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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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July 27, 2020

Mr. Hugh R. Frater
Chief Executive Officer
Fannie Mae
1100 15th Street, N.W.
Washington, D.C. 20005

Dear Mr. Frater:

The Select Subcommittee on the Coronavirus Crisis is examining the impact of the coronavirus crisis on housing in the United States. In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES)¹ Act, which included protections for renters and homeowners, as well as enhanced unemployment insurance payments. However, the Act's eviction moratorium expired last week, and the unemployment assistance is set to expire within days. As a result, millions of Americans are now in danger of losing their homes in the middle of a public health crisis.² Urgent action is needed to protect homeowners and renters, especially people of color, who have disproportionately suffered from the economic hardship caused by the coronavirus.

The CARES Act provided protections for homeowners and tenants living in properties with government-backed mortgages.³ The law requires servicers of federally-backed mortgage loans to provide forbearance upon request for up to 360 days to any borrower experiencing financial hardship due to the coronavirus pandemic. The law also prohibited owners of properties with federally-backed mortgages from initiating eviction proceedings against tenants for the nonpayment of rent—but only until July 25, 2020. After this date, the CARES Act requires that tenants be provided a notice to vacate at least 30 days before they are subject to eviction.⁴ Congress passed these provisions to protect homeowners and tenants from losing their homes during a time of unprecedented unemployment and a public health crisis. The dangers of

¹ P.L. 116-136.

² See, e.g., *A Federal Eviction Moratorium Ends This Week, Putting 12 Million Tenants at Risk*, Washington Post (July 21, 2020) (online at www.washingtonpost.com/business/2020/07/21/eviction-moratorium-ending/); *COVID-19 Credit Reporting & Scoring Update*, FinRegLab (July 2020) (online at <https://finreglab.org/wp-content/uploads/2020/07/FinRegLab-Research-Brief-Covid-19-Credit-Reporting-Scoring-Update.pdf>).

³ P.L. 116-136; §§ 4022 & 4024(b).

⁴ P.L. 116-136, § 4024.

homelessness during the pandemic are particularly high, as crowded shelters and lack of access to clean water and medical care magnify the risk of contracting and spreading the coronavirus.⁵

As the economic crisis continues, mortgage delinquencies have climbed above levels seen during the Great Recession.⁶ Approximately 1.5 million homeowners with loans backed by Fannie Mae and Freddie Mac were receiving forbearance as of July 14, but many others do not appear to have taken advantage of the program.⁷ Nearly 9 million homeowners reported to the Census Bureau that they had missed a payment on their mortgage in the past month. According to a recent Census Bureau survey, homeowners were 90% more likely to report that they did not pay their mortgage than that they have received mortgage forbearance from their servicer.⁸

People of color disproportionately face potential foreclosure. While only 4.4% of white homeowners surveyed by the Census Bureau stated that they did not pay their mortgage in the past month, 13.2% of Black homeowners and 9.2% of Hispanic/Latino homeowners reported that they did not pay their mortgage. Black homeowners were three times more likely than white homeowners to report that they did not pay their mortgage, but Black homeowners were only twice as likely to report that their payments had been deferred.⁹ This disparity suggests that Black homeowners are disproportionately missing out on the benefits of mortgage forbearance at a time when many homeowners desperately need economic relief.

Survey data also show that many homeowners experiencing financial hardship, especially homeowners of color, do not know that they can seek mortgage forbearance under the CARES Act or understand the forbearance options available to them. According to a July survey of housing counselors conducted by the National Housing Resource Center, 57% of delinquent borrowers reported they did not know they could seek forbearance before defaulting on their mortgages and 70% of delinquent borrowers did not seek forbearance because they mistakenly believed that they would be required to pay a lump sum payment at the end of the forbearance period.¹⁰

Protections for tenants in properties with federally-backed mortgages also do not appear to have been uniformly implemented. Although the CARES Act prohibited evictions until last

⁵ *Coronavirus Outbreak Has America's Homeless at Risk of Disaster*, New York Times (Mar. 10, 2020) (online at www.nytimes.com/2020/03/10/us/coronavirus-homeless.html).

⁶ *An Indicator That Presaged the Housing Crisis is Flashing Red Again*, Washington Post (July 17, 2020) (online at www.washingtonpost.com/business/2020/07/14/new-mortgage-delinquencies-hit-record-high/).

