The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

The Honorable Mark A. Calabria
Director
Federal Housing Finance Agency
400 7th St, SW
Washington, DC 20024

Dear Secretary Yellen and Director Calabria,

The Independent Community Bankers of America (ICBA)[1], together with ICBA's Minority Bank Advisory Council, a coalition of minority-owned depository institutions (MDIs), are writing to convey our concerns about the product and program restrictions contained in recent Federal Housing Finance Agency (FHFA)-Treasury amendments to the Preferred Stock Purchase Agreements (PSPAs) for Fannie Mae and Freddie Mac (the Enterprises). The restrictions will ultimately have a negative and disproportionate impact on low-to-moderate income (LMI) and minority borrowers by arbitrarily limiting the types and number of certain loans the Enterprises may purchase. The limitations will undermine the important goal of closing the homeownership gap among borrowers of color and constrain MDIs and smaller institutions from serving their customers and helping them build generational wealth through homeownership.

ICBA's Minority Bank Advisory Council advocates for solutions that promote MDIs and the communities they serve. MDIs are uniquely positioned to invest in and take the lead in

[1] *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than $5 trillion in assets, over $4.4 trillion in deposits, and more than $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

strengthening the economic growth and revitalization of minority and LMI communities. A key feature of the community bank business model is making sure homeownership remains an affordable and sustainable means of building wealth. Moreover, MDIs throughout the nation embrace this approach as they work to empower diverse communities by closing the racial homeownership gap.

These institutions often rely on Fannie Mae and Freddie Mac as stable sources of liquidity that allow them to continually meet the needs of their customers. We recognize that FHFA and the Enterprises must carefully calibrate the levels of risk they are willing to accept based on certain loan characteristics, but we are concerned the recent PSPA changes represent an unacceptable deviation from the standard process by which Enterprise product and program changes are implemented. The amendments were rendered without any explanation, justification, or opportunity for lenders to clear their loan pipelines. Recent lender letters from the Enterprises fail to offer clear guidance to all lenders, particularly to MDIs that are concerned about how the restrictions will impact their ability to carry out their mission. More specifically, current guidance fails to clarify what happens if a lender's deliveries exceed the product restrictions defined in the PSPAs.

PSPA Modifications Limit the GSEs' Purchases of "High-Risk" Single Family Loans

While we appreciate that recent key policy measures by FHFA have been focused on facilitating loss mitigation options and homeownership preservation in response to the pandemic, we are troubled that purchase restrictions on loans with at least two "high-risk" characteristics – loan-to-value (LTV) ratio above 90 percent, debt-to-income (DTI) ratio above 45 percent, and a credit score below 680 – disproportionately harm LMI and minority borrowers who are in the process of returning to financial stability as the economy recovers.[2] Without data or any substantive justification for these restrictions, combined with no opportunity for public comment, these restrictions appear arbitrary and will likely undermine the ability of minority borrowers to purchase a home.

[2] *The Preferred Stock Purchase Agreements Will Hamper Access to Credit*, Urban Institute (February 2021). This study finds "…that for GSE purchase mortgages made in 2019, more than twice the share of Black and Hispanic borrowers versus white borrowers (8.75 percent versus 4.07 percent) would be considered high risk, as determined by FICO scores and LTV ratios only."

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PSPA Modifications Place Limits on Second Homes and Investor Properties

The PSPA changes also limit the percentage of investor properties and second homes to 7 percent of total purchases. This is another example of FHFA and Treasury placing hard and inflexible limits on products without a discernable justification or rationale. The restrictions are likely to come at a cost, as second homes and, more importantly, investor properties play a critical role in generating the cross-subsidies that support the Enterprises' affordable housing mission.

Additionally, it is rarely recognized that investor properties, including rental units in single-family properties, are often used as a means to accumulate generational wealth for minority and LMI borrows. These products encourage the creation of more affordable rental units, allowing renters to save for their first home. By placing unnecessary limits on second homes and investor properties, the PSPA changes will result in higher rents, greater financial insecurity, fewer minority homeowners, and fewer opportunities for creating generational wealth.

