



Federal Housing Finance Agency

1700 G Street, N.W., Washington, D.C. 20552-0003

Telephone: (202) 414-3800

Facsimile: (202) 414-3823

www.fhfa.gov

September 21, 2009

VIA EMAIL (jsmall@judicialwatch.org)
And FIRST CLASS MAIL

Ms. Jenny Small
Judicial Watch, Inc.
Researcher
501 School Street, SW
Suite 725
Washington, DC 20024

Re: August 27, 2009 FOIA Appeal, FOIA No. 2009-56

Dear Ms. Small:

This letter responds to the Freedom of Information Act (FOIA) appeal you filed on August 27, 2009 regarding the Federal Housing Finance Agency's (FHFA) response to your FOIA request. You requested:

- Documents related to the legal framework for creating a conservatorship for Fannie Mae and Freddie Mac;
- Correspondence between any representative from the Department of Housing and Urban Development (HUD), the Federal Housing Finance Agency (FHFA), the Federal Housing Finance Board (FHFB); Treasury, the White House, and any representative of Fannie Mae or Freddie Mac concerning creating a conservatorship;
- Correspondence among/between HUD, FHFA, FHFB, Treasury, the White House, Congress and/or the Office of Federal Housing enterprise Oversight (OFHEO) concerning the formation of a Fannie Mae or Freddie Mac conservatorship;
- Fannie Mae and Freddie Mac correspondence concerning creating a conservatorship and/or government bailout; and
- Documentation (logs, notes, memos, emails, letters) of foreign investor concerns about creating a Fannie Mae or Freddie Mac conservatorship.

On August 25, 2009 FHFA's FOIA Officer released 23 documents to you in their entirety. An additional 141 documents were withheld on the following bases: 1) The documents contained commercial and financial information that is confidential and/or privileged under Exemption 4 (5 U.S.C. § 552 (b)(4)); 2) The documents are exempt from disclosure because they contain deliberative material pursuant to Exemption 5 (5 U.S.C. 552 (b)(5)); 3) The documents contain personal private identifying information and are exempt from disclosure pursuant to Exemption 6 (5 U.S.C. § 552 (b)(6)) and; 4) The documents were prepared by, or on behalf of, or for the use of FHFA and are exempt from disclosure pursuant to Exemption 8 (5 U.S.C. 552 (b)(8)). Upon further review of the 141 documents you have challenged, FHFA has determined to release 3 of these documents in their entirety and part of 6 documents.

You contend in your appeal, among other things, that "FHFA failed to provide any substantive legal documents . . . [and] merely provided correspondence with Congress and a few emails with Treasury, but not with any other government agency." As a result, you reached the flawed conclusion that the agency has not fulfilled its duties under FOIA. For the reasons more fully explained below, your complaints are without merit.

First, FHFA is claiming Exemption 4 only for those documents for which disclosure would impair the agency's ability to obtain necessary information in the future; or would cause substantial harm to the competitive position of the enterprise from which the information was obtained. *See Canadian Commercial Corp. v. Dep't of Air Force*, 514 F.3d 37, 39 (D.C. Cir. 2008); Exemption 4 protects any financial or commercial information provided to the Government on a voluntary basis if it is of a kind that the provider would not customarily release to the public. *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871, 880 (D.C. Cir. 1992).

Second, FHFA is claiming the deliberative process privilege only for those documents that were part of the consultative process of the agency. Privileged legal documents containing recommendations and advisory opinions, and other deliberative material fall squarely under Exemption 5. 5 U.S.C. § 552 (b)(5). The information that FHFA determined to withhold may include documents that courts have construed under Exemption 5 "to encompass the protections traditionally afforded certain documents pursuant to evidentiary privileges in the civil discovery context, including materials which would be protected under the attorney-client privilege, the attorney work-product privilege, or the executive deliberative process privilege." *Rockwell Int'l Corp. v. U.S. Dep't of Justice*, 235 F.3d 598, 601 (D.C. Cir. 2001) (quoting *Formaldehyde Inst. v. Dep't of Health and Human Servs.*, 889 F.2d 1118, 1121 (D.C. Cir. 1989)) (internal citations).

