



April 29, 2014

The Leadership Conference Views Regarding
S. 1217, the Housing Finance Reform and Taxpayer Protection Act

Dear Banking Committee Member:

On behalf of The Leadership Conference on Civil and Human Rights, we write to you regarding the upcoming markup of S. 1217, the Housing Finance Reform and Taxpayer Protection Act of 2014. While we are grateful to Chairman Tim Johnson (D-SD), Ranking Member Michael Crapo (R-ID), and their staff for their tireless efforts to reach a bipartisan consensus on the monumental task of reforming our nation's housing finance system, we are troubled by many of the details that we have seen in drafts of the legislation to date. **We believe the bill requires significant improvements before it can move forward in the legislative process.**

While the issue of housing finance reform involves a staggering number of complex technical issues, and touches upon the interests of nearly all Americans, The Leadership Conference has looked at S. 1217 in particular through the lens of how it impacts the constituency groups we represent. Throughout the past decade, low- and moderate-income Americans, particularly those in communities of color, have borne the worst effects of a housing bubble that steered countless creditworthy borrowers into unsuitable mortgage products, the subsequent foreclosure crisis that sent neighborhoods into downward economic spirals, and – in the years since – the constrictions on mortgage credit that have virtually shut out borrowers of color and kept them from contributing from a recovery in the housing market.

Even though communities of color are continuing to grow – and are expected to become the majority of new households by 2020 – they currently make up an abysmally low fraction of the mortgage marketplace. According to the most recent available Home Mortgage Disclosure Act data, there were 1.3 million conventional mortgage loans made in 2012; of those, Latinos received only 69,217 loans, African-Americans received 29,405 loans, and Asian American Pacific Islanders received 2,697 loans. There were 4.9 million refinance loans made in 2012, of which Latinos received 76,038, African-Americans received 75,785, and Asian American Pacific Islanders received 10,611.

For any housing finance reform proposal to succeed in its impact on communities of color, and not make existing problems even worse, it must begin with drastic improvements in ensuring the mortgage system serves all communities, upholds fair lending and housing laws, strikes an appropriate balance in underwriting loan products, and promotes affordable housing. On the last point, affordable housing, we are pleased that S. 1217 would significantly expand the funding for the National Housing Trust Fund and the Capital Magnet Fund, and create a Market Access Fund to promote new ways to reach potential homeowners. On the remaining points above, though, the language we have seen to date on S. 1217 raises significant concerns that would make it impossible for us to support the bill.

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As S. 1217 moves forward through the committee markup process, we strongly urge you to make significant improvements to the bill. The changes below are not exhaustive, but they would be vital to helping to address the concerns of the civil and human rights community with the most recent publicly available draft of the legislation.

Serving all markets: FMIC should set the differential fees at the beginning of each year so that market participants know how to evaluate them. Additionally, because the fee is an untested approach, the Office of Consumer and Market Access should develop metrics to evaluate whether it is meeting its objectives, and have the ability to make changes as needed within parameters set by the bill. Finally, market participants must not be permitted to “opt out” of providing credit in underserved markets if they wish to remain in the system and benefit from its protections.

Fair housing and fair lending: It is critical to clarify that all market participants benefiting from the government wrap are subject to the Fair Housing Act and Equal Credit Opportunity Act and to preserve HUD’s existing rule-writing and oversight authority for Fair Housing Act issues over secondary market entities. The FMIC structure should have a vigorous Office of Fair Lending to ensure that the new system supports these bedrock principles.

Broad access to affordable credit: FMIC’s purposes and enforcement authorities should extend to ensuring the broad and affordable availability of sustainable mortgage credit, including the 30-year, fixed-rate mortgage. Before the new system is certified, FMIC should be required to determine that bond guarantors are ready to cover all markets.

Flexibility in down payment requirements: A blanket down payment requirement can unnecessarily and unfairly restrict credit to low wealth borrowers. According to recent studies by the Corporation for Enterprise Development (CFED) and others, even middle-class Americans are experiencing historically low levels of savings that will make it harder to satisfy rigid down payment requirements. Yet studies show that properly-underwritten low down payment loans to low-wealth borrowers showed strong performance even through the most recent extreme credit cycle. Regulators should be able to exercise flexibility in the down payment requirements, such as through an exception authority for homebuyers who have completed pre-purchase housing counseling or who are in pilot programs under the Market Access Fund.

Thank you for hearing out our concerns, and for your continued tireless efforts on this extraordinarily complex issue. If we can be of any assistance, please contact either of us or Senior Counsel Rob Randhava at (202) 466-3311.

Sincerely,

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