ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
FACSIMILE (202) 225–3974
MINORITY (202) 225–5051

http://oversight.house.gov

November 30, 2011

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street NW
Washington, D.C. 20551

Dear Acting Director DeMarco:

During the Committee's hearing on November 16, 2011, you agreed to provide the Committee with: (1) the specific statutory provision you believe prohibits the Federal Housing Finance Agency (FHFA) from allowing Fannie Mae and Freddie Mac to reduce mortgage principal in all cases; and (2) the analysis you conducted, including the data you examined, demonstrating that principal reduction never serves the long-term interests of the taxpayer when compared to foreclosure. We are writing to request that you provide these documents by December 9, 2011.

When you were asked about statutory prohibitions against principal reduction programs, you responded: "I believe that the decisions that we've made with regard to principal forgiveness are consistent with our statutory mandate." Although you were not asked about providing "general support" to the housing market, you also said this: "I do not believe that I've been appropriated taxpayer funds for the purpose of providing general support to the housing market." During your testimony, however, you identified no specific statute that prohibits FHFA from allowing Fannie Mae and Freddie Mac from developing principal forgiveness programs in select cases that would serve the long-term interests of both taxpayers and homeowners.[1]

As Rep. John Tierney explained, when Congress enacted the Emergency Economic Stabilization Act in 2008, it specifically directed FHFA, Freddie Mac, and Fannie Mae, among other things, to "implement a plan that seeks to maximize assistance for homeowners."[2] Many

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[1] House Committee on Oversight and Government Reform, *Hearing on Pay for Performance: Should Fannie and Freddie Executives Be Receiving Millions in Bonuses?* (Nov. 16, 2011) (citing Emergency Economic Stabilization Act in 2008, Sec. 110).

[2] *Id.*

economists believe that principal reduction programs could fulfill this goal while also serving the long-term interests of the taxpayers who are funding Fannie Mae and Freddie Mac. They include the following:

- **Federal Reserve Chairman Ben Bernanke:** "In this environment, principal reductions that restore some equity for the homeowner may be a relatively more effective means of avoiding delinquency and foreclosure."[3]

- **Martin S. Feldstein, former Chairman of the Council of Economic Advisers under President Reagan:** "To halt the fall in house prices, the government should reduce mortgage principal when it exceeds 110 percent of the home value."[4]

- **Alan Blinder, Former Vice Chairman of the Federal Reserve:** "Most economists see principal reductions as central to preventing foreclosures. ... Perhaps the cost to taxpayers could be reduced by giving the government—or even private investors—some of the upside when house prices finally start climbing."[5]

- **Neil Barofsky, former Special Inspector General for the Troubled Asset Relief Program:** "There needs to be a recognition that many borrowers will never make the required payments on their underwater mortgages, and that the owners of these mortgages have already lost any meaningful chance of obtaining a full recovery of the outstanding principal. The sooner that this reality is recognized and addressed, the sooner a recovery can take hold. As such, an aggressive principal reduction program is necessary."[6]

During your testimony, you stated that you had completed a thorough analysis of why foreclosures always serve the interests of taxpayers better than principal reduction programs. Specifically, you stated:

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[3] Federal Reserve Chairman Ben S. Bernanke, *Speech at the Independent Community Bankers of America Annual Convention, Orlando, Florida* (Mar. 4, 2008) (online at www.federalreserve.gov/newsevents/speech/bernanke20080304a.htm).

[4] Martin S. Feldstein, *How to Stop the Drop in Home Values*, New York Times (Oct. 12, 2011) (online at www.nytimes.com/2011/10/13/opinion/how-to-stop-the-drop-in-home-values.html)

[5] Alan Blinder, *How to Clean Up the Housing Mess*, Wall Street Journal (Oct. 20, 2011) (online at http://online.wsj.com/article/SB10001424052970204485304576640983793571772.html)

[6] Neil Barofsky, *Foreclosure Crisis Lessons Not Yet Learned*, Huffington Post (Oct. 5, 2011) (online at www.huffingtonpost.com/neil-barofsky/foreclosures-mortgage-crisis-_b_995922.html?page=3).