Much of the information withheld from disclosure contains predecisional and deliberative material that was produced as agency staff members discussed and conferred on their various goals and objectives. The deliberative process privilege "covers 'documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.'" *U.S. Dep't of the Interior and Bureau of Indian Affairs v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 8 (2001) (internal citation omitted). A document is deemed predecisional if "it was generated before the adoption of an agency policy" and deliberative if "it reflects the give-and-take of the consultative process." *Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 151 (D.C. Cir. 2006) (internal citation omitted). This

privilege is design to promote candid advice and open debate, which may be chilled if agency personnel feared disclosure of their ideas. *Baker & Hostetler LLP v. U.S. Dep't of Commerce*, 473 F.3d 312, 321 (D.D.C. 2006) (quoting *Judicial Watch, Inc. v. Clinton*, 880 F. Supp. 1, 13 (D.D.C. 1995)); see *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 256-57 (D.C. Cir. 1977) (“In some circumstances . . . the disclosure of even purely factual material may so expose the deliberative process within an agency that it must be deemed exempted . . .”).

FHFA is simply not required to disclose all requested communications as you erroneously contend. For example, withholding drafts of documents in their entirety is essential to the protection of the deliberative process. It serves to avoid public confusion as to the agency's decisions as opposed to agency officials' opinions or recommendations. It also protects the agency from inaccurate and misleading impressions of the positions of the agency that would violate the agency's decisionmaking process. See *Edmonds Inst. v. U.S. Dep't of the Interior*, 460 F. Supp. 2d. 63, 69 (D.D.C. 2006). It is clear that some of the pre-conservatorship documents you requested fall within the categories described above. To the extent that such material is available that is responsive to your request, it is exempt from disclosure.

Third, you claim that FHFA has failed to provide “segregable information.” However, FHFA is only required to disclose non-exempt portions of a document if it is not inextricably intertwined with exempt portions of the document. See *Carter, Fullerton & Hayes, LLC v. FTC*, Civ. No. 07-1041, 2009 WL 2222364 (RCL), * 3 (D.D.C. July 24, 2009) (holding that even factual information may in fact be “inextricably intertwined with exempt portions” so that disclosure is not required); *Krikorian v. Dep't of State*, 984 F.2d 461, 466 (D.C. Cir. 1993) (quoting *Mead Data Cent.*, 566 F.2d at 260). In addition, “factual material is itself privileged when it appears within documents that are attorney work-product,” and segregability is not required. *Carter, Fullerton & Hayes*, 2009 WL 2222364, * 3 (quoting *Judicial Watch, Inc. v. Dep't of Justice*, 432 F.3d 366, 371 (D.C. Cir. 2005)). To the extent that your request encompassed any predecisional, attorney work-product, or attorney-client information those documents are exempt from disclosure.

Fourth, your appeal letter appears to assume that all of the materials you have requested exist. For example, you allege that “no documentation was provided concerning foreign investors' concerns about a conservatorship.” A thorough search located no FHFA agency records responsive to that request. Other than the documents that FHFA has provided, there are no non-privileged or non-exempt materials available for production.

FHFA has also determined some of the requested material is exempt from disclosure under Exemption 8. 5 U.S.C. § 552(b)(7). FHFA is only claiming exemption 8, as noted above, over certain documents that are prepared by, or on behalf of, or for the use of FHFA in its regulatory and supervisory capacity. The primary reason for adoption of exemption 8 was to ensure the financial security of financial institutions. *Consumers Union of U.S., Inc. v. Heimann*, 589 F.2d 531, 534 (D.C. Cir. 1978); *Gregory v. FDIC*, 631 F.2d 896, 898 (D.C. Cir. 1980) (finding exemption drawn to protect “the integrity of financial institutions as an industry”). Congress considered the nature and source of the information and determined that the broad scope of Exemption 8 provides “absolute protection regardless of the circumstances underlying the regulatory agency's receipt or preparation of examination, operating or condition reports.” *Id.*;

Public Citizen v. Farm Credit Admin., 938 F.2d 290, 292-93 (D.C. Cir. 1991) (discussing the parameters of exemption 8 and concluding that nondepository institutions such as the National Consumer Cooperative Bank are financial institutions); *see also Consumers Union*, 589 F.2d at 538 (Wright, J., concurring) (denying the recast of Exemption 8 from a provision that looks to the nature and source of material into one that focuses on the likely consequences of disclosure).

