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September 15, 2011

The Honorable Shaun Donovan
Secretary
Department of Housing and Urban Development
Washington, DC 20410

The Honorable Timothy F. Geithner
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20552

Type of Strategy
(check as many appropriate)

X	Outright purchase
X	Joint-venture
X	Rent-and-hold
X	Lease-to-own
	Other (specify)

Type of Respondent
(check as many as appropriate)

	Private capital
	Real estate company
	Rental property management
	Asset management
	Nonprofit
X	Other (real estate trade association)

[Transmitted electronically to REO.RFI@fhfa.gov]

Dear Secretary Donovan, Secretary Geithner, and Mr. DeMarco:

I am writing on behalf of more than 1.1 million REALTORS® to comment on the Request For Information (RFI) for strategies to augment and enhance the Real Estate-Owned (REO) asset disposition programs of Fannie Mae and Freddie Mac (the Government Sponsored Enterprises, or GSEs), and the Federal Housing Administration (FHA). The National Association of REALTORS® (NAR) is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

EQUAL HOUSING OPPORTUNITY

OVERVIEW

The conservator of the GSEs, the Federal Housing Finance Agency (FHFA), the Department of Housing and Urban Development (HUD), and the Treasury Department issued a Request For Information (RFI) on August 10, 2011, asking for suggestions on strategies to enhance the disposition of REO assets of the GSEs and the Federal Housing Administration (FHA).

The agencies have requested comments on potential structures and disposition strategies to facilitate the current and future disposition of REO properties to help stabilize neighborhoods and local home values, as well as improve loss recoveries compared to individual retail REO sales. The agencies requested that several objectives be addressed by any potential structure or strategy, and anticipated that the objectives will be best addressed through "REO to rental structures," specifically, potential rental partnership options for single-family REO properties.

The agencies requested that potential structures and strategies proposed in response to the RFI achieve the following objectives:

- Reduce the REO portfolios of the GSEs and FHA in a cost-effective manner.
- Reduce average loan loss severities to the GSEs and FHA relative to individual distressed property sales.
- Address property repair and rehabilitation needs.
- Respond to economic and real estate conditions in specific geographic areas.
- Assist in neighborhood and home price stabilization efforts.
- Suggest analytic approaches to determine the appropriate disposition strategy for individual properties, whether sale, rental or, in certain instances, demolition.

I. HOUSING: ANOTHER SHOT

As President Obama noted in regards to the current state of the housing markets at a Town Hall meeting in Atkinson, Illinois, in August 2011, "the federal government is not going to be able to do this all by itself. It's going to require consumers and banks and the private sector working alongside government to make sure that we can actually get the housing moving back again."[1] REALTORS® appreciate the Administration's attempts over the last two and half years to keep families in their homes and its recognition that homeownership matters. The foundation of our economy is housing;

[1] http://www.whitehouse.gov/the-press-office/2011/08/17/remarks-president-town-hall-meeting-atkinson-illinois

over a million small businesses have developed from it, and many more thrive because of it, including real estate professionals, lenders, and homebuilders.

Though several Federal programs were put into place in an effort to keep families in their homes, nearly all have depended on the efforts of large financial institutions to assist consumers. All of these programs have fallen far short of goals that were indeed ambitious, but wholly achievable. Many of these institutions received vital funding from both the Treasury Department and Federal Reserve Board throughout the economic crisis, but these same institutions have denied similar support for families across the country. One of the key purposes of this extraordinary backing of these institutions was to ensure that liquidity supporting mortgage lending for all types of housing, including REOs, remained throughout the crisis; yet many creditworthy households remain unable to obtain fair and affordable mortgages. It is the disappointing performance of existing programs that has REALTORS® concerned that some of the REO disposition proposals that will be under consideration will depend on large companies to meet the RFI's objectives, yet millions of Americans remain disappointed by similar approaches.

