October 27, 2017

Director Mel Watt
Federal Housing Finance Agency
RegComments@fhfa.gov

Re: Comments/RIN 2590–AA81: Opposition to FHFA polices that facilitate displacement of low income people and people of color.

Dear Director Watt,

The undersigned groups – representing legal service offices, housing and consumer credit counseling agencies, base organizing groups, and civil rights organizations – write to express our strong concerns regarding the agency's actions and oversight with the respect to the Government Sponsored Entities (GSEs) and the Federal Home Loan Bank System which enable the displacement of low income people and people of color.

The Federal Housing Finance Agency (FHFA) was established by the Housing and Economic Recovery Act of 2008 (HERA) and is responsible for the effective supervision, regulation, and housing mission oversight of Fannie Mae, Freddie Mac (the Enterprises) and the Federal Home Loan Bank System, which includes the 11 Federal Home Loan Banks (FHLBanks) and the Office of Finance. Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac.[1]

The mission of the FHFA is to ensure that the housing government sponsored enterprises operate in a safe and sound manner so that they serve as a reliable source of liquidity and funding for housing finance and community investment.[2]

As part of the Agency's statutory authority in overseeing the FHLBank System and the Enterprises, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act) as amended by HERA, requires FHFA to fulfill the following duties: …(B) to ensure that…. (ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities).[3]

We are concerned that in at least three particular and impactful ways, FHFA is failing in its obligation to promote homeownership for low-and moderate income households and is instead enabling the wide scale displacement of low income households and households of color.

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[1] From FHFA website, at: https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA-2016-PAR.pdf
[2] Id.
[3] Id.

1. **GSE Affordable Housing goals should NOT include purchasing loans to middle and upper income borrowers in low income areas, especially in those markets where gentrification pressures are leading to the large scale displacement of low income people and people of color**. In proposing 2018-2020 Affordable Housing goals, "FHFA's analysis found that the mortgage market in both low-income areas and in high-minority census tracts has been moving towards borrowers with higher incomes in recent years… HMDA data show that both the low-income areas and the high- minority areas have increasing shares of borrowers with incomes at or above 100 percent of AMI… For instance,… the share of loans made to borrowers with incomes greater than 100 percent of AMI and residing in these low-income census tracts increased from 38.8 percent in 2010 to 42.1 percent in 2015, after dipping to 36.5 percent in 2012. Thus, borrowers with higher incomes have made up an increasing share of the mortgage market in the low-income areas. A similar trend exists among borrowers residing in high minority census tracts. While borrowers with incomes greater than 100 percent of AMI represented 42.5 percent of borrowers in these census tracts in 2010, the share increased to 49.2 percent in 2015." An analysis by the Center for American Progress shows that GSE purchases not only disproportionately consist of loans to higher-income households, but also of loans to white and Asian rather than African American and Latino households.[4]

   And yet, FHFA proposes to *increase* from 14% to 15% the goal for mortgage loan purchases to potentially wealthy borrowers in low income census tracts. FHFA must revise this policy in a targeted way so that GSE goals will not inadvertently fuel gentrification pressures in low income areas subject to high housing costs and appreciation.

2. **The Federal Home Loan Bank (FHLB) System should not permit Real Estate Investment Trusts (REITs) to use FHLB advances to expand their businesses**. Several REITs utilize a business model that relies on the large scale purchase of Real Estate Owned (REO) foreclosed homes for the purpose of renting them out, a dynamic that has led to gentrification and displacement in many communities in California and the nation and has stunted the ability of potential first time homebuyers to buy homes.[5]

   It was recently reported that Starwood Property Trust - the nation's largest commercial mortgage REIT with a market capitalization of over $5 billion[6] - was tapping into its FHLB membership to purchase non-Qualified Mortgage (QM) loans.[7] These non QM loans do not meet federal ability to repay standards and are inherently riskier for borrowers and lenders alike. This raises questions about the safety and soundness of this investment, and whether Starwood Property Trust may have an incentive to engage in poor mortgage loan servicing in

[4] Michela Zonta, "Do the GSEs Meet the Credit Needs of Underserved Communities of Color?" in Cityscape: A Journal of Policy Development and Research (Volume 17, Number 3, 2015), available at https://www.huduser.gov/portal/periodicals/cityscpe/vol17num3/ch11.pdf

[5] For more on the harms and concerns of REO to Rental, see: California Reinvestment Coalition, "REO to Rental in California: Wall Street Investments, Big Bank Financing, and Neighborhood Displacement," June 2015.