Already, some MDIs have seen an increase in loan pricing for these types of mortgages as lenders prepare to transition to private market investors. The private market traditionally requires a much higher return due to their highly leveraged positions. Further, due to interest rate risk, even lenders that can keep these loans on their books will be less likely to invest in 30-year fixed-rate products, and more likely in ARM products, which contribute to less sustainable property ownership and, in turn, create instability for the renters of such properties.

PSPA Restrictions Disproportionately Impact Small Lenders

Most of the changes made to the PSPAs will ultimately affect small lenders the most, especially MDIs. Most MDIs deliver fewer than 50 loans annually to the Enterprises, meaning that they would only be able to deliver three investment property loans per year before exceeding the specified limits. Yet the large aggregators, which deliver thousands of loans to the Enterprises, would be able to deliver hundreds of investment property loans. Further, community banks that currently exceed that cap will be forced to either sell to undesirable aggregators, retain more of those loans in their portfolios, or worse – curtail mortgage lending activity altogether.

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Furthermore, smaller lenders do not have the volumes that can adjust for inflexible percentage caps on certain loans they are able to sell to the Enterprises. Guidance issued by the Enterprises does not make it clear how and to what extent these product restrictions will be enforced at the seller-servicer level. This lack of clarity also has some bankers concerned that they will be forced to buy back loans from the Enterprises if the percentage of loans they sell exceeds the requirements dictated in the PSPA amendments. Adding to the confusion and complexity is the 52-week moving average ceiling. It is unclear how the Enterprises will be able to manage this limit, let alone how it will ultimately impact individual lenders worried that a small handful of loans they sell may impact their book of business for up to a year. **We therefore request the Enterprises to provide additional clarification regarding the tracking and enforcement of these limits.**

All of the above will likely have negative consequences for the mortgage industry as a whole, increasing housing costs and widening the minority homeownership gap. An existing shortage of housing supply continues to put significant upward pressure on housing prices. Higher prices result in more borrowers with higher LTVs and DTIs placing them in the "high-risk" category. We are greatly concerned that this will impact minority and LMI borrowers the hardest and create additional obstacles for MDIs and other community lenders as they try to serve their customers.

We therefore strongly urge both Treasury and FHFA to reopen the PSPA negotiations and delay the implementation of the product and program provisions of the PSPAs issued earlier this year. As mentioned in a joint letter sent by a number of lender, community and civil rights groups earlier this year[3], the PSPAs are not an appropriate vehicle to impose changes like these that affect numerous stakeholders. We are deeply concerned that these changes will undermine the economic recovery, exacerbate the minority homeownership gap, disrupt the housing market, and run counter to the Enterprises' affordable housing obligations.

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[3] https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/main-st-coalition-pspa-changes.pdf?sfvrsn=39400e17_0

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Thank you for your attention to this very troubling matter. The members of the ICBA Minority Bank Advisory Council are happy to discuss this issue with you further if you wish.

Sincerely,

ICBA Minority Bank Advisory Council

James H. Sills, III, M&F Bank, Durham, NC

James Wang, President, Asian Bank, Philadelphia, PA

Jill Sung, Abacus Federal Savings Bank, New York, NY

Terrence Hosten, Industrial Bank, Washington, DC

George G. Andrews, Unity National Bank, Atlanta, GA

Barry Anderson, F&M Bank, Guthrie, OK

Todd O. McDonald, Liberty Bank and Trust, New Orleans, LA

Carlos Naudon, Ponce Bank, New York, NY

cc:
The Honorable Maxine Waters, Chair
U.S. House Financial Services Committee

The Honorable Patrick McHenry, Ranking Member
U.S. House Financial Services Committee

The Honorable Sherrod Brown, Chair
U.S. Senate Banking Committee

The Honorable Patrick J. Toomey, R
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