CENTER FOR RESPONSIBLE LENDING

December 27, 2011

Federal Housing Finance Agency
1700 G Street, NW
4th Floor
Washington, DC 20552

Via Electronic Submission

RE: Comments of the Center for Responsible Lending on the Federal Housing Finance Agency Joint Initiative on Mortgage Servicing Compensation, Alternative Mortgage Servicing Compensation Discussion Paper

Ladies and Gentlemen:

The need for mortgage servicing reform is urgent and all too well known. For at least a decade, community-based organizations, housing counselors, and advocates around the country have documented a pattern of unprofessional, abusive, and illegal practices by many mortgage servicers whose staff are trained for collection activities rather than loss mitigation and whose infrastructure cannot handle the present level of demand. The result has been both widespread servicing errors, as when borrowers are confronted with inflated mortgage balances, and unnecessary foreclosures before loss mitigation measures have been fully considered. All of this has burdened ordinary families, the taxpayers and the economy as a whole. As conservator of the Government Sponsored Enterprises, Federal Housing Finance Agency (FHFA) has the mandate and the opportunity to improve servicing practices and ensure that consumer interests are appropriately protected.

The Center for Responsible Lending commends the FHFA for its leadership in attempting to reform servicing compensation practices, which can help safeguard against future servicing abuse and avoid some of the misaligned incentives that have led to perverse results. Without endorsing either mortgage servicing compensation approach under consideration, we submit these comments to emphasize the importance of ensuring that any approach is structured and implemented to incent and require servicers to treat consumers fairly, whether a loan is performing or delinquent.

With this in mind, we suggest that any compensation approach should meet the following objectives:

1) **Support high quality customer service by incenting servicers to invest in appropriate infrastructure to manage both performing and non-performing loans.** Servicer compensation and standards should encourage adequate staffing and training to ensure appropriate consumer contact, loss mitigation analysis, and handling of performing and non-performing loans. It is not clear how either the Reserve Account Proposal or Fee-for-Service Proposal would ensure adequate investment in servicing infrastructure.

2) **Promote timely and effective loss mitigation measures, including sustainable loan modifications for borrowers in default.** Servicers must be adequately compensated and incented to undertake a thorough loss mitigation analysis, including a net-present-value (NPV) analysis of loan modification, and to implement sustainable loan modifications.

3) **Avoid incenting servicers to allow struggling homeowners to fall into delinquency that could be avoided by responsiveness and timely intervention.** Servicers must be incented to work appropriately with struggling homeowners before they default, particularly if FHFA chooses a structure that pays servicers more when borrowers become delinquent.

4) **Discourage servicers from engaging in abusive and unfair practices such as imposition of improper fees or expensive insurance policies on delinquent borrowers.** Servicers sometimes charge unlawful or excessive default-and delinquency-related fees. Servicers may charge the borrower's account even when the borrower's insurance has not lapsed, or allow a previous insurance policy to lapse and subsequently force-place a different and more expensive policy. The current compensation paradigm in which servicers may charge and collect a variety of fees after a homeowner goes into default and recover the full amount of those fees from the foreclosure proceeds encourages improper fees and charges and, in some cases, a race to foreclosure. The Agency should carefully consider which default-related fees will be permitted under its compensation scheme and enforce penalties on servicers who improperly charge borrowers or force-place above-market insurance policies.

We commend FHFA for its focus on servicer reform. We urge the Agency to emphasize the importance of ensuring fair treatment of consumers, and to incorporate the above objectives into any new compensation design.

Respectfully submitted,

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