ORAL ARGUMENT HELD ON APRIL 15, 2016

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PERRY CAPITAL LLC, Appellant, v. JACOB J. LEW, et al., Appellees.	Nos. 14-5243 (L), 14-5254 (con.), 14-5260 (con.), 14-5262 (con.)

PLAINTIFFS-APPELLANTS' MOTION FOR FURTHER JUDICIAL NOTICE AND SUPPLEMENTATION OF THE RECORD

Plaintiffs-Appellants in cases 14-5243 and 14-5254 respectfully move the Court to take judicial notice of, and supplement the record on appeal with, the additional documents that are attached to this motion. These materials were produced in discovery in *Fairholme Funds, Inc. v. United States*, No. 13-465 (Fed. Cl.), and recently became public (the "Protected Information" designation was removed from these documents last week, and they soon thereafter became publicly available). The Court may consider the documents for reasons explained in Fairholme's briefing on its earlier motion for judicial notice, *see* Fairholme's Sealed Mot. for Judicial Notice & Supplementation of the Record at 3–6, 18–20 (July 29, 2015); Fairholme's Sealed Reply in Supp. of Its Mot. for Judicial Notice & Supplementation of the Record at 7–10 (Aug. 31, 2015), as they confirm that

Defendants exceeded their authority by imposing the Net Worth Sweep for the patently unlawful purposes of enriching Treasury and *prohibiting* the Companies from rebuilding capital and returning to a sound and solvent condition, *see* Initial Opening Brief for Institutional Plaintiffs at 33–47, 61–67 (June 29, 2015).

Among the newly released documents, emails sent by James Parrott, a White House official who was intimately involved in the development and rollout of the Net Worth Sweep, confirm that the Net Worth Sweep was in direct contravention to FHFA's duties as conservator. For example, on August 17, 2012—the same day the Net Worth Sweep was enacted—Mr. Parrott indicated in an email exchange with Congressional staff that the purpose of the Net Worth Sweep was "ensuring that [the Companies] can't recapitalize" by "clos[ing] off [the] possibility that they every [sic] go (pretend) private again." UST00503991, UST00503992 (Exhibit 1, A002, A003). That same day, Mr. Parrott told "fellow traveler" Peter Wallison of the American Enterprise Institute that the Net Worth Sweep would ensure that the Companies "can't repay their debt and escape" and said that Mr. Wallison's comments to Bloomberg News were "exactly right on substance and intent." UST00061068 (Exhibit 2, A007); UST00503987 (Exhibit 3, A010). Earlier that day, Mr. Wallison had told Bloomberg News that:

> [t]he most significant issue here is whether Fannie and Freddie will come back to life because their profits will enable them to re-capitalize themselves and then it will look as though it is feasible for them to return as private companies backed by the government . . . What the

> Treasury Department seems to be doing here, and I think it's a really good idea, is to deprive them of all their capital so that doesn't happen.

Cheyenne Hopkins & Clea Benson, *U.S. Revises Payment Terms for Fannie Mae, Freddie Mac*, BLOOMBERG, Aug. 17, 2012, http://goo.gl/1YQhqE.

Mr. Parrott's endorsement of those comments directly contradicts Defendants' representations to the district court (e.g., that the Net Worth Sweep was enacted to avoid a "downward spiral") and makes clear that the Net Worth Sweep was imposed for a perverse and illegitimate reason: the Companies were becoming *too profitable* for Defendants to accomplish their actual goal of preventing the Companies from being rehabilitated and operating in a sound manner, i.e., with capital and in accord with FHFA's obligations as conservator. Treasury's own internal Q&A document, dated August 16, 2012, underscores Treasury's objective: "By taking all of their profits going forward, we are making clear that the GSEs will <u>*not*</u> ever be allowed to return to profitable entities . . . ." UST00554584 (Exhibit 4, A015) (emphasis in original). And on August 18, 2012, Mr. Parrott tellingly described the Net Worth Sweep in an email to his team at Treasury as a "very high risk exercise" and a "policy change of enormous importance." UST00503985 (Exhibit 5, A027). In this litigation and elsewhere, Defendants have sought to characterize the Net Worth Sweep as a mere modification of the PSPAs that did not change "the[ir] underlying economics," Decl. of Mario Ugoletti ¶ 19, JA2418 at JA2426 ("Ugoletti Decl."), but Mr.

Parrott's email highlights the transformational and intentional nature of the Net Worth Sweep. Together these documents underscore Institutional Plaintiffs' arguments at the district court and on appeal that the Net Worth Sweep—by design and effect—is diametrically opposed to FHFA's statutory charge as conservator (and an end-run around HERA's statutory priority scheme for liquidation of the GSEs in receivership).

Other documents further confirm that Treasury fully anticipated the accounting adjustments that dramatically increased the Companies' net worth soon after the Net Worth Sweep went into effect. As early as May 2012, Treasury was discussing "returning the deferred tax asset to the GSE balance sheets." UST00405880 (Exhibit 6, A029); *see* Initial Opening Brief for Institutional Plaintiffs 12 (discussing deferred tax assets). In July 2012, a Treasury official observed that releases of loan loss reserves could "increase the [Companies'] net [worth] substantially." UST00406876 (Exhibit 7, A033). And Treasury's number one question for the Companies when it met with their senior management on August 9, 2012, was "how quickly they forecast releasing credit reserves." UST00556835 (Exhibit 8, A035). This evidence provides context for another document, which indicates that an FHFA official perceived "a renewed push" by Treasury "to move forward on PSPA amendments" on August 9, the day Treasury's meetings with Fannie's and Freddie's management occurred.

FHFA00031696 (Exhibit 9, A044). It is thus apparent that Defendants knew that Treasury would reap massive, windfall profits from the Net Worth Sweep and that this fact—together with a desire to permanently prevent the Companies from rebuilding capital and returning to soundness and solvency—was the true rationale for the agency action at issue in this case.

The forward-looking statements regarding future earnings in Fannie's August 8, 2012, 10-Q do not undermine this conclusion. *See* Oral Arg. Tr. 16:10–17:12 (Apr. 15, 2016) (Exhibit 10, A048–A049). First, those statements do not conflict with the conservative projections that Fannie's Chief Financial Officer Susan McFarland presented to Treasury on August 9. The projections show Fannie generating average comprehensive income of over $11 billion per year from 2012 through 2022, with the possibility of small draws to pay cash dividends to Treasury (cumulatively representing less than 7% of the total commitment outstanding in 2012) in years with potentially less robust earnings. UST00532144 (Exhibit 11, A059). In other words, as one Fannie Mae executive commented during a July 2012 board meeting (the minutes of which were forwarded to FHFA officials), the "next 8 years" after 2012 were likely to be "the golden years of GSE earnings" and strong profitability. FHFA00047889 (Exhibit 12, A063).

Second, any prospect of incremental draws from Treasury's funding commitment would certainly not cause a "death spiral," as Defendants have repeatedly asserted below, on appeal, and in other courts: Ms. McFarland's projections showed that more than $116 billion of Treasury's funding commitment for Fannie alone would remain available in 2022. And given the payment-in-kind option (which permits Fannie and Freddie to pay Treasury with securities, instead of cash), there was no requirement to initiate draws to pay *any* cash dividends. *See* FHFA00083260 (Exhibit 13, A068) (notifying FHFA and Treasury in 2008 of option under PSPAs to "pay cash [dividends] at 10 percent or accrue at 12 percent as a matter of policy").

Importantly, the projections do <u>not</u> include the release of Fannie's deferred tax assets valuation allowance, which, consistent with Ms. McFarland's statements and applicable accounting rules, added over $50 billion in capital to Fannie's balance sheet in early 2013 (that was promptly swept to Treasury). The recently released information discovered in the Court of Federal Claims further demonstrates that Treasury knew that the Companies' deferred tax assets valuation allowances would soon be released when it adopted the Net Worth Sweep. The release of the valuation allowances, coupled with earnings from Fannie's and Freddie's operations and other items (such as sizable litigation recoveries), would have provided a substantial capital buffer to protect the Companies from the consequences of any adverse scenarios in the foreseeable future. Indeed, but for the Net Worth Sweep, Fannie and Freddie would now have approximately $125 billion in additional capital on their balance sheets that has instead been swept to Treasury.

Portions of the deposition transcripts of two Treasury officials that are among the newly released documents also support Plaintiffs' argument that Treasury unlawfully directed FHFA to enter the Net Worth Sweep. *See* Initial Opening Br. for Institutional Plaintiffs 75–76. For example, Treasury made no contingency plans for the possibility that FHFA might refuse to give away the entire economic value of the Companies it is statutorily charged with rehabilitating. Transcript of Bowler Deposition at 126:10–19 (July 1, 2015) (Exhibit 14, A072); Transcript of Foster Deposition at 134:20–135:2 (July 14, 2015) (Exhibit 15, A076–A077). It was apparently a foregone conclusion to Treasury that FHFA would follow Treasury's lead and agree to the Net Worth Sweep, regardless of whether the arrangement exceeded FHFA's statutory authority as conservator.

Finally, these documents further undermine the veracity of the sworn declaration by Mario Ugoletti to the district court stating, on behalf of FHFA, that "the intention of the [Net Worth Sweep] was not to increase compensation to Treasury." Ugoletti Decl. ¶ 19, JA2426. Treasury's August 16, 2012, internal Q&A document highlights the Companies' "improving operating performance" and "potential for near-term earnings to exceed the 10% dividend" as among the reasons for "putting in place a better deal for taxpayers" by promptly adopting the Net Worth Sweep. UST00554583, UST00554590 (Exhibit 4, A014, A021). Significantly, *none* of the financial projections that Defendants submitted to the district court showed Treasury receiving greater dividends under the Net Worth Sweep than it would have received under the prior arrangement. In other words, Treasury's statement the day before the Net Worth Sweep was announced that it expected to profit from the change reflects a more optimistic assessment of the Companies' future prospects than any of the financial projections Defendants submitted to the district court. It is thus apparent that by the time the Net Worth Sweep was announced, Treasury had repudiated those earlier projections and expected the Companies' near-term profits to exceed their 10% cash dividends.[1]

These documents show that, contrary to Defendants' misleading submissions to the district court, the Net Worth Sweep was adopted for the improper purposes of awarding windfall profits to Treasury *and* preventing the Companies from rebuilding capital and returning to a sound and solvent condition. These aims are

[1] The newly released documents also demonstrate the falsity of the assertion in Mr. Ugoletti's declaration that "[a]t the time of the negotiation and execution of the Third Amendment, the Conservator and the Enterprises had not yet begun to discuss whether or when the Enterprises would be able to recognize any value to their deferred tax assets." Ugoletti Decl. ¶ 20, JA2426. Indeed, according to a May 29, 2012 meeting agenda, Treasury was focused on the issue of "[r]eturning the deferred tax asset to the GSE balance sheets," and planned to discuss that issue with FHFA and the GSEs in early June. UST00405880 (Exhibit 6, A029).

antithetical to Defendants' statutory responsibilities under HERA, and the Net Worth Sweep must be set aside.

May 25, 2016

Respectfully submitted,

/s/ Charles J. Cooper
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CERTIFICATE OF SERVICE

I hereby certify that, on this 25th day of May 2016, I electronically filed the original of the foregoing document with the clerk of this Court by using the CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: May 25, 2016

/s/ Charles J. Cooper
Charles J. Cooper

ORAL ARGUMENT HELD ON APRIL 15, 2016

Nos. 14-5243 (L), -5254 (con.), -5260(con.), -5262(con.)

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PERRY CAPITAL LLC,

Appellant,

v.

JACOB J. LEW, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

APPENDIX TO MOTION FOR FURTHER JUDICIAL NOTICE AND SUPPLEMENTATION OF THE RECORD

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APPENDIX TABLE OF CONTENTS

EXHIBIT 1

From: Bowler, Timothy
Sent: Friday, August 17, 2012 3:42 PM
To: Parrott, Jim

I focused on contract and build....

FHFA identifies three strategic goals for the next phase of the conservatorships:
- **Build.** Build a new infrastructure for the secondary mortgage market;
- **Contract.** Gradually contract the Enterprises' dominant presence in the marketplace while simplifying and shrinking their operations; and
- **Maintain.** Maintain foreclosure prevention activities and credit availability for new and refinanced mortgages.

From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 3:20 PM
To: Bowler, Timothy
Subject: RE: Garrett Statement on Treasury Decision to Amend Terms of Fannie and Freddie Bailout

will call him, but this the right answer?

we've closed off possibility that they every go (pretend) private again and sped up the clock on the wind-down of their portfolio, all while increasing the stability of the market by removing concern that these guys run out of support before we have a place to which to transition.

from below seems like you'd want to give up on some or all of that to force Congress to make a decision. strikes me as mighty high risk (and pessimistic about the prospects that we, collectively, would want to sort this out).

From: Russell, Chris [mailto:Chris.Russell@mail.house.gov]
Sent: Friday, August 17, 2012 2:34 PM
To: Parrott, Jim
Subject: Re: Garrett Statement on Treasury Decision to Amend Terms of Fannie and Freddie Bailout

Preference is not to have two defacto public utilities with a $274 bill capital cushion

Where is the impetus now to deal with the issue? The dividends were initially set like that for a reason

In regards to them keeping additional profits, in my mind that is only an accounting issue, gov recoups now (per new method) or later when we liquidate them and then realize those gains for the taxpayer

As far as market perception, I don't think current yields on agencies indicate any additional concerns by investors - and I think it's a good thing if investors realize they won't always have 90 percent of mortgage market going through government, then there might be incentives for market participants to develop some new methods to get mortgages to investors

If I am a potential issuer now, what incentive do j have with a higher regulatory burden via dfa and higher costs vs gse's?? None

Does this make sense?

