Social Mission.
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October 11, 2013

Senator Tim Johnson
Chairman
Senate Banking Committee
534 Senate Dirksen Office Building
Washington, DC 20510

Senator Mike Crapo
Ranking Member
Senate Banking Committee
534 Senate Dirksen Office Building
Washington, DC 20510

Dear Senators:

The Housing Partnership Network (HPN) welcomes this opportunity to provide our comments as you begin your efforts to reshape and revamp the United States housing finance system.

HPN is a member-driven organization comprised of 100 entrepreneurial nonprofits that operate all across the country. The members are diversified social enterprises combining a mission focus with business acumen. The members' businesses include lending, real estate development, property management, and housing counseling. All of our member work to link the communities they serve to services – education, workforce development, and health care. Collectively, HPN members have developed or rehabilitated 340,000 affordable homes, provided $10 billion in CDFI financing, and assisted 5 million people through housing, community facilities, and services. We are dedicated to transforming lives and communities.

HPN is best described as a business collaborative. The members' senior leadership comes together with their peers to exchange information, solve problems, and share best practices. Their collaborations have spawned member-owned businesses that improve operations and advance innovations in the practice of affordable housing and community development. As an example, when insurance costs spiked after 9/11, members launched a captive property and casualty insurance company that today insures approximately 60,000 homes with $7.0 billion of insurance-in-force. Other businesses that have emerged from these collaborations include a group buying service for building materials, a company that acquires and modifies distressed mortgage notes to help homeowners stay in their homes, a new web-based curriculum for homebuyer education, and a multifamily real estate investment trust that acquires affordable housing on behalf of our members.

The Housing Partnership Network strongly supports your efforts to craft a bipartisan bill that can pass the Senate. Congress should address housing finance reform with a certain sense of urgency. The status quo is neither sustainable nor desirable. Until the new rules are written the affordable housing market will continue to rely heavily on Fannie Mae's and Freddie Mac's role

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in the market. Yet, uncertainty around the future direction of the market and overly conservative regulatory oversight has only served to constrain the availability of credit for the people and communities our members serve. Arbitrary increases in guarantee fees justified by an effort to bring private capital back into the market increase the cost of credit, but have done little to improve consumer choice or access to credit – especially for lower-income people. While under conservatorship, the Government Sponsored Enterprises (GSEs) do not have the flexibility to innovate and respond to specific market challenges as they arise. Additionally, there is an ongoing risk that as Fannie Mae and Freddie Mac continue to suffer an erosion of talent they will become increasingly less effective in supporting primary market originations and in performing their asset management responsibilities. If done poorly and inefficiently, consumers and communities suffer.

While we encourage a sense of urgency, it is also important that the rules and structures of housing finance system going forward not roll back on the progress we have made in shaping a housing finance system that supports the housing and credit needs of low-income households and communities. We have come a long way, but much work remains to be done to address the enormous affordable housing needs in this country. A well-structured housing finance system that ensures broad access to credit is a fundamental part of the effort to meet these needs. We urge you to keep progress toward the goal of the 1949 Housing Act – "a decent home in a suitable living environment for all Americans" – at the forefront of how you judge the success of this upcoming legislative process.

The Federal Role in the Housing Finance System

The Housing Partnership Network applauded the bill introduced by Senators Corker and Warner for establishing the Federal Mortgage Insurance Corporation (FMIC) and creating a mechanism for a federal guarantee on certain mortgage-backed securities. Only a strong federal government presence in the mortgage market can ensure stability and liquidity in the market in all market conditions. When capital markets are unstable and illiquid, everyone suffers, but it seems that low-income communities suffer the most.

Providing for this federal role in mortgage securitization increases the ability of risk-adverse long-term investors like pension funds and insurance companies to purchase long-term mortgage securities. The link this guarantee provides to the capital markets increases the availability and affordability of longer-term debt for borrowers.

The prevalence of the 30-year fixed-rate mortgage in the U.S. mortgage market is made possible by the federal role in the market. This foundational product is particularly important for the low-income home buyers that our members work with through the homebuyer education, housing counseling, second mortgage, and down payment assistance programs that member organizations administer. The fixed-rate mortgage allows low-income households to better manage their household budgets to address their families' other basic needs. Lower income homeowners are less able to handle the interest rate risk that comes with shorter term

debt or debt with variable interest rates. Long-term debt is also important for affordable rental housing, which will be discussed in great detail later in this letter.