It is uncontroverted that the FHFA as Conservator and regulator of the enterprises has authority to require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes. 12 U.S.C. § 4501(6). As such, any of the documents you may have requested that were created for FHFA's use in supervising the enterprises are exempt from disclosure to the public.

For the foregoing reasons, FHFA denies your appeal. You have a right to judicial review of this denial under 5 U.S.C. § 552(a)(4).

Sincerely,

A handwritten signature in black ink that reads "David A. Felt". The signature is written in a cursive, slightly slanted style.

David A. Felt
Deputy General Counsel and
FOIA Appeals Officer

Enclosures

Hall, Kimberly

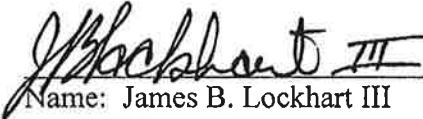
From: Pollard, Alfred
Sent: Tuesday, September 09, 2008 3:56 PM
To: 'Robert.Hoyt@do.treas.gov'; 'Stephen.Albrecht@do.treas.gov'
Attachments: ODCOPY-Exchange-09092008-154041.pdf

Both documents are in one PDF

**FEDERAL HOME LOAN MORTGAGE CORPORATION
WRITTEN CONSENT OF THE CONSERVATOR**

The undersigned, being the Conservator of Federal Home Loan Mortgage Corporation (the "Company"), does hereby consent to the adoption of the attached resolutions.

FEDERAL HOUSING FINANCE
AGENCY



James B. Lockhart III

Name: James B. Lockhart III

Title: Director

Date: September 8, 2008

Hall, Kimberly

From: Fiol, Maria
Sent: Friday, September 05, 2008 11:51 AM
To: Tony Ryan (Treas); 'dan.jester@do.treas.gov'; 'michele.davis@do.treas.gov'; DeMarco, Edward; Pollard, Alfred
Subject: Document from Director Lockhart
Importance: High
Attachments: CAPITAL CONCERNS 9-5-08.doc

Good Morning All,
Attached please find a document from Director Lockhart.
Thank you,
Maria

MariaTeresa Fiol
Executive Assistant to the Director
Office of the Director
Office of Federal Housing Enterprise Oversight
Federal Housing Finance Agency
202-414-8971 phone
202-414-3823 fax
Maria.Fiol@OFHEO.gov

CAPITAL CONCERNS

OFHEO believes that there are many safety and soundness concerns at Freddie Mac, but the critical concern is capital. Without adequate capital the enterprise will not be able to fulfill its mission of providing stability, liquidity and affordability to the mortgage market. If Freddie Mac needs to shed assets and reduce its MBS guaranteeing activities, it will exacerbate the already fragile market conditions and could precipitate a systemic crisis.

Housing is a critical component of the American economy. Freddie Mac was created for just the type of market we are seeing today. The inability of Freddie Mac to provide support to homeowners and renters is a failure, which must be rectified quickly.

The level of real capital at the enterprise is very low compared to \$2.2 billion mortgage credit exposure and is subject to continual shrinkage. There are no prospects to raise capital without treasury assistance. The minimum capital requirements established by Congress in 1992 or even the OFHEO directed requirements have been inadequate in this market. July results show a very serious deterioration from the already weak second quarter numbers:

1. Shareholders equity fell by a third from June to \$8.5 billion.
2. Core Capital still exceeds the regulatory requirement, but \$28.1 billion of the \$36.6 billion is now AOCI, reflecting a significant further deteriorating in PLS prices.
3. The negative fair value of capital has more than doubled to \$12.2 billion.

