



# OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

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## OFFICE OF THE DIRECTOR

November 8, 2007

The Honorable Andrew M. Cuomo  
New York State Attorney General  
120 Broadway  
New York City, NY 10271

Dear Attorney General Cuomo:

I read with interest and concern the letters you sent to Fannie Mae and Freddie Mac and your associated press release, and listened to your press conference as well. As the former Secretary of HUD, you know that the Office of Federal Housing Enterprise Oversight (OFHEO) is the federal safety and soundness regulator of Fannie Mae and Freddie Mac, the two government-sponsored Enterprises (GSEs) chartered by Congress to provide support and stability to the nation's secondary mortgage market.

OFHEO shares your concerns about fraudulent appraisals and their impact on the mortgage markets and homeownership. Additionally, we have a core interest in the safety and soundness of the Enterprises. These allegations of appraisal fraud are a serious matter to the Enterprises and OFHEO and require vigilant attention by all relevant government agencies. Active and early consultation is appropriate in such circumstances.

After reviewing these materials, I feel that you and your staff may not fully understand the differences between the mortgage-backed securities (MBS) issued by the GSEs and those issued by other entities. In particular, unlike the issuers of private label MBS, when Fannie Mae or Freddie Mac issues an MBS, they retain the credit risk on the underlying mortgages by guaranteeing repayment to MBS holders. Consequently, they have no economic incentive to knowingly purchase or guarantee mortgages with inflated appraisals. The two firms already have programs in place to prevent this and other types of mortgage fraud as well as contract terms to put back mortgages in such situations to the primary lender. For the past several years, OFHEO has been working with the two firms as they have continued to improve these anti-fraud programs.

I am disappointed that your office did not contact OFHEO before or even after subpoenaing the GSEs and issuing certain threats regarding their future business activity. As I see it, we each have responsibility, as part of our respective mandates, to help ensure that fraud is not perpetrated on mortgage borrowers or on market participants. Pursuing this mutual goal will be more effectively accomplished, at less disruption to the integrity and soundness of the mortgage market, by cooperation. Indeed, it is OFHEO's mission to promote housing and a strong national housing finance system by ensuring the safety and soundness of Fannie Mae and Freddie Mac.

Given the importance of the mortgage markets to the U.S. and world economies, we need to meet with you at your earliest convenience. Some of the issues we believe need to be discussed include:

- The Enterprises' efforts to monitor and prevent appraisal fraud and OFHEO's oversight of that activity. As you know, there is pervasive Federal law, regulation and guidance about appraisal fraud.
- Your demand that two federally-chartered and federally-regulated Enterprises cease doing business with a major federally-chartered bank, which you have not charged or subpoenaed, unless certain conditions stipulated by you are met.
- The scope, authority and supervision of the independent examiner, which we will also be discussing with the Enterprises.
- The potential expansion of the examination to other financial institutions from which the Enterprises buy mortgages.
- Since purchasers of the Enterprises' MBS receive a corporate guarantee of repayment from the Enterprises, whether this issue is more of a safety and soundness matter than a securities issue.

Again, OFHEO shares your concern that mortgage fraud, including fraudulent appraisals, be eliminated. I also recognize that the mortgage market in recent months has been subject to much turmoil. I believe that all relevant government agencies shoulder a responsibility to eliminate fraudulent and otherwise bad actors from the market while also respecting the many legitimate parties – borrowers, appraisers, lenders, and investors – trying to participate in this market during this uncertain period. We need not aggravate the latter in pursuit of the former.

I look forward to hearing from you soon and discussing ways that we and our staffs can work together on addressing these issues that are important to all of us.

Sincerely,



James B. Lockhart III  
Director