Sent from my iPhone

On Aug 17, 2012, at 2:05 PM, "Parrott, Jim" <James_M_Parrott@who.eop.gov> wrote:

> your preference would be to continue to have them pay a dividend that in any given month either requires them to eat into their headroom under the caps (after next year), scaring the hell out of the market, or pays less than their profits in that quarter, allowing them to recapitalize? idea being, I guess, that the former will force congress to act?
>
> **From:** Russell, Chris [mailto:Chris.Russell@mail.house.gov]
> **Sent:** Friday, August 17, 2012 1:57 PM
> **To:** Parrott, Jim
> **Subject:** Re: Garrett Statement on Treasury Decision to Amend Terms of Fannie and Freddie Bailout
>
> It MIGHT be net positive WHEN they r turning a profit
>
> But based on the discussions I had this morning with other experts in the field, the consensus is that this essentially removes any pressure points to do something eventually with them and puts it well after 16. As u well know, politicians sometimes don't act unless they are forced to
>
> Happy to talk with u on it whenever
>
> 202-870-8348
>
> Sent from my iPhone
>
> On Aug 17, 2012, at 1:37 PM, "Parrott, Jim" <James_M_Parrott@who.eop.gov> wrote:
>
>> must say that this caught me by surprise. we're not reducing their dividend but including in it every dime these guys make going forward and ensuring that they can't recapitalize.
>>
>> if there's any misunderstanding give me a shout- glad to loop you into cap markets folks to clarify.
>>
>> **From:** Rice, Adam [mailto:Adam.Rice@mail.house.gov]
>> **Sent:** Friday, August 17, 2012 12:52 PM
>> **To:** Rice, Adam
>> **Subject:** Garrett Statement on Treasury Decision to Amend Terms of Fannie and Freddie Bailout
>>
>> <image001.jpg>
>>
>> FOR IMMEDIATE RELEASE Contact: Amy Smith
>> August 17, 2012 Phone: 202-225-4465

Garrett Statement on Treasury Decision to Amend Terms of Fannie and Freddie Bailout

WASHINGTON, DC – Rep. Scott Garrett (R-NJ), Chairman of the House Financial Services Subcommittee on Capital Markets and Government-Sponsored Enterprises issued the following statement today after the Treasury Department announced a plan to reduce the dividend rate paid to the Secretary of the Treasury on senior preferred stock of Fannie Mae and Freddie Mac:

"Today's announcement from the Treasury Department is yet another example of the Obama Administration continuing to kick-the-can on important policy decisions instead of working with Congress to enact meaningful reform. The reduction of the dividend payments for Fannie Mae and Freddie Mac will ensure the American taxpayers remain on the hook for the bailout of these two failed institutions for the foreseeable future. The crony-capitalism that has become a centerpiece of the Administration's failed economic policy must come to an end. This decision is a slap in the face to the hardworking American taxpayers who deserve to be compensated and fully repaid for their dollars that fueled the government takeover of the mortgage twins. Instead of devoting time and energy towards prolonging bailouts, the Obama Administration should work with Congress to wind these companies down and create a new and sustainable housing finance system where taxpayers are not at risk."

###

EXHIBIT 2

From: Parrott, Jim <James_M_Parrott@who.eop.gov>
Sent: Saturday, August 18, 2012 10:37 AM
To: Bowler, Timothy
Subject: Re: PSPAs

K- thx.

----- Original Message -----
From: Timothy.Bowler@treasury.gov [mailto:Timothy.Bowler@treasury.gov]
Sent: Saturday, August 18, 2012 10:24 AM
To: Parrott, Jim
Subject: RE: PSPAs

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Saturday, August 18, 2012 10:23 AM
To: Bowler, Timothy
Subject: Re: PSPAs

----- Original Message -----
From: Timothy.Bowler@treasury.gov [mailto:Timothy.Bowler@treasury.gov]
Sent: Saturday, August 18, 2012 10:09 AM
To: Parrott, Jim
Subject: RE: PSPAs

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 11:07 PM
To: Bowler, Timothy
Subject: Fw: PSPAs

----- Original Message -----
From: Peter J. Wallison [mailto:PWallison@AEI.org]
Sent: Friday, August 17, 2012 10:59 PM
To: Parrott, Jim
Subject: RE: PSPAs

That could be a problem. From the perspective of the budget, if Congress were to eliminate them it would be eliminating a revenue source. If principal were amortized that problem would eventually go away.

Peter J. Wallison
Arthur F. Burns Fellow in Financial Policy Studies American Enterprise Institute
(o) 202-862-5864
(f) 202-862-4875

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 10:53 PM
To: Peter J. Wallison; 'Timothy.Bowler@treasury.gov'
Subject: Re: PSPAs

No principal is written down no matter what the quartely payment is. Dividend is variable, set at whatever profit for quarter is, eliminating ability to pay down principal (so they can''t repay their debt and escape as it were).

----- Original Message -----
From: Peter J. Wallison [mailto:PWallison@AEI.org]
Sent: Friday, August 17, 2012 09:36 PM
To: Parrott, Jim; 'Timothy.Bowler@treasury.gov' <Timothy.Bowler@treasury.gov>
Subject: RE: PSPAs

One question: Do the dividend payments amortize principal, and if so how? For example, if the 10% dividend rate were in effect, a payment of more than 10% would amortize principal, but from the press release it sounds as though the profits that are swept into Treasury are replacing the 10% dividend.

Peter

Peter J. Wallison
Arthur F. Burns Fellow in Financial Policy Studies American Enterprise Institute
(o) 202-862-5864
(f) 202-862-4875

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 8:30 AM
To: Alex J. Pollock; Peter J. Wallison; Edward Pinto
Cc: 'Timothy.Bowler@treasury.gov'
Subject: PSPAs

Hey guys. If you're interested, be glad to talk you through the changes we're announcing on pspas today.

Feel like fellow travelers at this point so I owe it to you.

Just let me know, and suggest a few times. I'm also looping Tim, who runs the capital markets show over at Tsy and is more adept at the mechanics should we want to go there.

EXHIBIT 3

From: Bowler, Timothy
Sent: Friday, August 17, 2012 10:53 PM
To: james_m_parrott@who.eop.gov
Subject: Re: Re:

Yes

----- Original Message -----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 07:05 PM
To: Bowler, Timothy
Subject: Fw: Re:

?

----- Original Message -----
From: Peter J. Wallison [mailto:PWallison@AEI.org]
Sent: Friday, August 17, 2012 07:05 PM
To: Parrott, Jim
Subject: RE: Re:

Incidentally, Jim, as the portfolios are wound down on an accelerated basis, are profits from that also paid to the Treasury as dividends?

Peter J. Wallison
Arthur F. Burns Fellow in Financial Policy Studies American Enterprise Institute
(o) 202-862-5864
(f) 202-862-4875

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 6:55 PM
To: Peter J. Wallison
Subject: Re:

Thanks- helpful to hear that from you.

And lord knows it's not too late to talk to friends on the hill- they seem a bit misdirected.

Take care.

----- Original Message -----
From: Peter J. Wallison [mailto:PWallison@AEI.org]
Sent: Friday, August 17, 2012 06:43 PM
To: Parrott, Jim
Subject: RE:

Thanks, Jim. I'm sorry that I was out of touch here in Colorado most of the morning. I saw the Treasury press release, and responded to a call from Bloomberg, but did not have an opportunity to discuss my views with friends on the Hill. I thought this was the best move that could have been made under the circumstances. It removes the advantages of delay, which were on the side of F&F's boosters. Nice work.

Very best, Peter

Peter J. Wallison
Arthur F. Burns Fellow in Financial Policy Studies American Enterprise Institute
(o) 202-862-5864
(f) 202-862-4875

-----Original Message-----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Friday, August 17, 2012 6:01 PM
To: Peter J. Wallison
Subject:

Good comment in Bloomberg- you are exactly right on substance and intent.

EXHIBIT 4

PSPA Amendment Q&As

Table of Contents

KEY FRAMING / TALKING POINTS

- We are announcing steps to wind-down the enterprises more quickly and responsibly and make sure they are not allowed to recapitalize and return to the market in their prior form.
- First, we will increase the minimum amount by which they wind-down their portfolios from 10 percent to 15 percent a year, which will mean they hit their wind down target four years earlier than currently scheduled.
- Second, each year, both enterprises will have to submit to Treasury a detailed plan to reduce taxpayer exposure to the mortgage market, which will help us manage their wind-down thoughtfully and responsibly.
- And third, we are replacing the circular 10 percent annual dividend obligation with a quarterly sweep of all of their net income in that period, so that every dollar of profit they make goes back to the taxpayer. That full income sweep will mean that Fannie Mae and Freddie Mac *will be not be allowed* to retain their profits, rebuild capital, and return to the market in their prior form.
- In making these changes, Treasury is protecting the taxpayers' interest and supporting the continued flow of mortgage credit to households during a time of ongoing market stress.

And for capital markets folks:

- By reducing the GSEs' need to continue to borrow unnecessarily from the Treasury to pay the dividend, gradually chipping away at their caps, these changes will also enable the GSEs to provide consistent, reliable support to the mortgage market as we wind them down and transition to a new system in the years to come.

MOST CHALLENGING QUESTIONS

1. Aren't you giving up a 10 percent dividend owed to taxpayers to prop up the GSEs?

- This is wrong. We are putting in place a better deal for taxpayers.
- This is because, going forward, each of these entities pays the taxpayer back all the profit they make -- not just a 10 percent dividend.
- Today, when a GSE loses money, it has to borrow money from Treasury to pay Treasury back – a circular process that isn't helping taxpayers. And when the GSEs make a profit, as they did last quarter, they don't have to pay all of that back to taxpayers.
- The new arrangement changes that – it ends the shell game and makes sure that all profit goes where it should, to repaying taxpayers.

2. You say you are requiring they pay back all profits, but the agreement creates a $3 billion reserve fund for the GSEs? Why?

- This agreement requires that the GSEs return all profits back to the taxpayer, period.
- Over the next five years, a modest, temporary reserve account will protect taxpayers from having to inject more capital into the GSEs due to short term swings in earnings.

- But 100 percent of the funds in the reserve account, and 100 percent of the profit of these entities generate, will be returned to Treasury and ultimately to taxpayers.

3. Why didn't you use your leverage in negotiating this arrangement to force the GSEs to do principal reduction?

- As you know we have been aggressive and public in our position that the FHFA should allow the GSEs to provide principal reduction.
- While we remain adamant that that is the right position, and disappointed with FHFA's response to date, as an independent regulator and conservator of the two GSEs, FHFA is solely responsible for the ultimate decision whether the GSEs can participate or not.
- The PSPA amendments, which require the agreement of both Treasury and the FHFA, do not change that fact. We will continue to advocate for their participation, but it is ultimately up to FHFA.

4. Does this change simply open the door to keeping the GSEs on perpetual life support rather than winding them down?

- The opposite is true. With today's announcement, we are achieving three key things:
  - We are accelerating our commitment to responsibly wind down the GSEs and end forever their flawed model of privatized benefits and socialized losses;
  - By requiring the GSEs to increase the pace of reducing their retained portfolios from 10 percent to 15 percent per year, we are accelerating that wind down;
  - We are mandating the development of an annual plan that details the steps the GSEs will take to reduce their financial and operational risk profile
- By taking all of their profits going forward, we are making clear that the GSEs will *not* ever be allowed to return to profitable entities at the center of our housing finance system.
- Reinforces the Administration's commitment to responsibly wind down these institutions and replace them with a system driven by private capital with lower risk to taxpayers.

GENERAL QUESTIONS

5. What were the last terms of the Senior Preferred Stock Purchase Agreements (PSPAs)?

- When the GSEs were put into conservatorship in 2008, Treasury entered into a Preferred Stock Purchase Agreement with each GSE in order to protect the housing market.
- In any quarter when the GSEs' assets were less than their liabilities, Treasury agreed to provide capital, in the form of senior preferred stock, to ensure the GSEs' solvency.
- The dividend rate on the senior preferred stock is currently 10% and will be changed to a "net worth sweep" as a result of the modification announced today.
- To date, Treasury has provided $116.2 billion of capital to Fannie Mae and earned $25.4 billion of dividends, and provided $71.3 billion of capital to Freddie Mac and earned $20.1 billion of dividends.

6. What does this agreement change?

- *Replace the fixed 10 percent dividend with a net worth sweep dividend* – Quarterly dividend payments starting in 2013 will equal the positive net worth of the GSEs (i.e., GAAP assets less liabilities at quarter end), less a defined Capital Reserve Amount.
- *Accelerate the wind-down of the retained investment portfolios* – The required reduction rate for the retained investment portfolios will be increased to 15 percent from 10 percent per annum beginning at year-end 2013 (from a base amount of $650 billion at year end).
    - The annual cap will decline from $650 billion at year end 2012 to $250 billion in 2018 ($250 billion is the "wind down" target in the existing PSPA)
    - Under the existing agreement, the $250 billion cap will not be reached until 2022
    - *Note: the current retained portfolio size at Fannie Mae is $673 billion and the retained portfolio size at Freddie Mac is $581 billion (as of June 30, 2012).*
- *Require an annual taxpayer protection plan be delivered to Treasury* – In order to help protect taxpayers from future losses, each year the GSEs will submit a plan that details the steps it will take to reduce the financial and operational risk profile associated with both their mortgage guarantee and retained investment portfolio businesses
- *Suspend the Periodic Commitment Fee setting process* – Treasury will continue to suspend setting any Periodic Commitment Fee, which is an optional fee not utilized to date intended as an additional means to compensate taxpayers for the financial support that Treasury provides to the GSEs through the PSPAs. This fee is no longer relevant because the GSEs will now be paying all of their profits to Treasury.
- *Allow for more flexibility when making non ordinary course asset and property sales less than $250 million in fair market value without prior written consent from Treasury* – Previously, Treasury had to give prior written consent before the GSEs may sell any assets and properties outside of the GSEs' "ordinary course" of business. In order to facilitate a more rapid wind-down of the GSEs' legacy assets, the change will provide the GSEs and FHFA with the flexibility to sell blocks of assets under $250 million without Treasury's written consent.

