufactured housing owners.*** During his second round of Q/A, Chair Brown (D-OH) noted that out of state investors in manufactured housing financed by the GSE are raising rents and fees on tenants. Thompson said there is a set of tenant protections for anyone that receives a loan from the GSEs for manufactured homes and the GSEs are getting ready to establish oversight of manufactured housing communities. Brown also noted that after the 2008 financial crisis, the GSEs briefly provided financing to help investors buy up single-family homes and pushed FHFA to avoid doing anything like this in the future. Thompson said after the pilot program the GSEs undertook in 2018, FHFA has prohibited the GSEs from working with institutional investors.
- ***Rounds raises lack of credit risk transfer.*** Sen. Rounds (R-SD) asked FHFA Director Thompson about why the GSEs CRT transactions have dropped off in recent years. Thompson said the CRT issuances are tied to loan acquisitions by the GSEs, which has also dropped in recent years, but FHFA encourages the GSEs to utilize credit risk transfer transactions.
- ***Warren targets FHLB membership/mission.*** Sen Warren (D-MA) used her time to criticize the fact that FHLBs provided advances to several banks last year that subsequently failed, noting that FHFA needs to reorient and clarify the mission of the FHLBs toward affordable housing. Warren also expressed her desire for FHFA to reexamine the membership eligibility of the FHLB system, noting that in the last five years, 42 percent of FHLB members did not originate a single mortgage and the current membership criteria only requires 10 percent of asset be held in residential mortgage loans at the time of application. Thompson noted that this was a recommendation in their report and FHFA intends to propose a rule on membership eligibility sometime this year.
- ***Britt calls foul on title insurance process.*** Sen. Britt (R-AL) asked why FHFA did not go through a notice and comment period for the recently issued title insurance program change. She followed up and asked why the title insurance pilot program wasn’t subject to the requirements of FHFA’s projects and activities final rule meant to provide transparency to new initiatives, to which Thompson said it was considered credit underwriting because the pilot will waive the requirement for a representation. When asked about whether the public will be able to weigh in on the proposed change, Thompson noted that FHFA is still in the process of searching for a vendor to help digitize and try to help figure out how to access the title records and that Fannie Mae is going to issue a solicitation to multiple vendors to provide this service.
- ***Hagerty presses for end of conservatorship, Thompson reiterates the remaining work needed.*** During his time, Sen Hagerty (R-TN) noted that the two main objectives Thompson outlined for an exit from conservatorship (the GSEs retaining capital and Congress determining their fate) have already been achieved and said the conservatorship must come to an end to avoid the administration’s backdoor DEI agenda. While Thompson was not directly asked about the topic, in her written testimony, she noted that while much progress has been made under conservatorship, the GSEs are “well below” their minimum capital levels and more work must be done to put in place a proper regulatory and supervisory framework.

## Opening Statements

### Chair Brown (D-OH)

- Congress needs to pass the Downpayment Toward Equity Act.
- Congress needs to pass my bill, the HELPER Act, to allow law enforcement to buy homes in their communities.
- HUD and FHFA need to do more to be vigilant in ensuring that taxpayer money is actually serving families – not enriching shady landlords and wealthy investors. In Ohio and around the country, Wall Street firms and other outside investors swoop into communities, buy up properties, evict tenants, and drive-up local housing prices. We should pass my Stop Predatory Investing Act to end their tax breaks for buying up single-family homes.
- Last month, this Committee had a hearing on legislative proposals to help expand our housing supply and bring down the cost of housing. We must continue our bipartisan work to move forward commonsense proposals that will help expand housing options and reduce costs, and I look forward to continuing to work with Ranking Member Scott and our colleagues on this Committee toward that goal.

