S. HRG. 111–925

NOMINATION OF JOSEPH A. SMITH, JR.

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

THE NOMINATION OF JOSEPH A. SMITH, JR., OF NORTH CAROLINA, TO BE DIRECTOR, FEDERAL HOUSING FINANCE AGENCY

DECEMBER 9, 2010

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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C O N T E N T S

THURSDAY, DECEMBER 9, 2010

WITNESSES

NOMINEE

Additional Material Supplied for the Record

NOMINATION OF JOSEPH A. SMITH, JR., OF NORTH CAROLINA, TO BE DIRECTOR, FEDERAL HOUSING FINANCE AGENCY

THURSDAY, DECEMBER 9, 2010

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:55 a.m., in room SD–538, Dirksen Senate Office Building, Senator Tim Johnson, presiding.

Senator JOHNSON. We have votes at 11 o'clock and, therefore, would you commence your introduction?

STATEMENT OF RICHARD BURR, SENATOR FROM THE STATE OF NORTH CAROLINA

Senator BURR. Mr. Chairman, thank you. To Senator Shelby and to my esteemed colleagues on the Committee, thank you for this opportunity. I am sure my cohort from North Carolina will be here shortly.

Mr. Chairman, I want to thank you for holding this hearing and for giving me the opportunity and the pleasure of introducing Joseph Smith to my colleagues today. I know getting a nominee for Director of the Federal Housing Finance Agency has been a long time coming. However, I am pleased the Administration has sent forward the best nominee rather than the most quickly named nominee.

I could not agree with the President more when he stated, and I quote, "Mr. Smith brings to this position both tremendous expertise and a deep commitment to the strengthening of our housing finance system for the American people." Although born in West Virginia, North Carolinians have proudly claimed Joe as one of our own ever since he moved to Davidson, North Carolina, to attend Davidson College and become a Davidson Wildcat. And, Senator Shelby, that was under the days of Lefty Driesell, as you can remember.

Many of you in the room today have gotten to know Joe over the years as his expertise and knowledge as a State banking commissioner has been sought by both this Committee and others on earlier occasions. Since 2002, Joe has served the citizens of North Carolina as our State's Commissioner of Banks. Joe is also the immediate past president chair of the Conference of State Bank Supervisors. In addition to his expertise as a regulator, Joe also has extensive real-world, everyday experience, having served as the general counsel and secretary for Centura Bank, based in Rocky

Mount, North Carolina, during the 1990s. From the North Carolina Bankers Association stating, and I quote, "He has been an outstanding commissioner for banks. We hate to lose him," to the Centers for Responsible Lending stating, and I quote, "It is hard to think of a better choice"; to his fellow State banking commissioners stating, and I quote, "I think it is a perfect choice," Joe's nomination to serve as Director of the Federal Housing Finance Agency has been met with much and well-deserved praise.

For those of us who know Joe and have gotten to see his work up close, we are not surprised by the words of praise for his nomination coming from both the financial institutions he regulated and the consumer advocates alike. The praise is a testament to Joe's knowledge, his hard work, common sense, and his commitment to getting the job done right.

Without a doubt, the job Joe has been nominated for will not be easy, and many might even ask why anyone would want to take on the role of overseer of Fannie and Freddie. However, I guarantee each and every one of you, having gotten to know Joe over the years, that Joe comes to this not seeking personal glory but out of a sense of duty to do a job that must be done and that must be done well.

I want to thank Joe, Mr. Chairman, for accepting this difficult task and assure you, if confirmed, we will all miss his leadership and his guidance as North Carolina's Commissioner of Banks.

I thank the Committee for the opportunity to speak before you and urge my colleagues to, as expeditiously as you can, confirm this nominee. I thank the Chairman and I thank the Ranking Member. I thank my colleagues.

Senator JOHNSON. Thank you, Senator Burr.

Senator Hagan.

STATEMENT OF KAY HAGAN, SENATOR FROM THE STATE OF NORTH CAROLINA

Senator HAGAN. Thank you, Chairman Johnson, Ranking Member Shelby, Members of the Committee, and my colleague Senator Burr, I am grateful for the opportunity to introduce to you North Carolina's Commissioner of Banks, Joseph A. Smith, Jr. While he may be quick to point out that he was born and raised in West Virginia, Commissioner Smith and his wife, Elizabeth, have lived in North Carolina for more than 20 years where they raised their two sons, Joseph and Matthew.

As a student, business leader, and public servant in North Carolina, Commissioner Smith garnered the respect and support of consumers, regulators, and businessmen and—women throughout our State. I am sure they also got a taste of Joe's self-deprecating sense of humor. Indeed, just this morning, he joked that his Type A personality brought him to my office 2 hours before this hearing. My office, by the way, is no more than ten steps from this Committee room. But, obviously, Commissioner Smith comes prepared for any task that he takes on, and I am excited that, should he be confirmed, he will have the opportunity to serve as Director of the Federal Housing Finance Agency, where he will bring his considerable talents and experience to some of our Nation's most pressing issues.

Commissioner Smith graduated from Davidson College in Davidson, North Carolina, in 1971 and from the University of Virginia Law School in 1974. During the 1990s, he gained considerable private sector experience while working as general counsel and secretary of a community bank in Raleigh. And for the past 8 years, Joe Smith has served as North Carolina's Commissioner of Banks. In his latest role, Commissioner Smith leads the agency responsible for regulating banks, savings and loans, mortgage bankers, mortgage brokers, check cashers, and money transmitters.

Despite the challenges posed by these broad supervisory responsibilities, Commissioner Smith has garnered the respect of bankers, regulators, consumer groups, and legislator, both in North Carolina and across the Nation.

