

March 14, 2023

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510



The Honorable Tim Scott
Ranking Member
Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Brown & Ranking Member Scott:

On behalf of the American Land Title Association (ALTA), our 6,400 members and 120,000 title professionals in every county throughout the country, I write to you today to express our grave concerns about, and strong objections to, a reported pilot being developed by Fannie Mae to provide a waiver from any title insurance requirements for certain loans it purchases. We are concerned this pilot will not provide the level of protection that consumers and lenders need and that Fannie Mae would be taking on risk for activities that are outside of its charter. The title insurance industry has long provided protection to consumers' property rights and stability to a healthy real estate ecosystem. This proposed expansion of activities beyond the authorities expressly outlined in the Federal National Mortgage Association Charter Act is deeply disconcerting.

As was first reported in a recent [article](#) in Politico, information is circulating outlining details of this proposal to lender prospects in the marketplace. According to reports, under this proposal, some originators would be granted a waiver from the requirement that any loan sold to Fannie Mae be backed by a policy of title insurance. Further, this proposal suggests that Fannie Mae handle any claims that arise from the servicer, taking on the risk that title insurance companies would normally bear and are reserved to handle.

Beyond the legality of Fannie Mae entering into the title insurance business directly, we have concerns about how such a product will be marketed to consumers, the coverages it will include, and the additional risk being taken on by Fannie Mae and its partner lenders for title matters. Today, title insurance not only provides the necessary coverage to protect consumers and their property rights, our members also act as neutral third parties during the closing and settlement process. We work to educate consumers on their options and the coverage that different policies do or do not provide, and we worry that with Fannie Mae acting to remove title professionals from this process, that consumer education will be lost.

Additionally, if the claims handling part is correct, we have concerns about Fannie Mae becoming a de facto title insurance company without being licensed, regulated, or reserved for what is a primary market business under the purview of state oversight. As you know, title insurance is regulated at the state level to promote transparency, solvency, and fair pricing.

Equally troubling is the process (or lack thereof) by which Fannie Mae has developed this pilot. As you know, the Federal Housing Finance Agency (FHFA) finalized its Prior Approval for Enterprise Products rule last year which provides for an open process and requires public notice and comment on any new product put forth by the GSEs. Rather than abiding by this new rule, Fannie Mae has developed this pilot program, and is reportedly engaging with lenders about their potential participation, under the cloak of darkness. This is not how the Enterprises should be developing new products, especially ones that have the potential to negatively impact the very consumers they should be serving.

While efforts to reduce housing costs for minority and low- to moderate- income borrowers through the Equitable Housing Finance Plans are important, moving beyond the chartered mission of the Government Sponsored Enterprises (GSEs) to provide liquidity in the mortgage market is troubling. We welcome continued dialogue with FHFA, the GSEs, and Congress to responsibly address housing affordability.

Given your oversight of the FHFA and its role to provide for the safety and soundness of the GSEs under conservatorship, we request that you ask FHFA to discontinue Fannie Mae's work on this proposal. Furthermore, going forward it is essential that the Committee require the FHFA to conduct an open process with public input for any new program under consideration, as called for by the Prior Approval for Enterprise Products rule. The core mission of the GSEs is to provide liquidity in the mortgage market to ensure that access to homeownership remains a possibility for all Americans. Straying beyond that core mission does not seem prudent – especially to interfere with a primary insurance market that has a long-standing record of protecting consumers and ensuring a healthy real estate marketplace.

ALTA members are working tirelessly to protect homeowners' property rights in a safe and sound, cost-effective manner. We know you share this objective, but this proposed pilot at Fannie Mae would do just the opposite. We look forward to continuing to work with the Committee on our shared goals of protecting consumers and promoting homeownership.

Sincerely,



Diane Tomb

Chief Executive Officer

American Land Title Association