### Ranking Member Scott (R-SC)

- The mountains of red tape and regulations this administration has put on housing providers are only making the matter so much worse.
- Both HUD and FHFA have taken several politicized actions that will unnecessarily increase the costs for families and burden communities. HUD recently imposed rent controls on Low-Income Housing Tax Credit properties. And FHFA is asking for public comments on policies, including rent control, following direction from the White House. But what do these policies mean in practice? They have the potential to limit the number of people served by these programs and restrict the supply of affordable housing. Decades of research have proven that rent control policies make housing supply and affordability issues worse, not better.
- HUD proposed requiring that all newly constructed, subsidized housing be built to increased energy efficiency standards, even though HUD itself admits that lower-income households may not be able to afford the added burdens of additional costs. Families in communities like the one I grew up in can't afford new climate costs that increase the cost of housing.
- Since our very first housing hearing last April, I have focused my efforts on building consensus around the commonsense, nonpartisan reforms to all segments of our housing market included in my ROAD to Housing Act. I continue to urge consideration of my ROAD to Housing Act. It is past time to consider my legislation, along with other commonsense bipartisan proposals that would include real solutions to tackle housing challenges.

### *Witnesses*

#### The Honorable Adrienne Todman, Acting Secretary, Department of Housing and Urban Development

#### The Honorable Sandra Thompson, Director, Federal Housing Finance Agency

- Closing costs represent a substantial barrier to purchasing or refinancing a home. Recently, FHFA have been engaged in efforts to explore sustainable measures to reduce mortgage closing costs for both current and aspiring homeowners.

## Question and Answer Session

### Tester (D-MT)

- HUD's fair market rents have not kept up with the rapid rise of housing prices and are not being revised in a timely manner. The changes HUD is making to incorporate rents from corporate landlords is not going to help. Todman, how do we ensure these rates reflect the actual rents? Todman: These rates are established by HUD and updated yearly. This allows us to keep up with what is happening in the market. We have incorporated private data into our calculation to reflect market rates.
- Todman, when is the next time the fair market rents will be updated? Todman: The fall of this year.
- Todman, did HUD take \$4.5 million in Housing Choice Voucher funds from Montana state housing authorities last year? If so, these funds should not have been taken because Montana state housing authorities are currently experiencing a shortfall in funds. Todman: I'm not sure, but if we did, we will work with the Montana state housing authorities to rectify the problem.
- Will submit a question for the record for Thompson.

### Scott (R-SC)

- My Road to Housing Act includes a number of solutions to increase the supply of affordable housing. My bill makes crucial changes to the Rental Assistance Demonstration Program by eliminating the cap on the number of public housing units that can be converted under the program. This would create more opportunities for private capital to help rebuild the nation's aging affordable housing. Todman, do you support lifting the cap? Todman: I've heard from advocates about their concerns surrounding tenant protections tied to the conversion to the Rental Assistance Demonstration Program. I want to make sure the program protects low-income families.
- Todman, are you still supportive of Congress's efforts to expand the Moving to Work Demonstration Program? Do you support my bill to authorize the program? Todman: I support the Moving to Work Demonstration Program.
- Todman, what proposals are you planning to implement to solve the problem of homelessness? Todman: HUD needs to work with the people on the front lines to make sure they are using existing funds effectively. We also need to make sure we have the right rental assistance tools in place to prevent homelessness. We are also appreciative of the additional housing vouchers Congress provided to HUD.

### Butler (D-CA)

- FHFA does not receive notice from insurers before they decide to withdraw from certain markets. Thompson, can you elaborate on the impact it has on homeowners when insurers decide they will no longer offer coverage in certain markets? Thompson: Property and casualty insurance is a requirement for any loan purchased by the GSEs. It is very difficult for prospective homebuyers to obtain homeowners insurance that is required by the GSEs when insurers leave markets. FHFA wants to work with the mortgage industry to address this issue. Insurance premiums are going up and borrowers are not able to afford their monthly payments. We've been working with state insurance commissioners and the NAIC to try to address this issue.
- What steps can HUD and FHFA take to protect consumers when insurers withdraw from certain markets? Todman: HUD has limited authorities when it comes to the insurance industry.

However, we have convened an internal working group within HUD to examine this issue. HUD plans to issue recommendations to address this issue this week.

