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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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October 16, 2020

The Honorable Mark A. Calabria  
Director  
Federal Housing Finance Agency  
400 7th Street, S.W.  
Washington, D.C. 20219

Dear Mr. Calabria:

The Select Subcommittee is examining efforts by the Federal Housing Finance Agency (FHFA), Fannie Mae, and Freddie Mac to help homeowners struggling to pay their mortgages during the coronavirus crisis. I write today to urge you to take swift action to assist homeowners. Specifically, FHFA should direct Fannie Mae and Freddie Mac to require mortgage servicers to automatically grant forbearance to borrowers who are delinquent for sixty days or more. Although forbearance is currently an option for delinquent mortgage holders, data obtained by the Select Subcommittee show that a substantial number of delinquent borrowers, particularly borrowers with the lowest incomes, had not obtained forbearance as of August 2020 and are in need of financial relief.

As the coronavirus pandemic has dragged on, mortgage delinquencies have climbed to levels higher than those reached during the Great Recession.<sup>1</sup> Serious delinquencies of at least 90 days are now at their highest level in more than a decade.<sup>2</sup> With the expiration of the \$600 weekly federal unemployment benefit enhancement in July and over 26 million Americans still relying on unemployment benefits,<sup>3</sup> delinquencies may rise even further. In the last two weeks of September, approximately one-third of adults nationwide reported “living in households where eviction or foreclosure in the next two months is either very likely or somewhat likely.”<sup>4</sup> Unemployed homeowners are struggling to make mortgage payments, and experts predict serious delinquencies could double by early 2022 without additional government action.<sup>5</sup>

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<sup>1</sup> *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/](http://www.washingtonpost.com/business/2020/07/14/new-mortgage-delinquencies-hit-record-high/)).

<sup>2</sup> *Serious Mortgage Delinquencies Soared to A 10-Year High Last Month*, Washington Post (Aug. 21, 2020) (online at [www.washingtonpost.com/business/2020/08/21/serious-mortgage-delinquencies-soared-10-year-high-last-month/](http://www.washingtonpost.com/business/2020/08/21/serious-mortgage-delinquencies-soared-10-year-high-last-month/)).

<sup>3</sup> Department of Labor, *Unemployment Insurance Weekly Claims* (Oct. 1, 2020) (online at [www.dol.gov/sites/dolgov/files/OPA/newsreleases/ui-claims/20201873.pdf](http://www.dol.gov/sites/dolgov/files/OPA/newsreleases/ui-claims/20201873.pdf)).

<sup>4</sup> Census Bureau, *Household Pulse Survey* (Oct. 7, 2020) (online at [www.census.gov/data-tools/demo/hhp/#/?measures=EVR&mapPeriodSelector=14&barChartPeriodSelector=14](http://www.census.gov/data-tools/demo/hhp/#/?measures=EVR&mapPeriodSelector=14&barChartPeriodSelector=14)).

<sup>5</sup> *Covid-19 Mortgage Bailouts Decline Slightly, But A New Foreclosure Crisis Could Be Brewing*, CNBC

Congress has taken steps to prevent delinquent homeowners from falling into foreclosure. The CARES Act requires mortgage servicers to provide forbearance upon request for up to 360 days to any borrower with a federally backed mortgage loan experiencing financial hardship due to the coronavirus pandemic, and imposed a 60-day moratorium on foreclosures of such properties.<sup>6</sup> FHFA issued its own foreclosure moratorium on these properties, which it has extended through December 31, 2020.<sup>7</sup>

On July 27, 2020, the Select Subcommittee wrote to Fannie Mae and Freddie Mac seeking information on this issue and asking them to direct mortgage servicers to notify borrowers of the terms and availability of mortgage forbearance under the CARES Act.<sup>8</sup> In response, Fannie Mae and Freddie Mac insisted that no additional communications were necessary and deferred to FHFA to produce responsive information.

FHFA has resisted fully complying with the Select Subcommittee's requests. Yet the limited documents you have produced heighten the Subcommittee's concern that further steps are needed to help struggling homeowners. This data, covering January to June 2020, reveals increasing levels of financial distress for homeowners with federally-backed loans. As shown in the appendix, mortgage delinquencies nearly tripled during this period—from 559,424 in January 2020 to 1,579,566 in June 2020. Delinquencies in June were particularly high in Connecticut, Florida, Hawaii, Louisiana, Nevada, New Jersey, and New York; in each of these states, more than 7% of homeowners with federally-backed mortgages missed at least one monthly payment. Homeowners in Puerto Rico were in even more severe financial distress, with nearly 20% of homeowners delinquent.<sup>9</sup>