In 2009, Commissioner Smith's peers honored him when they selected him Chairman of the Conference of State Board Supervisors. The North Carolina Bankers Association and its 135 member banks, savings institutions, and trust companies proudly support his nomination. And after working with Commissioner Smith on consumer finance laws in the North Carolina Legislature, I join these organizations by offering my unqualified support for Commissioner Smith.

As the Members of this Committee are keenly aware, the housing finance system in this country is in need of reform. The Director of the FHFA will play a critical role in the future of Fannie Mae, Freddie Mac, and the 12 Federal home loan banks that form the backbone of our current housing finance system. President Obama has nominated a capable leader in Joe Smith who has the experience and convictions to make the tough choices that will be required in the coming years. I cannot think of a better partner for Congress to work with as we take up those challenges.

After 2 years in the Senate, I understand how difficult the nomination process can be, but I am quite confident that, after having the opportunity to learn more about Mr. Smith and having the opportunity to discuss some of these issues with him, Members of the Committee will be as enthusiastic as I am about confirming this thoughtful, capable, and effective nominee.

Thank you.

Senator JOHNSON. Thank you, Senator Hagan.

OPENING STATEMENT OF SENATOR TIM JOHNSON

Senator JOHNSON. Mr. Smith, would you take your seat at the table so we can begin the second hearing?

I call to order this hearing on the nomination of Mr. Joseph A. Smith, Jr., of North Carolina, to be Director of the Federal Housing Finance Agency.

Mr. Smith is no stranger to this Committee or to the challenges of implementing financial reforms. As Commissioner of Banks, he was responsible for implementing and enforcing North Carolina's antipredatory lending laws, overseeing the State's foreclosure prevention program, and serving on the Governor's task force to increase small business lending—to name a few of his accomplishments—all while regulating small and large financial institution in the State. To highlight some of those accomplishments, I would like to enter into the record letters from the Independent Community

Bankers Association, the Conference of State Bank Supervisors, the Mortgage Bankers Association, and National Association of Realtors.

Thank you for your willingness to serve at the Federal level, especially at a time when our country is trying to overcome significant economic challenges. Balancing consumer protection and credit availability, regulation and economic growth will be extremely important for creating a sustainable housing and economic recovery. I look forward to learning more about your work and how you view the role of Director of FHFA.

Senator Shelby, would you like to give a statement?

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman. I would like my opening statement to be made part of the record because we are getting ready to have some very important votes, and I do not know if I will get back.

I would like to propound to you in my time, Mr. Smith—and I will furnish these in writing to you, too—some questions that I think are very important as you move forward.

Protecting the taxpayer. Mr. Smith, according to an article in the *Wall Street Journal* yesterday, the Obama administration is pressuring Fannie Mae and Freddie Mac, through their primary regulator, the Federal Housing Finance Agency, to get the mortgage giants to agree to write down mortgages. For a variety of reasons, Fannie and Freddie have been reluctant to reduce principal balances. An important reason why the Federal Housing Finance Agency has been reluctant is that they Federal Housing Finance Agency is charged, as you well know, with limiting taxpayer losses. While underwater homeowners could benefit from principal writedowns, financing the writedowns through additional losses imposed on taxpayers amounts to a redistribution from taxpayers in general to certain classes of homeowners.

Mr. Smith, given the responsibilities of the Federal Housing Finance Agency as a conservator of Fannie and Freddie, would you resist Administration pressure on Fannie and Freddie for principal writedowns? Do you want to answer that now or do you want to answer it for the record later? This is important.

Mr. SMITH. I had hoped to make an opening statement, but I know there is——

Senator SHELBY. No, I asked you a question.

Mr. SMITH. I understand that.

Senator SHELBY. Yes or no.

Mr. SMITH. Senator, the Federal Housing Finance Agency is an independent agency of Government. I am the head of an independent agency of Government now.

Senator SHELBY. Will you be independent if you are confirmed?

Mr. SMITH. I will.

Senator SHELBY. And will you not be subject to pressure from anybody?

Mr. SMITH. Well, I will be pressured by a lot of people, Senator, but the answer to your question——

Senator SHELBY. Well, will you be subject to that pressure?

Mr. SMITH. In exercising discretion—in exercising the power that this office has and that the agency has in this and a number of other very important issues, first and foremost I have got to look at it through the screen, if you will, of role as conservator. The first and foremost thing is to protect taxpayers.

Senator SHELBY. I hope you will elaborate on that for the record.

Mr. SMITH. I will, Senator.

Senator SHELBY. Influence from outside agencies. Given the involvement of both Treasury and HUD in loan modification programs in which Fannie and Freddie participate, there will be instances in which these agencies have strong opinions as to what actions Fannie and Freddie should take regarding certain policies. What is your view of the appropriate role for either the Secretary of the Treasury or the HUD Secretary? Does either have any authority relating to the Federal Housing Finance Agency and its responsibilities as conservator? Or is that your responsibility? And would it be appropriate for either to ask you to take some action that is inconsistent with conserving Fannie and Freddie assets such as principal reductions or not pursuing putbacks to protect bank solvency? You might want to answer that for the record a little later. I want to go through my questions.

Mr. SMITH. Very well.

Senator SHELBY. PACE loans, an question for you. On July 16, 2010, FHFA, the Federal Housing Finance Agency, found that, and I will quote, "certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by Fannie Mae, Freddie Mac, and the Federal home loan banks." Accordingly, they released guidance to protect these institutions from what are commonly referred to as PACE loans. It is my understanding that during conversations with the Banking Committee staff, you indicated that you would not alter this guidance as long as it was under active litigation. And would you confirm that this is your position? And if confirmed, would you protect the lien priorities of existing mortgages owned or guaranteed by the enterprises through any guidance that the Federal Housing Finance Agency may issue in the future.

