



April 17, 2024

The Honorable Sandra L. Thompson
Director of the Federal Housing Finance Agency
400 7th St SW
Washington, DC 20024

**Re: Property Insurance Impacted by Mortgage Requirements
Seller/Servicer Announcements February 2024**

Director Thompson:

On behalf of their members, the National Association of Mutual Insurance Companies (NAMIC)¹ and the Independent Insurance Agents and Brokers of America (IIABA)² are writing about the property insurance impacts of the recent revisions to mortgage Seller/Servicer requirements³ by Fannie Mae and Freddie Mac (government sponsored enterprises or GSEs) which were indicated as being made at the direction of the Federal Housing Finance Agency.

Agents report that the guidance unveiled two months ago comes during a time of significant challenges in the property insurance market, with many individual consumers and families facing difficulty or frustration in finding and obtaining coverage for their homes. Requiring, without exception, that all consumers with mortgages owned by Fannie Mae and Freddie Mac obtain full replacement cost coverage will logically, by the very nature of this mandate, exacerbate existing challenges. While the GSE guidance is no doubt well-intentioned, it establishes requirements that will have a real-world impact on the many homeowners who are unable to satisfy the coverage requirements or who are forced to purchase a higher-cost insurance product in order to do so.

¹ NAMIC membership includes more than 1,500 member companies. The association supports regional and local mutual insurance companies on main streets across American and many of the country's largest national insurers. NAMIC member companies write \$323 billion in annual premiums and our members account for 67 percent of homeowners insurance. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

² Founded in 1896, the Big "i" is the nation's oldest and largest national association of independent insurance agents and brokers, representing more than 25,000 agency locations in all fifty states and the District of Columbia, united under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies.

³ As we understand it, new/revised GSE materials were documented in: [Selling Guide Announcement \(SE-2024-01\)](#) (Fannie Mae: Feb. 7, 2024), [Servicing Guide Announcement \(SVC-2024-01\)](#) (Fannie Mae: Feb. 14, 2024), [Selling Guide Chapter B](#) (Fannie Mae: Feb. 13, 2024, updating B-2-01, B-2-03, B-3-01), [Bulletin 2024-1: Selling](#) (Freddie Mac: Feb. 7, 2024), [Seller/Servicer Guide Sec. 4703.2: Minimum Property Insurance Types and Amounts](#) (Freddie Mac), and [Seller/Servicer Guide Sec. 4703.3: Flood Insurance](#) (Freddie Mac).

This letter focuses on three primary messages: (1) the urgent need to halt implementation of the new guidance while engaging a broader range of stakeholders and considering the far-reaching implications of the requirements; (2) concerns with the across-the-board mandate that consumers secure complete replacement cost, which simply is not available in all instances today; and (3) problems associated with the annual verification process outlined in the guidance.⁴

Urgent Request to Suspend Changes Immediately

The most immediate reason for our outreach is to urge that the changes (or clarifications) and their enforcement be suspended as quickly as possible. As a practical matter, for insurance agents/insurers, the question of whether GSEs officially consider these recently published requirements (and/or revised emphasis in Seller/Service audits) to be “changes” or “clarifications” is not the most germane, as we have not previously been part of the conversation or felt the direct impacts of GSE requirements in the same way and to the same degree. For ease of reference, we refer to them here as changes. Regardless of the wording around whether they are considered new requirements or clarifications of an existing requirement with potentially different enforcement, we urge you to consider their real repercussions, and therefore we encourage the GSEs not to proceed with implementation and enforcement in order to fully consider the complexity of issues and the breadth of implications, including:

- The significant burdens and/or disruptions this guidance will likely create for many consumers (and potentially for the businesses supporting them);
- Possible unintended consequences relating both to reducing availability and affordability of insurance as well as to the lack of infrastructure or mechanisms to meet expectations relating to annual valuation verification; and
- Engaging with previously untapped and impacted stakeholders.

Although the requirements do not apply directly to or impose specific requirements on insurers, their practical effect may be to impair, conflict with, or supersede state insurance laws and regulations - both with respect to products and process - because **insurance agents/companies may be meaningfully impacted by these GSE actions** in the ways outlined below.