[6] From Starwood Property Trust website, at: http://www.starwoodpropertytrust.com/business/

[7] Brandon Ivey, "Despite Coming Ban, Starwood REIT to Buy Non-QMs with FHLBank Help," IMF News, August 23, 2017.

order to push non QM loans into default and foreclosure so that Starwood or its affiliates can convert the home into an REO to Rental property.

Starwood Property Trust in early 2014 spun off its single-family residential operations into a new entity, Starwood Waypoint Residential Trust (NYSE: SWAY), now trading as Starwood Waypoint Homes (NYSE:SFR) that is listed alongside Starwood Property Trust on the New York Stock Exchange—and is one of the largest publicly traded investors, owners and operators of single-family rental homes in the U.S.[8] Many community organizations in California and throughout the nation have serious concerns about the new Starwood Waypoint/Colony/Blackstone mega merger and how these companies have been allowed to outmaneuver first time homebuyers and to mistreat and displace tenants.[9]

3. **Fannie Mae and Freddie Mac should not be involved in the financing of REO to Rental schemes.** The REO to Rental business model has led to widespread loss of homeownership opportunities, the creation of a new class of Wall Street slumlords not interested or equipped to maintain safe and affordable units, and the displacement of people of color and low income residents in communities from Oakland to the San Joaquin Valley to the Inland Empire to Los Angeles.[10]

   Early this year, Fannie Mae guaranteed a $1 billion loan by Wells Fargo Bank to Blackstone/Invitation Homes.[11] The deal inaugurated an era of GSE financing of Wall Street, instead of financing working class families so they can attain the American Dream of homeownership. Not to be outdone, Freddie Mac has indicated it too will move in to the REO to Rental market, and FHFA has reportedly approved of this business model on a trial basis,[12] though whether there will be any meaningful tenant or community protections is unclear.

   What was homeownership is now rental. Tenants in these homes are subject to poor property management and increasing rents from their new Wall Street landlords. Affected communities witness changing demographics and an influx of rental properties that may not be subject to any rent control restrictions, which further exacerbates housing cost and gentrification pressures.

Government Sponsored Entities - Fannie Mae, Freddie Mac, and the Federal Home Loan Bank system - should be helping fund decent, safe and affordable housing for working families, not financing Wall Street firms, converting homeownership opportunities into rentals, and fueling the gentrification and displacement of low-income people and people of color that is overwhelming many of our communities.

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[8] From Starwood Property Trust website,: http://www.starwoodpropertytrust.com/business/

[9] These concerns with REITs do not extend to any REITs, such as the Housing Partnership Equity Trust, which are owned and operated by nonprofits for the purpose of preserving affordable homes for low and moderate income people.

[10] For more on the problems faced by tenants with Wall Street landlords, see: Tenants Together," The New Single-Family Home Renters of California: A Statewide Survey of Tenants Renting from Wall Street Landlords," May 2015.

[11] Lorraine Woellert, "Fannie Mae's $1 billion Blackstone deal draws fire," Politico, February 1, 2017.

[12] Matthew Goldstein, "Freddie Mac Follows Fannie Mae to Rental Market, With Affordability as Goal," New York Times, July 19, 2017.

