
FEDERAL HOUSING FINANCE AGENCY



NEWS RELEASE

For Immediate Release
July 12, 2010

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

FHFA Issues Subpoenas for PLS Documents

Washington, DC – FHFA, as Conservator of Fannie Mae and Freddie Mac (the Enterprises), has issued 64 subpoenas to various entities, seeking documents related to private-label mortgage-backed securities (PLS) in which the two Enterprises invested. The documents will enable the FHFA to determine whether PLS issuers and others are liable to the Enterprises for certain losses they have suffered on PLS. If so, the Conservator expects to recoup funds, which would be used to offset payments made to the Enterprises by the U.S. Treasury.

Fannie Mae and Freddie Mac share the critical mission of providing liquidity and stability to the Nation's secondary mortgage market. On September 6, 2008, FHFA placed both Enterprises into conservatorship with the purpose of preserving and conserving Enterprise assets.

Before and during conservatorship, the Enterprises sought to assess and enforce their rights as investors in PLS, in an effort to recoup losses suffered in connection with their portfolios. Specifically, the Enterprises have attempted to determine whether misrepresentations, breaches of warranties or other acts or omissions by PLS counterparties would require repurchase of loans underlying the PLS by the counterparties and whether other remedies might be appropriate. However, difficulty in obtaining the loan documents has presented a challenge to the Enterprises' efforts. FHFA has therefore issued these subpoenas for various loan files and transaction documents pertaining to loans securing the PLS to trustees and servicers controlling or holding that documentation.

"FHFA is taking this action consistent with our responsibilities as Conservator of each Enterprise," said FHFA Acting Director Edward J. DeMarco. "By obtaining these documents we can assess whether contractual violations or other breaches have taken place leading to losses for the Enterprises and thus taxpayers. If so, we will then make decisions regarding appropriate actions."

Congress provided FHFA with broad subpoena authority in the Housing and Economic Recovery Act of 2008. FHFA anticipates full compliance with the subpoenas but is prepared to take appropriate action to ensure compliance, if necessary.

Following are questions and answers that provide additional information.

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than \$5.9 trillion in funding for the U.S. mortgage markets and financial institutions.

Questions & Answers on FHFA Subpoenas

1. What is the authority to request this information?

The Housing and Economic Recovery Act of 2008 at Title 12, United States Code §§ 4617 and 4588, provides that the Conservator may issue subpoenas to carry out its duties.

2. How many subpoenas were issued?

The Conservator has issued 64 subpoenas to various entities in connection with carrying out its duty to preserve and conserve Enterprise assets.

3. What is the purpose of the subpoena(s)?

The subpoenas were issued to obtain loan files and other transaction documents pertaining to private-label mortgage-backed securities (PLS). The information will be analyzed to determine whether losses sustained by the Enterprises on the PLS are the legal responsibility of others.

4. Have the documents underlying all the PLS owned by the Enterprises been subpoenaed?

No. Documents have been subpoenaed only in connection with PLS that the Conservator currently intends to examine, which are not all of the PLS owned by the Enterprises.

5. Why are the subpoenas being issued now?

For many months the Enterprises have been working to obtain the documents necessary to determine whether loans and/or the servicing of loans underlying the PLS meet required standards, and to assess any claims arising from the failure of the loans or their servicing to meet those standards. FHFA now is utilizing an authority given to it by Congress for the purpose of preserving and conserving assets as the Enterprises' Conservator.

6. Why are all the subpoenas being issued at once?

As a matter of both fairness and completeness, it makes sense that PLS counterparties involved with the Enterprises receive subpoenas at the same time.

7. What if a subpoenaed company refuses to provide information in response to its subpoena?

The Conservator will consider its legal options in such a case. Congress has granted the Conservator broad powers to enforce its subpoenas.

(more)

8. Who is the target of the Conservator’s Investigation?

No entity is “targeted.” This is a financial inquiry, not an investigation or a lawsuit. The Conservator seeks the information to determine whether losses sustained by the Enterprises are the legal responsibility of others and to ensure that the obligations of the various parties involved have been met.

9. What companies are you subpoenaing?

The Conservator does not publicly release the identities of subpoenaed parties in connection with its inquiries.

10. Does the Conservator therefore intend to bring lawsuits once it has obtained the subpoenaed information?

It would be premature to speculate as to what the Conservator will do with the information received because the documents must first be inventoried, classified and analyzed.

11. How many documents are you seeking?

While there is no way to presently determine the number of loan and transaction documents that will be received, the Conservator anticipates that a significant number of documents will be provided.

12. What types of loan documents do you seek?

The Conservator is seeking the contents of loan files, which include documents used in the underwriting process, such as loan applications and property appraisals.

13. How long will the companies have to produce the documents?

The subpoenas provide thirty days after receipt for production of the documents.

14. Might other Conservator subpoenas be issued in the future? Why?

Possibly. These subpoenas are part of an ongoing inquiry by the Conservator, which may continue beyond the scope of the present subpoenas. Based upon developments in connection with information obtained with these subpoenas, other subpoenas may be issued.