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The Honorable Jacob J. Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: Public Input on Development of Responsible Private Label Securities (PLS) Market

Dear Secretary Lew:

I am writing on behalf of the over one million members of the National Association of REALTORS® (NAR) to provide feedback on the role of the private residential mortgage-backed private label securities (PLS) market in the current and future housing finance system.

NAR is America's largest trade association, including our eight affiliated Institutes, 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®.

Being small business owners who rely on a functional housing finance system, NAR appreciates the efforts of the Treasury Department to engage the public on ways to encourage private capital to play a larger role in housing finance. As stakeholders, NAR has taken a very proactive approach in discussing the future of housing finance with many investors, securitizers, and other market participants.

As the Association and many others have indicated, real estate is the linchpin of our nation's economy. The housing sector accounts for a significant portion of our nation's GDP, and ample research has shown the social and financial benefits it provides to all Americans. While the nation's economy slowly improves from the Great Recession, the U.S. housing market will continue to be key to this recovery.

Enclosed are responses to the specific questions as outlined in the Federal Register notice.

Development of Responsible Private Label Securities Market

1. **What is the appropriate role for new issue PLS in the current and future housing finance system? What is the appropriate interaction between the guaranteed and non-guaranteed market segments? Are there particular segments of the mortgage market where PLS can or should be most active and competitive in providing a channel for funding mortgage credit?**

An efficient and adequately regulated secondary market is essential to providing affordable mortgages to consumers. The secondary market, where mortgages are securitized, is an important and reliable source of capital for mortgage lenders and therefore for consumers. Without a secondary market, mortgage interest rates would be unnecessarily higher and unaffordable for many Americans. In addition, a poorly functioning secondary market will impede recovery in both the housing sector and the overall economy.

REALTORS® understand that the tremendous size of this systemically important market can neither be supported solely by lending from insured bank deposits, nor from private investors that would be required to take on additional risk. NAR believes that the federal government must clearly, and explicitly, offer a guarantee of mortgage securities. This is necessary to ensure qualified, creditworthy borrowers have access to affordable mortgage credit, in all types of markets and throughout the nation. However, taxpayers should be protected, private capital must return to the housing finance market, and the size of government participation in the housing sector should decrease if the market is to function properly

Full privatization is not an effective option for a secondary market because private firms' business strategies will focus on optimizing their revenues and profits. This model would foster mortgage products that are more aligned with the business' goals (e.g. based upon significant financial risk-taking) than in the best interests of the nation's housing policy or the consumer. It is extremely unlikely that any secondary mortgage market structure that does not include government backing could adequately support the existing mortgage funding needs of the United States housing sector.

2. **What are the key obstacles to the growth of the PLS market? How would you address these factors? What are the existing market failures? What are necessary conditions for securitizers and investors to return at scale?**

REALTORS® believe stability in the mortgage market must be a key component in expanding private capital participation. It is difficult to encourage greater participation if participants are not given a clear understanding of the rules. In addition to the "ability-to-repay" requirements that went into effect in January 2014, the Dodd-Frank Act's mortgage risk retention regulations will also hopefully be finalized this year, providing the certainty of a regulatory framework for securitization.

In numerous discussions with investors, it became evident that the market must restore investor confidence and trust by having standardized representations and warranties. Pooling and Servicing Agreements (PSAs) must be simple, with clear terms and definitions, so they are easily understood by investors. PSAs must clearly disclose any deviations from "Federal Best Practice Standards", clearly define "buy back" rules, and include servicer operational policies consistent with a fiduciary duty to the investor.

Additionally, the PLS market must ensure that solid, verifiable, current loan level data is available to investors which will empower and enable them to conduct their own risk analyses. There is a strong consensus among multiple market participants that solid loan level data is the essential foundation on which to rebuild the private mortgage security industry. Providing properly structured loan level data for the mortgage collateral underlying a regulated, securitized instrument will allow investors to verify and predict the security's cash flow which, in turn, will attract private capital.

