

February 14, 2019

The Honorable Laura Wertheimer
Inspector General
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

The Honorable Eric M. Thorson
Inspector General
Treasury Department
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Inspector General Wertheimer and Inspector General Thorson:

We write to request an investigation into whether officials at the Federal Housing Finance Agency (FHFA) or Office of the Comptroller of the Currency leaked information about the agency's plans regarding reform to the Government Sponsored Entities (GSEs) with intent to manipulate markets for the benefit of investors in preferred and common shares. Sharing this confidential, market-moving information with the intent of benefiting Fannie Mae and Freddie Mac's shareholders would represent a breach of securities law.¹

On December 21st, 2018, the Trump administration announced that Joseph Otting would assume the role of Acting Director of the FHFA following the expiration of Mel Watt's term on January 6, 2019.² On December 31st, 2018, Fannie Mae and Freddie Mac common stock was at \$1.06 per share after a dismal 2018.³

On January 7th, 2019, Comptroller of the Currency Joseph Otting was installed as acting FHFA Director,⁴ sparking optimism among investors that the Trump administration would allow Fannie and Freddie to keep their own profits, rather than continue handing profits over to the U.S. Treasury. Investors apparently believe that this move would be a prelude to Fannie and Freddie's

¹ "Insider Trading." *Investor.gov*, U.S. Securities and Exchange Commission, <https://www.investor.gov/additional-resources/general-resources/glossary/insider-trading> ; see also 17 CFR § 240.10b5-1.

² Ramirez, Kelsey. "Trump taps OCC's Otting to replace Watt as FHFA director." *HousingWire*, 21 December, 2018, <https://www.housingwire.com/articles/47773-trump-taps-occs-otting-to-replace-watt-as-fhfa-director>

³ "Fannie Mae." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnma>; "Freddie Mac." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmcc>

⁴ Lane, Ben. "Watt out: OCC's Otting officially takes over as FHFA director." *HousingWire*, 7 January, 2019, <https://www.housingwire.com/articles/47858-watt-out-occs-otting-officially-takes-over-as-fhfa-director>

potential re-privatization, which would mean a windfall for investors. By the market's close on January 17th, 2019, Fannie Mae and Freddie Mac common stock had risen to \$1.80 and \$1.81 respectively, a nearly 70% appreciation in less than three weeks without any precedent for the stocks in 2018.⁵

On January 18th, MarketWatch reported that, in his new role at FHFA, Otting had told employees in a private meeting that he would soon be announcing a plan to take the GSEs out of conservatorship.⁶ MarketWatch obtained this information from "an attendee of that gathering." An FHFA spokesperson "confirmed there was discussion about ending Fannie and Freddie conservatorship but denied there was any talk of timing or details."⁷

The value of shares of Fannie Mae and Freddie Mac increased dramatically following the leak.⁸ The values of Fannie and Freddie's common stock increased by 33.9 percent⁹ and 31.5 percent¹⁰ respectively. The value of the GSEs preferred shares also increased, by 10.5 percent for Fannie Mae¹¹ and 5 percent for Freddie Mac.¹² All of these represent notable single day price movements.

Six days later, on January 24, Politico reported on further details of Otting's remarks after obtaining a recording of the meeting. Contrary to the FHFA spokesperson's aforementioned comments, Otting can be heard laying out a timeline for reform, stating that a plan would be released within two to four months and that he expected to see significant progress in six to eight months.¹³

Following this news of a timeframe for the Trump administration's apparent plan to recapitalize and release the GSEs from conservatorship, Fannie and Freddie's stock prices rose again. The value of Fannie Mae and Freddie Mac's common stock rose by 20.5 percent¹⁴ and 19.4 percent¹⁵,

⁵ "Fannie Mae." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnma>; "Freddie Mac." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmcc>

⁶ Goldstein, Steve and Andrea Riquier. "Fannie Mae and Freddie Mac regulator discussing plan to end conservatorship." *MarketWatch*, 18 January, 2019, <https://www.marketwatch.com/story/fhfa-acting-director-discussing-plan-to-take-fannie-and-freddie-out-of-conservatorship-2019-01-18>

⁷ Goldstein, Steve and Andrea Riquier. "Fannie Mae and Freddie Mac regulator discussing plan to end conservatorship."