I want to keep going on my questions.

Plain vanilla mortgages. During the debate on Dodd-Frank, some advocated that customers be offered a default of "plain vanilla mortgages," arguing that behavioral economics supported this position. In previous testimony before this Committee, you seemed to have a position consistent with this, stating, "Recent work in behavioral economics suggests that when confronted with information overall, bad choices often result." You then stated, "The default mortgage for certain borrowers should be the 30-year fixed-rate mortgage."

Do you continue to believe in the concept of a default mortgage for certain consumers? And how do you define so-called behavioral economics? And would you use behavioral economics in your capacity running the FHFA? Then we can go to the next question.

Financial statements. Mr. Smith, as a prospective conservator for Government-owned enterprises with large portfolios and scales of business, you need to be intimately familiar, like anyone, with the financial condition of Freddie and Fannie. My question to you would be: What financial statements of Fannie Mae, Freddie Mac, or the Federal home loan banks have you read yourself since you learned of your nomination? And what have you taken away from these statements? I would like that answer for the record.

Appropriate level of housing goals. During a conversation with Banking Committee staff, you indicated that you did not have a position on the appropriateness of the current levels of the GSEs' housing goals. The need for the Director of the Federal Housing Finance Agency to balance these goals with the safety and soundness requirements of the institution, however, makes this, I think, a critical matter. My question: Having now had more time to reflect on the subject, what are your views on Fannie and Freddie's housing goals? Are they appropriately set? And do you have any reasons for changing them?

I appreciate the Chairman's time in letting me have the latitude to ask these questions, but we will give these questions to you here today, and we would like for them to be answered for the record.

Thank you, Mr. Chairman.

Senator JOHNSON. Before we turn to you, Mr. Smith, would you please stand and raise your right hand for the swearing in.

Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SMITH. I do.

Senator JOHNSON. Do you agree to appear and testify before any duly constituted committee of the Senate?

Mr. SMITH. I do.

Senator JOHNSON. You may be seated.

We have a short amount of time available, but can you give us your testimony, please.

TESTIMONY OF JOSEPH A. SMITH, JR., OF NORTH CAROLINA, NOMINATED TO BE DIRECTOR, FEDERAL HOUSING FINANCE AGENCY

Mr. SMITH. Yes, Senator, I will. I would first like to thank Senator Burr and Senator Hagan for their kind introductions. That was overwhelming. I would like to thank Senator Shelby for bringing them back to earth.

[Laughter.]

Mr. SMITH. Mr. Chairman, Ranking Member Shelby, and Members of the Committee, I am Joseph A. Smith, Jr., currently the North Carolina Commissioner of Banks, and the President's nominee for the office of Director of the Federal Housing Finance Agency. It is an honor and privilege to sit before you today. I would like to express my appreciation to the President for nominating me to this position and his confidence in me in fulfilling this significant role.

I would like to express my particular thanks to Chairman Dodd and to Ranking Member Shelby for agreeing to consider this nomination so promptly. Such consideration is a great courtesy to me and a recognition of FHFA's critical importance. Thank you very much.

I regret that Elizabeth Smith, my wife of 31 years, cannot be with me today. Without her love and support, including sound advice, I would not be here today.

I come before you with a commitment to public service and to strengthening the Nation's housing finance system. Direct experience in both banking and housing and the hard-won knowledge I have managed to accumulate over a 35-year career in law, banking, and State government service.

During my career, I have been involved—directly involved in a variety of activities that serve as a daily reminder of the challenges ahead. I have worked out commercial loans, represented a bank through a real estate crisis, implemented both State and Federal mortgage licensing regimes, and supervised banks in varying stages of distress up to and including resolution.

In my 8 years as North Carolina Commissioner of Banks, my colleagues and I have worked diligently and consistently to mitigate losses to our lending institutions and the financial system at large, as well as to prevent failures on a larger scale. My office supervises depository institutions with over $245 billion in total assets and a range of nonbank financial services firms, including mortgage bankers and brokers, consumer finance companies, check cashers, and money transmitters. I have been the Commissioner during the recent financial crisis and have direct experience as a safety and soundness regulator.

While I believe that this experience will be important should I be confirmed as Director of FHFA, I also know that experience alone will not be enough to be successful in that position. In that regard, I am looking forward to working with the staff of the FHFA, the Administration, and with you and the other Members of Congress for your input and guidance.

As you have said, sir, we are facing a significant challenge in the housing finance markets today. Fannie Mae and Freddie Mac are under conservatorship and have received $151 billion from the Treasury Department in order to maintain their support of the housing market, which is critical at this time.

But conservatorship cannot be a long-term solution. Congress and the Administration have important decisions to make regarding the future structure of the housing finance system. If confirmed, I look forward to working with you and having FHFA become an active participant in this process.

I understand that if confirmed, you expect leadership and not just management. The activities of Fannie Mae and Freddie Mac are national in scope but local in impact, directly affecting communities across the country. Leadership in this context means determining how to address critical local needs in conjunction with the agency's duties of conservatorship.

I also pledge to you the same kind of leadership with regard to FHFA's supervision of the Federal Home Loan Banks. I expect that many of you have heard from your bankers what I have heard from mine. The Federal Home Loan Banks are a crucial and needed source of funding and support to community banking, which in turn plays a vital role in addressing the credit needs of consumers, small businesses, and communities around the country.