NAR is generally supportive of the Consumer Finance Protection Bureau's (CFPB's) Qualified Mortgage (QM) rule and believes this standard should be used to define the Qualified Residential Mortgage (QRM) in any future housing finance system. This approach achieves the twin objectives of protecting the marketplace while ensuring borrowers have access to safe mortgages. Investors will remain confident they can rely on the quality of mortgages underlying securitizations and creditworthy borrowers will be able to obtain access to conventional financing for safe, sustainable mortgages. At the same time, using the QM standard also assures that loans with the highest risk – those with the product features explicitly excluded by QM – will also be subject to the risk retention rules for asset backed securities.

In releasing the re-proposed rule, regulators expressed valid concerns that establishing divergent standards for QM and QRM loans could result in an increase in complexity, regulatory burden and compliance costs that will be passed on to borrowers in the form of higher interest rates and restrictive credit standards.

NAR strongly opposes the alternative "QRM+" approach in the proposed rule, which would require borrowers to make a 30 percent down payment to obtain a QRM loan. Such a restriction coupled with unduly difficult credit standards will restrict access to mortgage credit for far too many creditworthy borrowers.

5. **What is the appropriate or necessary role for private industry participants to address the factors cited in your answer to Question 2? What can private market participants undertake either as part of industry groups or independently?**

As NAR has previously written, and as was reiterated by Treasury Secretary Jack Lew, there are many factors keeping purely private sector lending at current low levels. On September 17, 2013, NAR President Gary Thomas wrote a letter to the FHFA agreeing that more private sector participation would provide for a more balanced housing finance market, but FHFA's attempts to increase fees at Fannie Mae and Freddie Mac to 'crowd-in' private capital was misdirected.

In light of losses suffered by investors in private label mortgage backed securities, NAR raised concerns that it may be many years before private sector lenders and the investors themselves will be willing to make a broader investment in the private label securities market.

Reducing access to agency financing by raising costs does not account for the aversion to, and lack of trust in, private label securities many investors still harbor since suffering tremendous losses during the crisis. It is important that private industry participants address this lack of trust as it still remains and is hard to quantify as a cost that can be made up with arbitrary fee increases from Fannie Mae and Freddie Mac.

6. **What is the appropriate or necessary role for government in addressing the key factors cited in your answer to Question 2? What actions could government agencies take? Are there actions that require legislation?**

Per our response in Question 2, it is difficult to encourage greater participation in the private label securities market if participants aren't given a clear understanding of the rules. Finalizing the Dodd-Frank Act's mortgage risk retention regulations will provide the certainty of a regulatory framework for mortgage-backed securitization.

Additionally, a uniform securitization platform should be required for issuers of government guaranteed securities and be open to use by issuers of private label securities. Transparency and uniformity in the mortgage securities market will go a long way to minimizing conflict and confusion and promoting stability. Even more important, the more the PLS market is modeled on the government guaranteed MBS market, or uses it directly, the more likely investors will be interested in purchasing PLSs, thereby reducing the current heavy reliance of the housing finance system on government guarantees.

NAR strongly opposes the alternative "QRM+" approach in the proposed risk retention rule, which would require borrowers to make a 30 percent down payment to obtain a QRM loan and believe that the government needs to minimize any further regulatory constraint. Namely, the Association agrees with concerns that establishing divergent standards for QM and QRM loans could result in an increase in complexity, regulatory burden and compliance costs that will be passed on to borrowers in the form of higher interest rates and restrictive credit standards.

Conclusion

While reviving private capital participation in the mortgage market is an important goal, REALTORS® believe that providing liquidity and funding for housing finance is vital to a continued recovery of the housing market and broader economy at this time. Any restructuring of the secondary mortgage market must ensure that there is mortgage capital in all markets at all times and under all economic conditions. NAR believes the only way to achieve this goal is through a secondary mortgage finance system that includes an explicit government guarantee that safeguards the availability of long-term, fixed-rate mortgage products such as the 30 year fixed-rate mortgage.

If you have any questions or would like to meet to discuss these concerns, please feel free to contact Charlie Dawson, NAR's Policy Representative for Financial Services, at 202.383.7522 or cdawson@realtors.org.

Sincerely,

Steve Brown
2014 President, National Association of REALTORS®