FHFA capital concerns range the gamut from governance, accounting, earnings, credit, market and model concerns. A review of Freddie Mac's capital position and reserve levels was undertaken by a joint FHFA, FRB and OCC team of very senior examiners. Their key findings about embedded losses in the core capital of \$37.7 billion at June 30th are as follows:

Hall, Kimberly

From: Pearl, David
Sent: Tuesday, September 09, 2008 11:45 AM
To: IFHFA Team Members
Subject: FHFA policy on foundation contributions

Q: Is the conservator cutting off contributions of the Fannie Mae and Freddie Mac Foundations that support affordable housing?

A: No but the conservator will review all planned contributions.

Hall, Kimberly

From: Michele.Davis@do.treas.gov
Sent: Wednesday, September 03, 2008 4:53 PM
To: Russell, Corinne; Jennifer.Zuccarelli@do.treas.gov; Brookly.Mclaughlin@do.treas.gov
Cc: Brereton, Peter; Mullin, Stefanie
Subject: Re: Hilzenrath questions

REDACTED

From: Russell, Corinne
To: Zuccarelli, Jennifer; McLaughlin, Brookly; Davis, Michele
Cc: Brereton, Peter ; Mullin, Stefanie
Sent: Wed Sep 03 16:42:19 2008
Subject: FW: Hilzenrath questions

Director Lockhart asked me to share this with you.

David Hilzenrath called to follow up on his questions from last week.. He is planning to write his story on the law and the powers it affords the regulator, probably for tomorrow but "subject to change". He said the gist of his story is that "lots of attention has been focused on the Treasury Secretary's powers and authorities" but in this story reporter "may take a look at powers of the new regulator." Reporter says: "as I lay out the new powers under the law, it would be a public service if OFHEO/FHFA addressed how it contemplates using or not using those powers, or at a minimum how it approaches the decisions." His specific, ON-the record questions follow.

- 1) "It is my understanding that based on the new legislation, OFHEO has the power to FRE into receivership now" — Confirmation? Comment?
- 2) As reporter understands it, "for Treasury, the options to lend or invest in the GSEs require the consent of the GSEs. Does OFHEO need the consent of the GSEs to put them into conservatorship or receivership?
- 3) Does OFHEO now have the power to put either FNM or FRE into conservatorship or receivership? Reporter says "It is my understanding – based in part on my plain English reading of the law, that Mr. Lockhart has the discretion legally to put them into conservatorship or receivership and that he has greater power than the Treasury in some respects. That he has the power to put FRE into receivership or conservatorship." If not, why not? And why hasn't it done so yet?
- 4) If so, what does the regulator see as the reasons to do so?
- 5) How is OFHEO approaching this decision or question? What factors is it considering, i.e. is it tackling the question alone? Or in concert with other authorities such as treasury, the Fed, White House?
- 6) For the record, please explain OFHEOs interpretation of the relevant clauses in the law?
- 7) Would OFHEO comment on reporter's understanding that "under both mandatory and discretionary receivership clauses, OFHEO has the power to put FRE into receivership or conservatorship based on the company's reported negative fair value?"

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Hall, Kimberly

From: Stephen.Albrecht@do.treas.gov
Sent: Friday, September 26, 2008 2:51 PM
To: Pollard, Alfred
Cc: Laurie.Schaffer@do.treas.gov
Subject: FW: Amended and Restated Senior Preferred Stock Purchase Agreements for our website
Attachments: FNM.Senior.Preferred.Stock.Purchase.Agreement.pdf; FRE.Senior.Preferred.Stock.Purchase.Agreement.pdf

Alfred - attached are unsigned versions of the amended agreements, which we will be putting on our web site. The previous versions we had posted were also unsigned.

REDACTED

REDACTED

Here is our posting, FYI: <http://www.treas.gov/news/index2.html>

-Steve

AMENDED AND RESTATED SENIOR PREFERRED STOCK PURCHASE AGREEMENT

AMENDED AND RESTATED SENIOR PREFERRED STOCK PURCHASE AGREEMENT (this "Agreement") dated as of September 26, 2008, between the UNITED STATES DEPARTMENT OF THE TREASURY ("Purchaser") and FEDERAL NATIONAL MORTGAGE ASSOCIATION ("Seller"), acting through the Federal Housing Finance Agency (the "Agency") as its duly appointed conservator (the Agency in such capacity, "Conservator"). Reference is made to Article 1 below for the meaning of capitalized terms used herein without definition.