As FHFA has effectively reported, the Federal Home Loan Banks have their own challenges and are now subject to enhanced supervision. Community banks are dear to my heart, and you may be assured that the Home Loan Banks will receive my full attention with an eye to strengthening them and the banks they serve.

Mr. Chairman, Ranking Member Shelby, and Members of the Committee, thank you again for your consideration of my nomination. Should you see fit to confirm me, I look forward to serving as the Director of the Federal Housing Finance Agency. I would be happy to answer any questions that you may have.

Senator JOHNSON. Thank you, Mr. Chairman.

I ask that 5 minutes be put on the clock before we continue with questions.

Mr. Smith, we spoke a little about this in my office, but I think it is an important question to get on the record. The Director is in a unique position because FHFA is both a conservator and regulator of Fannie Mae and Freddie Mac. As conservator, the agency is responsible for the operations of the entities as well as regulating these operations. How do you plan to balance those roles?

Mr. SMITH. Senator, I believe that those two roles are actually profoundly complementary because, as a regulator, the agency seeks to ensure that the enterprises have proper governance, proper risk management, proper operating procedures, that they obey law, and all of these things are consistent with the preservation of their assets and their rehabilitation. And so I think one is an extension of the other and I think that we can—the agency is and I think we will continue to deal with that—any tension there may be successfully. But I think the two support each other.

Senator JOHNSON. Would you cooperate with the investigations of the Inspector General's Office?

Mr. SMITH. You mean the FHFA Inspector General?

Senator JOHNSON. Yes.

Mr. SMITH. FHFA has just gotten, after long efforts to do so, an independent Inspector General, and the Inspector General, of course, operates independently and we will—as a matter of course, I think our activities should be consistent, in any event.

Senator JOHNSON. In addition to Fannie and Freddie, FHFA regulates the Federal Home Loan Banks which are not in conservatorship. These institutions fulfill different but important roles in our financial system. How will you approach the differences and unique characteristics of the Home Loan Banks as you develop policies and regulations?

Mr. SMITH. Senator, as I said in my testimony, I think the Home Loan Banks are crucial, particularly to community banks, and so I will work with staff to come to a full, frankly, understanding of the situation in which each of these banks finds themselves and the system as a whole, its health and operation, and we will work with the managements of those banks to improve them.

And also, I would say, I look forward to working with bankers around the country on this issue, as well, because as you know, sir, the Home Loan Banks are cooperative organizations and so it is important to be engaged with bankers themselves about what they are going to do to support their—the Home Loan Bank system. It is all of the above. I will take in a lot of information and we will work together.

Senator JOHNSON. Can you talk about how the Federal Home Loan Bank Advance System has functioned in North Carolina during the economic downturn and the impact on financial institutions in the State.

Mr. SMITH. The Home Loan Banks have, over time, during the downturn and before, been an important source of funding to our banks and an important source of advice, if you will, or technical support, and have also been a great assistance to our banks in meeting certain of their affordable housing needs. It has been crucial over the long term, frankly, Senator, for the Home Loan Banks provide a needed source of funding and support for our banks through all parts of the cycle.

Senator JOHNSON. Can you talk about how you use your regulatory position in the State to help address some of the challenges that families are facing during this crisis?

Mr. SMITH. I am sorry, I did not quite understand——

Senator JOHNSON. Can you talk about you use your regulatory position in the State——

Mr. SMITH. The State——

Senator JOHNSON. ——to help address some of the challenges that families are facing——

Mr. SMITH. I will.

Senator JOHNSON. ——in this crisis.

Mr. SMITH. We have done several things. First and foremost, we began a licensing system that, over time—it took a long time—removed a number of undesirable characters from the mortgage origination business. The more recent and more apposite answer to your question is that my agency has conducted, first with our own funds and now with funds gotten from a fee on foreclosures, a foreclosure prevention—we have organized a Foreclosure Prevention Network, and over the course of the last couple of years have kept 5,000 North Carolina families in their home. It took a lot of effort, and I will not say it is perfect, but we did what we could do to keep families in their homes.

Going forward, by the way, I will say that the challenge we face now in the North Carolina is that while in the past, two-thirds, let us say, of the loans were what you might call subprime or high-cost loans to start, two-thirds of the loans now are conventional loans. They are loans that were properly underwritten to families who were fine when the loans were made and the economic situation in which our Nation and the State finds itself has put them up against it. So it is an entirely new and different challenge now.

Senator JOHNSON. Votes have just begun I will recess until after the votes are concluded.

[Recess.]

Senator JOHNSON. Mr. Smith, you are getting off easy. We are going to submit questions for the record to you by four o'clock p.m. tomorrow. Please get your responses back quickly. I am hopeful that we can then begin to move your nomination in a timely manner.

I want to thank both of our witnesses at both hearings today. Oversight of the financial system and the reform of the housing finance system will be top priorities for this Committee as we begin the next Congress, and both of today's hearings contributed to those discussions.

I thank everyone again for their time today, and the hearing is adjourned.

[Whereupon, at 12:29 p.m., the hearing was adjourned.]

[Prepared statements, biographical sketch of nominee, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR TIM JOHNSON

I call to order this hearing on the nomination of Mr. Joseph A. Smith, Jr., of North Carolina, to be Director of the Federal Housing Finance Agency.