The number of homeowners in forbearance also rose dramatically, from 8,827 homeowners in January to 1,149,245 in June, after the CARES Act extended the availability of forbearance.<sup>10</sup> Yet many homeowners who were delinquent did not receive forbearance, even though repeated missed payments are a warning sign of serious financial distress. According to

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(Sept. 11, 2020) (online at [www.cnn.com/2020/09/11/coronavirus-mortgage-bailouts-decline-but-new-foreclosure-crisis-could-be-coming.html](http://www.cnn.com/2020/09/11/coronavirus-mortgage-bailouts-decline-but-new-foreclosure-crisis-could-be-coming.html)).

<sup>6</sup> P.L. 116-136 § 4022.

<sup>7</sup> Federal Housing Finance Agency, *FHFA Suspends Foreclosures and Evictions for Enterprise-Backed Mortgages* (Mar. 18, 2020) (online at [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-Backed-Mortgages.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-Backed-Mortgages.aspx)); Federal Housing Finance Agency, *FHFA Extends Foreclosure and REO Eviction Moratoriums* (Aug. 27, 2020) (online at [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-REO-Eviction-Moratoriums.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-REO-Eviction-Moratoriums.aspx)).

<sup>8</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Hugh Frater, Chief Executive Officer, Fannie Mae (July 27, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-27.Clyburn%20to%20Fannie%20Mae%20re%20CARES%20Act.pdf>); Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to David Brickman, Chief Executive Officer, Freddie Mac (July 27, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-27.Clyburn%20to%20Freddie%20Mac%20re%20CARES%20Act.pdf>).

<sup>9</sup> Federal Housing Finance Agency, *GSE Forbearance Demographic Information* (Aug. 24, 2020).

<sup>10</sup> *Id.*

data the Select Subcommittee obtained from FHFA, more than 31,000 homeowners who were sixty days delinquent on their mortgage in August did not receive forbearance.<sup>11</sup>

FHFA's data also shows that forbearance is not evenly distributed. Lower-income borrowers received forbearance less often than higher-income borrowers. Among lower-income borrowers with delinquent loans, 66% received forbearance in June, while among higher-income borrowers, 77% received forbearance.<sup>12</sup> Lower-income borrowers were also in greater need of financial relief, having experienced delinquency at a higher rate than higher-income borrowers—6.5% compared with 5%.<sup>13</sup>

Evidence suggests that a substantial number of borrowers in financial distress who are not receiving forbearance are either uninformed or misinformed about their options for relief. A July 2020 survey of housing counselors showed that 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 at the end of the forbearance period.<sup>14</sup>

Borrowers may lack complete and accurate information on forbearance because mortgage servicers, who are the primary point of contact for homeowners in financial distress, are failing to provide it. The FHFA Inspector General conducted a review of 60 mortgage servicers and found that most provided “limited to no information on forbearance and repayment” on their websites. Just 10% provided clear and complete information. Fannie Mae and Freddie Mac have longstanding contractual relationships with servicers, yet the Inspector General reported “neither views its responsibilities to include testing whether its servicers comply with legal and regulatory requirements” under the CARES Act. FHFA reportedly “considered this oversight acceptable.”<sup>15</sup>

As the coronavirus pandemic and economic crisis continues, FHFA must take stronger action to address deficiencies in the forbearance programs of Fannie Mae and Freddie Mac. Homeowners in financial distress who have not received forbearance or other relief risk facing foreclosure on January 1, 2021, immediately after the foreclosure moratorium expires. Forbearance prevents homeowners from losing their home by allowing them to pause or reduce their mortgage payments to an amount that reflects their ability to pay during the pandemic.<sup>16</sup>

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<sup>11</sup> Email from Staff, Federal Housing Finance Agency, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 30, 2020).

<sup>12</sup> Lower-income borrowers are defined as those with incomes of 80% or less than the area median income. Higher-income borrowers are those with 100% or more of the median income.

<sup>13</sup> Federal Housing Finance Agency, *GSE Forbearance Demographic Information* (Aug. 24, 2020).

<sup>14</sup> 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](http://www.hsgcenter.org/wp-content/uploads/2020/07/Survey-results-Forbearance-and-Delinquency2.pdf)).

<sup>15</sup> Federal Housing Finance Agency Office of Inspector General, *Oversight by Fannie Mae and Freddie Mac of Compliance with Forbearance Requirements Under the CARES Act and Implementing Guidance by Mortgage Servicers* (July 27, 2020) (online at [www.fhfa.gov/sites/default/files/OIG-2020-004.pdf](http://www.fhfa.gov/sites/default/files/OIG-2020-004.pdf)).

