INDEPENDENT COMMUNITY BANKERS *of* AMERICA®

June 7, 2013

Mr. Donald H. Layton
Chief Executive Officer
Freddie Mac
8200 Jones Branch Drive
McLean, VA 22102-3110

Mr. Edward Demarco
Acting Director
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20024

Dear Mr. Layton and Acting Director DeMarco:

The Independent Community Bankers of America[1] (ICBA) has serious concerns about a recent policy change initiated by Freddie Mac that will seriously impact the ability of community banks to sell loans to Freddie Mac and provide mortgages to their customers.

According to Freddie Mac Bulletin Number 2013-8, issued May 15, 2013, beginning January 1, 2014, a seller/servicer that does not meet certain activity thresholds for the prior calendar year will be assessed a fee of $7,500 for low activity, due and payable in accordance with the requirements of Section 17.2, *Provisions for the Payment of Fees and Proceeds and Application of Delivery Fee Credits*. The low activity fee is intended to support Freddie Mac's risk management efforts and offset the costs incurred to maintain sellers/servicers, and monitor their continuing compliance with its eligibility requirements. To avoid being assessed the low activity fee, sellers/servicers must meet at least one of the following activity thresholds:

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[1] The Independent Community Bankers of America®, the nation's voice for more than 7,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With nearly 5,000 members, representing more than 24,000 locations nationwide and employing more than 300,000 Americans, ICBA members hold more than $1.2 trillion in assets, $1 trillion in deposits, and $750 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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- Sell mortgages to Freddie Mac with an aggregate unpaid principal balance (UPB) greater than $5 million during the immediately preceding calendar year; or
- Service or be a servicing agent for mortgages for Freddie Mac with an aggregate UPB of at least $25 million as of December 31 of the immediately preceding calendar year.

Many ICBA members sell loans directly to Freddie Mac and have done so for many years. ICBA has been hearing from its members that serve smaller communities that they do not meet the servicing requirement and are not able to make sufficient residential mortgage loans in a year to meet the volume requirements and thus will be charged a fee for low activity that they will not be able to afford. We understand the need for Freddie Mac to charge the appropriate level of fees to support their business expenses, particularly when it is in conservatorship and retains taxpayer assistance; but in our view, this fee goes too far. Freddie Mac has not repaid its government assistance and recent announcements indicate high to record current and projected earnings. Yet, it is choosing to impose an unaffordable fee on small lenders, most of which have sold loans exclusively to Freddie Mac for many years. Most community bank loans are of superior credit quality resulting in few, if any, losses for Freddie Mac.

Section 301(b)(4) of the Federal Home Loan Mortgage Corporation Act states that one of the purposes of Freddie Mac is: "to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing." Generally, the community banks that will not meet the activity thresholds specified in the bulletin are in small towns and rural areas, where secondary market eligible mortgage opportunities are few, the cost of housing is relatively low and the size of mortgages is relatively small. Many of these communities do not provide the required level of real estate sales activity or refinance opportunities to enable community banks in these markets to generate the $5 million in mortgage sales or to achieve $25 million in mortgage servicing for Freddie Mac. However, these community banks are selling Freddie Mac all of the secondary market eligible mortgages they generate. Assessing a $7,500 fee will place an unfair burden on these institutions, forcing many of them to sell their servicing portfolios and terminate their relationship with Freddie Mac, thus limiting credit availability in their area and creating a credit market failure in these locations. In our view, the imposition of the activity thresholds specified in the bulletin is inconsistent with the statutory purpose of Freddie Mac.

These thresholds are sending the message to the mortgage industry that Freddie Mac only wants to do business with the largest lenders. If community banks are forced to stop doing business with Freddie Mac, this will further concentrate the mortgage business among a handful of the largest mortgage lenders. Community banks have expressed frustration that they made high quality residential mortgages that have had delinquency

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levels below industry levels, and that if they cannot sell loans to Freddie Mac, they must cede this business to the largest lenders whose lending practices both caused the mortgage crisis, and resulted in the bulk of Freddie Mac's losses over the recent past.

The FHFA states in its Strategic Plan for the fiscal years 2013-2017 that it will "**(m)onitor access to housing markets**" and will "identify barriers to mortgage lending."[2] Further, the plan states that FHFA will "**(p)romote policies and practices at the regulated entities to provide fair and equitable access to finance and financial services for all eligible financial institutions and qualified borrowers.** To ensure fair and impartial access to Enterprise products and services, FHFA will require that the Enterprises avoid any policies or practices that favor large institutions to the disadvantage of smaller institutions."[3] In our view, this low activity fee is contrary to providing "fair and equitable access" for all eligible financial institutions and will limit access to the housing markets for qualified borrowers in small towns and rural communities served only by community banks.

We urge Freddie Mac and its conservator, the FHFA, to drop this unfair low activity fee and to reconsider what constitutes a seller/servicer's low level of activity. We would be happy to discuss this further with you. Please contact Ron Haynie, Senior Vice President of Mortgage Finance Policy, at ron.haynie@icba.org if you have any questions or would like to discuss this matter in more detail.

We look forward to your response.

Sincerely,
/s/
Camden R. Fine
President & CEO
Independent Community Bankers of America

[2] Strategic Goal 2: Stability, Liquidity, and Access in Housing Finance
[3] Ibid.