As our economy recovers, the regulators begin to implement the Dodd-Frank Walls Street Reform Act and we consider the future of the housing market, it is essential that the Federal Housing Finance Agency have leadership that is answerable to Congress. I would like to commend Chairman Dodd and Ranking Member Shelby for their joint letter urging President Obama to name a nominee for this post and ask that the letter be included in the record. The Director of FHFA has a unique role as regulator for the Federal Home Loan Bank system and both regulator and conservator of Fannie Mae and Freddie Mac. This dual role requires a balance between protecting taxpayers and using the tools available to stabilize the housing market.

Mr. Smith is no stranger to this Committee or to the challenges of implementing financial reforms. As Commissioner of Banks, he was responsible for implementing and enforcing North Carolina's antipredatory lending laws, overseeing the State's foreclosure prevention program and serving on the Governor's task for to increase small business lending—to name a few of his accomplishments—all while regulating small and large financial institution in the State. To highlight some of those accomplishments, I would like to enter into the record letters from the Independent Community Bankers Association, the Conference of State Bank Supervisors, the Mortgage Bankers Association and National Association of Realtors.

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PREPARED STATEMENT OF JOSEPH A. SMITH, JR.

TO BE DIRECTOR OF THE FEDERAL HOUSING AGENCY

DECEMBER 9, 2010

Mr. Chairman, Ranking Member Shelby, and Members of the Committee. I am Joseph A. Smith, Jr., currently the North Carolina Commissioner of Banks, and the President's nominee for the office of Director of the Federal Housing Finance Agency. It is an honor and a privilege to sit before you today.

I would like to express my appreciation to the President for nominating me to this position, and his confidence in me in fulfilling this significant role. I would also like to express particular thanks to Chairman Dodd and Ranking Member Shelby for agreeing to consider my nomination so promptly. Such consideration is a great courtesy to me, and a recognition of FHFA's critical importance. Thank you very much.

I regret that Elizabeth Smith, my wife of 31 years, cannot be with me today. Without her love and support, including sound advice, I would not be here today.

I come before you with a commitment to public service and to strengthening the Nation's housing finance system, direct experience in both banking and housing, and the hard-won knowledge I have managed to accumulate over a 35-year career in law, banking and State government service. During my career, I have been directly involved in a variety of activities that serve as a daily reminder of the challenges ahead. I have worked out commercial loans, represented a bank through a real estate crisis, implemented both State and Federal mortgage licensing regimes, and supervised banks in varying stages of distress, up to and including resolution.

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I understand that, if confirmed, you expect leadership and not just management. The activities of Fannie Mae and Freddie Mac are national in scope but local in impact, directly affecting communities across the country. Leadership in this context means determining how to address critical local needs in conjunction with the Agency's duties of conservatorship.

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Mr. Chairman, Ranking Member Shelby, and Members of the Committee, thank you again for your consideration of my nomination. Should you see fit to confirm me, I look forward to serving as the Director of the Federal Housing Finance Agency. I would be happy to answer any questions you may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Smith (Last) Joseph (First) Alderson, Jr. (Other)

Position to which nominated: Director, Federal Housing Finance Agency

Date of nomination: November 15, 2010

Date of birth: 9 November, 1949 (Day) (Month) (Year) **Place of birth:** Charleston, WV

Marital Status: Married **Full name of spouse:** Elizabeth Marion Smith

Name and ages of children: Joseph Alderson Smith, III, 30; Matthew Marion Smith, 27

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Davidson College	1967 – 1971	A.B.	1971
University of Virginia Law School	1971 – 1974	J.D.	1974

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service or achievement.

North Carolina Fellow, Davidson College

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Conference of State Bank Supervisors		06/2002 – Present
	Immediate Past Chairman	05/2010 – Present
	Chairman	05/2009 – 05/2010
	Chairman-Elect	05/2008 – 05/2009
	Vice Chairman	05/2007 – 05/2008
	Secretary	05/2006 – 05/2007
State Regulatory Registry, LLC	Member, Board of Managers	09/2006 – 05/2009
North Carolina Bar Association	Member	1988 – Present
	Chair, Administrative Law Section	2008 – 2009
Benvenue Country Club Rocky Mount, NC	Member	1991 – 2000
Roton Point Club Rowayton, CT	Member	1980 – 1987
Sigma Chi Fraternity Davidson College Davidson, NC	Member	1967 - 1971

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

June 2002 – Present	North Carolina Commissioner of Banks Raleigh, NC
May 2000 – May 2002	Counsel, Thacher Proffitt & Wood Washington, DC
September 1991 – April 2000	General Counsel and Secretary Centura Banks, Inc. and Centura Bank (now RBC Bank (US)) Rocky Mount, NC
September 1988 - August 1991	Counsel, Partner, Poyner & Spruill Raleigh, NC
September 1984 - August 1988	Assistant General Counsel Emery Air Freight Corporation Wilton, CT
February 1979 - August 1984	Staff Attorney, Corporate Counsel PepsiCo, Inc. Purchase, NY

September 1975 - February 1979	Associate Attorney Brown, Wood, Ivey, Mitchell & Petty (now Sidley Austin LLP) New York, NY

Government Experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

June 1, 2002 – Present North Carolina Commissioner of Banks

Head of an agency of state government charged with the supervision of banks and thrift institutions; the licensing and regulations of firms and individuals engaged in mortgage banking and brokerage; and the regulation of a variety of consumer financial enterprises.

June 2002 – Present Conference of State Bank Supervisors: Member, Director, Chairman (2009 – 2010) and Immediate Past Chairman (May 2010 – Present)

Organization of state banking agencies that champions the state role in financial services regulation through the setting of standards, provision of training and education and advocacy before Congress and federal regulatory agencies.