It is also important to recognize that this federal role in the mortgage market needs to be distinct from the roles that the Federal Housing Administration (FHA) and the Government National Mortgage Association (GNMA) play. FHA and GNMA do serve important functions in the current affordable housing market and should retain a strong presence going forward. At the same time, their current structure has naturally constrained their ability to respond to market conditions, support innovation, and serve the markets effectively. The GSEs have provided alternative sources of capital for affordable housing providers. The HPN member organizations that are developing and preserving affordable housing have benefitted by having a variety of sources of debt and equity. A competitive marketplace gives our members choices and the ability to select the source or sources of capital for their developments that represent the best execution and best terms. Choice is important for the long term sustainability and affordability of the homes our members produce and manage.

## A Duty to Serve the Broader Primary Market

The bill should place an affirmative obligation on the secondary market to serve the broader primary market. This is especially true of an entity like the FMIC that enjoys federal government benefits and supports the business models of commercial private sector lenders. To the extent that the primary market is serving low-income areas, rural areas, and other underserved areas, the government supported secondary market should also. To the extent that lenders are lending to minority households and low income people, the new FMIC should support this activity. The government backed secondary market should serve those primary market entities providing credit to the community like community banks, Community Development Financial Institutions (CDFIs), and Housing Finance Agencies (HFAs). As with Fannie Mae and Freddie Mac under their current charters, the new secondary market infrastructure should have a duty to serve this broader market.

The Housing and Economic Recovery Act of 2008 (HERA) created a framework for measuring the secondary market's performance against its duty to serve the broad primary market. HERA established the standard that the GSEs' performance on lending to low income people and communities should be measured against the primary market's performance as reflected in Home Mortgage Disclosure Act (HMDA) data. The future system could adopt a similar metric and approach. The comparison of the FMIC's guarantees on performance against the market must be made available to the public and subject to annual review by the Congress. Legislation should include some remedies for curing deficiencies.

A Strong Government Role in Multifamily Housing Finance

It is not widely appreciated how critical Fannie Mae and Freddie Mac are in the financing of multifamily housing in this country. One of the weaknesses of the Corker-Warner bill was its treatment of multifamily housing. The bill ended Fannie Mae and Freddie Mac's multifamily businesses and folded these into the FMIC. The next version of the housing finance reform bill should consider finding a way to preserve the GSEs' multifamily franchises in the private sector with new capital. The new entities and any competitors that emerge should have access to the FMIC guarantee on multifamily securities they issue. This government guarantee role is critical for the availability and affordability of longer term debt for affordable housing.

Under the Low Income Housing Tax Credit (LIHTC) program, developers, by law, must maintain the affordability of their properties for 15 years. In many states, the affordability compliance period is much longer than that required by law. Under the Department of Housing and Urban Development's (HUD) rental assistance programs, affordable housing developers will agree to extend the rental assistance contracts for 20 years in order to preserve the affordability of their properties. The mission-oriented nonprofits in the HPN network willingly enter into these long-term contracts because we are committed to the long-term affordability of the properties we manage for the benefit of the low income people we serve. Long-term debt that matches these affordability compliance periods allows the owners to better manage their properties. If the owners of these community assets must refinance throughout the affordability compliance period it increases the risk that they will be unable to fulfill this agreement and/or maintain the viability of the property.

Access to the FMIC should also come with an affirmative obligation to serve affordable multifamily housing. As with single family, the securities guaranteed by the government should demonstrate service to the broader multifamily market, especially low income housing. The current affordable housing system is comprised of complicated affordable transactions with layered subsidies and often multiple capital sources. These transactions are complicated and rely on specialized knowledge. Many lenders have established specialized shops with people with LIHTC and Section 8 experience to support this business line. In 2008, HERA mandated an affordable housing preservation duty to serve to get the GSEs in an effort to get the GSEs to do the hard work of figuring out how to participate in these transactions. The new system should provide similar incentives to ensure that private capital works to finance these transactions.