<sup>16</sup> See National Community Reinvestment Coalition, *NCRC Joins With Over 50 Groups In Support Of Mortgage Relief In Next Covid-19 Relief Package* (July 30, 2020) (online at <https://ncrc.org/letter-to-congress-letter->

Making this forbearance automatic for homeowners who are 60 days behind in their payments would ensure homeowners get the relief they need even if servicers fail to accurately inform them of their options.

The Heroes Act, passed by House Democrats on October 1, 2020, would require any borrower who is 60-days delinquent to automatically be granted a 60-day forbearance.<sup>17</sup> With this legislation stalled in the Senate and homeowners in need of relief, FHFA should take action to ensure that delinquent homeowners benefit from the forbearance programs intended to help keep them in their homes. Such action would be consistent with FHFA's earlier actions during the coronavirus crisis, including the suspension of foreclosures and the creation of a new payment deferral option for homeowners in forbearance.<sup>18</sup>

It is also critical that FHFA produce to the Select Subcommittee the responsive information that you are currently withholding, which would shed light on homeowners' struggles to pay their mortgages as the pandemic continues. In particular, FHFA has refused to produce complete delinquency and forbearance data for July and August 2020—even though you previously produced the same data for January through June 2020. The refusal to produce this information is obstructing the Subcommittee's inquiry and must end.

For all these reasons, please respond to the following requests by October 30, 2020:

1. Have FHFA, Fannie Mae, or Freddie Mac conducted any analyses of the impact of granting forbearance automatically to borrowers who are delinquent for 60 days or more? If so, please provide these analyses.
2. Does FHFA have the authority to direct Fannie Mae and Freddie Mac to require servicers to provide automatic forbearance?
3. Please describe the steps necessary for Fannie Mae and Freddie Mac to implement automatic forbearance and how quickly this could be done.
4. Will FHFA direct Fannie Mae and Freddie Mac to instruct mortgage servicers to grant automatic forbearance to any borrower who is or becomes delinquent for 60 days or more?
5. For the period from July 1, 2020, to the present, please provide the number of loans in Fannie Mae's and Freddie Mac's portfolios that are:

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from-over-50-groups-in-support-of-mortgage-relief-in-next-covid-19-relief-package/).

<sup>17</sup> H.R. 925.

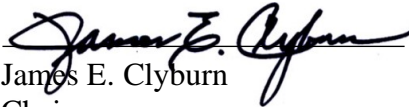
<sup>18</sup> Federal Housing Finance Agency, *FHFA Suspends Foreclosures and Evictions for Enterprise-Backed Mortgages* (Mar. 18, 2020) (online at [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-Backed-Mortgages.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-Backed-Mortgages.aspx)); Federal Housing Finance Agency, *FHFA Announces Payment Deferral as New Repayment Option for Homeowners in COVID-19 Forbearance Plans* (May 13, 2020) (online at [www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Payment-Deferral-as-New-Repayment-Option-for-Homeowners-in-COVID-19-Forbearance-Plans.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Payment-Deferral-as-New-Repayment-Option-for-Homeowners-in-COVID-19-Forbearance-Plans.aspx)).

- a. delinquent for 30 days or more;
  - b. delinquent for 60 days or more; and
  - c. delinquent for 90 days or more.
6. For each category in Request 5, please provide the number of loans that are in forbearance and the number of loans that are in foreclosure.
  7. For each category in Requests 5 and 6, 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,” “executive branch policies, deliberations, decisions, activities, and internal and external communications related to 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 Subcommittee staff at (202) 225-4400.

Sincerely,

  
James E. Clyburn  
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

## Appendix

### Mortgage Delinquencies and Loans in Forbearance<sup>19</sup> January to June 2020

<b>Month</b>	<b>Delinquent Loans<sup>20</sup></b>	<b>Loans in Forbearance<sup>21</sup></b>
January	559,424	8,827
February	581,208	9,035
March	608,676	48,538
April	1,287,528	810,610
May	1,617,274	1,178,536
June	1,579,566	1,149,245

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<sup>19</sup> Federal Housing Finance Agency, *GSE Forbearance Demographic Information* (Aug. 24, 2020).

<sup>20</sup> These figures represent all Fannie Mae and Freddie Mac active portfolio loans with at least one missed payment.

<sup>21</sup> These figures represent all delinquent Fannie Mae and Freddie Mac active portfolio loans with an active forbearance plan.

## 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.