#### Rounds (R-SD)

- The National Environmental Policy Act requires agencies to consider the environmental effects of any proposed action and inform the public regarding their decisions. The agency carrying out the federal action may create their own NEPA procedures. Under HUD regulation, grantees must complete the environmental review process and maintain a written record of the environmental review for every project before decisions are made and actions are taken. This requirement includes the use of CDBG funding for grantee administrative expenses. Todman, why, when a federal program allows a portion of the funds to be utilized for administration expenses, does HUD require the grantee to go through the bureaucratic process of actually conducting the review and creating a written record of that determination? It looks like this requirement could be easily eliminated. Todman: I will take this question for the record. Environmental reviews are something HUD views as important.
- Thompson, why have the GSEs undertaken so few credit risk transfer transactions over the past few years? You and I both support the use of these transactions by the GSEs. In 2023, the GSEs posted the second lowest amount of credit risk transfer transactions in the history of the program. Freddie Mac posted the single lowest amount ever. Thompson: The reason the credit risk transfers were so low last year is that they are based on the amount of loans that are purchased by the GSEs. The interest rate environment stifled the acquisition of loans by the GSEs last year. FHFA encourages the GSEs to utilize credit risk transfer transactions.

#### Menendez (D-NJ)

- HUD needs to place the Atlantic City housing authority into receivership and bring rapid relief to the residents.
- I was surprised to see that President Biden's FY 2025 budget requested \$143 million less than did the FY 2024 budget for section 202 housing. Todman, does the President's budget request accurately reflect trends in the market for senior rental housing? I urge you to reexamine this issue. Todman: We were working under the constraints of the Fiscal Responsibility Act, so there were difficult decisions to be made.
- Todman, can you provide us with an update on HUD's efforts to update energy efficiency and other construction standards for manufactured homes? Todman: HUD does have a draft rule out for comment. We've been working with the Department of Energy to update those standards.

#### Hagerty (R-TN)

- Thompson, you've testified that in order to end the conservatorship of the GSEs two things need to happen: we have to build capital through retained earnings; and Congress needs to decide the future of the GSEs. Now that the GSEs control so much of the housing market, there seems to be a reluctance to relinquish government control. Judging by the redistributive housing policies that have been pursued while you have been FHFA Director, it seems the GSEs are viewed by the Biden administration as backdoors to push its DEI social policy agenda. Congress has already decided what type of mortgage finance system it wanted with the 2008 HERA law. The GSEs should be allowed to raise private capital and return to the private markets. This would result in a \$100 billion windfall for taxpayers. That money could be used to expand the country's housing supply. American taxpayers deserve to see these conservatorships brought to an end.

Smith (D-MN)

- Todman, how has HUD been working on the issue of housing supply? Todman: We have been executing on the new Housing Choice Vouchers that were provided to us. We have also been modernizing our rules such as the Home rule. We've also been working with the Treasury Department on the federal financing bank risk sharing. We've also been working with the Treasury Department on the State and Local Fiscal Recovery Act to repurpose those funds.
- The Biden administration has issued new proposals to help expand housing supply including the Innovation Fund for Housing Expansion. Todman, how can that proposal help empower local solutions to increase housing supply? Todman: The President's FY 2025 budget includes \$20 billion for innovation.
- Todman, can you talk about how HUD is seeking to address the issue of overcrowding in housing and homelessness on tribal lands? Todman: HUD has been working with tribes to help them utilize the money provided to them swiftly. HUD has also created a new advisory committee for tribal leaders.

Tillis (R-NC)

- Thompson, FHFA directed the GSEs to make changes to the LLPAs last year. The LLPA changes seem to be providing a decrease in rates applied to higher risk borrowers and an increase to lower risk borrowers. Do I have that right? Thompson: We eliminated the upfront fee for all borrowers across the country with an income of 100 percent of the area median income or less. All of the changes that we made to the LLPAs do not result in borrowers with high credit scores subsidizing borrowers with low credit scores. We continue to have risk-based pricing. We raised prices on super jumbo loans as part of the changes to the LLPAs. We have also raised prices for second homes and vacation homes. Borrowers with lower credit scores were being overcharged before we implemented the changes to the LLPAs because the previous LLPAs did not account for the mandatory mortgage insurance borrowers with LTVs higher than 80 percent have to pay.
- I am going to submit a series of questions on the LLPA changes for the record. I have been notified that your changes to the LLPAs did not violate the APA because you are given certain latitudes in your role as conservator. This makes me think we might need to provide certain restrictions around your powers as conservator.
- I am also going to submit some questions for the record regarding manufactured housing.