REALTORS® know firsthand that another shot needs to be taken to fix the housing crisis, particularly the large inventory of REO properties that continues to grow. REALTORS® believe the ideal proposal would:

- Focus on providing mortgage financing to qualified homebuyers and investors to increase the absorption rate of the current REO inventory and prevent increases to the existing REO inventory.
- Expand resources dedicated to pre-foreclosure efforts, including loan modifications and short sales (foreclosures are typically more costly than loan modifications and short sales, so this would minimize the need for more taxpayer dollars being used to support the GSEs).
- Continue the timely and orderly disposition of REO inventory assets, and in limited geographic areas where alternatives are needed, rely on the expertise of local businesses including contractors, real estate brokerage firms, and professional property management companies.

NAR suggests that, as the agencies evaluate responses to the RFI and future proposals, the basic principles should be to assist in reducing the number of properties in the foreclosure process that will add to the REO glut, maximize the recovery on REO assets currently held by FHA and the GSEs, and preserve housing values in neighborhoods across the country.

REALTORS® think the government has an unprecedented opportunity to reduce losses on REO assets, minimize the impact distressed assets have on local real estate markets, and ensure the stabilization of neighborhoods.

II. FINANCING

In response to the 2008 economic crisis, two Administrations have taken extraordinary steps to ensure most of our large financial institutions, including those with unhealthy balance sheets and shaky credit ratings, survive. Most of these large institutions received funding from both the Treasury Department and Federal Reserve, at extremely favorable rates considering the inherent risk, yet, in the same time period, private capital in support of the mortgage market, without support by FHA, VA, or the GSEs, virtually disappeared. The difficulty in obtaining a mortgage is having a tremendous impact on REO sales and the entire housing market. For example, the dearth of available financing for the purchase of condominium units, long an affordable option for first-time homebuyers, has resulted in downward pressure on condo values to the point that cash buyers are willing to purchase the property.

Lack of financing is putting downward pressure on home values, increasing the number of homeowners whose mortgage exceeds the value of their home, and increasing foreclosures. Since the beginning of the crisis, the GSEs and FHA have provided about 90% of all mortgage lending. During this time, FHA has raised its insurance premiums, the GSEs have raised their upfront fees (including loan-level pricing adjustments), and the lending industry as a whole has tightened underwriting standards to the point that only those with pristine credit histories have access to reasonably priced mortgage credit. Increasing access to financing to qualified borrowers and investors by reassessing the higher fees and excessively tight underwriting standards will increase the availability of mortgage lending for all types of housing, and will go a long way in allowing potential homeowners and investors to absorb excess REO inventory held by the agencies.

Increasing Consumer Lending

As a consequence of extreme economic events, most notably high unemployment, lower home values, and tighter credit, many families now find that renting is the default option, rather than the preferred option, and many creditworthy consumers continue to experience difficulties in obtaining fair and affordable mortgage loans. NAR supports strong underwriting standards[2]; however, potential homebuyers have become discouraged during this time of unprecedented housing affordability due to high fees and unduly tight underwriting standards of the FHA and the GSEs, as well as a lack of availability of private mortgage capital. Government intervention that provided extraordinary liquidity support to lenders during the economic crisis should have had a mechanism in place to ensure that the institution used the liquidity provided to support reasonable mortgage lending, consistent with sustainable homeownership, for all types of housing, including REOs. While it is too late to condition TARP funding now, as NAR suggested at the beginning of the program, the lending industry should reassess their policies and increase lending. The excessively stringent underwriting standards that are preventing creditworthy buyers from obtaining loans now need to be weighed against the broader recovery of the economy. The current lending environment is impeding the confidence of potential mortgage applicants and threatens to produce cracks in a very fragile housing recovery.

