



Welcome to the September edition of the HPC Bulletin.

In this month's newsletter you'll find: [Ed's Insights](#), [Executive Spotlight](#), [Policy Pulse](#) and [HPC in the News](#).



As I write this note, the Administration's announcements on housing supply are rolling out. While modest, they represent an acknowledgement of the key issue in residential housing today.

The central role of FHFA, which joined in the announcement by issuing several directives to Fannie Mae and Freddie Mac, is noteworthy; this new set of actions follows a string of announcements from FHFA since Acting Director Sandra Thompson took over in late June. Many of the Acting Director's

announcements have focused on affordable housing and fair lending issues. I have found them both thoughtful and appropriate, reflecting her personal interest in these challenges and her willingness to coordinate with other parts of the executive branch.

I have read some coverage of these actions that says they reflect a strong pivot away from Director Calabria's path and a strong embrace of pushing a housing mission agenda. I do not agree with such a conclusion.

From my discussions with the Acting Director and my own personal experience working with her, I believe she is striving for balance in how FHFA approaches its multiple responsibilities as conservator, safety and soundness regulator, and housing mission regulator. Indeed, I expect to see pronouncements and actions focused on safety and soundness issues, including the capital rule and credit risk transfer.

I do not expect sharp changes but instead, refinements and improvements to steps FHFA has taken the last several years. This is to be hoped for, as I explained in my [American Banker op-ed](#) in late July. In her first weeks as Acting Director, she has signaled that she is more likely to build on the accomplishments of previous Directors and take modest and measured steps to alter policy where needed.

For HPC members, the possibility that certain provisions in the capital rule may get a second look should be welcome news. I believe [HPC's comment letter to FHFA on that rule](#), submitted just a year ago, is a useful roadmap of where surgical changes, not an overhaul, could vastly improve the rule. I would welcome hearing from any member companies that have updated views on the capital rule that they would like to share. I expect we may be reconstructing our Capital Rule Working Group in the next few months.

Similarly, I expect credit risk transfer will get a fresh look. Again, I would welcome hearing from members on ways in which you think CRT could be improved.

Edward J. DeMarco



EXECUTIVE SPOTLIGHT

This month's Executive Spotlight focuses on Kurt Pfothenhauer, the Vice Chairman of First American Financial Corporation.



First American Title™

Fierce competition to streamline through technology is the new normal

Kurt Pfothenhauer says keeping pace with rapid technological advances and standardization are the key challenges for the title industry in the coming year, themes that permeate the entire mortgage space and shape his role as MISMO chair.



[Read More](#)



Reminding HUD that commercially reasonable business determinations are relevant to disparate impact analyses

In mid-August, HPC responded to HUD's [proposed rule reinstating its 2013 disparate impact standard](#). In its letter, HPC supported HUD's decision to move quickly to initiate rulemaking and acknowledged the benefit of returning to the 2013 rule, which contains a simple and familiar legal framework. However, HPC urged HUD to provide additional clarity in the final rule in two key areas: a) the valid defense rationale for a "necessary and valid business interest"; and b) an acceptable plaintiff argument that an alternative, less discriminatory practice exists. HPC notes that guidance for such clarity already exists in the 2015 Supreme Court case, *Inclusive Communities*, with which the rule should align, as well as the 1994 Interagency Policy Statement on Discrimination in Lending. Both the *Inclusive Communities* case and the policy statement indicate that economic viability and operational feasibility should be considered when evaluating the validity of a business decision and the existence of less discriminatory alternatives.

[Read August 24th Letter](#)

Urging Ginnie to delay implementation and collaborate further on risk-based capital requirements

In early August, HPC responded to Ginnie Mae's [request for input on eligibility requirements for single-family mortgage-backed security \(MBS\) issuers](#). In its letter, HPC expressed general support for the proposed revisions to issuer net worth and liquidity requirements, while suggesting improvements, but urged Ginnie to withhold implementation of the risk-based capital (RBC) ratio pending further industry collaboration and preparation. HPC highlighted the unintended consequences of the proposed RBC ratio and suggested alternative approaches to achieving Ginnie's objectives. HPC also offered to collaborate

with Ginnie to explore and develop a better calibrated approach to risk-based capital requirements.

[Read August 9th Letter](#)

Objecting to potential Congressional expansion of the False Claims Act

HPC co-signed a letter with the American Bankers Association and the Mortgage Bankers Association to House and Senate leadership in early August opposing an amendment to the bipartisan infrastructure bill that would have made substantive, retroactive changes to the False Claims Act (FCA). In the letter, HPC and the other trades reminded lawmakers that over-enforcement of the FCA has chased many lenders away from FHA programs, resulting in reduced access and higher costs for the first-time and low-to-moderate income homebuyers FHA serves. The amendment never made it into the Senate version of the bill but could be revisited when the House takes up the same legislation.

[Read August 6th Letter](#)

Supporting further expansion of the digital ecosystem

We have continued to promote further adoption of the digital mortgage ecosystem, including expansion of RON and eMortgages as well as the development of standards needed for digital sourcing and verification of income, assets, and employment for mortgage qualifying purposes for private label securities. This work is an essential component of a larger set of systemic policy issues HPC is addressing. We have engaged with other industry partners, including MISMO and SFA, to collaborate on these efforts when and where it makes sense. Currently, a working group is focused on identifying the methodology, including data standards, definitions, and processes necessary to commingle digitally verified income loans with traditional loans into private-label securities.

Continued dialogue with Ginnie Mae

HPC has and continues to advocate for targeted relief from certification and documentation requirements of Advance Loan Modification submitted for pooling and for expanded use of electronic signatures and remote online notarization. HPC has also addressed member concerns with Ginnie Mae's enforcement of seasoning requirements for VA modified loans, initiated discussions on potential changes to loan eligibility requirements for unmodified re-performing loans, and kicked off initiatives to promote additional alignment with CSS/CSP.



August 2, 2021, HousingWire: [Mortgage fees to help pay for Biden infrastructure bill](#). HPC joined two dozen groups in signing an industry letter opposing the use of guarantee fees to pay for Congress' infrastructure package.

August 16, 2021, National Mortgage News: [How the Homeowner Assistance Fund may affect foreclosures](#). HPC's VP of Mortgage Policy, Matt Douglas, discusses the HFA and HPC's collaboration with key HAF stakeholders and regulators.

August 25, 2021, HousingWire: [The housing industry's disparate impact hopes](#). HPC's comment letter asks HUD to clarify that valid arguments in defense against disparate impact claims include "commercially reasonable" decisions for business practices and policies.

Please send us your feedback.

Please email HPC's SVP for Public Affairs, Sheryl Pardo, at Sheryl.Pardo@housingpolicycouncil.org with your thoughts on what was helpful in this month's newsletter and what additional information you would like to see on a monthly basis.

Please email newsletter@housingpolicycouncil.org to add a colleague's email to our list of newsletter subscribers.

With questions or for more information about any working groups, email workinggroups@housingpolicycouncil.org.

Review HPC's newsletter archive [here](#).