Warren (D-MA)

- The FHLBs are missing in action on their affordable housing mission. In 2023, the FHLBs received \$7.3 billion in public subsidies. Thompson, how much of this public subsidy did the FHLBs spend on affordable housing programs? Thompson: I think it was approximately \$390 million.
- Thompson, in 2023, how much did the FHLBs spend on dividends for their members like banks and insurance companies? Thompson: Approximately \$3.4 billion.
- The FHLBs lent tens of billions of dollars to prop up SVB, Signature Bank, and First Republic Bank before they failed. Thompson, do you agree that it is important for FHFA to clarify that the mission of the FHLBs is to provide liquidity for housing and community development and not simply to prop up failing banks and hand out dividends? Thompson: The FHLBs have a dual mission to provide stability and liquidity to their members and support the communities that they live in through affordable housing and community development. The FHLBs are well positioned to do a lot more to advance affordable housing and community development. This is one of the recommendations in our FHLB report.

- FHFA needs to clarify the mission of the FHLBs. FHFA also needs to reexamine FHLB membership eligibility. In the last five years, 42 percent of FHLB members did not originate a single mortgage. Under current rules, FHLB members only need to hold at least ten percent of their assets in residential mortgage loans at the time they apply for membership. Thompson, should FHFA change the rule to require members to hold at least ten percent of their assets in residential mortgage loans on an ongoing basis in order to retain membership? Thompson: That was one of the recommendations in our FHLB report. We are going to issue a proposed rule sometime this year to define membership eligibility.

Vance (R-OH)

- In August 2023, FHFA issued a proposed rule requiring the GSEs to advance equity in housing finance. The way that Fannie Mae has applied this proposal worries me. Thompson, does the Fannie Mae plan specifically target black and brown Americans? Does that program have any income requirements? Thompson: Everything FHFA and the GSEs do complies with the law. Under the Fair Housing Act, we have the responsibility to ensure that there is fair housing access for everyone. There are particular communities that are underserved.
- Fannie Mae has applied a down payment assistance slush fund as part of the equitable housing finance plan. My understanding is that black and brown Americans are eligible for this down payment assistance, but it's not income based. Thompson, is that true? Thompson: Our programs are not race based. The Special Purpose Credit Programs are location based.
- Thompson, is there a Fannie Mae down payment assistance program that you can only apply for if you are a black or brown American? Thompson: No.
- I think we should target assistance based on income categories instead of race.

Van Hollen (D-MD)

- Todman, what is HUD's plan and timeframe for finalizing the changes it has proposed to update building energy codes? Todman: We did issue a proposed rule, and you will be hearing some more very soon about the release of a final rule.
- Thompson, does FHFA have plans to adopt similar building energy standards? Thompson: The GSEs do already provide credits for mortgages on properties that build in energy efficiencies. FHFA is undertaking an analysis right now to examine the building code issue. This is a priority for us. We will probably have some recommendations in this area by the end of the second quarter.
- I will submit additional questions for the record.

Britt (R-AL)

- Thompson, is there a reason FHFA did not go through the notice and comment process before issuing the recent title insurance program? Thompson: We do have a public website where the title insurance pilot program is explained. We received the pilot from Fannie Mae. We went through our normal process to approve the pilot.
- Thompson, are you going to give the public an opportunity to comment on the title insurance pilot program? Thompson: The pilot program has not yet been operationalized. We are still in the process of searching for a vendor to help digitize and try to help figure out how to access the title records. Fannie Mae is going to issue a solicitation to multiple vendors to provide this service.
- Thompson, why wasn't the title insurance pilot program subject to the requirements of FHFA's projects and activities final rule meant to provide transparency to new initiatives? Thompson:

The pilot program was considered credit underwriting because the pilot will waive the requirement for a representation.