7. When will these changes become effective?

- The amendment is effective immediately, and the dividend payment change first applies to the GSEs' financial results as of March 31, 2013 (i.e. the end of the first quarter).

8. What is the purpose, necessity and benefits of these changes?

- In making these changes, Treasury has sought to achieve two key objectives: (1) protecting the taxpayers' interest, and (2) ensuring the continued flow of mortgage credit to households during a time of ongoing market stress.
- The proposed modification has several benefits.
    - Taxpayers will receive every dollar of profit the GSEs make.
    - It reduces the risk of future draws under the PSPAs as future draws will only be needed to fund operating losses.

- This eliminates the circularity associated with the GSE's drawing from Treasury in order to pay Treasury the 10 percent dividend.

  - Preserves remaining capacity for its original intended use – to support the financial capacity of the GSEs so they can continue providing mortgage finance to families.
  - Provides financial clarity for investors in the GSEs MBS & debt instruments.

9. How much PSPA funding capacity is remaining for each GSE?

- After 2012, the funding capacity cap under the PSPAs will be fixed permanently, and the remaining PSPA funding capacity will be limited to approximately $149 billion for Freddie Mac and $125 billion for Fannie Mae.

10. Without this amendment, would the GSEs have become insolvent? If so, when?

- The GSEs' future earnings will depend upon a variety of factors, including the pace of repair and recovery in the housing market, the path of home prices, and how those firms our wound down.
- In some quarters, such as the most recent quarter, the GSEs have generated earnings greater than their 10 percent dividend, allowing them to retain profits.
- In other quarters, the GSEs have been unable to generate sufficient earnings to fully pay their 10 percent dividend – creating a circular practice where the GSEs use draws from Treasury to simply pay dividends back to Treasury.
- The changes will take both those issues off the table in a way that protects taxpayer interests and better supports the housing market.
- The modifications will ensure that all future positive earnings from the GSEs will be used to pay back taxpayers for their investment in those firms – and that Fannie and Freddie will not be permitted to rebuild capital as they are wound down.
- Additionally, the changes would reduce future PSPA draws and ensure that those draws are dedicated to supporting the housing market. That will help maintain the continued flow of mortgage credit during a responsible transition by providing the market with greater confidence about the GSEs' ability to meet their commitments.

11. How does the net worth sweep operate?

- Beginning with the financial results as of 1Q 2013, and each quarter thereafter, all positive net worth above a pre-set Capital Reserve Amount will be transferred to Treasury in the form of a dividend.
  - Net worth is defined as net assets minus net liabilities (per GAAP).
  - No dividends are paid or accrued when there is a net worth deficit or net worth is below the Capital Reserve Amount.
- Over time, this will result in all comprehensive income generated by the GSEs being paid to the government and thus the taxpayer.

12. Why not just lower the dividend rate to 5 percent and allow the GSEs to use earnings to pay back the capital Treasury has invested in them?

- Lowering the dividend percent paid would reduce the amount taxpayers are reimbursed for their substantial contribution made to support the GSEs.
- We made these changes to make sure that these entities pay the taxpayer every dollar of profit that they make.

13. Why can't the GSE simply use profits to buy back preferred stock from Treasury?

- Similar to reducing the dividend rate, this would have reduced the amount taxpayers are reimbursed for their substantial contribution made to support the GSEs.

14. How large is the Capital Reserve Amount and why does it exist?

- This agreement requires that the GSEs return all profits back to taxpayers.
- There is a modest, temporary Capital Reserve Amount is $3.0 billion in 2013 and will decrease by $600 million per annum until it reaches zero in 2018.
- The Capital Reserve Amount will provide a cushion against temporary swings in the GSEs earnings due to accounting and hedging practices (i.e. mark-to-market volatility).
- Inclusion of a modest, temporary buffer will protect the taxpayer from having to inject more capital into the GSEs due to quarterly losses that are driven by swings in earnings as result of mark-to-market volatility *(note: if Treasury has to inject funds due to mark-to-market volatility it will reduce the finite PSPA capacity going forward).*
- The Reserve will fall over time in conjunction with the reduction in the GSEs investment portfolios, which historically have been the key drivers in earnings swings.
- 100 percent of the funds in the reserve account, and 100 percent of the profit that these entities generate, will ultimately be returned to taxpayers.

15. What information will be included in the "Taxpayer Protection Plan" that Fannie Mae and Freddie Mac submit to Treasury? What is the report's purpose? Are there any enforcement or accountability mechanisms?

- Fannie Mae and Freddie Mac will be required to submit a risk management action plan each year that will provide clear goals and timetables for the GSEs to reduce risk in each of their core business segments.
- In the plan, the GSEs will lay out, in reasonable detail, specific goals, targets and timetables so both Treasury and their conservator, FHFA, have a clear understanding of how they will improve their management of risk.
- We expect the implementation of the plans will result in a number of meaningful steps that will reduce taxpayer exposure to the GSEs. These will likely include:
    - Working with private investors to syndicate a portion of the credit risk associated with their mortgage guarantees;
    - Selling complex securities in their investment portfolios;
    - Reducing their non-performing loan balances on a more rapid time table;

  - Shedding other "non-core" assets that were purchased prior to the enterprises entering into conservatorship.

- FHFA, as the GSEs' regulator and conservator, will oversee the implementation of the steps outlined in this report. In addition, each GSE will be required to assess the progress it has made in meeting the goals and timetables set forth in the previous year's plan.

16. Why are GSEs allowed to keep portfolios of $250 billion each in 2018 if they are to be wound down?

- Given the size of the current portfolios, transitioning to a balance of $250 billion in only six years represents a substantial reduction within a short timeframe.
- We do not believe it is necessary to change the $250 billion portfolio limit at this time.
- Through their portfolios, the GSEs provide critical functions and services to the mortgage market that will need to exist as long as they are in operation:
  - Purchasing multifamily loans that can't be securitized to make credit available to the multifamily sector;
  - Purchasing loans from community banks to facilitate lending;
  - Purchasing delinquent loans bought out of trusts.

17. What is the Periodic Commitment Fee? Has it ever been set?

- The Periodic Commitment Fee is an additional quarterly fee provided for in the original PSPA agreement that Treasury can charge the GSEs as compensation for the substantial taxpayer support provided by the PSPAs.
- Treasury may waive the quarterly Periodic Commitment Fee for up to one year at a time at its sole discretion based on adverse conditions in the mortgage market.
- To date, the fee has been waived by Treasury for two reasons:
  - The expected financial draws from Fannie Mae and Freddie Mac were in excess of dividends those firms pay back to taxpayers under the PSPAs; accordingly, setting a PCF would not produce any additional income for taxpayers.
  - Setting the PCF could place greater strains on the housing market recovery, which remains fragile.

18. How will this plan help families seeking mortgage credit, troubled homeowners, and the broader housing market?

- *Preserves available mortgage credit on reasonable terms* – Until the private sector reemerges as a significant source of capital to invest in mortgage credit risk, the GSEs will continue to serve as a critical provider of liquidity to first-time homebuyers and borrowers looking to refinance their loans into a lower rate.
- *Maintains market confidence in the GSEs' guarantee obligations* – By changing the former 10 percent dividend to a net worth sweep, this amendment helps preserve confidence in the market and retains borrowing capacity for future net operating losses.

- *Accelerates the sale of non-performing loans* – Selling non-performing loans to private market participants and their specialty servicers can provide greater assistance to troubled borrowers, which should help more troubled homeowners stay in their home.
- *Fuels the recovery of the housing market and the broader economy* – Preserving access to mortgage credit for creditworthy homebuyers helps reduce excess housing inventory in communities hit hardest by the housing downturn. Additionally, enabling ongoing refinancings at lower rates allows more money to be channeled to families' pockets, allowing them to pay off debt or allocate funds for other daily expenses.

19. How will these changes help bring private capital back to take credit risk in the mortgage market?

- This is the next step in the "wind-down" process. In combination with the goals laid out in FHFA's strategic plan for the enterprises, these changes will help bring private market participants back to the housing market in a more meaningful role.
- As part of the taxpayer protection plan, we expect the GSEs to shift credit risk associated with its mortgage guarantee business to private market participants (i.e. risk syndication). This will not only help protect taxpayers, but also provide a platform for private investors to once again take on mortgage credit risk.

20. Why does this agreement exclude a requirement for principal reduction? Did FHFA's decision not to accept Treasury's invitation to participate in HAMP PRA complicate this agreement on the PSPAs?

- As you know Treasury has been aggressive and public in its position that FHFA should allow the GSEs to provide principal reduction. We continue to help these homeowners by addressing troubled, non-performing loans.
- While we remain disappointed with FHFA's decision to not have the GSEs participate in the HAMP PRA program, we recognize that as an independent regulator and conservator of the two GSEs, FHFA is solely responsible for the ultimate decision of whether or not the GSEs may participate.
- Because the PSPAs are financial contracts between Treasury and the GSEs, through FHFA as their conservator, all changes to the PSPAs needed to receive support and agreement from both Treasury and FHFA.

21. What were the previous amendments to the PSPAs and why were those made?

- Over last several years Treasury has taken several steps to ensure the financial stability of the housing market.
- In September 2008, FHFA, as regulator of the GSEs, placed both into conservatorship.
- At the same time that FHFA placed the GSEs into conservatorship, Treasury provided capital support by entering into a Senior Preferred Stock Purchase Agreement (PSPA) with each GSE, acting through FHFA as their conservator. The PSPAs were intended to provide confidence to the market that the GSEs would remain solvent.
    - The initial Treasury funding commitment was $100 billion for each GSE.

- In May 2009, Treasury increased the funding commitment caps to $200 billion for each GSE.
- In December 2009, Treasury replaced the fixed $200 billion cap with a formulaic cap that increases the amount of capital support available through the PSPAs by the amount of draws between January 1, 2010 and December 31, 2012.

22. Why didn't Treasury and FHFA get this right in December 2009? Why must we revisit this issue again?

- In late 2009, Treasury took an important step to stabilize the GSEs and help ensure the continued flow of credit into the mortgage market.
- We believe that action was appropriate at the time.
- However, due to the inherent uncertainty of the market, the length of the necessary transition could not be predicted, nor were we able to foresee how the GSEs' financial profile would evolve.
- Given the GSEs improving operating performance and our goal to wind down the enterprises, we believe this change is appropriate today.
  - Potential for near-term earnings to exceed the 10% dividend.
  - Need for financial flexibility as the GSEs are wound down over time.

23. Can Treasury make further amendments to the PSPAs? If so, until when?

- Treasury and FHFA have authority to make changes to legal agreements, but changing amount of remaining capital support that is available to the GSEs would require Congressional approval.
  - *Note: Commitment authority was fixed in December of 2009 with the expiration of Treasury's authority under HERA.*
- Treasury and FHFA do not anticipate additional changes at this time.

24. What control and authority does Treasury have over Fannie Mae and Freddie Mac?

- Fannie Mae and Freddie Mac are in conservatorship, with FHFA as their conservator.
- Treasury has no operational control or authority over them.
- Notwithstanding Treasury's lack of authority or legal mandate over the Enterprises, we have a common interest in helping families and homeowners as well as protecting the taxpayers' interest in the GSEs.
  - *Note: Treasury and FHFA worked constructively to improve the HARP program that has led to nearly 500,000 streamlined refinancings over the past 9 months.*

25. What enforcement mechanisms ensure the GSEs will meet these new requirements?

- The PSPAs and their amendments constitute legally binding contracts between the GSEs and Treasury. Therefore, these amendments, like the rest of the agreements are valid and legally binding obligations.

FINANCIAL / TAXPAYER IMPACT

26. How does this change impact taxpayers and the federal budget?

- The federal budget will continue to maintain the existing non-budgetary presentation for Fannie Mae and Freddie Mac, as it does for the other GSEs.
- All federal programs that provide direct support to the GSEs, including the Senior Preferred Stock Purchase Agreements (PSPAs), are shown on-budget.
- Taxpayers will receive all positive net worth from the GSEs. While limited in value at this time, Treasury also retains its ability to exercise its GSE stock warrants.

27. How much has the government's investment in Fannie Mae and Freddie Mac cost taxpayers to date? What is the expected lifetime cost?

- Through June 30, 2012, Fannie Mae has drawn $116.2 billion and Freddie Mac had drawn $71.3 billion, excluding the initial $1.0 billion liquidation preference for which the GSEs did not receive cash proceeds.
- Fannie Mae has paid $25.6 billion in dividends back to Treasury and Freddie Mac has paid $20.1 billion in dividends back to Treasury.
- As a result, the current net investment in the GSEs is $141.8 billion – $90.6 billion for Fannie Mae and $51.2 billion for Freddie.
- The overall expected lifetime costs are inherently uncertain. Treasury will continue to work with FHFA and the GSEs to ensure we maximize proceeds returned to taxpayers.

28. How does this change impact existing preferred and common shareholders, including community banks? Does this mean their investments are worthless?