Sept. 2006 – May 2009 State Regulatory Registry, LLC (SRR)

Founding member of SRR, a limited liability company that owns and operates a nationwide licensing system for mortgage lenders, brokers and loan originators. SRR was formed by state mortgage regulators, and has now been incorporated into federal regulation via the Federal SAFE Act.

Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Savings for the Poor: The Hidden Benefits of Electronic Banking: A Review and Response, 5 NC Banking Inst. 1 (2001)

The Federal Banking Agencies' Guidance on Subprime Lending: Regulation with a Divided Mind, 6 N.C. Banking Inst. 75 (2002)

Federal and State Regulation of Financial Services: Competition and the Search for Comity, Consumer Finance Law Quarterly Report, vol. 57, Nos. 2-4 (Spring – Fall 2003)

Financial Literacy, Regulation and Consumer Welfare, 8 N.C. Banking Inst. 77 (2004)

Political Affiliations and activities: List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

Political Contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

Two contributions to the Mike Easley Committee: (i) $500 on June 4, 2004 and (ii) $250 on October 27, 2004.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

See attached Statement of Qualifications.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

None.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Housing Finance Agency's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Federal Housing Finance Agency 's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Housing Finance Agency's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Federal Housing Finance Agency 's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None, however as a member and officer of the Conference of State Bank Supervisors, I did comment, directly and through the organization, on federal legislation and regulations regarding financial services. This participation was associated with my official role as the North Carolina Commissioner of Banks. I did not do this for pay and am informed that this activity does not constitute lobbying under applicable federal law.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

   Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Federal Housing Finance Agency 's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

   A check of public records reveals that I was named in my official capacity as North Carolina Commissioner of Banks as a defendant in a case filed in 2002, however I have no recollection of the details of that matter, and do not believe that I was personally involved in the allegations or litigation of that case. The case was dismissed on April 29, 2003. (Philip Tinsley, III v. Hon Joseph A Smith Jr., The Commissioner of Banks, in Eastern District of North Carolina, Docket No. 5:02cv827).

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

   None.

STATEMENT OF QUALIFICATIONS

I am qualified to be Director of the Federal Housing Finance Administration because of my education and experience generally and, in particular, because of my experience and performance as North Carolina Commissioner of Banks, Chairman of the Conference of State Banks Supervisors (CSBS) and founding Member of State Regulatory Registry LLC (SRR).

As North Carolina Commissioner of Banks, I have (i) led a receipts funded financial regulatory agency through a period of fiscal stringency without cuts in personnel or programs; (ii) instituted a performance-based human resources management system that focuses on output and results and increases efficiency; (iii) overseen the implementation of a mortgage licensing system, first under state law, and then under the federal SAFE Act; (iv) presided over several hundred hearings under our mortgage laws regarding licensure of originators; (v) overseen the implementation of a state foreclosure prevention program that has, to date, kept over 5,000 families in their homes. In addition, my colleagues in bank supervision and I have worked with bank management, boards, and our federal regulatory counterparts to mitigate loss in our banking industry and, where possible to prevent failure. To date, our performance in loss mitigation compares favorably with other comparable states.

As Chairman of CSBS and organizing Member of SRR, I have worked with colleagues from around the country, without regard to partisan affiliation, to promote and protect state chartered banking and the state roll in consumer protection. In addition, my colleagues and I have worked together to create a nationwide mortgage licensing system that has been incorporated in federal law through the SAFE Act.

In sum, I believe that I have the administrative and leadership ability and subject matter competence necessary to effectively lead FHFA.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM JOSEPH A. SMITH, JR.

Q.1. *Position on Important Issues.* Please state your positions on the following important issues that will face the next Director of FHFA. What is your view on the current levels of affordable housing goals, as set by the Federal Housing Finance Agency (FHFA) for Fannie Mae (Fannie) and Freddie Mac (Freddie)? Do you view the current levels as appropriate? If so, on what basis do you judge appropriateness? If not, why not?

A.1. While tension exists between implementing the affordable housing mandates and the goals of conservatorship to minimize taxpayer losses, if confirmed, I would do my best to strike a balance between these two statutory mandates. I believe that my first goal will be to conserve and preserve assets, but recognize that, as Director I would be legally obligated to set and measure compliance with the affordable housing goals. If confirmed, I look forward to working with Congress to address appropriate alternatives for supporting affordable housing.

Q.2. What is your view on whether Fannie and Freddie should have sizeable portfolio holdings?

A.2. I understand that both GSEs are required under the terms of their preferred stock purchase agreements with the Treasury Department to reduce their portfolios by 10 percent per year. I want to acknowledge that, while there is no reason for the GSEs to have large investment portfolios, the portfolios are being used today for loss mitigation purposes. I understand that some level of portfolio is needed to be able to hold nonperforming loans that will be modified. If confirmed, I look forward to working with my colleagues at FHFA to gain a better understanding of the details of the GSEs' portfolios.

Q.3. Is the current conforming loan limit for Fannie and Freddie appropriate?

A.3. Congress authorizes and sets the conforming loan limit. If confirmed as Director, it would be my responsibility to ensure that Congress' direction is correctly implemented.

Q.4. What is your view on whether agency mortgaged-backed securities should be explicitly guaranteed by the Federal Government as part of any reform of the housing finance system?

A.4. If Congress decides to provide for an explicit Government guarantee, I believe that they should consider the costs of such a guarantee and who will bear those costs; any guarantee must be appropriately priced to compensate for risk, to cover potential losses.

Q.5. It is my understanding that during conversations with staff of the Senate Committee on Banking, Housing, and Urban Affairs (Banking Committee), you stated that you did not have positions on the above issues. If you now have positions on these issues, what has occurred to change your positions?

