April 17, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

The Honorable Kathleen L. Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street NW & Constitution Avenue NW
Washington, D.C. 20551

The Honorable Walter J. Clayton III
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

The Honorable Mark Calabria
Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

The Honorable Rodney Hood
Chairman
National Credit Union Administration
1772 Duke Street #4206
Alexandra, VA 22314

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street NW
Washington, D.C. 20581

The Honorable Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Washington, D.C. 20219

The Honorable Benjamin S. Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Dear Sirs and Madames:

Thank you for your ongoing work to help stabilize the U.S. economy and provide assistance to businesses and workers during the unprecedented national health emergency caused by the onset of the novel coronavirus (COVID-19).

The undersigned consumer, civil rights, real estate, and other organizations and individuals urge the Treasury Department and the Federal Reserve to develop and deploy one or more liquidity facilities through which mortgage servicers covering forborne consumer payments can obtain funding to cover potential shortfalls of advances to bondholders and other parties who are compensated from borrower payments during the declared emergency. Such liquidity assistance must be tied to borrower protections, as outlined below.

The CARES Act provided temporary forbearance of mortgage payments for consumers experiencing hardships created by the pandemic. While we believe there is more work to be done to stabilize borrowers, this limited and temporary access to forbearance should provide much-needed breathing room for consumers who have lost jobs and income through no fault of their own as the country battles COVID-19.

Widespread forbearance to consumers, however, creates a significant risk that mortgage servicers will face liquidity problems in the short run, which could lead to disruption for borrowers and the entire mortgage market. The Urban Institute estimates that the cost of forbearance on owner-occupied mortgages could range from $33 billion to $66 billion over six months. Without access to liquidity to help cover the contractually obligated advance payments associated with this National Emergency, the lending industry will not be able to advance these payments consistently at the extraordinary rate projected, undermining the existing relief efforts and requiring yet more government intervention.

A failure to provide liquidity access to servicers in the conventional and government-insured markets will expose consumers, lenders of all types, and independent mortgage servicers to unnecessary and unacceptable risks. If investors conclude that payments on MBS are in jeopardy because of liquidity shortfalls, the entire housing financing system could face a liquidity crisis that would threaten a very large part of the economy.

Low-wealth households, borrowers of color, and veterans are particularly at risk, as their loans are disproportionately guaranteed by Ginnie Mae. Consequently, ensuring that Ginnie Mae's servicers maintain liquidity while offering CARES Act forbearances has critical fair credit and equal opportunity implications. Ginnie Mae's commitment to implement fully a Pass Through Assistance Program to advance funds on principal and interest and create a servicing advance facility is helpful. But more work is still needed to meet the funding needs occasioned by escrow advances for taxes, insurance, and association fees, as well as the strain caused by advances on non-Ginnie Mae loans.

To serve as a force for long-term market stability, any facility must require servicers accessing its liquidity to adhere to the following requirements:

1. Services must use liquidity payments for borrower assistance by covering the funds not collected from borrowers that must be passed through to third parties. The payments should not be used for other purposes such as paying dividends or bonuses to executives. Fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full may not accrue during the period of forbearance.

2. Servicers must agree to offer uniform forbearance terms to all borrowers in their book with a COVID-related hardship, regardless of the investor to whom the payments are

owed. The terms may not offer less relief than required of servicers under Section 4022 of the CARES Act. The Urban Institute estimates that Section 4022 covers only about 70 percent of outstanding mortgages. Servicers who seek relief through a liquidity facility must be required to apply the same terms to the remaining 30 percent of the market that they service on portfolio or for private investors to the extent permissible under applicable pooling and servicing agreements.

3. Servicers must be required to offer a path to sustainable reinstatement at the conclusion of the forbearance period for borrowers willing and able to pay, so that no borrower is left worse off because of the forbearance. At a minimum, servicers must notify borrowers of and evaluate borrowers for all available loss mitigation options before the end of the forbearance period and before initiating a foreclosure and must offer options that correspond to a borrower's ability to repay.

4. Servicers must agree to adopt, implement, and monitor policies and practices to assure strict compliance with the Equal Credit Opportunity Act, Fair Housing Act, and all federal protections for consumers in protected classes. Assistance must be available to all consumers on the same terms regardless of race, ethnicity or other characteristics, and must support borrowers in all communities and housing markets. Servicers will need to maximize in-language assistance.

5. Servicers must agree to collect and report to the provider of the liquidity facility robust data on loss mitigation and foreclosures during and immediately after the national emergency. This data collection must include race, gender, ethnicity, census tract, age, disability status and other pertinent demographic information. The provider of the liquidity facility must publicly release aggregate data, including servicer-specific payments, on a quarterly basis, with appropriate safeguards to protect borrower privacy.

Respectfully,

Americans for Financial Reform Education Fund
Asian Real Estate Association of America
Center for Community Progress
Center for Disability Rights
Center for NYC Neighborhoods
Center for Responsible Lending
Community Legal Services of Philadelphia
Consumer Action
Consumer Federation of America
Consumer Reports
Empire Justice Center
Grounded Solutions Network
Mountain Lake Consulting, Hon. David H. Stevens, CEO
Mountain State Justice
NAACP

National Association of Hispanic Real Estate Professionals
National Association of Real Estate Brokers
National CAPACD
National Community Reinvestment Coalition (NCRC)
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
National Urban League
New Jersey Citizen Action
Northwest Side Housing Center
Prosperity Now
Terner Center for Housing Innovation, UC Berkeley
The Leadership Conference on Civil and Human Rights
UnidosUS