- The preferred and common shareholders of the GSEs do not have voting/governance rights while the GSEs are in conservatorship. These amendments do not change that.
- Because all positive net worth will be swept to Treasury going forward, preferred and common shareholders should not expect to receive any dividends or economic gains while the PSPAs are in effect.
- Most community banks have previously written down their preferred stock holdings and therefore these changes should not affect their financial positions.

HOUSING FINANCE REFORM

29. Will this change reduce the urgency for fundamental long-term housing finance reform? Moreover, now that the GSEs are profitable again, can they just continue operating indefinitely as a public utility?

- No. The Administration remains committed to winding down the GSEs, as the PSPA revisions help accelerate/reinforce, and will continue to work with Congress in a bipartisan manner to identify a path forward on long-term housing finance reform.

30. Over how long a time period will the transition take place?

- Treasury supports a transition to a long-term housing finance system as soon as practical.

- We look forward to working with Congress to determine what that future housing system should look like and the steps needed to get there.

31. When is the Administration going to submit a long-term housing finance reform plan?

- As Secretary Geithner has stated, we are continuing to work with members of Congress to identify a path forward on housing finance reform.
- At the same time, we'll continue to put in place measures right now – including today's announcement -- that ensure continued access to mortgage credit for American families, promote a responsible transition, and protect taxpayer interests.

HOMEOWNER IMPACT

32. Why are you giving up leverage with the GSEs by agreeing to make this change without further concessions? Why didn't you use this as leverage to get the GSEs to do more to help homeowners (e.g. principal reduction and/or greater opportunities to refinance)?

- The PSPAs have a very narrow but important scope – to strengthen and stabilize the financials of the GSEs.
- Treasury remains actively engaged with FHFA in exploring ways to help troubled homeowners and to facilitate streamlined refinancing activity for those that are current.

33. Will these changes in the PSPAs make it easier for families to buy a home? Will it lower avg. FICO scores or down payment requirements currently required by lenders?

- We believe that the agreements should give mortgage market participants continued confidence that the GSEs will fulfill their future obligations as they are wound down. That should enable them to continue to play a critical role supplying mortgage credit to families in the near-term until more private capital returns to the market.
- However, access to mortgage credit remains tempered by a still-fragile housing market.
- We are very attuned to the challenges faced by many families seeking to refinance or obtain a mortgage, especially lower-wealth and first-time homebuyers, and we are exploring ways to ease the situation.

34. FHFA recently announced plans to raise mortgage guarantee fees by year end. Why is it necessary to raise the cost of mortgage loans when the market is still struggling?

- Consistent with their strategic plan, FHFA made the decision to raise guarantee fees in order to help bring back private capital back to the housing market.

IMPACT ON THE HOUSING FINANCE MARKET AND THE GSES

35. How will the net worth sweep reassure investors in GSE obligations?

- This change will eliminate the potential for circularity associated with the GSEs requesting additional draws to cover dividend payments. This will make sure the finite amount of PSPA capacity is used only to support the financial stability of the GSEs.
- Given this change, we expect investors to remain confident in the financial stability and strength of the GSEs and be assured that the GSEs will meet their respective obligations.

36. What does this change mean for employees at the GSEs? When you say "wind down," what do you mean by that if the GSEs can still keep their systems, still retain people and still have a capital reserve?

- The employees of the GSEs have an important role to play in restoring the strength and vitality of the housing market and the stability of the GSEs.
- Through their continued dedication and hard work, these valued employees have made substantial contributions towards achieving these ends.
- By taking steps today to solidify the financials of the GSEs, we are enabling the employees to continue their efforts to meet these goals.
- The employees of the GSEs will play an important role in the transition to a reformed housing market that provides a sustainable source of mortgage credit for homeowners.
- As discussed earlier, the Capital Reserve is temporary in nature and exists to protect the tax payer against future GSEs draws.

37. Will accelerating the wind down of GSEs' retained portfolio adversely impact their operations or the housing market?

- No. In fact, it will put the GSEs on more sound financial footing by giving them the opportunity to reduce their troubled and more complex assets.

38. Will any of the changes affect Freddie Mac differently from Fannie Mae?

- Both GSEs will be required to implement these changes.
- The management of each GSE will tailor their strategies according to their own individual risk profiles and needs.

<u>TIMING / STRATEGY</u>

39. How long will it take to wind down Fannie Mae and Freddie Mac? Why not wind down Fannie Mae and Freddie Mac at a faster pace? Why did you not come out with a specific proposal for pace of unwind?

- We are seeking to balance our desire to wind down the GSEs as quickly as possible with the need to help ensure the continued flow of mortgage credit in a fragile housing market.
- Any changes to this system should be made with great care.
- These agreements will give mortgage market participants continued confidence that the GSEs will be able to fulfill their obligations.
- Any wind down will only be effective as part of a broader plan to reform the housing market, and that will require bi-partisan support.

40. Why make this change now, particularly after the GSEs had such a profitable quarter?

- We believe this is the appropriate time to take this step for two key reasons:
    - The change protects the taxpayers' interest in the GSEs by ensuring that they will be the full beneficiary of any profits that the GSEs generate;

- The adjustment will make sure that future PSPA capacity is only used to support the financial stability of the GSEs.

41. Who were the parties that had to agree to this change? When did that happen?

- Treasury and FHFA, acting as conservator for the GSEs, agreed to the amendment.
- After extensive discussions between Treasury and FHFA, the formal document execution occurred on Friday, August 17.
- The GSE senior management teams were briefed by Treasury and FHFA before changes were executed.

EXHIBIT 5

From: Bowler, Timothy
Sent: Saturday, August 18, 2012 8:09 AM
To: james_m_parrott@who.eop.gov
Subject: Re: Great job

Thanks Jim

----- Original Message -----
From: Parrott, Jim [mailto:James_M_Parrott@who.eop.gov]
Sent: Saturday, August 18, 2012 08:06 AM
To: Miller, Mary; LeCompte, Jenni; Stegman, Michael; Bowler, Timothy; Anderson, Matthew; Weideman, Christian; Moore, Megan; Chepenik, Adam; Dash, Eric
Subject: Great job

Team Tsy,

You guys did a remarkable job on the PSPAs this week. You delivered on a policy change of enormous importance that's actually being recognized as such by the outside world (or the reasonable parts anyway), and as a credit to the Secretary and the President. It was a very high risk exercise, which could have gone sideways on us any number of ways, but it didn't- great great work.

EXHIBIT 6

AGENDA
May 29, 2012 Meeting
Treasury, KPMG, and Grant Thornton

New Valuation Issues

- Taxation of the GSEs
- Returning the deferred tax asset to the GSE balance sheets
- Impact of the allocation of the g-fee increase to fund payroll taxes
- Principal reduction / modifications
- Other policy announcements or changes

Timing

1. May 29 – Meeting with Treasury, KPMG, and Grant Thornton

2. May 29- June 1 – Obtain copies of the most recent GSE forecasts

3. June 4-12 – Initial meetings with the GSEs
    a. Review the GSE-prepared forecasts
    b. Meet with members of the GSEs' forecasting staff to walk through the mechanics of their modeling process
    c. Communicate expectations of requirements from the GSEs to complete our task
        i. forecasting methodologies
        ii. forecast of the anticipated Liquidity Commitment drawdown at September 30 (no later than October 16)
        iii. number of outstanding common shares at September 30, 2012 (October 3)
        iv. projected tax payments
        v. treatment of deferred tax asset
    d. Participants:
        i. FHFA
        ii. GSE forecasting teams
        iii. Treasury Domestic Finance
        iv. Representative from Treasury DCFO
        v. Representative from Treasury OIG
        vi. Grant Thornton

4. June 29 – Circulate an outline of the required data sources and the methodologies to be used to
    a. value the Common Stock Warrants
    b. value the Senior Preferred Shares
    c. calculate the Liquidity Commitment
    d. Recipients:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. Treasury Domestic Finance
        iv. KPMG

5. Week of July 9-13 – Conference call to discuss progress toward preparation of the draft models with placeholder figures
    a. Participants:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. Treasury Domestic Finance
        iv. KPMG
        v. Grant Thornton

6. July 19 – Circulate copies of the two GSE models and a draft report for one of the GSEs with placeholder figures based on recent forecasts
    a. Senior Preferred Shares valuation
    b. Liquidity Commitment calculation
    c. Recipients:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. Treasury Domestic Finance
        iv. KPMG

7. Week of August 6-10 – Meeting to discuss placeholder models and report
    a. Participants:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. Treasury Domestic Finance
        iv. KPMG
        v. Grant Thornton

8. September 14 – Obtain GSE-provided stress tests from FHFA; check-in conference call

9. September 21 – Check-in conference call

10. September 28 – Check-in conference call

11. October 3-10 – Receive from the GSEs the number of outstanding common shares

12. October 5 – Check-in conference call

13. October 8-15 – Circulate the Common Stock Warrants valuation reports for Fannie Mae and Freddie Mac with September 30, 2012 information. **[This deadline is subject to the availability of the number of outstanding common shares from each of the GSEs.]**
    a. Recipients:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. KPMG

14. October 12 – Check-in conference call

15. October 16 – Receive from the GSEs the forecasted drawdowns at September 30, 2011

16. October 17 – Conference call to discuss GSE forecasted drawdowns as of September 30
    a. Participants:
        i. Treasury DCFO
        ii. Treasury Domestic Finance
        iii. Grant Thornton

17. October 22 – Circulate the Liquidity Commitment calculation memos for Fannie Mae and Freddie Mac with September 30, 2011 information. **[This deadline is subject to the timely availability of the stress tests provided by the GSEs to FHFA and the GSE-forecasted draws for the quarter ending September 30.]**
    a. Recipients:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. KPMG

18. October 25 – Circulate the Senior Preferred Shares valuation reports for Fannie Mae and Freddie Mac with September 30, 2012 information. **[This deadline is subject to the timely availability of the stress tests provided by the GSEs to FHFA and the GSE-forecasted draws for the quarter ending September 30.]**
    a. Recipients:
        i. Treasury DCFO
        ii. Treasury OIG
        iii. KPMG

19. October 26 – Check-in conference call to provide final valuation figures to be included in the financial statements

20. October 29 – Final reports due to Treasury
    a. Common Stock Warrants valuation – Fannie Mae
    b. Common Stock Warrants valuation – Freddie Mac
    c. Senior Preferred Shares valuation – Fannie Mae
    d. Senior Preferred Shares valuation – Freddie Mac
    e. Liquidity Commitment calculation – Fannie Mae
    f. Liquidity Commitment calculation – Freddie Mac

21. October 31 – Treasury DCFO-AIC records the valuation and calculation results

EXHIBIT 7

From: Chepenik, Adam [/O=USTREASURY/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CHEPENIKA]
Sent: 7/19/2012 3:04:51 PM
To: Goldblatt, Alan [alan.goldblatt@treasury.gov]; Bowler, Timothy [timothy.bowler@treasury.gov]
CC: Foster, JeffDisabled [jeff.foster@treasury.gov]
Subject: RE: GSE YE Projections

Will ask tomorrow.

-----Original Message-----
From: Goldblatt, Alan
Sent: Thursday, July 19, 2012 1:57 PM
To: Bowler, Timothy
Cc: Foster, Jeff; Chepenik, Adam
Subject: GSE YE Projections

Tim,

My preliminary y-e net worth projections for both FNM and FRE is zero - $2 bn each based upon equivalent to Q1 quarterly reserve releases throughout the year. Essentially their income plus reserve release offset the dividend. However, larger quarterly releases than in Q1 could increase the net substantially. Alternatively, a negative MTM could offset the release.

I recommend that Adam asks FHFA what the year-end net worth projections are based on the GSE's most recent forecasts (FHFA would have them). Adam has a call to them tomorrow regarding our ask for additional info from the GSEs as part of GT's valuation.

Regards,
Alan

EXHIBIT 8

BRIEFING MEMORANDUM FOR UNDER SECRETARY MILLER

Event:	**Meetings with Freddie Mac and Fannie Mae Management Teams**
Date/Loc:	Freddie Mac – August 9, 2012 at 11:00 AM, DIP Room Fannie Mae – August 9, 2012 at 2:00 PM, DIP Room
Press:	Closed
From:	Timothy Bowler, Deputy Assistant Secretary for Capital Markets

Attached below are several key questions and areas for discussion we believe you should raise during your meetings with the Fannie Mae and Freddie Mac management teams tomorrow. Both Enterprises also plan to provide you with a status update on their financial position, including the most recent earnings results as well as human capital conditions at the GSEs.

KEY QUESTIONS/TOPICS TO DISCUSS

DISCUSS AT BOTH MEETINGS

Earnings

- We should receive an update on the GSEs' near and long-term financial forecasts, including additional forecasted PSPA draws in Q3 and Q4, expectations for future capital reserve takings or reserve releases, and potential increases in the delinquency rates on the GSEs' post-2008 books of business. We would also like to know how quickly they forecast releasing credit reserves and when they expect their reserve balances to stabilize.
- We would like the management teams to explain how each Enterprise utilizes derivatives to hedge their books of business and which holdings are the most volatile.
- We would like to know approximately how much of the reduction in credit losses this past quarter arose from the recent rise in home prices verses other factors. Do they foresee additional credit loss reductions in the third and fourth quarters?
- Both Enterprises recently decreased their debt issuance in the market (Debt outstanding at Fannie decreased 11% YTD; Freddie decreased 13% YTD). We would like to know what feedback they have received from market participants on this change.
- From the first to the second quarter, the overall single-family serious delinquency rates at both Enterprises declined. We would like to know whether they anticipate continued declines in this figure in the third and fourth quarters.

