PUBLIC CITIZEN Celebrating 40 Years of Progress

January 10, 2013

Steve A. Linick
Inspector General
Federal Housing Finance Agency Office of Inspector General
400 7th Street, SW
Washington, DC 20024

Dear Inspector General,

Public Citizen requests the Federal Housing Finance Agency Office of Inspector General to conduct an investigation of the Jan. 7, 2013 settlement agreement between Federal National Mortgage Association (Fannie Mae) and Bank of America to examine the steps that the FHFA took to determine that the settlement "is in the best interests of taxpayers," as FHFA Acting director Edward DeMarco declared. [1]

Terms of this deal demand careful scrutiny. As explained in press releases and disclosures through the Securities and Exchange Commission, Bank of America will make a cash payment of $3.55 billion to Fannie Mae. Fannie Mae explained this agreement covers mortgage loans with $1.4 trillion in original value.[2] The $3.55 billion settlement represents a small portion of this aggregate $1.4 trillion loan value, specifically, 0.25 percent of the total loans.

The IG has noted in a report that "12 million underwater homeowners now have an aggregate negative equity of $700 billion."[3] Bank of America was among the largest originators of mortgage loans in the nation, and a holds a substantial portion of those underwater loans. A Justice Department lawsuit filed in October, 2012, alleges that more than a third of the mortgages that Bank of America's Countrywide unit sold to government

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[1] FHFA press statement, January 7, 2013, available at: http://www.fhfa.gov/webfiles/24863/FHFAStmtSettlement.pdf

[2] Fannie Mae 8-k, January 7, 2013, available at: http://phx.corporate-ir.net/phoenix.zhtml?c=108360&p=irol-SECText&TEXT=aHR0cDovL2FwaS50ZW5rd2l6YXJkLmNvbS9maWxpbmcueG1sP2lwYWdlPTg2NDUzNzUmRFNFUT0wJlNFUT0wJlNRREVTQz1TRUNUSU9OX0VOVElSRSZzdWJzaWQ9NTc%3d

[3] IG report on Conservatorships, available at: http://origin.www.fhfaoig.gov/Content/Files/WPR-2012-001.pdf

sponsored enterprises such as Fannie Mae contained “material defects.” [4] On its face, a settlement paying 0.25 percent of a loan portfolio where the government alleges 33 percent defect rate raises questions about the rigor the FHFA applied to ensure “the best interests of taxpayers have been served.”

Already, Fannie Mae has drained staggering sums from taxpayers. The FHFA reported that “by the end of 2014, between $220 and $311 billion in financial support will have been drawn from the Treasury”[5] for Fannie Mae and Freddie Mac. Bank of America’s contribution of $3.5 billion provides insufficient recompense to taxpayers.

We ask the IG to review how the FHFA determined that the $3.5 billion payment was “in the best interests of taxpayers.”

The FHFA serves as conservator of Fannie Mae. The FHFA holds “the powers of the [Fannie Mae’s] directors, officers, and shareholders.”[6]

We ask the IG to review the specific role that the FHFA staff played in the settlement negotiations. We note that the IG has observed on other matters that “FHFA often relied on determinations of [Fannie Mae] without independently testing and validating them, thereby giving undue deference to [Fannie Mae] decision-making.”[7]

Public Citizen appreciates the Inspector General’s diligent efforts to promote the economy, efficiency, and effectiveness of FHFA’s programs.

Sincerely,

Bartlett Naylor

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[4] “US v. Bank of America,” p. 4, available at: http://s3.documentcloud.org/documents/509135/boa-usdoj-complaint-countrywide-hustle.pdf

[5] “ FHFA-OIG’s Current Assessment of FHFA’s Conservatorships of Fannie Mae and Freddie Mac,” March 2012, available at: http://origin.www.fhfaoig.gov/Content/Files/WPR-2012-001.pdf

[6] http://www.fhfa.gov/webfiles/35/FHFACONSERVQA.pdf

[7] http://origin.www.fhfaoig.gov/Content/Files/WPR-2012-001.pdf