A.5. During the last few weeks, I have had an opportunity to review public reports and materials related to all of FHFA's regulated entities, including their financial statements and FHFA's conservator report and loss projections for Fannie Mae and Freddie Mac. That being said, these are complex and huge financial institutions and there is much more to understand before I can responsibly come to fully informed positions.

Q.6. *Analytical Support for Positions.* What macroeconmic analysis or analysis of mortgage and housing markets have you performed or evaluated to arrive at your positions regarding what you feel should be the future course for Fannie Mae and Freddie Mac?

A.6. I am familiar with various pieces of analysis on the U.S. housing market and some of the proposals for reforming the system. However, I defer to the judgment of Congress regarding the future of Fannie Mae and Freddie Mac. If confirmed, I hope that I can be helpful to those who will be making critical decisions about the most appropriate structure, by providing information and data that can help to inform the deliberations.

Q.7. *Options for Ending the Conservatorship.* When then Treasury Secretary Paulson and Director Lockhart acted in September 2008 to establish the conservatorship for Fannie Mae and Freddie Mac, they indicated that this is a "time out" so that Congress can consider what, if any, is the appropriate role in our housing finance system for the GSEs.

What would you like to see happen if the GSEs become economically viable again and Congress has not acted on GSE reform? Would you, as FHFA Director, continue the conservatorship, or would you be required to return the companies to their previous form?

A.7. FHFA's current loss projections for the GSEs show an expectation of continued losses over the next few years. If confirmed, my role as their conservator is to work to minimize these losses. I expect that the decisions made regarding the future of the housing finance system will include some type of resolution that ensures that the overall cost of the Federal support for the GSEs is as low as possible. We all recognize the significant problems that resulted from the public/private structure. In whatever form the GSEs emerge from conservatorship, we should aim to ensure that they are stronger and well-managed to perform any role that Congress lays out for them going forward.

Q.8. If the companies were returned to their previous form, what would be the Treasury's role in their day-to-day operations, considering that the Treasury holds warrants for 79.99 percent of the companies' common stock?

A.8. I believe that Congress will act with due speed to consider and enact housing finance reform and I look forward to working with you and other members of Congress to ensure that this accomplished.

Q.9. *Risk Management.* According to Fannie Mae's most recent 10-Q statement, Fannie's business activities expose taxpayers to four, often overlapping, major categories of risk: credit risk, market risk, operational risk, and model risk.

If confirmed, please explain in detail what you will do to manage each of these risks and whether what you would do deviates from what you understand Fannie currently does. If you advocate deviation(s), please explain why.

A.9. The risks mentioned in the question are traditional concerns of financial services regulators (along with liquidity risk, reputation risk, and a number of other risks that may vary, depending on market conditions). These risks have been and are being addressed by FHFA supervisory staff as part of their examination and supervision of the Enterprises. If confirmed, I intend that this process should continue so that, working with the managements and boards of the Enterprises, each of these risks (and others, as appropriate) are effectively addressed and the Enterprises are made more stable and resilient.

Q.10. *Protecting the Taxpayer.* Mr. Smith, according to an article in the *Wall Street Journal* dated December 8, the Obama administration "is pressuring Fannie Mae and Freddie Mac, through their primary regulator, the Federal Housing Finance Agency" to get the mortgage giants to agree to write down mortgages. The FHFA has been reluctant to allow principal balance reductions because the FHFA is charged with limiting taxpayer losses.

Mr. Smith, given the responsibilities of FHFA as conservator, would you resist Administration pressure on Fannie and Freddie for principal write-downs? If so, please explain why. If not, please explain why and provide details of the analysis you have performed or consulted that has led to your position.

A.10. The Federal Housing Finance Agency is an independent agency of Government. I am the head of an independent agency of State government now, I understand how important that independence is, and I appreciate that I will be independent if I am confirmed. While there will be many varying interests before the agency, I will consider any proposal first and foremost from the prospective of the role as conservator, with eye to protecting taxpayers. I understand that FHFA has publicly stated that the idea of principal reduction is under review. I have no further knowledge of the topic than what I have read in press accounts.

Q.11. *View of Responsibilities.* The Director of FHFA has many responsibilities. If confirmed, what do you believe would be your primary responsibility?

A.11. If confirmed, my main duty is to serve as conservator of Fannie Mae and Freddie Mac, working to minimize their losses and bring them back to a position of health, in anticipation of Congress' determination of the future structure of the housing finance system. As Director, I would be expected to ensure the safety and soundness of all 14 GSEs and would seek to ensure that all of the GSEs have proper governance, proper risk management practices, proper operating procedures, and that they obey law. For Fannie Mae and Freddie Mac under conservatorship, all of these mandates are consistent with the preservation of their assets and their rehabilitation.

Q.12. The oversight of Fannie Mae and Freddie Mac, which are multitrillion dollar organizations and are larger than any private financial institutions, is a serious responsibility. How has your experience prepared you to undertake this effort?

A.12. If confirmed, I would look forward to the opportunity to participate in the healing and reform of our Nation's housing finance system. I would bring to this task 35 years of experience in law, banking, and financial services regulation. I am humbled by this opportunity and look forward to working with agency staff, Congress, and others to address this critical effort.

Q.13. If confirmed, who do you believe are what you have referred to elsewhere as "stakeholders" in Fannie and Freddie, and how would you rank those stakeholders in terms of importance and in making tradeoffs?