Management and sale of non-performing loans

- Treasury is supportive of reducing risk on the GSEs' balance sheets and finding ways to transfer servicing of NPLs from poorer performing servicers to special servicers as well as potentially executing outright sales. We would like to know what hurdles they see as that may prevent this effort from moving forward.

Single securitization platform & single security effort

- We would like a general update on how discussions are proceeding with FHFA and how Treasury can help to move the single securitization platform initiative forward.

DISCUSS WITH FREDDIE MAC ONLY

Credit risk syndication

- FHFA is preparing directives to the GSEs regarding a data release and transaction that will likely take place in Q4. Freddie expressed concern this initiative will not be profitable in the near term and may cost taxpayers money. They also expressed concern with releasing loan level information to the market.
- Treasury fully supports FHFA's credit risk syndication efforts and the release of adequate loan level information. We believe releasing this information is not only helpful for GSE risk syndication, but also for helping restart the private securitization markets. We also believe credit risk syndication efforts should be programmatic and not a single one-off transaction (Freddie Mac would like to start with one and may not commit to more).
- We would like to see whether Freddie would be able to move forward with an August announcement of the program initiative and loan level data release so that a pilot transaction can be completed in Q4.

REO-to-rental financing

- FHFA recently denied Freddie Mac's request to develop a debt guarantee pilot program to support scattered-site single family rental investment and long-term management. We would like to know how they plan to respond to FHFA's decision.

Human capital concerns

- We would like to know what the plans are for staff retention, new hiring and the progress of rebuilding the broader team at Freddie Mac.
- Freddie also recently announced a series of structural/personnel changes to their various lines of business. We would like to know how they believe this will improve efficiencies at the Enterprise and if Treasury should be aware of any further management changes that may occur in the near future.

DISCUSS WITH FANNIE MAE ONLY

Earnings

- The number of loan modifications and repayment plans/forbearances at Fannie decreased substantially this past quarter. We would like to know the main reason for this decline.

Future REO-to-rental efforts

- We would like to get an update on Fannie Mae's plans for additional bulk REO sales.

FREDDIE MAC MEETING PARTICIPANTS

Donald Layton - chief executive officer

Ross Jay Kari - chief financial officer

Jerry Weiss - executive vice president and chief administrative officer

Edward Golding - senior vice president of the models, mission & research division

Devajyoti Ghose - senior vice president of investments & capital markets division

Paul Mullings - senior vice president and interim head of single-family business, operations, and information technology

FREDDIE MAC BIOGRAPHIES

Donald Layton is **chief executive officer** of Freddie Mac. Layton has over 35 years of experience in financial services and as a corporate leader. He worked for nearly 30 years at JPMorgan Chase and its predecessors, starting as a trainee and rising to vice chairman and member of the three-person Office of the Chairman, retiring in 2004. More recently, from 2007 to 2009 he served as chairman and then CEO of E*TRADE Financial, which he shepherded through the financial crisis. Layton received simultaneous Bachelor and Master of Science degrees in economics from the Massachusetts Institute of Technology and a Master of Business Administration from Harvard Business School.

Ross Jay Kari was named **chief financial officer** of Freddie Mac in September 2009. In this position, he is responsible for the company's financial controls, accounting, investor relations, financial planning and reporting, tax, capital oversight, and compliance with the requirements of Sarbanes-Oxley. Additionally, he oversees the Investment and Capital Markets division and management of Freddie Mac's mortgage investment activities. Kari is a member of the company's management committee and reports directly to Chief Executive Officer Don Layton. Previously, Kari served as chief financial officer of Fifth Third Bancorp in Cincinnati, Ohio. From 2002 to 2006, Kari served as executive vice president and chief operating officer for another housing government-sponsored enterprise, the Federal Home Loan Bank of San Francisco. Kari spent a large portion of his career at Wells Fargo from 1983 to 2001, during which time he rose from senior financial analyst to executive vice president and chief financial officer. Kari received a Bachelor of Science degree in Mathematics and earned his MBA in Finance, both from the University of Oregon.

Jerry Weiss was named **executive vice president and chief administrative officer** in July 2010. Weiss manages the services and operations of Freddie Mac's Strategy; External Relations, including Government and Industry Relations, Public Relations and Corporate Marketing, Corporate Relations and Housing Outreach, and Internal Communications; Human Resources; and Models, Mission and Research organizations. Weiss has overall responsibility for managing the company's regulatory affairs and strategies and he serves as the company's senior executive liaison to the Federal Housing Finance Agency and the U.S. Department of the Treasury. Prior to Freddie Mac, Weiss was most recently first vice president and Global Head of Compliance at Merrill Lynch Investment Managers (MLIM) from 1990 to 2003. From 1982 to 1990, Weiss was with a national law practice in Washington, D.C., where he specialized in securities regulation, investment management, and corporate finance matters. Weiss graduated Phi Beta Kappa from the State University of New York at Binghamton with a B.A. in political science and earned his law degree from The George Washington University.

Edward Golding was named **senior vice president of the Models, Mission & Research Division** in September 2010. In this role, Golding is responsible for developing and implementing mortgage models that support business decisions, risk management and the financial statements. He also oversees the Office of the Chief Economist and the Mission and Strategy Division. Prior to that, in February 2007, Golding was named senior vice president of Equity Investor Relations, and later expanded to include Debt Investor Relations. In that position, Golding was responsible for communications of financial results to investors and Wall Street analysts. Golding joined Freddie Mac in 1989 as senior economist and has held various senior roles dealing with capital management, corporate strategy and economic analysis. Golding holds a Ph.D. in economics from Princeton University and an A.B. in Applied mathematics from Harvard College.

Devajyoti (Doc) Ghose is the **senior vice president of Freddie Mac's Investments & Capital Markets division** and the company's Treasurer. In this position, he is responsible for managing all of Freddie Mac's mortgage investment activities for the mortgage-related investments portfolio as well as the company's short- and long-term debt issuance. Previously, Ghose served in various senior positions at Freddie Mac in which he was responsible for managing the company's debt portfolio and the non-mortgage investments portfolio; maintaining the company's liquidity position; evaluating the risks and returns of Freddie Mac's guarantee fee business; developing hedging strategies for Freddie Mac's investment portfolio; and developing valuation models for various fixed income securities including mortgage-related products, debentures and interest-rate derivatives. Ghose holds a Ph.D. in econometrics from the University of California San Diego, a Masters degree in Economics from the Delhi School of Economics and a Bachelor's degree in Economics from St. Stephens College, Delhi.

Paul Mullings is **senior vice president and interim head of Single-Family Business, Operations, and Information Technology** at Freddie Mac. In this capacity, Mullings has broad responsibilities over the Single-Family line of business, including the administration, relationship and performance management of Freddie Mac Seller/Servicers; performance of Freddie Mac's guarantee book of business; and all sourcing, servicing and business operations. In addition, he is responsible for enterprise technology and the management of this vital corporate asset for all of Freddie Mac through support, project management and technological services. Mullings joined Freddie Mac in 2005 from JP Morgan Chase where he was senior vice president, manager Mortgage Finance, and Fair Lending executive at Chase Home Finance. Mullings is a Graduate of The Institute of Accounting Staff, London, England.

FANNIE MAE MEETING PARTICIPANTS

Timothy Mayopoulos – president and chief executive officer

Terry Edwards – executive vice president - credit portfolio management

David Benson – executive vice president - capital markets

Susan McFarland – executive vice president and chief financial officer

FANNIE MAE BIOGRAPHIES

Timothy Mayopoulos is Fannie Mae's **President and Chief Executive Officer**, and a member of the company's Board of Directors. As President and CEO, Mr. Mayopoulos is focused on ensuring that the company continues to manage its legacy issues effectively, while driving the company's contributions to creating a better housing finance system for the future. Under his leadership, Fannie Mae will continue to play an essential role in funding the market, assisting troubled homeowners, strengthening communities and repaying taxpayers' investment in the company.

Mr. Mayopoulos brings more than 25 years of experience to his new leadership post. He joined Fannie Mae in April 2009 as executive vice president, general counsel and corporate secretary and was appointed chief administrative officer in 2010. Since joining the company's executive management team, Mr. Mayopoulos has managed critical functions at the company, including its human capital strategy, communications and marketing, government and industry relations and the legal function. He has also provided leadership and oversight of the company's long-term strategy to drive operating excellence and strategic initiatives to improve the company and housing finance industry.

Prior to joining Fannie Mae, Mr. Mayopoulos was executive vice president and general counsel of Bank of America Corporation. Previously, he served in senior management roles at Deutsche Bank AG, Credit Suisse First Boston and Donaldson, Lufkin & Jenrette, Inc. Earlier in his career, Mayopoulos was in private practice. He is a graduate of Cornell University and the New York University School of Law.

Terry Edwards is Fannie Mae's **Executive Vice President - Credit Portfolio Management**. Reporting to the President and Chief Executive Officer, he has responsibility for Fannie Mae's foreclosure prevention and loss mitigation activities for its single-family book of business. In this capacity, Mr. Edwards leads the company's National Servicing Organization, its National Property Disposition Center, and its National Underwriting Center. His duties include executing the Making Home Affordable program, managing our Real Estate Owned (REO) and loss mitigation activities, ensuring collection and preservation of credit enhancements, as well as overseeing and managing our servicing guidelines and policies.

Mr. Edwards is former President and CEO of PHH Corporation, where he served for nearly three decades and in a variety of executive roles, including as President and CEO of PHH Mortgage, one of the nation's top ten mortgage servicers. Mr. Edwards holds a Master's degree from Loyola College and received his undergraduate degree from Iona College.

David Benson is Fannie Mae's **Executive Vice President - Capital Markets**. Reporting to the President and Chief Executive Officer, he is responsible for the company's balance sheet management, trading, and securitization activities serving both the single- family and multi-family mortgage markets. Mr. Benson is chairman of the Asset-Liability Committee and is responsible for managing the firm's interest rate, funding, and liquidity risks. He plays a leading role in managing our relationships with the fixed income and mortgage industry including institutional investors, financial institutions, government officials, and regulatory agencies. Previously, Mr. Benson was Senior Vice President and Treasurer responsible for the company's debt issuance, liability management, and liquidity management activities.

Prior to joining Fannie Mae in 2002, Mr. Benson was a managing director within the fixed-income division of Merrill Lynch & Co. For more than 14 years he held leadership positions in risk management, fixed-income and currency trading, debt syndication, and e-commerce based in New York and London.

Mr. Benson has a master of business administration from Stanford Business School, a doctor of medicine from Harvard Medical School, and a bachelor of science in psychobiology, summa cum laude, from the University of California, Los Angeles.

Susan McFarland is Fannie Mae's **Executive Vice President and Chief Financial Officer**, reporting to the Chief Executive Officer. She is responsible for financial management across the enterprise, including financial reporting and accounting, and for ensuring the highest standards of financial integrity. Ms. McFarland leads financial planning and analysis including resource allocation, modeling and analytics, the controller's office, strategic analytics & transformation, procurement, and economic and strategic research. She also plays a leading role in managing Fannie Mae's relationships with government and regulatory entities along with other financial services relationships.

Ms. McFarland has more than 25 years of experience in consumer and retail financial services. She joined Fannie Mae in July 2011 bringing with her a strong background in accounting, controls, operating finance, and IT financial systems.

Prior to joining Fannie Mae, Ms. McFarland was with Capital One Financial Corporation since 2002 where she led a 500-person team responsible for accounting, tax, procurement, and planning and helped transform a mono-line credit card company into a diversified financial services corporation. Ms. McFarland also served as Executive Vice President, Finance and Principal Accounting Officer and Executive Vice President and Corporate Controller – Capital

One Financial Corporation; Chief Financial Officer – Capital One Bank; and Chief Financial Officer – Infrastructure Finance.

Before joining Capital One, Ms. McFarland was with Bank One Corporation for more than 15 years serving as CFO for a variety of groups and divisions, including the retail bank. During her tenure at Bank One, she was instrumental in developing and implementing profit and loss statements for 1,800 banking centers including Web-based reporting and information tools. She began her career as a senior auditor at Deloitte & Touche.

Ms. McFarland has a bachelor of business administration in accounting from Texas A&M University and is a graduate of the Stanford University executive program.

Clearance Sheet

Event:	Meetings with Freddie Mac and Fannie Mae Management
Drafted:	Capital Markets – Adam Chepenik, phone 622-2534
Approved:	Housing Counselor – Michael Stegman (OK 8/8)
Cleared:	Capital Markets – Tim Bowler (OK 8/8)

EXHIBIT 9

From: Ugoletti, Mario
Sent: Thursday, August 09, 2012 10:52 AM
To: DeMarco, Edward; Pollard, Alfred; Laponsky, Mark; Spohn, Jeffrey; Greenlee, Jon; Lawler, Patrick; DeLeo, Wanda; Satriano, Nicholas
Cc: Brown, Jan
Subject: PSPA Alert

Close Hold

As a heads up, there appears to be a renewed push to move forward on PSPA amendments. I have not seen the proposed documents yet, but my understanding is that largely the same as previous versions we had reviewed in terms of net income sweep, eliminating the commitment fee, faster portfolio wind down, and a deminimus safe harbor for ordinary course transactions. The one potential difference is not having separate covenants on g-fees, risk reduction, etc., but potentially one covenant requiring the Enterprises to present a plan to Treasury on how they are managing or reducing risk. Depending on the language that could be an improvement.

I am leaving for the day at around 11:00. When I get the proposed language I will have Jan forward it to this group. I have told Treasury we should plan on meeting on Monday morning, perhaps around 11:00 to discuss further. Mario.