> We have been through the analytics of the underwater borrowers at Fannie and Freddie, and looked at the foreclosure alternative programs that are available, and we have concluded that the use of principal reduction within the context of a loan modification is not going to be the least-cost approach for the taxpayer.[7]

As Rep. Tierney noted, however, several banks are already implementing principal reduction programs that serve their financial interests while providing assistance to homeowners. For example, Ocwen has established a program under which a servicer may reduce a loan to 95% of a home's fair market value, and the excess principal is forgiven over three years as long as the homeowner remains current on mortgage payments. When the home is sold or refinanced, the borrower is required to share 25% of the appreciated value with Ocwen. According to the company's CEO:

> Shared appreciation modifications help homeowners avoid foreclosure and restore equity, providing a significant benefit to the customer, the economy, and the housing market.[8]

Other banks also have principal reduction programs, including JPMorgan Chase, Ally Financial, Bank of America, and Wells Fargo, which reportedly reduced the balances of approximately 73,000 borrowers by an average of $51,000 in 2009 and 2010.[9]

At the conclusion of Rep. Tierney's questioning, he asked you to provide both the statutory authority for your claim that you are prohibited from allowing principal reduction programs and the analysis you conducted demonstrating that foreclosures always serve taxpayer interests when compared to principal reductions. He stated:

> What you're telling me flies in the face of all these people who have come up with a quite different idea. ... I'd like you to do two things for the Committee if you would. First, I want you to identify anywhere in the statute that specifically prohibits you from developing principal reduction programs. ... [S]econd, I'd like you to submit whatever

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[7] House Committee on Oversight and Government Reform, *Hearing on Pay for Performance: Should Fannie and Freddie Executives Be Receiving Millions in Bonuses?* (Nov. 16, 2011).

[8] *Ocwen Unveils New Principal Reduction Program*, HousingWire (July 26, 2011) (online at www.housingwire.com/2011/07/26/ocwen-unveils-new-principal-reduction-program).

[9] *See, e.g., New Options for Underwater Homeowners*, SmartMoney (Mar. 30, 2011) (online at www.smartmoney.com/spend/real-estate/new-options-for-underwater-homeowners-1301075928064/); *Wells Fargo Cuts as Much as 30 Percent in Principal*, Bloomberg (Dec. 10, 2009) (online at www.bloomberg.com/apps/news?pid=newsarchive&sid=aNXbMnTI0udU); *Ally to Reduce Mortgage Principal in Michigan*, Housing Wire (Mar. 25, 2011) (online at www.housingwire.com/2011/03/25/ally-to-reduce-mortgage-principal-in-michigan); *Big Banks Ease Terms on Loans Deemed as Risks*, New York Times (July 2, 2011) (online at www.nytimes.com/2011/07/03/business/03loans.html?_r=1&pagewanted=print).

analysis you have done that shows why reducing the principal on some mortgages is worse for the United States taxpayer than foreclosure.[10]

In response, you committed under oath to providing these documents, stating: "We can provide that information as you suggested, Congressman."[11]

We are writing to request that you provide this information by December 9, 2011. If you have any questions, please contact Davida Walsh at (202) 225-5051. Thank you for your cooperation with this request.

Sincerely,

Elijah E. Cummings
Ranking Member

Edolphus Towns
Member

Carolyn B. Maloney
Member

Eleanor Holmes Norton
Member

Dennis J. Kucinich
Member

John F. Tierney
Member

Wm. Lacy Clay
Member

Stephen F. Lynch
Member

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[10] House Committee on Oversight and Government Reform, *Hearing on Pay for Performance: Should Fannie and Freddie Executives Be Receiving Millions in Bonuses?* (Nov. 16, 2011).

[11] *Id.*

Jim Cooper
Member

Gerald E. Connolly
Member

Mike Quigley
Member

Danny K. Davis
Member

Bruce Braley
Member

Peter Welch
Member

John Yarmuth
Member

Christopher S. Murphy
Member

Jackie Speier
Member

cc: The Honorable Darrell E. Issa, Chairman
Committee on Oversight and Government Reform