Products: To meet expected changes in lender demands for a specific subset of insurance products (and therefore an expected narrower set of consumer demands), separately insurers may individually need to analyze the impact of the changes and determine whether it will:

- Alter its offerings of certain products along with the corresponding underwriting guidelines and prices (with higher prices likely needed to reflect greater exposure to higher claim amounts), recognizing that such changes may not be instant (and therefore time is of the essence for gaining an understanding of whether the GSEs will retract or suspend the changes). To generalize, in most states homeowners insurance policy forms, rates, and in some instances their

⁴ Also, we expect that other changes, such as those for master policies (and those relating to condominiums and cooperatives), may also present timing and/or other concerns as we continue the process of gathering member input.

guidelines as well, cannot be used unless they are filed and approved. Regardless of what the statutes may indicate, as a practical matter, the state filing review process to bring new/revised forms/rates/rules to market may take 18 months or longer. As background, this timeline would be in addition to time needed to develop the product/prices, prepare for filing submission, and any additional filing backlog resulting from this GSE change. At a high-level, consider a few of the possible situations.

First, upon an insurer's close review of their offerings in light of the GSE requirements, the insurer may determine it needs to change the language in its existing policy forms. This could necessitate a rewrite and trigger the potentially lengthy filing process discussed above.

Second, even assuming that an insurer has approved forms available across the country to offer replacement cost policies that would satisfy the GSE changes, the insurer may determine it needs to modify its guidelines (rules governing eligibility) - because a number of states require those to be filed - and/or change its deductible offerings. This too is a time consuming process.

Third, in some situations, an insurer may make a business decision (based on risk exposures, underwriting appetite, and/or other factors) that it may be unable to support a product meeting the GSE criteria, so it may elect not to modify its policy forms or its underwriting guidelines (and therefore may not be in a position to actively offer such products to consumers in the market).

- Change their systems, recognizing that such changes may not be instant and may require information technology staff time and resources before being implemented. For these reasons as well, time is of the essence for gaining an understanding of whether the GSEs will retract or suspend the changes. Further, such changes (and corresponding costs) may compete with or challenge other efforts in response to direct state legislative/regulatory requirements which insurers/agents are obligated to comply with). Finally, such decisions may be made despite being unfavorable to their business, to the market (as it may reduce competition and/or the variety of product options), and to some of the customers they serve. For context, consider that an insurer's IT system may deal not only with multiple lines of business and coverage forms, as well as laws and regulations (including recent changes) in all applicable jurisdictions, but it also may need to navigate its different technology from across time and from various mergers, etc. Insurers' separate IT systems are complex (and perhaps each is uniquely complex).

Process: To meet anticipated processes in response to GSE changes around mandatory verification of insurance valuations - every year and for every GSE mortgage across the country, especially where no mechanism exists for such valuations or communications - may prompt massive confusion and delays/disruption (along with possibly increasing litigation risks and compliance challenges).

In terms of potential disruption from the implementation and enforcement of the changes - based on the time and other constraints discussed above as well as on the product-related discussion below - it is difficult to imagine that the GSE changes will not result in many consumers with GSE-backed loans having fewer and more expensive homeowners insurance options (especially in the short term). And to be clear, these impacts may not be limited to new insurance policies; they may be felt at annual renewal time for those with

existing mortgages where insurance products meeting the GSE's requirements may not be available.

Given the announced June 1, 2024 effective date (with GSEs encouraging earlier implementation), it is imperative that these changes be suspended.

Diverse Products Protect GSEs, Markets, and Individual Consumers

The GSE's changes state the expectation that:

“Claims must be settled on a replacement cost basis and that insurance policies that provide for claims to be settled at actual cash value or limit, depreciate, reduce, or otherwise settled losses for less than replacement cost are not eligible.”