Liquidity for Investors

NAR firmly believes it is important to have private capital return to the mortgage market and give the government the ability to reduce its market share. Unfortunately, the refusal of financial participants to return in support of mortgage financing means borrowers are finding it more and more difficult to find affordable mortgage options. To reduce substantial numbers of REO properties in specific geographic areas, agency lending policies should provide local investors with mortgage finance opportunities that would not only reduce agency REO portfolios, but avoid increasing REO credit losses that are the likely result of a large scale bulk sale program. REALTORS® understand the importance of affordable rental housing and, for markets with large numbers of REOs and a high foreclosure pipeline, we support giving local investors the opportunity to finance the purchase of distressed REO properties for rentals until the market recovers or to rehabilitate for more immediate resale. The agencies should implement temporary financing policies to give local investors the opportunity to purchase properties. Here are two examples of such policies:

2 NAR Responsible Lending Policy. August 2007.
http://www.realtor.org/subprime_lending.nsf/pages/responsible_lending_principles

(1) HUD should open up the FHA Section 203(k) rehabilitation program to investors. This will facilitate the rehab of the existing housing stock and increase the availability of financing for rental housing.
(2) The GSEs should temporarily suspend investor financing limitations, especially the limit on the number of mortgage loans allowed for any one investor/borrower (currently 4 for Freddie and 10 for Fannie), to enhance affordable rental opportunities.

Amending these policies will give small, private investors the opportunity to absorb the excess inventory and will result in higher prices for existing REOs. Hard hit communities would benefit from improvements made to vacant properties, and local small businesses would have the opportunity to rehabilitate the properties and provide professional property management services.

III. PRE-FORECLOSURE

As Fannie Mae's and Freddie Mac's conservator, FHFA carries a large burden in the conservation of GSE assets on behalf of taxpayers. HUD – through FHA - carries a similar burden. The economic and political environment is very much budget conscious. REO disposition programs that increase taxpayer losses while seeming to enrich large institutions would raise concerns among millions who are angry that the large banks on "Wall Street" received federal support while "Main Street" was left behind. REALTORS® believe the best opportunity to reduce costs to taxpayers and assist in the stabilization of housing values and neighborhoods is to respond more effectively to, and provide more resources for, pre-foreclosure efforts on loans insured by FHA or owned or guaranteed by the GSEs. These efforts not only are net-positive outcomes for homeowners, but taxpayers as well.

Since early 2008, NAR has continually urged the lending industry to take every feasible action to keep families in their homes with a loan modification or, in cases where this isn't possible, avoid foreclosure through a short sale. Distressed homeowners with limited resources and no other options often contact the only person they trust in housing matters, their real estate professional. Homeowners often aren't just our clients; they are family, close friends, and individuals with whom we have close community ties. We are advocates that go to great lengths to assist our clients, and explain to them their options, throughout one of the most difficult times in their lives. We are not loan servicing call centers or electronic paperwork 'platforms' that cause constant frustration. We, as REALTORS®, meet with our clients, face-to-face, to act as a resource and provide emotional support.

Commitment to Loan Modification and Short Sales

REALTORS® are acutely aware of the downward pressure that foreclosures have on housing market prices. To relieve this, REALTORS® recommend that the agencies reassess their current policies to make sure that as many loan modifications and short sales are approved as possible. This will reduce adding to the glut of REOs that continues to increase. A recent Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) report noted that less than 5% of TARP funds allocated for housing support programs, such as the Home Affordable Modification Program (HAMP) and Home Affordable Foreclosure Alternatives Program (HAFA), has been used.[3] The success of these programs depends on the resources and efforts of large institutions and, unfortunately, continues to fall short of expectations. Our members report that, often times, potential homebuyers still choose to simply walk away from a short sale due to the length of time it takes for the lender to complete the transaction. The dependence on large institutions has resulted in a short sale market that is clearly not functioning as it should. Homeowners and taxpayers deserve better.