Background

A. The Agency has been duly appointed as Conservator for Seller pursuant to Section 1367(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as amended, the "FHE Act"). Conservator has determined that entry into this Agreement is (i) necessary to put Seller in a sound and solvent condition; (ii) appropriate to carry on the business of Seller and preserve and conserve the assets and property of Seller; and (iii) otherwise consistent with its powers, authorities and responsibilities.

B. Purchaser is authorized to purchase obligations and other securities issued by Seller pursuant to Section 304(g) of the Federal National Mortgage Association Charter Act, as amended (the "Charter Act"). The Secretary of the Treasury has determined, after taking into consideration the matters set forth in Section 304(g)(1)(C) of the Charter Act, that the purchases contemplated herein are necessary to (i) provide stability to the financial markets; (ii) prevent disruptions in the availability of mortgage finance; and (iii) protect the taxpayer.

C. Purchaser and Seller executed and delivered the Senior Preferred Stock Purchase Agreement dated as of September 7, 2008 (the "Original Agreement"), and the parties thereto desire to amend and restate the Original Agreement in its entirety as set forth herein.

THEREFORE, the parties hereto agree as follows:

Terms and Conditions

1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

"*Affiliate*" means, when used with respect to a specified Person (i) any direct or indirect holder or group (as defined in Sections 13(d) and 14(d) of the Exchange Act) of holders of 10.0% or more of any class of capital stock of such Person and (ii) any current or former director or officer of such Person, or any other current or former employee of such Person that currently exercises or formerly exercised a material degree of Control over such Person, including without limitation each current or former Named Executive Officer of such Person.

AMENDED AND RESTATED SENIOR PREFERRED STOCK PURCHASE AGREEMENT

AMENDED AND RESTATED SENIOR PREFERRED STOCK PURCHASE AGREEMENT (this "Agreement") dated as of September 26, 2008, between the UNITED STATES DEPARTMENT OF THE TREASURY ("Purchaser") and FEDERAL HOME LOAN MORTGAGE CORPORATION ("Seller"), acting through the Federal Housing Finance Agency (the "Agency") as its duly appointed conservator (the Agency in such capacity, "Conservator"). Reference is made to Article 1 below for the meaning of capitalized terms used herein without definition.

Background

A. The Agency has been duly appointed as Conservator for Seller pursuant to Section 1367(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as amended, the "FHE Act"). Conservator has determined that entry into this Agreement is (i) necessary to put Seller in a sound and solvent condition; (ii) appropriate to carry on the business of Seller and preserve and conserve the assets and property of Seller; and (iii) otherwise consistent with its powers, authorities and responsibilities.

B. Purchaser is authorized to purchase obligations and other securities issued by Seller pursuant to Section 306(l) of the Federal Home Loan Mortgage Corporation Act, as amended (the "Charter Act"). The Secretary of the Treasury has determined, after taking into consideration the matters set forth in Section 306(l)(1)(C) of the Charter Act, that the purchases contemplated herein are necessary to (i) provide stability to the financial markets; (ii) prevent disruptions in the availability of mortgage finance; and (iii) protect the taxpayer.

C. Purchaser and Seller executed and delivered the Senior Preferred Stock Purchase Agreement dated as of September 7, 2008 (the "Original Agreement"), and the parties thereto desire to amend and restate the Original Agreement in its entirety as set forth herein.

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Hall, Kimberly

From: Stephen.Albrecht@do.treas.gov
Sent: Thursday, August 21, 2008 6:49 PM
To: Stephen.Albrecht@do.treas.gov; Kieran.Fallon@frb.gov; Seth.Wheeler@do.treas.gov
Cc: Pollard, Alfred; Dickerson, Chris; Roberts, Kyle; Laurie.Schaffer@do.treas.gov; Robert.Hoyt@do.treas.gov; scott.alvarez@frb.gov; Scott.Frame@atl.frb.org; Scott Frame (Treas); Seth.Wheeler@do.treas.gov; Dustin.Palmer@do.treas.gov; Jeff.King@do.treas.gov
Subject: RE: Checklist
Attachments: GSE Workstreams.doc



GSE

rkstreams.doc (88 kb)

Attached is a first cut at a combined legal issue list. Laurie and others are still compiling lists of further questions, but I wanted to circulate this tonight so everyone could begin reviewing to get a sense of where we're headed. More will be added tomorrow morning.