Recognizing that there are valid policy concerns relating to underinsurance and reasons for consumers to value insurance contracts that specify claims will be settled on replacement cost basis, **an absolute restriction limiting the contracts that satisfy eligibility for GSE-backed mortgages to replacement cost is too narrow.** There are also valid policy concerns and reasons for a broader array of products/options to be available in the market, several include:

Roofs: The nature of risks and costs to roofs warrants reconsidering the solely “by replacement cost” approach closely. Not all roofs are the same age, built to the same standards and with the same materials, or subject to the same kinds of perils. Further, with possible changes in storm frequency, severity, and locations - and in light of higher losses also being somewhat driven by more contractors knocking on doors after storms - it appears less common for roofs to last 20-30 years. While practices differ between insurers, roofs are an important topic to consider as to whether they should be subject to an across-the-board replacement cost approach. Where it is transparent, whether it is on an actual cash value (ACV) basis (allowing for depreciation) or on an explicit schedule (as a means of cost-sharing), insurers and consumers should be able to find ways to address the challenges posed by roofs. The roof-related claim settlement approaches in the market today help meet the needs of properties in a range of conditions as well as customers of a range of means. Further, the approach has been filed with insurance regulators who manage availability and affordability in their state markets.

Other Coverages: It may be that other aspects, such as contents, etc., often may be covered on an ACV basis. This not only is a way for the consumer to keep costs down, but it also continues to protect the value of the home (and the mortgage). These choices should be preserved. We question whether it was the GSE's intention to impact these kinds of coverages and we believe that suspending GSEs changes could allow for additional time to discuss these and other potential implications.

Non-Standard Coverage: Consider a range of situations beyond the typical homebuyer.

- Let us begin by thinking about first-time homebuyers purchasing a bargain-priced fixer-upper Victorian. Consider a home purchased at \$80,000 but having a replacement cost of \$300,000 (which is substantially above their loan amount and may impact their payment-to-income ratio). Such home buyers may not want

to initially insure at replacement cost, as that home would cost much more to replace (therefore the replacement cost insurance likely would be more expensive) than the market value of the property (and the amount of the mortgage). This dynamic may apply in the case of many older, lower value, or more deeply discounted homes. It would seem surprising for the GSEs to intend for this section of the market to not be fully served.

- Another coverage situation that may differ from a typical home is a mobile home which is initially titled more like an auto (and then in some states may be converted to be part of real property); there may be a variety of ways in which these are financed.
- Manufactured homes may present another unique set of circumstances. This alternative to site-built homes attracts many buyers due to the lower initial investment (especially where it may have a higher market value than many older homes). While many new manufactured homes may insure their properties to replacement cost, many others desire to insure the property for their purchase price (and add replacement cost for partial losses).
- When it comes to investment properties, some investors may purchase homes to rent. However, because the condition of some of these properties may not be pristine, they may opt to purchase insurance Coverage A to their investment (and not to the full replacement cost basis). Consider possible impacts to properties and neighborhoods if, when required to purchase full replacement cost, owners opt to walk away from those investments.
- Finally, also consider possible impacts to lender placed insurance (LPI). We are unaware of any LPI products that simply change policy conditions to resolve for claim settlement in a way that does not include depreciation.

Consumer Choice: Consumers may wish to choose different kinds of coverage to lower their costs. For example, they may elect to have a reduced loss settlement endorsement added to their policy. The GSEs should not restrict the consumer's ability to make this informed choice when the amount of coverage is adequate to meet the value of the loan (so the GSEs are not exposed by underinsurance). The importance of consumer choice is also evidenced by FEMA's inclusion of ACV as an alternative settlement option for National Flood Insurance Program policies.

The GSEs' changes would seemingly increase individual insurers' exposure to risk by limiting the type of claim settlement approach. As indicated above, **requiring replacement cost across the board appears likely to have downstream impacts on the insurance marketplace and on the range of price points from which consumers may choose.** Among recent news articles on increasing costs, the Wall Street Journal reported on **homeowners affordability falling to "its lowest level since the 1980s,"** pointing to the impact of not just record high mortgage rates and home prices, but also of increases in "[n]on-mortgage costs including property taxes, maintenance, utilities and insurance." They state that "many first-time buyers will continue to find homeownership a financial stretch." Indeed, insurance costs were featured in the article.⁵ Unfortunately, to the extent the GSEs changes exacerbate affordability concerns, they impact many consumers negatively.