Repurposing a portion of these funds to increase borrower participation would improve the performance of these programs and will reduce the pipeline of severely delinquent mortgages that end up in foreclosure. Loan modifications keep families in their homes and reduce the probability of default, while short sales for those unable to meet their mortgage obligations not only stabilize neighborhoods and home values by keeping homes occupied, but also help reduce taxpayer losses by selling at a premium over REOs.

IV. DISPOSITION OF REO INVENTORY

Bulk Sales

The agencies have specifically requested advice from market participants that have the technical and financial capability to conduct large-scale transactions that involve the pooling and disposition of GSE and FHA REO inventories. FHFA, Treasury and HUD expect these disposition strategies to involve REO assets totaling at least $50 million in value, and in the case of joint ventures, up to $1 billion. Though bulk sales may quickly alleviate the critical mass of REO inventory held by the agencies, these types of proposals will likely require taxpayers (through the agencies) to accept larger

[3] http://www.sigtarp.gov/reports/congress/2011/July2011_Quarterly_Report_to_Congress.pdf

losses than are necessary. As described above, REALTORS® strongly believe that every effort should be made to incentivize individual as opposed to bulk sales since individual sales maximize recovery on the assets and minimize the impact on housing values. Selling in bulk to large national investors at deep discounts only works to further consolidate a large section of the housing market into the hands of fewer market participants. These types of proposals would allow the buyers to sell and profit from discounted inventory purchased in bulk from the agencies to the detriment of taxpayers and homeowners selling their own homes in areas where bulk home sales have depressed local home prices.

REALTORS® are also concerned that the minimum size of a program requested in the RFI goes even further in reducing competition for these assets. The unintended consequences of bulk sales at the scale proposed could devastate communities across the country. Providing a few large, private investors access to cheap assets for rentals could very likely erode market rents and sales prices. The consolidation of a large number of rentals to an institutional investor could mean that small local landlords would not be able to compete with the rental prices that an institutional purchaser of a discounted pool of agency assets could offer. Rather than encouraging bulk sales across the board, bulk sales should only be considered in small geographic areas with high rental demand. Such sales should also contain rigorous stipulations that ensure the revitalization and stability of local communities. It is also important that consideration be given to the pricing of these pooled assets to prevent the negative effect bulk discounts could have on the rest of the market and smaller competitors if the discount is so large that the bulk purchaser can sell these properties quickly at a deep discount.

Structuring Bulk Sale Proposal

Should the agencies decide to implement a pilot program for bulk sales of distressed properties, they should first offer local investors, governments, and housing authorities, with vested interests in their communities, the opportunity to purchase the properties. Such limited sales could be made to non-profit and for-profit entities that could meet program requirements and are familiar with the needs of the communities where the homes are located.

Ultimately, the success of any program will be determined by the stabilizing effect the program has on a particular locale and whether the program maximized value to taxpayers. Maximizing the recovery on the agencies' assets will depend on the determination of property valuations and the assurance that the valuations are accurate, appropriate, and reflective of market conditions. NAR believes that the agencies and the prospective buyers should use accurate valuation systems, such as those available through the REALTOR® Property Resource (RPR), an NAR subsidiary. All stakeholders must take into account an authoritative and comprehensive national database of property-level and neighborhood-level information. RPR is a national database of assessor, recorder, and mortgage data, MLS content, foreclosure information, demographics, and neighborhood data. RPR's automated valuation model (knows as the Realtors® Valuation Model) is an example of an organization that can play a critical role in ensuring that REO properties are valued accurately prior to disposal, ultimately maximizing the return to the Federal government and taxpayer.

REALTORS® strongly recommend that entities that invest in pools of distressed REO inventory be required to have a local presence and work with local contractors, real estate brokerage firms, and professional property management companies. Knowledge of regional and local markets is crucial in the orderly disposition of REO assets and will minimize taxpayer losses related to REO properties. Real estate practitioners, such as members of the National Association of REALTORS®, provide expertise in the orderly disposition of REO assets every day. Professional property managers, such as members of the Institute of Real Estate Management (IREM®), specialize in maximizing the value of REO investments and can ensure that maintenance standards are met.