The goals for tomorrow will be 1) to continue filling in the issues that have been raised; 2) to fill in the grid of who is dealing with each issue; and 3) to discuss timeframes for coming up with the answers, and what work product will be produced.

Thanks,
Steve

-----Original Message-----

From: Albrecht, Stephen
Sent: Thursday, August 21, 2008 5:48 PM
To: Albrecht, Stephen; 'Kieran.Fallon@frb.gov'; Wheeler, Seth
Cc: 'Alfred.Pollard@oftheo.gov'; 'Chris.Dickerson@oftheo.gov'; 'Kyle.Roberts@oftheo.gov'; Schaffer, Laurie; Hoyt, Robert; 'scott.alvarez@frb.gov'; 'Scott.Frame@atl.frb.org'; Frame, Scott; Wheeler, Seth; Palmer, Dustin
Subject: RE: Checklist

Actually, I'm hearing we already have a 10:30 that will likely go to 11:30, so 11:30 may be better. Let me know if others can do that.

-----Original Message-----

From: Albrecht, Stephen
Sent: Thursday, August 21, 2008 5:21 PM
To: 'Kieran.Fallon@frb.gov'; Wheeler, Seth
Cc: Alfred.Pollard@oftheo.gov; Chris.Dickerson@oftheo.gov; Kyle.Roberts@oftheo.gov; Schaffer, Laurie; Hoyt, Robert; scott.alvarez@frb.gov; Scott.Frame@atl.frb.org; Frame, Scott; Wheeler, Seth; Palmer, Dustin
Subject: RE: Checklist

Thank you. We are working on a merged outline of issues that I will circulate when finished. Alfred, let me know if you have anything to add to what Seth sent around. The idea will be to create a document that will keep growing over time as new issues come up, so additions will always be welcome.

There is a Hope for Homeowners call at 10am tomorrow that many need to join, so could we do another call for this group to check in at 11am?

We can use the same call in line:
Call in: (202) 927-2255

Passcode: 545102

-----Original Message-----

From: Kieran.Fallon@frb.gov [mailto:Kieran.Fallon@frb.gov]
Sent: Thursday, August 21, 2008 4:47 PM
To: Wheeler, Seth
Cc: Alfred.Pollard@ofheo.gov; Chris.Dickerson@ofheo.gov; Kyle.Roberts@ofheo.gov; Schaffer, Laurie; Hoyt, Robert; scott.alvarez@frb.gov; Scott.Frame@atl.frb.org; Frame, Scott; Wheeler, Seth; Albrecht, Stephen
Subject: RE: Checklist

Attached are (1) a brief outline of the legal issues that we are looking into at the Fed, and (2) contact information for Fed staff working on the legal and capital-related issues, consistent with the contact list discussed on this morning's call.

Kieran

(See attached file: Legal Issues of FRB (August 21, 2008).docx)

(See attached file: Federal Reserve Contacts.docx)

Kieran J. Fallon
Assistant General Counsel
Board of Governors of the Federal Reserve System 20th Street & Constitution Ave., N.W.
Washington, D.C. 20551
Tel: 202-452-5270
Fax: 202-452-3101

Seth.Wheeler@do.t
reas.gov

To 08/21/2008 11:37 AM Seth.Wheeler@do.treas.gov,
scott.alvarez@frb.gov,
kieran.fallon@frb.gov,
Alfred.Pollard@ofheo.gov,
Robert.Hoyt@do.treas.gov,
Stephen.Albrecht@do.treas.gov,
Laurie.Schaffer@do.treas.gov

cc Scott.Frame@do.treas.gov,
Scott.Frame@atl.frb.org,
Chris.Dickerson@ofheo.gov,
Kyle.Roberts@ofheo.gov

Subject RE: Checklist

Updated contact info for Appendix II.