⁵ Friedman, Nicole. "The Hidden Costs of Homeownership Are Skyrocketing." *Wall Street Journal*, 10 Apr. 2024.

Beyond affordability, availability challenges seem probable as well. Turning to residual markets, with potential increased challenges for consumers to find private insurance coverage (whether short term or longer term), the GSEs should consider a possible influx into the state FAIR plans or other markets of last resort, if they have not already. Some of those organizations may not be ready with policies and the ability to administratively handle such a change. Not all FAIR plans use replacement cost forms exclusively.⁶

To the extent the GSE changes relating to insurance policy contract wording for claim handling are intended to dictate insurer practices, GSEs should be aware that these changes were not created pursuant to rulemaking or authorized by statute. In fact, these GSE changes appear to impair, conflict with, or supersede state insurance laws and regulations; **they potentially create conflict under the McCarran-Ferguson Act's delegation of insurance regulation to the states.**

Turning to a claims administration issue, in some cases, even where a policy specifies replacement cost, it may be that claims payments are made so that the estimated ACV amounts are paid more quickly and then the difference to replacement cost is paid separately (such as a replacement cost policy with a holdback provision which both helps to ensure that repairs are actually completed or that the home is rebuilt and enables verification of repair costs to avoid overpaying claims). It may be helpful to some stakeholders for GSEs to state that nothing should preclude a Seller/Service from accepting a policy with this kind of claim settlement approach.

Generally speaking, an insurer's risk exposure impacts the price that insurer pays for reinsurance. So, when an insurer's exposure increases - potentially including a situation in which they reduce the number of policies settling claims on an ACV basis and increasing the number of policies on a replacement cost basis - it may be that the costs of reinsurance may also increase. Depending on individual reinsurer and insurer decisions, it could be that these higher expenses may ultimately impact insurance product prices.

Coverage-wise, according to our preliminary review, the potential consequences of the broad application of a narrower one-size-fits-all replacement cost approach may spark frustration and disruption at a time when market stability, availability, and affordability are such a focus of public concern. We urge the GSEs to acknowledge these serious coverage matters before proceeding with these changes.

Annual Verification of Valuation is Impracticable

The GSEs changes state that:

“The Seller/Service must verify the replacement cost of the Mortgaged Premises as of the current insurance policy effective date and provide examples of acceptable replacement cost verification sources.”

It is unclear what prompted the issuance of the new verification guidance, and this prompts questions and feedback, including:

⁶ For example, see Texas Ins. Sec. 2210.207 and 28 TAC Sec. 5.952.

Servicer Audits: What kinds of steps are acceptable for Servicers to take when it comes to valuation in order to pass audits? It is unclear what the GSEs had in mind, but insurance agents/companies are concerned about their expected role in that process.

Annual Cadence of Verifying Value: At origination (and new business for insurance) the parties - consumers, realtors, lenders, insurance agents, and insurers - work to facilitate the closing. This is the time when Servicers have more interactions and leverage with consumers. Outside the origination transaction, it is unclear how these communications will work and what will be asked of insurance agents/companies. Most homeowners insurance policies are written for a one-year term (an annual effective date). Given this reality, what is the expectation around who the Sellers/Servicers are expected to ask for the policy and replacement cost information (given the new requirement relating to “the current insurance policy effective date”)? Did the GSEs intend for this review to occur every year?

Communication Method: If the expectation is for annual verification, including, “a statement from the insurer or other applicable professional,” will this communication be directed first to each individual consumer around the country annually, with consumers having the responsibility to contact insurance agents/companies if they need anything further? If there is an expectation that insurance agents/companies are to respond directly to Sellers/Servicers on a mass scale, this could be a huge administrative task. Even assuming adequate consumer authorizations are in place, today there is not adequate staffing or coordinated systems/mechanisms in place to provide this massive volume of such information to Sellers/Servicers at scale.