⁷ Black Knight, Inc., *Loans in Forbearance Decline for Third Consecutive Week to Lowest Rate Since May at 4.12 Million* (July 17, 2020) (online at www.blackknightinc.com/blog-posts/loans-in-forbearance-decline-for-third-consecutive-week-to-lowest-rate-since-may-at-4-12m/).

⁸ United States Census Bureau, *Week 11 Household Pulse Survey: July 9 - July 14* (July 22, 2020) (online at www.census.gov/data/tables/2020/demo/hhp/hhp11.html).

⁹ *Id.*

¹⁰ National Housing Resource Center, *Forbearance and Delinquency: Summary of Housing Counselor Survey* (July 2020) (online at www.hsgcenter.org/wp-content/uploads/2020/07/Survey-results-Forbearance-and-Delinquency2.pdf).

week, many tenants have already been subject to eviction filings, potentially unlawfully.¹¹ With the federal eviction moratorium now expired, it is imperative that landlords comply with their legal obligation to provide notice to vacate at least 30 days before initiating an eviction.¹² For the estimated 13 million adults behind on rent as of July 7, this 30-day period may be essential to find alternative housing and avoid homelessness.¹³

It is essential that homeowners and renters are made aware of their rights under the CARES Act, and Fannie Mae can play a critical role in this. Fannie Mae has already taken positive steps such as temporarily suspending foreclosure sales and communicating forbearance requirements to servicers.¹⁴ However, Fannie Mae must do more to ensure that servicers are equitably providing relief to eligible homeowners and that renters living in federally-backed properties are not improperly evicted. Fannie Mae should direct servicers to communicate to homeowners and tenants the relief options available to them under the law.

In particular, the Subcommittee requests that, by August 3, 2020, Fannie Mae issue information to servicers through Lender Letters or other means of communication:

1. Directing the servicers to notify borrowers of the terms and availability of mortgage forbearance under the CARES Act; and
2. Directing the servicers to notify borrowers that they are prohibited from requiring a tenant to vacate a residential unit until 30 days after the date on which the tenant receives a notice to vacate.

The Subcommittee also requests that Fannie Mae provide the following information by August 10, 2020:

1. From January 1, 2020, to the present, please provide information on the number of loans in your portfolio that are:
 - a. delinquent;
 - b. in forbearance;
 - c. receiving loss mitigation; or
 - d. in foreclosure.

¹¹ *Landlords Jump the Gun as Eviction Moratorium Wanes*, New York Times (July 23, 2020) (online at www.nytimes.com/2020/07/23/business/evictions-moratorium-cares-act.html); *Despite Federal Ban, Landlords Are Still Moving to Evict People During the Pandemic*, ProPublica (Apr. 16, 2020) (online at www.propublica.org/article/despite-federal-ban-landlords-are-still-moving-to-evict-people-during-the-pandemic).

¹² P.L. 116-136, § 4024.

¹³ Center on Budget and Policy Priorities, *More Relief Needed to Alleviate Hardship: Households Struggle to Afford Food, Pay Rent, Emerging Data Show* (July 21, 2020) (online at www.cbpp.org/sites/default/files/atoms/files/7-21-20pov.pdf).

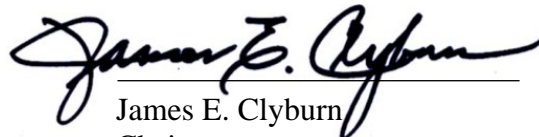
¹⁴ Fannie Mae, *Fannie Mae Assistance Options for Homeowners Impacted by COVID-19* (Mar. 18, 2020) (online at www.fanniemae.com/portal/media/corporate-news/2020/covid-homeowner-assistance-options-7000.html).

2. For loans receiving loss mitigation, please provide information on the performance of each type of loss mitigation measure; and
3. For each category in Request 1, please provide a breakdown by income level, race, ethnicity, and gender of the borrower, and the geographic location of the property.

These requests are consistent with House Resolution 935, which established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis” and “the economic impact of the coronavirus crisis.”

An attachment to this letter provides additional instructions for responding to the Select Subcommittee’s request. If you have any questions regarding this request, please contact Committee staff at (202) 225-4400.

Sincerely,


James E. Clyburn
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.