<<Conservator - Receivership Checklist v2.doc>>

From: Wheeler, Seth
Sent: Thursday, August 21, 2008 11:15 AM
To: 'Scott G. Alvarez (scott.alvarez@frb.gov)'; kieran.fallon@frb.gov; Pollard, Alfred; Hoyt, Robert; Albrecht, Stephen; Schaffer, Laurie
Cc: Frame, Scott; 'Scott.Frame@atl.frb.org'; Dickerson, Chris; 'Roberts, Kyle'
Subject: Checklist

Please find attached a draft checklist, incorporating from OFHEO's memo as well as Treasury's first cut. We welcome any and all comments. I'll send around another version shortly with an updated list of contacts in Appendix II.

Thanks

Seth

<< File: Conservator - Receivership Checklist.doc >> (See attached file:
Conservator - Receivership Checklist v2.doc)

REDACTED

REDACTED

Hall, Kimberly

From: Peter.McCarthy@do.treas.gov
Sent: Tuesday, September 09, 2008 4:08 PM
To: DeMarco, Edward; MGlassman@FDIC.gov
Cc: RAboussie@FDIC.gov; Andy Basel (FDIC); Pen Starke (FDIC); Roberts, Kyle; Lockhart, James; Jim.Wilkinson@do.treas.gov; Robert.Hoyt@do.treas.gov
Subject: RE: FDIC Update on Activities

Mitchell--

Please allow me to also convey the thanks of the Treasury Department. As you say below, this has been, and continues to be, a "unique and historic" moment. The opinions, experience and advice of the FDIC have been invaluable in shaping that moment. I know the entire Treasury leadership is grateful to you and your FDIC colleagues.

Pete

From: DeMarco, Edward [mailto:Edward.DeMarco@oftheo.gov]
Sent: Tuesday, September 09, 2008 12:08 PM
To: Glassman, Mitchell
Cc: Aboussie, Richard T.; Basel, Andrew; Starke, R. Penfield; Roberts, Kyle; Lockhart, James; McCarthy, Peter
Subject: RE: FDIC Update on Activities

Mitchell,

Thanks for your very kind note. I greatly appreciate the feedback, and to hear that our team is doing well in these uncharted waters.

My folks have related to me numerous times that they are very glad we had you and your team with us in the final planning / preparation stages and on-site yesterday, **REDACTED** I personally found your contributions to be enormously helpful and look forward to communicating that directly to Chairman Bair. I appreciate your offer to be available by phone and so forth as we go forward. It is not lost on us what a busy period this is for you and your division. right now, so we are all the more grateful for your personal involvement, and that of Pen, and Rich, and Andy.

With deep appreciation and thanks --

Ed

From: Glassman, Mitchell [mailto:MGlassman@FDIC.gov]
Sent: Tuesday, September 09, 2008 11:56 AM
To: DeMarco, Edward
Cc: Aboussie, Richard T.; Basel, Andrew; Starke, R. Penfield; Roberts, Kyle
Subject: FDIC Update on Activities

Ed,

I wanted to let you know that your team has done an excellent job in managing the creation of the Conservatorships of Freddie and Fannie. Needless to say, this was a unique and historic moment for FHFA and the country. FHFA staff performed with confidence and professionalism. There is much work to be done to get to the "end-game", but the Conservator and CEOs were well served by FHFA.

The FDIC was pleased to help and hopefully added value to your efforts. It is now my observation that we probably have reached a point where we have maximized our ability to help your staff since they are all very well focused on the issues of the entities. Both CEOs are very impressive leaders and will position Fannie and Freddie in a positive manner.

5/27/2009

We will finish up our direct work today with the liaisons on site. However, we will be available to FHFA staff by email and/or telephone whenever there is a need for our services.

It was a pleasure to work with you and Kyle, and know we will be crossing paths in the future on other matter of mutual interests.