Documentation/Evidence: As a practical matter Seller/Servicers may ask consumers, who may then ask their agents/insurers, for the documentation of coverage limits. The specific kind of documentation that Sellers/Servicers will need in order satisfy this requirement is unclear. There is not necessarily a single standard for this today. To the extent that agents/insurers provide this information, is a binder, Declarations Page, or disclosure of the coverage limits themselves adequate? Some insurers may not provide this information in that format; however, some of those insurers may be able to provide a consumer with another report which the consumer could then share as needed.

Data Informing Valuation: Some data inputs that an insurance company receives about a property may originate with a homeowner. And, depending on a particular insurer’s underwriting guidelines, that property may not be inspected (or it may be inspected (and a change in contractual terms or coverage may result)).

Accessing Agent, Insurer, or Vendor Information: It is unclear why the guidance to Sellers/Servicers has been revised to reference replacement cost estimators. The guidance appears to contemplate that an insurer may provide Sellers/Servicers with information that an insurer obtains from its models or the models of third-party vendors to generate replacement cost valuations, but have the GSEs considered existing contracts may prohibit such sharing? Also, insurers may differ on the frequency which each policy is reassessed through that model. In addition, at least two states already

prohibit by statute such disclosure of replacement cost estimators, and more jurisdictions may be expected to enact similar restrictions.⁷

Other Vendor Verification Sources: To the extent the GSEs were not envisioning engaging with insurance agents/companies regularly but rather using other third-party vendors to generate the verification (and/or the GSEs are allowing alternative methods for satisfying this Seller/Service requirement), some consideration should be given to the potential for those values to differ from the replacement cost amount specified on the insurance policy Declarations Page. We are concerned about potential confusion about differences in values and/or litigation.

Replacement Cost Number: There is not necessarily one single perfect replacement cost valuation number - valuations may differ based on a variety of factors and points in time. If moving forward, a reasonable range of valuations should be able to satisfy the GSE valuation requirement on Seller/Service.

Liability: Insureds have the primary responsibility for choosing limits and coverage. Have the GSEs given consideration to potential litigation risks and challenges that may be introduced and to offering exemptions or waivers from liability to protect insurers, agents, or vendors who share valuation information? With an increased role in documentation and/or verification, increased exposure to liability may pose a real threat.

State Insurance Laws/Regulations Conflict and Impact: The practical effect of the GSE changes may be to impair, conflict with, or supersede state laws, potentially creating conflict under the McCarran-Ferguson Act's delegation of insurance regulation to the states. To offer just one example, some states may have very specific requirements around insurance to value and communicating replacement cost estimates.⁸

Operationally, the potential consequences of the “current insurance policy effective date” “verification of replacement cost valuation” changes are introducing uncertainty and apprehension as the implementation date is approaching.

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In conclusion, the reach of the recent GSE changes extends far beyond the Sellers/Service subject to Fannie Mae and Freddie Mac's oversight (via eligibility rules). They appear likely to have significant impacts on homeownership, on the market, and on consumers. How the GSEs accomplish these goals is not a trivial matter, and the many potential risks appear to include: reducing the availability/affordability of insurance; frustrating, confusing, or limiting insurance options for consumers; magnifying administrative burdens due to more frequent lender/service interactions (directly or through consumers) with agents/insurers; introducing possible conflicting information (and litigation); requiring an impossible task with respect to annual valuation verification; and/or impacting the business of insurance in a way that poses possible McCarran-Ferguson implications.

To avoid these risks, we urge you to immediately rescind the changes, work with a variety of additional impacted stakeholders to understand the feasibility of proposals, consider possible

⁷ For example, see N.C. Gen. Stat. Sec. 58-3-137 and Florida Statutes Sec. 626.9551(1)(e).

⁸ For example, see Cal. Code Regs. Tit. 10 Sec. 2695.183.

alternatives, and engage in a cost-benefit analysis which would include potential impacts on availability and affordability in the marketplace. Thank you for your consideration.

Respectfully submitted,

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