EXHIBIT 10

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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- - - - - - - - - - - - - - - X
                              :
PERRY CAPITAL LLC, FOR AND ON :
BEHALF OF INVESTMENT FUNDS    :
FOR WHICH IT ACTS AS          :
INVESTMENT MANAGER,           :
                              :
          Appellant,          :
                              :
     v.                       :    No. 14-5243, et al.
                              :
JACOB J. LEW, IN HIS OFFICIAL :
CAPACITY AS THE SECRETARY OF  :
THE DEPARTMENT OF THE         :
TREASURY, ET AL.,             :
                              :
          Appellees.          :
                              :
- - - - - - - - - - - - - - - X
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Friday, April 15, 2016
Washington, D.C.

The above-entitled matter came on for oral argument pursuant to notice.

BEFORE:

CIRCUIT JUDGES BROWN AND MILLETT, AND SENIOR CIRCUIT JUDGE GINSBURG

APPEARANCES:

<u>ON BEHALF OF THE APPELLANT</u>:
THEODORE B. OLSON, ESQ.
HAMISH P.M. HUME, ESQ.

<u>ON BEHALF OF THE APPELLEES</u>:
HOWARD N. CAYNE, ESQ.
MARK B. STERN, ESQ.

that reads out the fiduciary duty by that provision.

MR. OLSON: I submit that it does not, Judge Ginsburg, and I think that would be an error. If the Court came to the conclusion that that reference, an incident powers, which is also in the FDIA, would allow the conservator who is supposed to bring according to the statute conserve and preserve and sound and solvent, and rehabilitate the agency --

JUDGE GINSBURG: Suppose the --

MR. OLSON: -- it would swallow up all those words.

JUDGE GINSBURG: Suppose the FDIA is facing a troubled bank of enormous proportions, one of the largest banks in the country, and it says we could, we're acting as conservator here, we could perform the ordinary duties of a conservator, but it would so impair the reserves of the FDIC that it would be a danger to all of the insured depositors around the country, and so, we're going to act to a degree in our own interests, rather than solely in the interest of the troubled institution?

MR. OLSON: At that point I think if you read the statute as a whole, and if you look at the way the FDIA and the FDIC have operated all these many years there's a choice then to decide to move to a position of a receivership, and then wind down the entity, which is what Treasury said it was going to do.

JUDGE GINSBURG: Well, that's right, and they're still, in their capacity as conservator they haven't yet pulled the trigger as a liquidator, right?

MR. OLSON: Well, they're pulling the trigger --

JUDGE GINSBURG: As a receiver.

MR. OLSON: -- but they're not admitting it, and they're still supposed to be acting as a conservator, and then they decide no, we're going to take --

JUDGE GINSBURG: Just go back, I have your point, just go back a moment to what Judge Millett was saying about the somewhat conflicting views of the long-term outlook, I think there was consensus that there would be a lot of fluctuation, volatility over any period of time for the GSEs, but the, what's the date of the Third Amendment, the 17th?

MR. OLSON: August 17 --

JUDGE GINSBURG: Seventeenth.

MR. OLSON: -- 2012.

JUDGE GINSBURG: Okay. So, on the eighth, I think it's the eighth of August, the two GSEs, the ninth, issued, one's on the eighth, one's on the ninth, they're 10-Qs, right? And the 10-Qs say we do not expect to generate net income or comprehensive income in excess of our annual dividend obligation to the Treasury over the long term. We also expect that over time our dividend obligation to Treasury will increasingly drive our future draws under the senior preferred stock purchase agreement. So, the week before, whatever it is, 10 days before the trigger is pulled both of the GSEs go out with their 10-Qs and say we have no future.

MR. OLSON: And at the same time, and this is reinforced by the documents that were recently unsealed, that there were projections because of the deferred tax assets, and the availability they were soon to be released would make a completely different picture. It's not a coincidence, we submit --

JUDGE MILLETT: A completely different picture for how long?

MR. OLSON: For the foreseeable future. This was --

JUDGE MILLETT: Not the foreseeable future, for 2012/2013.

MR. OLSON: Well, the proof is in the pudding.

JUDGE GINSBURG: Are you talking about the McFarland statement?

MR. OLSON: These entities have returned $50 billion to the Treasury more than the Treasury put into these institutions. And the other thing is that what was done at the net worth sweep --

JUDGE GINSBURG: No, that's doesn't follow, it doesn't necessarily mean more, it's just $50 billion --

MR. OLSON: In excess.

JUDGE GINSBURG: -- toward the commitment, towards paying down the commitment.

MR. OLSON: The commitment, this -- the amount that has been returned exceeds by $50 billion.

JUDGE GINSBURG: As of now, is that what you're saying?

MR. OLSON: That's --

JUDGE GINSBURG: As of now?

MR. OLSON: -- $58 billion, I think.

JUDGE GINSBURG: Okay. So, that's post record, but fair enough. Okay.

MR. OLSON: Yes. I think that it is in --

JUDGE GINSBURG: All right. But the only optimistic scenario here is what McFarland relays, correct?

MR. OLSON: No, I believe that if you look at the Ugoletti deposition, the Jeff Foster who was a Treasury official --

JUDGE GINSBURG: Ugoletti takes us to a very interesting point. Are you still maintaining that the record was inadequate before the District Court?

MR. OLSON: Absolutely, the record was inadequate, it was not only inadequate, it was misleading, it was

EXHIBIT 11

Fannie Mae Update

Treasury Meeting

August 9, 2012

FannieMae

Agenda

- Introduction of Fannie Mae Management Team
- Corporate Financial Update
- Status of Key Initiatives
- Discussion

FannieMae

Fannie Mae Corporate Update

The Fannie Mae forecasts included in these materials are forward-looking statements, and actual outcomes may differ materially from these forecasts as a result of numerous factors, including the assumptions contained in this analysis, changes in macro-economic variables, government policy, the housing and credit markets, and actions we take in the future and the success of those actions, as well as those discussed in Fannie Mae's most recent Form 10-Q and Form 10-K filed with the Securities and Exchange Commission.

FannieMae

2012 Quarterly Earnings

($'s in billions)

10 bp payto
ref: fee)

	Actual				Forecast[1]		
	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012	Full Year 2012
Net interest income - portfolio and other	3.9	2.7	3.7	3.7	3.5	3.3	14.2
Net interest income - MBS guaranty fee	1.3	1.5	1.5	1.8	1.6	1.7	6.5
Other revenues	0.3	0.4	0.4	0.4	0.3	0.3	1.3
Net revenues	**$ 5.5**	**$ 4.5**	**$ 5.6**	**$ 5.8**	**$ 5.4**	**$ 5.2**	**$ 22.1**
Credit losses	(4.5)	(5.2)	(5.1)	(3.9)	(4.5)	(5.2)	(18.6)
(Build) / reduction in allowance	(0.9)	(1.3)	2.3	6.6	2.6	(0.5)	11.0
SOP 03-3	0.5	1.0	0.4	0.4	0.5	0.4	1.7
Credit-related (expenses) / benefit	**$ (4.9)**	**$ (5.5)**	**$ (2.3)**	**$ 3.1**	**$ (1.4)**	**$ (5.3)**	**$ (5.9)**
Other expenses	(1.2)	(0.7)	(0.8)	(1.4)	(1.1)	(1.1)	(4.3)
(Loss) / earnings before mark-to-market activity	**$ (0.6)**	**$ (1.7)**	**$ 2.4**	**$ 7.6**	**$ 3.0**	**$ (1.1)**	**$ 11.9**
Fair value (losses) / gains, net	(4.5)	(0.8)	0.3	(2.4)	0.1	0.1	(1.9)
Accumulated other comprehensive income change	(0.2)	0.5	0.4	0.3	0.1	0.1	0.9
Mark-to-market	(4.7)	(0.3)	0.6	(2.1)	0.2	0.2	(1.0)
Total comprehensive (loss) / income	**$ (5.3)**	**$ (1.9)**	**$ 3.1**	**$ 5.4**	**$ 3.2**	**$ (0.9)**	**$ 10.9**
Cumulative infusion received, plus new draw	$ 111.6	$ 116.1	$ 116.1	$ 116.1	$ 116.1	$ 116.8	$ 116.8
Dividends	$ (2.5)	$ (2.6)	$ (2.8)	$ (2.9)	$ (2.9)	$ (2.9)	$ (11.6)

1 Forecast periods reflect July 2012 BoD corporate forecast updated for actuals through June 2012

Note Numbers may not foot due to rounding.

Confidential Commercial Information - Confidential Treatment and FOIA Exemption Requested

FannieMae

2012 – 2016 Annual Earnings

($'s in billions)

			Forecast [1]		
	2012	**2013**	**2014**	**2015**	**2016**
Net interest income - portfolio and other	14.2	12.5	11.3	10.3	8.9
Net interest income - MBS guaranty fee	6.5	7.0	7.5	8.0	8.6
Other revenues	1.3	1.0	0.9	0.9	1.0
Net revenues	**$ 22.1**	**$ 20.5**	**$ 19.8**	**$ 19.3**	**$ 18.4**
Credit losses	(18.6)	(19.0)	(17.7)	(13.3)	(9.5)
Reduction in allowance	11.0	7.5	11.0	9.0	7.7
SOP 03-3	1.7	1.9	1.6	1.1	0.8
Credit-related expenses	**$ (5.9)**	**$ (9.6)**	**$ (5.1)**	**$ (3.2)**	**$ (1.0)**
Other expenses	(4.3)	(3.9)	(4.1)	(4.2)	(4.1)
Earnings before mark-to-market activity	**$ 11.9**	**$ 6.9**	**$ 10.5**	**$ 11.9**	**$ 13.4**
Fair value (losses) / gains, net	(1.9)	0.5	0.5	0.5	0.4
Accumulated other comprehensive income change	0.9	0.1	0.1	0.1	0.1
Mark-to-market	(1.0)	0.6	0.5	0.5	0.5
Total comprehensive income	**$ 10.9**	**$ 7.5**	**$ 11.0**	**$ 12.5**	**$ 13.9**
Cumulative infusion received, plus new draw	$ 116.8	$ 121.2	$ 122.4	$ 122.4	$ 122.4
Dividends	$ (11.6)	$ (11.8)	$ (12.2)	$ (12.3)	$ (12.3)

[1] Forecast periods reflect July 2012 BoD corporate forecast updated for actuals through June 2012

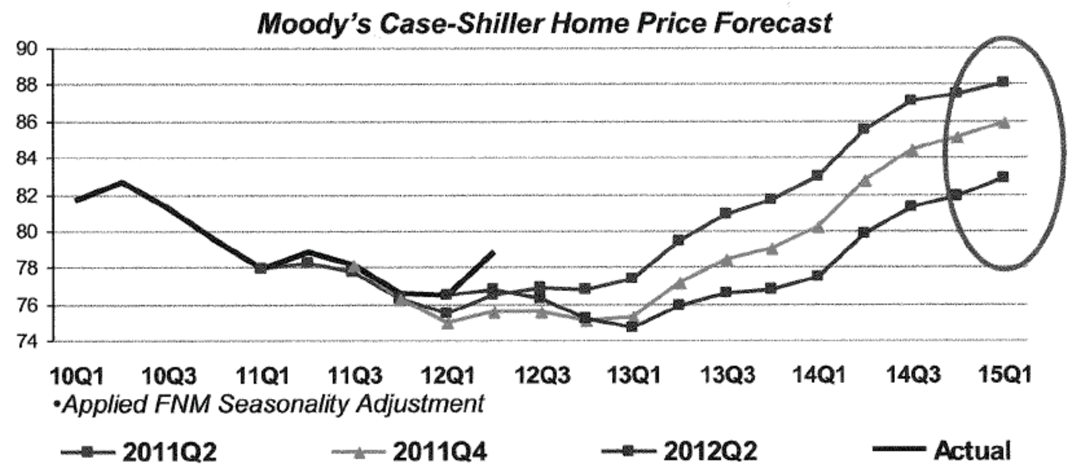
Note: Numbers may not foot due to rounding.

assumes
no mks on derivat
no taxes
no

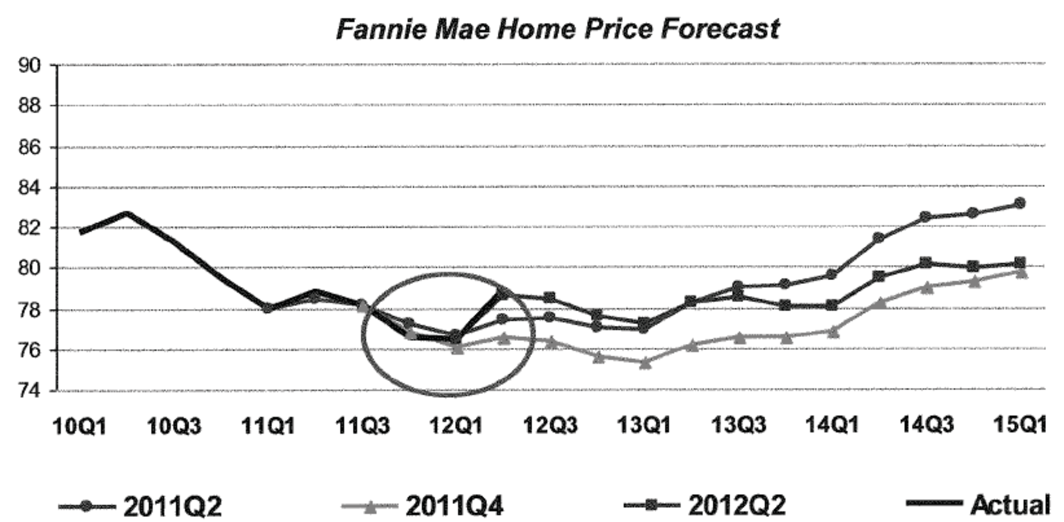
no hedge
accounting
volatility
means same
drawing
more +
pay'g. higher
dividends)