- Please make sure FHFA allows for public comment in connection with the title insurance pilot program.
- Todman, will HUD return to working on the Moving to Work Demonstration Program? Todman: We have been working to carry out Congress's mandate to expand the Moving to Work Demonstration Program. We completed that task two weeks ago.
- I am worried about the number of multifamily loans that will need to be refinanced over the next few years but can't be with the current interest rate levels. I urge FHFA to revisit the enterprise regulatory capital framework and its lack of countercyclical adjustments for multifamily loans.

#### Warnock (D-GA)

- Large institutional investors and Wall Street private equity firms are effectively boxing first-time, first-generation homebuyers out of the housing market. This is why I have previously introduced the Housing Market Transparency Act to provide greater transparency over who actually owns properties built under the LIHTC which includes private equity investors. I am troubled by the increase in private equity ownership in the housing market. Thompson, what steps is FHFA taking to ensure the GSEs are not passing economic benefits intended for ordinary Americans to private equity firms? Thompson: The GSEs do not engage with institutional investors when it comes to single-family rentals. The GSEs had one transaction in 2018 and decided to not engage in those activities anymore. FHFA does not permit institutional investors to purchase loans for acquisition.
- Thompson, are there steps FHFA can take to protect ordinary Americans from the increase in private equity ownership of housing? Thompson: The GSEs won't purchase loans made by private equity firms because they are ineligible to make those loans. For our REO portfolio, we have a 30 day first look period for owner-occupied buyers, non-profits, and others.
- Todman, why is President Biden's proposal for a \$10,000 tax credit for first-time homebuyers important? Who is the tax credit targeting? Todman: The tax credit targets first-time and first-generation homebuyers.
- We need to pass my bill the Down Payment Toward Equity Act.

#### Cortez-Masto (D-NV)

- FHFA's FHLB report includes recommendations for Congress in addition to actions the agency can take on its own. Thompson, why did FHFA recommend in the report that Congress improve access to the FHLB System for non-depository community development financial institutions or CDFIs? Thompson: We want CDFIs to have the same benefits as other FHLB members so they continue to build and provide affordable housing in their communities. For instance, other small community members are able to commit different types of collateral that CDFIs are not able to commit. We want to make sure there is parity in this regard.
- Thompson, why did FHFA, in its FHLB report, recommend that the FHLBs' assessment for the Affordable Housing Program be increased by at least 20 percent? Thompson: The FHLBs are currently well capitalized, and they can afford to help with the affordable housing crisis we are currently experiencing. It would help to have the statutory requirement change from 10 percent to 20 percent.
- I would ask my colleagues to join me on legislation that addresses some of the recommendations FHFA made to Congress in the FHLB report.

- Todman, can you talk about the proposed rule to streamline the Home Investment Partnerships program? Todman: It's still in the inter-agency process. We are almost there to get the rule out for public comment.

Brown (D-OH)

- Renters are having trouble keeping up with the rising rents and fees charged by out of state investors in manufactured housing financed by the GSEs. We are seeing more and more out of state investors in manufactured housing. Thompson, how do we change the system so that when the GSEs are getting credit for providing affordable housing, residents can actually afford their rent? Thompson: FHFA doesn't believe the GSEs should get credit in situations where the homeowners are not receiving updated property maintenance, or they are living in conditions that are untenable. We are thinking about ways to address this issue. For manufactured housing communities, there is a set of tenant protections for anyone that receives a loan from the GSEs. We require borrowers to sign an acknowledgement each year that they are complying with those tenant protections. The GSEs are also getting ready to establish oversight to make sure manufactured housing communities are in good condition.
- Plans to follow up with Todman about how HUD's proposed improvements to the Healthy Homes Program will help reduce lead poisoning in homes.
- After the 2008 financial crisis, the GSEs briefly provided financing to help investors buy up single-family homes. Thompson, will you commit that the GSEs won't do any new financing for investors in single-family rentals who so often exploit renters and drive-up housing prices? Thompson: After the pilot program the GSEs undertook in 2018, we have prohibited the GSEs from working with institutional investors.