Lease-to-Own

REALTORS® believe that sustainable rental housing is an integral component of the housing market and understand the opportunities affordable rentals provide for potential homebuyers as they save for downpayments. Proposals with lease-to-own elements should first be focused on keeping families in their homes. FHA and GSE policies should minimize foreclosures that will result in the sale of the properties at a very large discount to a purchaser in a bulk sale, whether or not the program is structured with a lease-to-own component. Where lease-to-own programs are an appropriate solution, they should focus on the rehabilitation of blighted properties, affordable homeownership and, where it makes sense due to excess REO supply and significant rental demand, rental opportunities without an initial purchase requirement.

Structuring Lease-to-Own Programs

As the agencies evaluate responses to their request, certain principles should be considered with proposals that support affordable rental and homeownership opportunities through lease-to-own joint venture programs. Lease-to-own joint ventures:

- Should not be run or administered by the government.
- Should be done, whenever possible, by local investors or local non-profits that can manage the specialized needs and challenges of local markets.
- Should be widely marketed by real estate agents to ensure visibility and encourage homeownership.
- Should have clearly defined expectations.
- Should have guidelines and contracts that are specific regarding maintenance, purchaser responsibility, purchase price, and percent of payment allocated towards a down payment.

Condominium Inclusion and Financing

Any lease-to-own proposal needs to also include REO condominium units. Where such units are included in investor purchases or lease-to-own program, the FHA should relax owner-occupancy requirements for condominium projects, and the GSEs should retain current policy that imposes no limit on owner occupancy ratios if the buyer will occupy the unit. Further, NAR recommends that FHA not include REO properties in its owner occupancy calculations per FHA policy prior to July 1, 2011. If these rules are not relaxed, the unintended consequence will be to hurt the value of existing owner-occupied units, as owner-occupants will find it hard to sell to anyone but an all cash buyer.

Minimizing Detrimental Effects on Neighborhoods

Of primary concern to REALTORS® is the effect that turning existing single-family housing into rental properties, even if structured as lease-to-own, will have on surrounding owner-occupied homes. The agencies must minimize this effect with strict guidelines on the rehabilitation and continued maintenance of properties by professional property managers, like IREM® members, to ensure that existing REO properties do not become rental properties in disrepair.

V. ADVISORY BOARD

As the President noted, a recovery of the housing market cannot be accomplished solely by the public sector. As the agencies begin to receive input and ideas for the pooling of properties for bulk sales and lease-to-own joint ventures, NAR recommends the creation of an advisory board made up of public and private industry participants. A wide range of board members including agency staff, asset managers, real estate professionals, professional property managers, and others with extensive real estate industry experience can work to ensure that the efficient disposition of agency REO properties minimizes taxpayer losses, charges to the FHA fund, and negative effects on local real estate markets.

VI. CONCLUSION

The recovery of the broader economy depends on housing. The last two and half years have shown that, with housing prices bumping along the bottom, a robust recovery of the economy will remain exceedingly difficult. REALTORS® appreciate the outreach by FHFA, the Treasury Department and HUD on how existing REO asset disposition programs may be enhanced. NAR believes the best way to accomplish this is by expanding financing opportunities to <u>qualified</u> homebuyers and investors, bolstering loan modifications and short sale efforts, and focusing on enhancing the orderly and efficient disposition of REO assets. Where bulk sales or lease-to-own programs are unavoidable, NAR urges you to consider our principles when evaluating each proposal. We believe that doing so will reduce taxpayer losses on REO assets, minimize the impact distressed assets have on local real estate markets, and ensure the stabilization of neighborhoods.

If you have any questions, please feel free to let me know or contact Charlie Dawson, NAR Associate Policy Representative, 202.383.7522 or cdawson@realtors.org.

Sincerely,

Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO, SFR
2011 President, National Association of REALTORS®