Funds to Support Affordable Housing

The Housing Partnership Network supports the assessment of a fee on mortgage securities and the use of these resources to address issues of affordable housing access and affordability. We urge the creation and funding of a multi-purpose fund that builds on Title IV of S. 1217 so that the new housing finance system can better serve a range of housing needs. In particular, we support assessing all mortgage backed securities (not just guaranteed securities) a 10 basis point annual user fee (i.e., a "strip") that would be used to support a Market Access Fund and

the two funds created under HERA – the Housing Trust Fund and the Capital Magnet Fund. These funds, each of which uses a different mechanism to serve very different housing purposes, would be administered, respectively, by a separate office within the federal guaranty agency, HUD and the Treasury's CDFI Fund. We strongly suggest that percentage allocations to the three funds provided in Title IV be reconsidered to assure that the allocations more closely reflect the needs that each fund addresses.

The Capital Magnet Fund is an important new tool to support the housing and community development sector. In this era of scarce resources, the program magnifies the impact of public subsidies by requiring the CMF grantee to leverage other resources on at least a 10:1 basis. After a first round of grants from the Treasury Department under the CMF program, many grantees are greatly exceeding this threshold by recycling the money into new deals and projects. The Capital Magnet Fund has demonstrated promising initial results and could quickly put additional resources to use building affordable housing.

Perhaps most importantly, the CMF works to improve the affordable housing delivery system by building stronger nonprofit institutions to do this work. The grants strengthen nonprofit balance sheets and increase their ability to utilize private capital. The public sector benefits by having stronger more capable nonprofit counterparties to deliver public resources and to achieve a greater impacts for the people and communities served by the public programs delivered through these stronger entities.

The Housing Trust Fund targets subsidies to housing that serves extremely low income households – those earning less than 30 percent of area median income. According to HUD's Worst Case Housing Needs 2011 report showed that an all-time high total of 8.48 million renter households pay more than 50 percent of their incomes for housing or live in substandard housing or both. The vast majority of these most housing stressed households have incomes less than 30 percent of area median income. Housing finance reform legislation should fund the Housing Trust and not dilute its fundamental focus on meeting the housing needs of this population.

We also endorse the concept of a Market Access Fund that can help support innovations by private financial institutions in partnership with the nonprofit sector. The Market Access funds can allow lenders to experiment and innovate in ways that they may not absent this resource. Among the appropriate uses of this resource could be sustainable models of financial advisory services for low income households.

We urge the Committee to assess the fee for the three funds against the entire market – not just securities guaranteed by the FMIC or a similar entity. The entire market benefits from the government role in setting the rules through securities and contract laws, regulations that level the playing field, and through the central bank role in the markets. By applying the fee to the entire market, the law would limit the potential for capital flowing away from the government supported sector because of the fees.

The Capital Needs of Small Rental Housing Properties

As we redesign and improve the housing finance system, it is important to consider the ability of the system to meet the capital needs of small rental properties in buildings with one to 50 units.

As the system is currently configured, rental properties with 1 to 4 units are financed through the single family housing finance system. Properties with 4 to 50 units are financed in the commercial or multifamily division of a financial institution. Small rental properties are particularly prevalent in older urban areas and small rural towns. These properties are a huge source of unsubsidized affordable housing. A particular issue is the recapitalization of this stock as it continues to age. The current secondary market is not well suited to meet the capital needs of this inventory because of unique risk characteristics and small transaction sizes. On the single family side it is difficult for the lender to underwrite and provide a mortgage based on the rental income because the risk of a single vacancy can mean the loan is no longer viability. On the multifamily side the bias in the market is for larger properties because a single vacancy has a greater impact on the cash flow from a smaller property and the fixed transaction costs like inspections and environmental reviews are more expensive on a per unit basis.

Nearly 55 percent of America's rental housing is in single-family units. Much of this housing is also naturally affordable to low-income people. During the foreclosure crisis, even more of this housing became rental as many families lost their homes and the demand for rental housing swelled. There is reason to believe that this shift to a higher percentage of household renting will continue into the future in part because of the lingering effects of the foreclosure crisis on people's abilities to buy a home and in part because our workforce is seeking more mobility and flexibility to move.

In many places this single family rental housing is undercapitalized and not well maintained. Debt to acquire and rehabilitate investor owned properties is also difficult to obtain and comes with high down payment requirements relative to owner-occupied housing. Much of this housing is managed by individuals who have purchased a small number of properties as investments and who do much of the maintenance themselves. To a large extent it is the lack of professional management of this inventory that limits its acceptance by the residents of communities where homeownership is the dominant form of tenure. One solution for bringing new capital and professional management to the housing is to encourage the aggregation and financing of these types of properties on a portfolio basis. Current rules, like restrictions on the number of investor loans to one borrower, impede the aggregation of portfolios by a single owner that would allow for the professionalization of the management of this stock.