Best regards,

Mitchell

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5/27/2009

Hall, Kimberly

From: Peter.McCarthy@do.treas.gov
Sent: Tuesday, September 09, 2008 4:08 PM
To: DeMarco, Edward; MGlassman@FDIC.gov
Cc: RAboussie@FDIC.gov; Andy Basel (FDIC); Pen Starke (FDIC); Roberts, Kyle; Lockhart, James; Jim.Wilkinson@do.treas.gov; Robert.Hoyt@do.treas.gov
Subject: RE: FDIC Update on Activities

Mitchell--

Please allow me to also convey the thanks of the Treasury Department. As you say below, this has been, and continues to be, a "unique and historic" moment. The opinions, experience and advice of the FDIC have been invaluable in shaping that moment. I know the entire Treasury leadership is grateful to you and your FDIC colleagues.

Pete

From: DeMarco, Edward [mailto:Edward.DeMarco@oftheo.gov]
Sent: Tuesday, September 09, 2008 12:08 PM
To: Glassman, Mitchell
Cc: Aboussie, Richard T.; Basel, Andrew; Starke, R. Penfield; Roberts, Kyle; Lockhart, James; McCarthy, Peter
Subject: RE: FDIC Update on Activities

Mitchell,

Thanks for your very kind note. I greatly appreciate the feedback, and to hear that our team is doing well in these uncharted waters.

My folks have related to me numerous times that they are very glad we had you and your team with us in the final planning / preparation stages and on-site yesterday, **REDACTED**. I personally found your contributions to be enormously helpful and look forward to communicating that directly to Chairman Bair. I appreciate your offer to be available by phone and so forth as we go forward. It is not lost on us what a busy period this is for you and your division right now, so we are all the more grateful for your personal involvement, and that of Pen, and Rich, and Andy.

With deep appreciation and thanks --

Ed

NIR

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Hall, Kimberly

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FEDERAL HOUSING FINANCE AGENCY



STATEMENT

Contact: Corinne Russell (202) 414-6921
Stefanie Mullin (202) 414-6376

For Immediate Release
August XX, 2008

DRAFT 8-18-08 10:00 am STATEMENT OF DIRECTOR JAMES B. LOCKHART

“The Housing and Economic Recovery Act of 2008 (HERA) signed by President Bush on July 30 combined OFHEO, FHFB and HUD’s GSE mission group to create a new GSE regulator, the Federal Housing Finance Agency (FHFA) with enhanced authorities similar to a bank regulator’s. We are moving quickly to integrate the three teams and begin to implement those new powers.

FHFA recognizes the important role Fannie Mae, Freddie Mac and 12 Federal Home Loan Banks play in making mortgage credit available and supporting market stability. In the third quarter of last year, FHFA calculates that, through their portfolios, advances and guaranteed MBS, the 14 GSEs supported 92 percent of all new mortgage originations. Given present market conditions, we continue to closely monitor market conditions and the GSEs’ management of their capital and liquidity as we move toward developing the new regulations required by HERA.

The implementation of HERA will require over 25 new rules as well as the re-issuance of most existing regulations. They range from a regulation notifying the public FHFA will publish regulations, to an assessment regulation that specifies how FHFA is funded, to capital regulations. Many will take some time, but we believe it is important to move expeditiously to provide more certainty to the market. By September 30th, we plan to issue over 10 regulations, some administrative and some pertaining to safety and soundness.

FANNIE MAE

CERTIFICATE OF CORPORATE SECRETARY

I, Beth A. Wilkinson, Corporate Secretary of the Federal National Mortgage Association ("Fannie Mae"), do hereby certify that the following resolution was adopted by the Board of Directors of Fannie Mae at a meeting duly called and held on September 6, 2008.

WHEREAS, pursuant to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Federal Housing Finance Regulatory Reform Act of 2008, Section 1367(a)(3)(I), a conservator for the Company can be appointed by consent of the Board of Directors of the Company,

NOW, THEREFORE, BE IT RESOLVED, that, as requested by the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve, and the Director of the Federal Housing Finance Agency, the Board of Directors hereby consents to the appointment of the Federal Housing Finance Agency as the conservator of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Fannie Mae on this 6th day of September, 2008.



Beth A. Wilkinson
Corporate Secretary

September 6, 2008





Federal Housing Finance Agency

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Federal Housing Finance Agency

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