We call on FHFA to end these harmful practices and bad outcomes by:

1. Minimizing the incentive for lenders to lend to upper income borrowers in low income areas in neighborhoods that are at-risk or in the throes of gentrification;
2. Immediately prohibiting or discouraging the use of FHLB advances by REITs for REO to Rental or distressed loan purchase transactions; and
3. Prohibiting Fannie and Freddie from financing REO to Rental transactions. If FHFA continues to permit the GSEs to finance REO to Rental, significant protections should be put in place to favor first time homebuyer, nonprofit purchase and first look programs, and to impose strong tenant protections.
4. Enhancing transparency and oversight relating to loss mitigation protocols and servicing outcomes to ensure there are no unnecessary GSE foreclosures, especially with regard to Wall Street and private equity servicing resulting from GSE financing. FHFA and the GSEs should consider protocols and programs to provide assistance to homeowners who lose their homes in high cost housing areas, who will face great difficulty in securing safe and stable rental housing.
5. Reviewing all GSE policies from an anti-displacement lens to ensure that policies further the mission, goals and values of FHFA and the GSEs, and do not result in the foreseeable displacement and gentrification of low income communities and communities of color.

Failure to take the above measures immediately would conflict with existing FHFA obligations, values and goals to act in the public interest, to promote homeownership for low and moderate income households and communities, to strive to prevent foreclosure, to responsibly reduce the number of REOs and distressed loans, to provide fair access to all eligible borrowers and institutions, and to promote diversity and inclusion in FHFA and GSE practices and activities. We are also concerned that these practices and policies may violate the existing fair housing obligations of FHFA and the GSEs.

We thank FHFA for including certain positive ideas in the draft Strategic Plan, such as suggestions to enhance on-site lender examinations, encourage consideration of a broad array of loss mitigation tools for borrowers in economic distress, and urge the GSEs to consider pilot programs and initiatives to better meet the needs of underserved credit worthy borrowers.

Yet without placing a higher priority on housing counseling, consumer complaints, and advocate feedback, the positive elements of the plan may merely represent a lost opportunity. Worse still, without addressing policies and activities of the GSEs that lead to displacement and gentrification, FHFA runs the risk of enabling continuing harm to communities.

Thank you for your attention to this matter during this time of crisis for many families. These households need the GSEs to create stable and affordable housing opportunities so families and communities can thrive.

If you have any questions, please feel free to contact Kevin Stein of the California Reinvestment Coalition at (415) 864-3980, Maeve Elise Brown of Housing and Economic Rights Advocates at (510) 271-8443 ext. 307, or Amy Schur of Alliance of Californians for Community Empowerment (ACCE) at (213) 863-4548.

Very Truly Yours,

A-1 Community Housing Services
Administration of Resources & Choices
Alliance of Californians for Community Empowerment
Americans for Financial Reform
ASIAN Inc.
Asian Pacific Islander Small Business Program
Baltimore Neighborhoods, Inc.
California Coalition for Rural Housing
California Housing Partnership
California Reinvestment Coalition
Campesinos Sin Fronteras
CarsonWatch
Central Florida Community Development Corp
Central Valley Realtist Board
Community Legal Services in East Palo Alto
Community Ventures
Consumer Action
Credit Card Management Services, Inc.
East Bay Housing Organizations
East LA Community Corporation
Empire Justice Center
Fair Housing Advocates of Northern California
Fair Housing Council of the San Fernando Valley
GAP Community Development Resources
HomeSmartNY
Housing and Economic Rights Advocates (HERA)
Inland Fair Housing and Mediation Board
Inner City Law Center
Law Foundation of Silicon Valley
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Services NYC
Little Tokyo Service Center
Long Island Housing Services, Inc.
LULA FLOWERS
Minnesota Homeownership Center
Mission Economic Development Agency (MEDA)
Mobilization for Justice, Inc.
National Coalition for Asian Pacific American Community Development
National Housing Law Project
National Housing Resource Center
NHS of Staten Island & Sustainable Together NJ

Non Profit Housing Association of Northern California (NPH)
NPHS Inc. (Neighborhood Partnership Housing Services)
Nueva Esperanza, Inc.
Oakland Community Land Trust
OnTrack WNC Financial Education & Counseling
Operation HOPE
People's Action Institute
Philadelphia Chinatown Development Corporation
Public Advocates
Public Counsel
RNHS
Rockaway Development & Revitalization Corporation
Sacramento Housing Alliance
San Francisco Community Land Trust
San Francisco Realtist Chapter - NAREB
The Fair Housing Council of San Diego
The Leadership Conference on Civil and Human Rights
Ventura County Community Development Corporation
Vermont Slauson EDC