FannieMae

Fannie Mae vs. Moody's Case-Shiller Home Price Forecasts



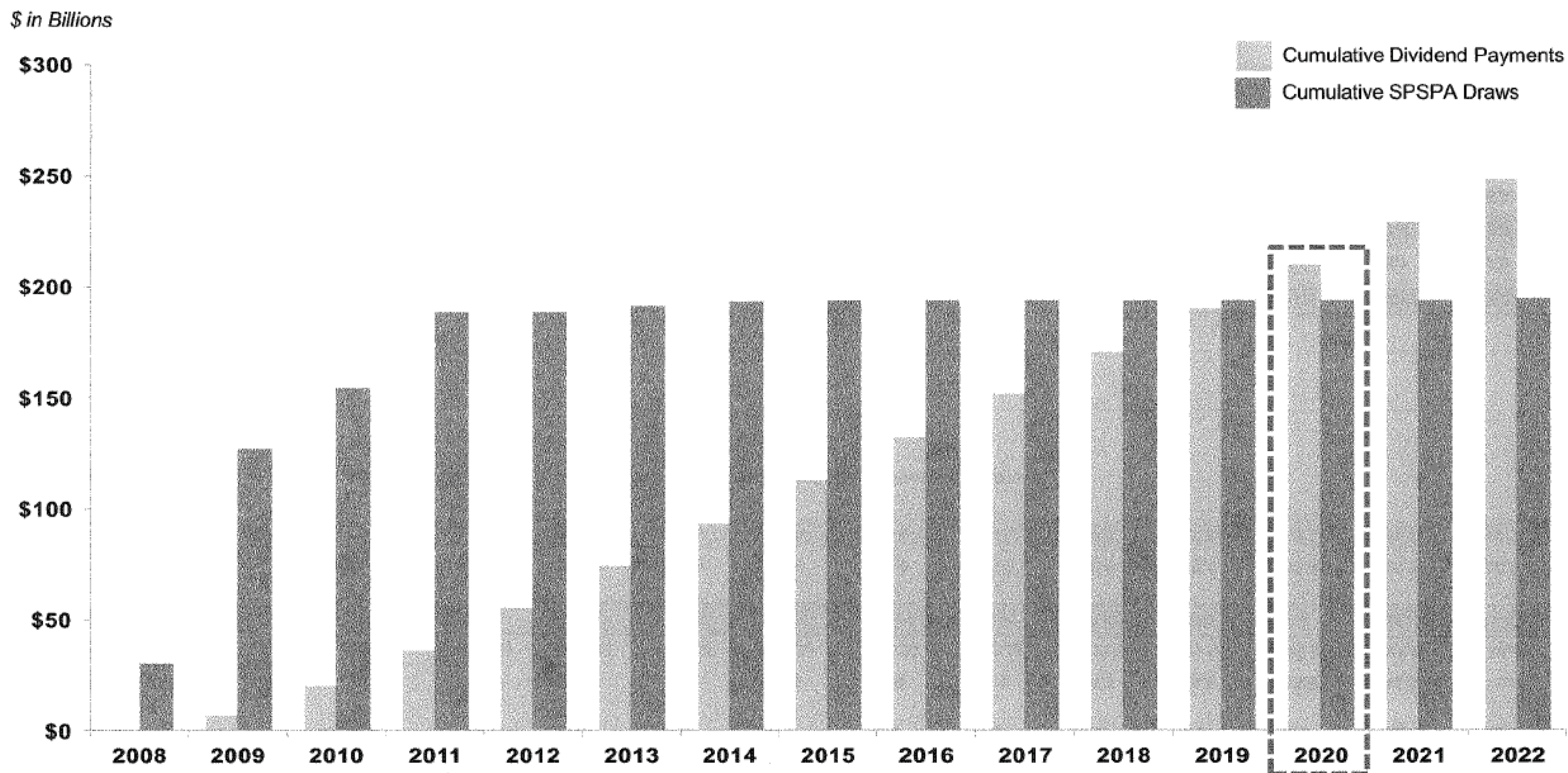
Case-Shiller forecast updates reflect significant variability



With more up to date data, FNM is able to capture the most recent trends

FannieMae

Cumulative GSE Dividend Payments vs. Cumulative SPSPA Draws



	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
SPSPA Draws Less Dividends ($B)	($30)	($120)	($134)	($152)	($134)	($118)	($100)	($81)	($61)	($42)	($22)	($2)	$17	$36	$53
Residual Equity ($B)	-	-	-	-	$0	$0	$2	$4	$7	$10	$11	$10	$8	$7	$6

Note: Figures above based on extended earnings forecast for both Fannie Mae and Freddie Mac. Forecast incorporates actual results through May 2012 for Fannie Mae and through 2011 for Freddie Mac.

FannieMae

Annual Detail of Cumulative Dividends and SPSPA Draws

Fannie Mae

($ in Billions)	2008-2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Comprehensive Income		11.6	7.5	11.0	12.5	13.9	13.2	12.2	11.4	10.9	10.5	10.5
Preferred Dividend Payment	19.8	11.6	11.8	12.1	12.2	12.2	12.2	12.2	12.2	12.2	12.3	12.5
Residual Equity	0.0	0.0	0.0	0.0	0.2	1.8	2.8	2.7	1.9	0.5	0.0	0.0
Cumulative Dividends	19.8	31.4	43.2	55.3	67.6	79.8	92.1	104.3	116.6	128.8	141.1	153.6
Cumulative SPSPA Draws	(116.1)	(116.1)	(119.0)	(121.2)	(121.5)	(121.5)	(121.5)	(121.5)	(121.5)	(121.5)	(122.9)	(124.8)
Cumulative Dividends Less Draws	*(96.3)*	*(84.7)*	*(75.8)*	*(65.9)*	*(53.9)*	*(41.7)*	*(29.4)*	*(17.2)*	*(4.9)*	*7.3*	*18.3*	*28.8*
SPSPA Funding Cap	240.9	240.9	240.9	240.9	240.9	240.9	240.9	240.9	240.9	240.9	240.9	240.9
Remaining Funding under SPSPA	124.8	124.8	122.0	119.7	119.5	119.5	119.5	119.5	119.5	119.5	118.1	116.1

Note: 2012-2016 figures from Fannie Mae July BOD corporate forecast. 2017-2022 figures are based on simplifying assumptions derived from trends observed within the 2012-2016 horizon.

Freddie Mac

($ in Billions)	2008-2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Comprehensive Income		11.6	7.5	8.2	8.6	9.0	8.7	8.3	7.7	7.1	6.7	6.5
Preferred Dividend Payment	16.3	7.4	7.4	7.4	7.4	7.4	7.4	7.4	7.4	7.4	7.4	7.4
Residual Equity	0.0	0.0	0.4	1.7	3.5	5.6	6.9	7.9	8.1	7.9	7.2	6.3
Cumulative Dividends	16.3	23.7	31.1	38.4	45.8	53.2	60.6	68.0	75.4	82.8	90.2	97.6
Cumulative SPSPA Draws	(72.2)	(116.1)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)	(73.0)
Cumulative Dividends Less Draws	*(55.9)*	*(92.4)*	*(41.9)*	*(34.5)*	*(27.1)*	*(19.7)*	*(12.3)*	*(4.9)*	*2.5*	*9.9*	*17.3*	*24.7*
SPSPA Funding Cap	220.5	221.3	221.3	221.3	221.3	221.3	221.3	221.3	221.3	221.3	221.3	221.3
Remaining Funding under SPSPA	148.3	105.2	148.3	148.3	148.3	148.3	148.3	148.3	148.3	148.3	148.3	148.3

Note: 2012-2022 figures are based on simplifying assumptions derived from Fannie Mae forecast trends and observed relationships between key Fannie Mae and Freddie Mac performance metrics. Reported 2011 results re-aligned as necessary to correspond to Fannie Mae management reporting.

Note: Numbers may not foot due to rounding

FannieMae

Status of Key Initiatives

FannieMae

Status of Key Initiatives

Securitization and Pooling & Servicing Agreement

Fannie Mae and Freddie Mac will draft a white paper for public comment. A plan for a securitization platform and model PSA will be completed by both Enterprises incorporating the resulting industry commentary by the end of the year.

REO Sales

Obtained bids for potential REO joint venture deal and presented to Pricing Committee, FHFA and the US Treasury in June. FHFA announced the winning bidders on July 3, 2012. Targeted execution of REO joint transaction in Q3 2012 (dependent upon FHFA approval).

Credit Risk Transfer

Currently projecting to complete first transaction in early 2013.

Non-Performing Loan Sales

Preparing a pilot transaction for the competitive disposition of NPA and announcing transaction to the market by the end of 2012.

Credit Pricing Update

Focused on a 10bps average guaranty fee price increase across both Enterprises.

Rep & Warrant Changes

Selling Rep & Warrant framework, expected to become effective January 1, 2013, eliminates liability after 36 months of timely payments.

HARP 2.0

Significant increase in volume in June and July is attributable to the release of the MBS execution for the greater-than 125 LTV category, resulting in 35K loans delivered in this bucket for June and July, representing 31% of total volume in these months.

FannieMae

EXHIBIT 12

Message

From:	Martin, Bradford [/O=FHFA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MARTINB]
Sent:	7/13/2012 3:36:21 PM
To:	DeMarco, Edward [edward.demarco@fhfa.gov]; Greenlee, Jon [jon.greenlee@fhfa.gov]; DeLeo, Wanda [wanda.deleo@fhfa.gov]; Pollard, Alfred [alfred.pollard@fhfa.gov]; Ugoletti, Mario [mario.ugoletti@fhfa.gov]; Burns, Meg [meg.burns@fhfa.gov]; Lawler, Patrick [patrick.lawler@fhfa.gov]; Spohn, Jeffrey [jeffrey.spohn@fhfa.gov]
CC:	Johnson, Mary [mary.johnson@fhfa.gov]; Keyes, Robert [robert.keyes@fhfa.gov]; Highfill, Owen [owen.highfill@fhfa.gov]; Bungenstock, Lindsey [lindsey.bungenstock@fhfa.gov]; Anderson, Philip [philip.anderson@fhfa.gov]; Martin, Bradford [bradford.martin@fhfa.gov]
Subject:	Fannie Mae Executive Management Meeting on July 9, 2012
Attachments:	Agenda 7.9.12 MC Meeting.pdf; Strategy Update - July 2012_070612_v1.pptx; Item IV.b ASF WhitePaper2012.pdf; Item IV.c.2012 FHFA Scorecard May Assessment and FHFA Summary Combined 7-5-12.pdf; Item IV.d. May 2012 Financial Update_Forecast v6.pdf

<u>Fannie Mae Executive Management Meeting on July 9, 2012</u>

Tim Mayopoulos began by welcoming Pascal Boillat as a new committee member to replace Ed Watson. Tim then recited a list of recent activities. He thought last week's joint Fannie/Freddie/FHFA meeting comparing notes on securitization efforts was both productive and illuminating. Fannie had pursued a technology focus whereas Freddie had concentrated on larger 'ecosystem' issues involving rules, guides and standards posed by the new regime. In many ways, the two approaches were "very additive". While Fannie would wait for FHFA to set up the next meeting, he wondered when Fannie might share with Freddie what they were actively building.

Tim told members that he had initiated a series of personal introduction calls to all key customers. A similar introductory letter would soon go out to all 1,400 business heads. As a prelude to next week's Board meeting, Phil Laskawy would attend this week's Operating Committee meeting.

<u>GSE Strategy Update</u>

Dave Benson walked through a draft copy of next week's Board strategy planning discussion intended to review areas where Fannie might facilitate the ongoing secondary market transition. The discussion was divided into three sections: (a) recap of current open questions (the existence and form of guarantee, prospects for private capital, potential business models); (b) the strategic goal of building a new infrastructure (the 'engine on the bench' plus integration of surrounding securitization functions); and (c) promoting public support for the goals of conservatorship through defined initiatives (e.g., credit risk transfer; REO-to-rental). Dave focused on the GSEs return to profitability as a key factor in building public support for the conservatorship. Current projections show that cumulative GSE dividends paid will surpass cumulative GSE Treasury draws by 2020. He referred to the next 8 years as likely to be "the golden years of GSE earnings". How the government divests itself of the GSEs is not yet clear – the legacy GSE debt and MBS book cannot be fully privatized. Dave intends to close by noting that SPSA amendments might be used to better serve conservatorship goals.

<u>ASF Single Security White Paper</u>

Dave Benson gave a brief recap of the American Securitization Forum's recent white paper – published "as a resource to FHFA" – that outlines somewhat disparate originator, investor and dealer views on a unified agency security. To achieve the goal of making GSE securities "fungible", all parties agree on the need for Fannie/Freddie standardization of : (1) underwriting guidelines; (2) loan delivery and pooling requirements; (3) payment and remittance schedules; (4) servicing standards and loan repurchase policies; (5) data disclosure policies; and (6) refinance programs terms. However, originators and investors disagree on the need for uniform guarantee pricing and public identification of GSE guarantor. Originators want fee competition, investors want identical terms. Investors want to know the counterparty, originators want a joint credit guarantee. Dave found it "fascinating" that the white paper promoted a near-term solution whereby Freddie Mac would outsource its loan delivery mechanism to Fannie Mae which would then issue a Single Agency Security.