⁸ Dexheimer, Elizabeth. "Fannie-Freddie Soar on FHFA Chief's Conservatorship Comment." *Bloomberg*, 18 January, 2019, <https://www.bloomberg.com/news/articles/2019-01-18/fannie-freddie-shares-soar-on-fhfa-chief-conservatorship-comment>

⁹ "Fannie Mae." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnma>

¹⁰ "Freddie Mac." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmcc>

¹¹ "Fannie Mae 8.25% Non-Cum. Pfd. Series T." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnmat>

¹² "Freddie Mac 8.375% Non-Cum. Perp. Conv. Pfd." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmckj>

¹³ Guida, Victoria and Katy O'Donnell. "White House plans to overhaul housing finance system, top regulator says." *Politico*, 24 January, 2019, <https://www.politico.com/story/2019/01/24/federal-housing-finance-agency-overhaul-1111874>

¹⁴ "Fannie Mae." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnma>

¹⁵ "Freddie Mac." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmcc>

respectively, while the price of the preferred stock rose by 2 percent (Fannie)¹⁶ and 6.8 percent (Freddie).¹⁷ Once again, these price movements are notable.

This curious series of events makes clear that the information contained in Otting's remarks was material to Fannie Mae and Freddie Mac's investors, raising questions about the intent behind this leak and providing sufficient grounds for further investigation.

Our concerns, however, are further elevated by the existence of close relationships between senior members of the Trump administration and investors in the GSEs. These ties increase the likelihood that MarketWatch and Politico's source(s) may have had incentive to leak information on GSE reform in the interest of helping private investors and, therefore, in violation of securities law. They also raise questions about why investors felt confident enough in Otting's policy stance at FHFA to spark a sudden rally in Fannie and Freddie's shares on the mere news of his appointment as acting FHFA director.

Many of this administration's ties to investors in the Government Sponsored Entities predate Donald Trump's presidential campaign. President Trump¹⁸ and Steven Mnuchin¹⁹ both invested with John Paulson's hedge fund, Paulson & Co., prior to assuming their current roles. Paulson & Co. was one of several high-profile hedge funds that took up a position in preferred shares of Fannie Mae and Freddie Mac.²⁰

Additionally, John Paulson was one of the group of investors that Steven Mnuchin brought together in 2008 to purchase failed lender Indymac and create OneWest bank.²¹ Paulson, who took a 24.9 percent stake²² in OneWest, was essential to making Mnuchin's venture possible. Although not an investor in the original venture, acting FHFA Director Joseph Otting was OneWest's CEO from 2010 to 2015.²³ He benefited handsomely from his involvement with the

¹⁶ "Fannie Mae 8.25% Non-Cum. Pfd. Series T." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fnmat>

¹⁷ "Freddie Mac 8.375% Non-Cum. Perp. Conv. Pfd." *MarketWatch*, <https://www.marketwatch.com/investing/stock/fmckj>

¹⁸ Stewart, Emily. "Donald Trump Says He Made over \$1 Million on Each of These 5 Stocks." *The Street*, 16 July, 2015, <https://www.thestreet.com/story/13221100/1/donald-trump-says-he-made-over-1-million-on-each-of-these-5-stocks.html>

¹⁹ Timiraos, Nick. "Mnuchin Has Stake in Fund That Would Gain From Fannie Mae Revival." *The Wall Street Journal*, 11 January, 2017, <https://www.wsj.com/articles/mnuchin-has-stake-in-fund-that-would-gain-from-fannie-mae-revival-1484169733>

²⁰ Delevingne, Lawrence. "Hedge funds ignore Fannie-freddie 'noise.'" *CNBC*, 14 March 2014, <https://www.cnbc.com/2014/03/14/hedge-funds-ignore-fannie-freddie-noise-in-hopes-of-massive-payday.html>

²¹ Baer, Justin, et al. "Bet on Failed Bank Creates Windfall." *Wall Street Journal*, 22 July, 2014, <https://www.wsj.com/articles/john-paulson-hedge-fund-profits-from-stake-in-indymac-1406061115>

²² Burton, Katherine and Kelly Bit. "John Paulson makes Almost \$1 Billion on OneWest Sale." *Bloomberg*, 22 July, 2014, <https://www.bloomberg.com/news/articles/2014-07-22/john-paulson-makes-almost-1-billion-on-onewest-sale>

²³ Tracy, Ryan. "Trump's Bank Regulator Flips Obama's Script." *The Wall Street Journal*, 8 June, 2018, <https://www.wsj.com/articles/trumps-bank-regulator-flips-obamas-script-1528450206>

bank, receiving \$24.9 million in total compensation following CIT Bank's acquisition of the bank in 2015.²⁴

These relationships, however, are not confined to the past, but have stretched into Donald Trump's campaign and his presidency. Several GSE investors, including John Paulson, were among Trump's prominent backers during his presidential campaign. Paulson, for instance, organized a fundraising event where donors paid \$250,000 to attend.²⁵ Carl Icahn, who took up a \$51 million position in Fannie Mae and Freddie Mac's common stock in 2014,²⁶ was also a major campaign donor, giving \$200,000 to Trump's joint fundraising committee with the Republican party, Trump Victory.²⁷ Finally, Bruce Berkowitz, the head of Fairholme Fund (which is not only invested in the GSEs but is suing the federal government for claiming the entities' total profits in 2012)²⁸, donated \$125,000 to Trump Victory in 2016.²⁹