There are not obvious answers to how to address the capital needs of this small rental housing stock. Over the years, HUD has provided bonuses to the GSEs under the affordable housing goals to encourage the purchase of loans secured by small multifamily properties. HERA also

encouraged small multifamily lending. Housing finance reform legislation should drive more research and experimentation. The new laws should provide HUD with greater tools to innovate in the housing finance space, allow it to take some risk, and bring to market scalable demonstration programs using HUD FHA risk sharing authorities. The new programs could test models for financing single family and small multifamily rental housing portfolios. HUD has developed a small MF risk-sharing pilot for CDFIs with a GNMA execution that Congress should support.

Affordable Homeownership

We urge the Committee to be judicious with respect to those instances where it would establish specific underwriting standards in statute. Mortgage underwriting can be complicated and offsetting factors can mitigate against other risks. One of the concerns with the Corker Warner bill was the provision that requires at least a 5 percent down payment on single-family loans eligible for an FMIC-backed securitization. This down payment requirement is too rigid a standard and especially onerous especially for low wealth families' homeownership aspirations. Nonprofit lending programs operated by HPN members with lower down payments, strong underwriting, and borrower support fared well in the financial crisis. We know how to do safe and sustainable programs for homeownership with smaller down payments.

Education and Advising to Sustain Homeownership

One of the lessons learned over the course of the financial crisis is the value of trusted third party advisors with the skills and ability to work with homebuyers before they purchase a home and with homeowners who get into financial trouble in the post-purchase environment. The purchase of a home is the largest and most complicated financial transaction that the vast majority of American households will make in their lifetimes. In the run up to the financial crisis, too many consumers were offered products that were inappropriate for that borrower or exceeded the borrower's ability to repay. Too many consumers accepted these mortgages. Now in the aftermath of the crisis, while Congress and the regulators have moved to outlaw many of the particularly abusive lending practices and product features, we have also created many new rules that increase the complexity of the mortgage finance decision. Consumers will need independent, expert help to navigate their financial options and to better understand the risks and rewards of the home purchase decision and the various options available to them in the marketplace. Homebuyer education and counseling has been shown to improve the performance of loan and reduce lender risk. It can also serve a very useful function if it helps a consumer put off the home purchase if he or she is not ready.

We urge the Committee to include in the framework of the housing finance system mechanisms to ensure that all first-time homebuyers have access to high quality homebuyer education and counseling. Legislation should direct the relevant executive branch agencies to establish incentives for borrowers to receive pre-purchase education and/or counseling as a

precondition of a getting a mortgage loan where the government is taking some of the risk either through its FHA guarantee or as the guarantor of a mortgage backed security.

Housing counseling has also demonstrated a significant ability to add value to the performance of mortgage loans in the post-purchase environment when a borrower gets into trouble. Independent, third party housing counseling organizations have been effective advocates for consumers vis-à-vis those servicers whose practices were not sufficiently managed and scaled to address the crisis. Housing counseling organizations have also partnered with mortgage investors and servicers to improve outcomes when borrowers get into trouble. Nonprofit organizations in our network have been more able than servicers and investors to reach troubled consumers and have been able to negotiate paths that allowed people to stay in their homes or at least resolve problems without negative effects on the surrounding communities. It is a win-win: Counseling organizations working with borrowers with mortgage distress have brought investors and servicers better returns than would have otherwise occurred.

Perhaps the most profound learning from the financial crisis is how important early intervention is when a consumer gets into trouble. HPN is advancing a model adopted by several of its members that we call a "Homeownership Steward." A Homeownership Steward is a nonprofit entity that serves as an advisor to the housing consumer over the lifetime of the homeownership experience. We need to encourage the emergence of these types of institutions that can establish a relationship with the consumer and remain in contact with that consumer over the long term to ensure the sustainability and long-term success of homeownership.

We thank you in advance for your consideration of these proposals and look forward to working with you to produce an effective set of rules for housing finance that support the important work of the affordable housing and community development sector.

Sincerely,

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**Housing Partnership Network**