2012 FHFA Scorecard Update

Susan McFarland summarized a thick packet on scorecard status to be presented at next week's Board meeting. She said that all items are either "on track or haven't yet started". When pressed, she agreed that several items could quickly turn to yellow or even red (i.e., initiate new risk sharing transactions) if FHFA were to disagree with Fannie Mae's prioritization proposals. The packet highlighted areas where Fannie required further guidance from FHFA to define the actual 2012 scorecard deliverable. Andrew Bon Salle mentioned that completion of the state-level pricing grid now rests entirely with FHFA.

Financial Forecast Update

Ann Gehring discussed highlights of the latest financial forecast. She noted that Q2's record projected income of $6.2 billion [since reduced to $5.5 billion] was twice the first quarter's and was all due to improved credit-related expenses. A planned new loss model release should make Q3 and Q4 results look better than previously forecast. Comprehensive income is now expected to be sufficient to cover the dividend obligation throughout 2012. Small Treasury draws are forecast throughout 2013. Cumulative 2012-2016 income is now forecast at $ 56.6 billion, $12.3 billion higher than the last projection. Given this large change from the prior forecast, Tim Mayopoulos wondered whether the Board might question the credibility of management's financial projections. He noted that the models seem to lag or underestimate both downturns and upturns. Ann explained that projections are closely tied to recent history and thus aren't well suited to capturing accelerating trends. Terry Edwards reminded members that a 1% change in home price projections produces a $6 - $7 billion income delta. As regards home prices, Anne said that Fannie Mae's projections have been shown to be consistently more accurate than other sources. Terry noted that the housing market seems to be improving despite the fact the shadow inventory is still massive – "it's as if the market is saying that it's going to remain out there and not flow through". Susan McFarland added that Jon Greenlee believes that a more conservative approach to projecting future market conditions may be warranted given the limited number of improved data points.

Roundtable Discussion

Zach Oppenheimer said that June loan deliveries topped $63 billion with 25% coming through the cash window. Total mortgage originations for the full year are now estimated at $1.5 trillion. Fannie Mae had about a 50% share of the $762 billion originated in the year's first half. Zach noted that the average charged guarantee fee had increased by another 2.5 bps to a level of 42.5 bps in June. With most of the increases hitting larger lenders, the favorable gap enjoyed by large lenders had now declined to about 1.7 bps. Despite offering some of the highest mortgage rates, Zach said that BofA still appeared to be volume constrained.

Jeff Hayward said that multifamily volumes are on track to hit $25 billion for the year, up from around $20 billion last year. The average charged fee is now 80 bps. Jeff said that this fee level reflected market price levels, mentioning Freddie as the other market player. Some expressed concern that banks and life insurance companies seemed to be largely out of the market. John Nichols wondered whether their absence might indicate that the market was getting a bit frothy.

Dave Benson said that BlackRock's Green Package analytic software was now up and running. Fannie Mae's June lender conduit activity was a record $500 million.

John Nichols relayed that 11 MRAs had been submitted for closeout in June.

Pascal Boillat said that Fannie's main campus, unlike Freddie's, had not experienced any power problems during the recent storms.

Andrew Bon Salle said that HARP deliveries totaled 61,000 loans in June, up from 40,000 in May. More than 21,000 of these were from >125% LTV borrowers. Andrew noted that most of these came through the Quicken / Seterus pipeline which investors recognize as showing faster prepay speeds and should therefore tighten the Fannie/Freddie price spread.

Susan McFarland said that internal audit had completed its exam of the forecasting process with the finding that senior management should be more involved given that the forecast impacts financial statements.

Meeting Adjourned.

***** PLEASE DO NOT FORWARD EXECUTIVE MEETING MINUTES *****

Brad Martin
Principal Advisor
Office of Conservatorship Operations

EXHIBIT 13

Message

From: DeLeo, Wanda [/O=OFHEO/OU=OFHEO/CN=RECIPIENTS/CN=WDELEO]
Sent: 10/14/2008 3:01:38 PM
To: Satriano, Nicholas [nicholas.satriano@ofheo.gov]
Subject: FW: Information Request for the GSEs - Sent on Behalf of Lee Errickson

The info request I mentioned

From: Clark, Anne [mailto:Anne.Clark@gt.com]
Sent: Monday, October 13, 2008 4:39 PM
To: DeLeo, Wanda; Stauffer, Lawrence
Cc: Al.Runnels@do.treas.gov; James.Lingebach@do.treas.gov; Donald.Geiger@do.treas.gov; swhiting@kpmg.com; jdsilverman@kpmg.com; csupernaw@kpmg.com; dkovlak@kpmg.com; GroverJ@oig.treas.gov; FitzgeraldM@oig.treas.gov; Errickson, Lee; Beaton, Neil; Dufendach, David; Pustorino, Paul; Goode, Larry
Subject: Information Request for the GSEs - Sent on Behalf of Lee Errickson

Wanda and Larry,

We have summarized below our initial considerations for the valuation of each component of the keepwell agreement to set the stage for our questions and information requests.

Common Stock Warrants

Because of the nominal exercise price, we see the warrant effectively representing a grant of stock. Regardless of the model utilized for valuation, we don't expect alternative assumptions as to period to exercise or volatility as having any material effect on value. Under any model, the delta would be very close to 1. Therefore, our concern focuses on whether the stock price at September 30, 2008 fully and appropriately considered the dilutive effect of the warrants.

Senior Preferred Stock

Absent the direct consideration for the Commitment under which the GSEs could fund a deficit of book assets to book liabilities, we have the following considerations for valuation inputs:

- Do we expect a 10 percent cash payment or a 12 percent accrual at each payment point? If we have no set policy based on the intent of the parties, how do we model what form of payment occurs?

- The amount of additions to the liquidation preference that occur over time for (a) drawdowns on the commitment and (b) for accrued dividends.

- The amount of any reductions (redemptions) of liquidation preference, considering the need to pay back any advances under the Commitment.

- The appropriate initial discount rate and the possible adjustments to that discount rate given model assumptions of a changing risk profile over time. (We believe that consideration must be given to the hypothetical players in an exit market and their tax status.)

▪ The investment horizon based on practical expected business life or the effect of redemptions of the senior preferred, including the effect of varying interest rate structures on the financial guarantee liabilities, the overall net asset book position, and the activities under the Commitment.

The Commitment

We have the following additional considerations:

▪ Projecting the future relationships between total book assets and total book liabilities. (We note that the keepwell agreement is pegged to GAAP, which may change over time.)

▪ The effect of alternative future interest rate structures on the financial guarantee liabilities, the overall net asset book position.

Questions for both GSEs:

All questions concern the GSEs' opinions as of September 30, 2008.

1. What is their opinion of common stock volatility (a) over the year beginning September 30, 2008 and (b) for the long term thereafter? What is the foundation for their assessment of stock price volatility?

2. What is their opinion of whether the market priced the dilution of the warrants after the announcement of September 7, 2008? Can they point to any support for their opinion either way? If so, what?

3. If the answer to question 2 is yes, when did the market price it and do they believe it was adequately priced?

4. Did the GSEs intend to pay cash at 10 percent or accrue at 12 percent as a matter of policy?

5. If the answer to question 4 is that they have, or had, no set policy, what variables would be considered in making the decision between paying cash or accruing?

6. What did they believe the appropriate market yield on the senior preferred stock would be?

7. What did they believe the appropriate market yield on a subordinated bond issue would be?

8. How would the yield (referenced in question 6) reconcile to the strong credit rating and low yield on the worst bond issue compared to the comparatively poor credit rating and high yield we observe for the best performing preferred stock?

9. Did the GSEs anticipate any re-rating of their bond issues or preferred stock in the near term as a consequence of the keepwell agreement?

10. Do the models requested below incorporate, or otherwise address, the $700 billion bailout package? If so, how?

Please provide, or arrange for our collection of, the following Financial Information and Models from both GSEs:

1. Projected balance sheets for any and all future dates

2. Cash flow forecasts for the year from September 30, 2008a and for all periods thereafter

3. Anticipated timing and amount of drawdowns on the Commitment related to the senior preferred stock

4. Financial guarantee liability model structure, inputs (assumptions), and results

5. Estimates of the fair value of financial guarantee liability for the last twenty-four months

6. Last three year's performance history of financial guarantees

7. Accounting and/or risk management policy(ies) on the use of derivatives

8. Policy statement and procedures for asset/liability management

9. Asset/liability model structure inputs (assumptions) and results

10. Duration and duration gap analyses for the last twenty-four months

11. Draft of the September 30, 2008 financial statements

12. Update (including valuation method and key assumptions and in-process values) on the September 30, 2008 valuations of senior preferred stock, the Commitment, and the common stock warrants being prepared by independent valuation specialists

We are open to your suggestion of additional materials that you believe we will need, and, obviously, additional requests may be forthcoming and, given the short time frame to complete our work, we will have to make requests as we discover the need for additional information rather than aggregating requests to limit their frequency.

Best,

Lee

EXHIBIT 14

A. I've read the email. What's your question again?

Q. My first question is this Tim, is that you, that it says after --

A. I don't know the answer, but I assume so because I'm on the email.

Q. And it says "prioritizing four or five key asks to FHFA is spot on (including time frames)."

Did this have to do at all with adoption of the net worth sweep?

A. I don't think so. I think this was in regard to -- well, first off, just as I said earlier, the -- and I want to make sure I correct myself on this, that in regard to the variable dividend, no. Secondly, my belief is -- or the change from the fixed dividend to the variable dividend, no.

I think what this is referring to is there was a desire to improve the covenant package from Treasury's perspective that existed in the PSPAs in order to reduce risk to the taxpayer against future large, meaningful draws of taxpayer support. So what we were trying to think through is are there covenants that could be either improved or enhanced within the context of the PSPAs that could help put the taxpayer in a more remote position relative to its exposures to Fannie Mae and Freddie Mac within the context of the PSPA agreements.

Q. You mentioned before that moving to the variable dividend was also meant to protect the taxpayer's position, is that correct?

A. Yes.

Q. Did Treasury engage in any contingency planning for the possibility that FHFA would refuse to adopt the net worth sweep?

A. What do you mean by contingency planning?

Q. Did Treasury have a backup plan in case FHFA said, no, we're not going to do the net worth sweep?

A. We had not developed a backup plan in -- we had not done work on a backup plan while we were negotiating changes to the PSPAs with FHFA. I'm sorry, let me be clear. I was not a part of any work process associated with a backup plan in the event that FHFA did not negotiate with us or come to an agreement with us on changes to the preferred stock purchase agreements.

(Bowler Exhibit No. 12 was marked for identification.)

BY MR. PATTERSON:

Q. This is a memo from Deloitte, Fannie's auditor, March 23rd, 2012 is the date and it's a long document. I'm not going to ask questions about most of it but I would like you to turn to page 14 if you could.

A. Do you mind if I just take a look, just a quick look at the first page?

Q. You can look at the first page, yes.

A. Okay. I've looked at the first page.

Q. And now if you can turn to 14, which in the bottom right it says DT-056071.

A. You said up in the upper right-hand corner, 14 of 43?

Q. 14 of 43.

A. And where do I want to look?

Q. There is a heading number 1 that says Economic and Political Environment, under that "Risk"

EXHIBIT 15

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

- - - - - - - - - - - - - - - - X

FAIRHOLME FUNDS, INC., et :
al., :
Plaintiffs, : Case No. 13-465C
v. :
THE UNITED STATES, :
Defendant. X

- - - - - - - - - - - - - - - -

Washington, D.C.
Tuesday, July 14, 2015

Deposition of JEFFREY ALAN FOSTER, a witness herein, called for examination by counsel for Defendant in the above-entitled matter, pursuant to notice, the witness being duly sworn by MARY GRACE CASTLEBERRY, a Notary Public in and for the District of Columbia, taken at the offices of Cooper & Kirk, 1523 New Hampshire Avenue, N.W., Washington, D.C., at 8:00 a.m., Tuesday, July 14, 2015, and the proceedings being taken down by Stenotype by MARY GRACE CASTLEBERRY, RPR, and transcribed under her direction.

BY MR. PATTERSON:
Q. Do you know when Treasury decided that?
MR. DINTZER: Objection. Vague. Confusing.
THE WITNESS: I don't believe -- I think Treasury decided they would only sign the documents on August 17th.
BY MR. PATTERSON:
Q. So Treasury had not decided before then?
MR. DINTZER: Objection. Same objection.
THE WITNESS: Not to my knowledge had a definitive decision been made.
BY MR. PATTERSON:
Q. While the net worth sweep proposal was under consideration, did Treasury have any backup plans in case FHFA did not agree to the proposal?
MR. DINTZER: Objection. Vague.
THE WITNESS: Can you be more specific?
BY MR. PATTERSON:
Q. Had Treasury done any contingency planning as to what it would do regarding the dividend structure had FHFA refused to agree to the net worth

sweep dividend proposal?

A. Not to my recollection.

Q. And again, this says that as of this date, FHFA has agreed to the net worth sweep dividend proposal. So would it be fair to say that as of this point, the only questions were questions of timing and questions of what else would be included in the third amendment besides the net worth sweep?

MR. DINTZER: Objection. Misstates. Confusing.

THE WITNESS: I don't necessarily believe that to be true. You'd have to -- I wouldn't want to presume that FHFA had agreed to anything at this point.

BY MR. PATTERSON:

Q. But to your knowledge, do you have any reason to believe that this statement in this document is not true?

A. Well, FHFA had agreed to any proposal and from my recollection, there was a number of ongoing discussions and going back and forth in terms of how a net worth sweep would -- how the construction would