For Icahn and Paulson, generous contributions translated into direct influence over the administration's policies. For instance, Paulson, along with Mnuchin, was a member of candidate Trump's economic advisory team, which was tasked with shaping the candidate's economic policy platform.³⁰ Paulson has also been given at least one official meeting with Mnuchin since he assumed the role of Treasury Secretary, as revealed by a copy of Mnuchin's January 2018 calendar.³¹ Following Trump's win, Icahn was given a role as a [special advisor on regulatory policies](#), a position that offered him wide reaching influence without much scrutiny (because he was not a government employee, Icahn did not need to turn over his financial records or divest from his positions).³²

While the existence of these relationships is not damning, it does lay out a possible motivation behind objectively market moving leaks. Several members of the Trump administration may feel

²⁴ Ensign, Rachel Louise. "CIT Chief John Thain Takes 9% Pay Cut on His Way Out." *The Wall Street Journal*, 21 March, 2016, <https://www.wsj.com/articles/cit-chief-john-thain-takes-9-pay-cut-on-his-way-out-1458588182>

²⁵ Blumenthal, Paul and Ryan Grim. "This Hedge Fund Billionaire Is The biggest Winner in Donald Trump's Victory." *Huffington Post*, 11 November, 2016,

https://www.huffingtonpost.com/entry/donald-trump-hedge-fund_us_5826076ce4b02d21bbc8781e

²⁶ Forgione, Sam. "Carl Icahn buys \$51 million in Fannie Mae, Freddie Mac shares." *The Washington Post*, 3 June, 2014, https://www.washingtonpost.com/business/economy/carl-icahn-buys-51-million-in-fannie-mae-freddie-mac-shares/2014/06/03/f2d231f4-cb6b-11e3-9f5c-9075d5508f0a_story.html?utm_term=.2e2f197bc6e8

²⁷ Pramuk, Jacob. "Trump names Icahn as special advisor on regulation, vows to shred Obama rules." *CNBC*, 21 December, 2016, <https://www.cnbc.com/2016/12/21/trump-to-name-icahn-as-special-adviser-on-regulatory-overhaul-report.html>

²⁸ Pramuk, Jacob. "Trump names Icahn as special advisor on regulation, vows to shred Obama rules."

²⁹ Blumenthal, Paul and Ryan Grim. "This Hedge Fund Billionaire Is The biggest Winner in Donald Trump's Victory."

³⁰ Pramuk, Jacob. "Trump unveils economic policy team, includes John Paulson." *CNBC*, 5 August, 2016, <https://www.cnbc.com/2016/08/05/trump-unveils-economic-policy-team-includes-john-paulson.html>

³¹ Calendar of Treasury Secretary Steven Mnuchin, Jan 2018-March 2018 accessed at:

https://www.treasury.gov/FOIA/Documents/Secretary_Mnuchin%27s_Calendar_January_2018-March_2018_FINAL.pdf

³² Slocum, Tyson, Energy Program Director, Public Citizen, Inc. "Failure of Carl C. Icahn, Icahn Enterprises, CVR Energy and related affiliates to register as a lobbyists." Letter to Julie E. Adams and Karen L. Haas. 18 Mar. 2017. Washington, DC. <https://www.citizen.org/sites/default/files/icahn-complaint-march-2017.pdf>

indebted to certain GSE investors. Furthermore, it makes clear that open lines of communication between the two members of the two groups have existed in the recent past.

Given this information, we believe that you should investigate possibility that someone within the administration leaked information regarding GSE reform with intent to manipulate markets to benefit Fannie Mae and Freddie Mac's investors.

For this reason, we request that you open an investigation into the recent leaks in order to answer the following questions:

- With whom was Joseph Otting talking between December 21st, 2018 and January 17th, 2019 concerning his vision for the GSEs? And with whom did those people talk, especially in light of the 2019 bull market for GSEs immediately preceding the first leak?
- Who leaked information regarding Otting's January 17th remarks to MarketWatch?
- Did the leak's source share that information with any other parties?
- Who leaked the recording of Otting's January 17th remarks to Politico?
- Did the leak's source share that information with any other parties?
- Were any leaks approved by someone more senior than the direct leaker?
- Alternatively, were these leaks the acts of a whistleblower or whistleblowers, and if so, is an IG office listening to potentially legitimate whistleblower claims from within the FHFA?
- Who, if anyone, made unusual trades in shares of Fannie Mae and Freddie Mac in the days preceding and following the leaks?
- Did any hedge funds with longstanding unsuccessful long positions in GSEs take advantage of the January 2019 bull market to reduce their positions?

Thank you for your attention to this matter.

Lisa Gilbert, Vice President of Legislative Affairs, Public Citizen
Jeff Hauser, Executive Director, Revolving Door Project