A.13. If confirmed, my first priority will be the success of the conservatorship of the Enterprises, to protect the interest of taxpayers. As noted in my oral testimony, the Enterprises' business has a significant impact on communities around the country. I will, if confirmed, have an obligation to implement affordable housing mandates and, in that regard, will have to deal with the tension between the "mission" goals and the goals of the conservatorship. I expect that I will be asked to implement or support changes to current Enterprise policy in order to increase the availability of credit and the involvement of private sector in the housing market. If confirmed, I will listen to such proposals, but will make decisions based on my position as an independent regulator and conservator of the GSEs.

Q.14. *Lack of Conservator Experience.* Thus far, I am unaware of any experience you have with running a conservatorship. If this is correct, how would you plan to compensate for a lack of experience in this area given the magnitude of responsibility in operating these companies?

A.14. As my oral testimony points out, as North Carolina Commissioner of Banks I have been and am involved with financial institutions in distress, up to and including resolution. I have extensive experience working with bank management, boards, and Federal regulators to mitigate losses and, where possible, to prevent bank failures. That said, I understand that the Enterprises differ in degree and kind from the institutions with which I have been dealing. I am not conducting my current work with distressed institutions alone; rather, as Commissioner, I supervise teams of examiners and other supervisory personnel, who deal with these lending institutions diligently and skillfully. If confirmed as Director of FHFA, I would review with agency management the current status of conservatorship and regulatory activities and would work with them to support their efforts and to ensure that they have the resources (human, financial, and technical) necessary to do their work fully and effectively. Policy decisions would be made only after careful review of legal authority and facts and only after full discussion with staff. The conservatorship and regulation of the Enterprises is not a one person job; while responsibility ultimately rests with the Director, it has to be exercised through the agency as a whole.

Q.15. *FHFA as Conservator.* In describing its role as conservator, FHFA has previously stated:

> The purpose of appointing the Conservator is to preserve and conserve the Company's assets and property and to

> put the Company in a sound and solvent condition. The goals of the conservatorship are to help restore confidence in the Company, enhance its capacity to fulfill its mission, and mitigate the systemic risk that has contributed directly to the instability in the current market.

Do you agree with this assessment of FHFA's responsibilities as conservator? Why, or why not?

A.15. I agree with the approach that prior leadership of the FHFA have taken with regards to the responsibilities as conservator. If confirmed as Director, I intend to pursue three main strategies that I believe are consistent with Congress' intent in granting FHFA the authority to act as conservator of the GSEs: (1) minimize the losses on the poor quality existing book of business; (2) ensure that the GSEs take on good quality business going forward, with their prices effectively covering the expected risk; and (3) work to stabilize the housing market, which is in the best interest of not only the GSEs, but also homeowners and taxpayers who have supported these two firms.

Q.16. *FHFA Role in the Financial Stability Oversight Council.* The FHFA participates in deliberations of the Financial Stability Oversight Council (FSOC). One task of that Council will be to identify "systemically important financial market utilities and payment, clearing, and settlement activities."

What criteria would you use to identify a market utility or payment, clearing, or settlement activity as "systemically important" and can you provide examples of entities that currently satisfy your criteria? (If you rely solely on the considerations provided in Title VIII of the Dodd-Frank Act, please identify quantitative cutoffs beyond which an entity would become, in your view, systemically important.)

A.16. As I understand it, the determination of systemically important financial market utilities is an important responsibility of the Financial Stability Oversight Council. I understand that an Advanced Notice of Proposed Rulemaking was recently issued by the Council. If confirmed, I look forward to fully considering this issue as a member of the Council.

Q.17. *Plain Vanilla Mortgages.* During the debate on what became the Dodd-Frank Act, some advocated that customers be offered a default of "plain vanilla mortgages," arguing that behavioral economics supported this position. In previous testimony before this Committee you seemed to have a position consistent with this, stating "recent work in behavioral economics suggests that when confronted with information overload, bad choices often result." You then stated that the default mortgage for certain borrowers should be the 30 year fixed rate mortgage.

Do you continue to believe in the concept of a "default" mortgage for certain consumers?

How do you define so-called "behavioral" economics, and how would you use behavioral economics in your capacity running the FHFA? What do you believe to be the difference between "behavioral" economics and nonbehavioral microeconomics or macroeconomics?

What do you believe behavioral economics has to offer, if anything, in the context of mortgage contract design? Please identify any empirical studies that provide support for your view.

A.17. I would like to clarify that the remarks that are quoted were made in the context of a discussion of the subprime crisis. The key elements that are important to me are simplicity, clarity, and consumer choice in the offering of mortgages and their documentation, as well as underwriting practices that fairly consider the borrower's ability to repay and other factors that lead to a successful loan. These considerations are now under the purview of the Consumer Financial Protection Bureau and the Federal regulators who are working to implement the provisions of Dodd-Frank that would define "qualified residential mortgages." The FHFA has a role in drafting these regulations and, if confirmed, I look forward to working with the staff on this issue.

Q.18. *PACE Loans.* On July 6, 2010, FHFA found that: " . . . certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by Fannie Mae, Freddie Mac and the Federal Home Loan Banks." Accordingly, they released guidance to protect these institutions from what are commonly referred to as PACE loans. It is my understanding that during conversations with Banking Committee staff, you indicated that you would not alter this guidance so long as it was under active litigation. Would you confirm that this is your position?

A.18. I feel strongly that the protection of the priority of liens with respect to loans financed or guaranteed by the GSEs is critical to conservatorship. However, I understand the FHFA is currently a party to litigation with respect to PACE loans. Accordingly, should I be confirmed, I may well be a named party in such litigation. This being the case I believe that any further comment on the subject would be inappropriate at this time.

Q.19. *Role on the FSOC.* The Director of the FHFA will sit on the Financial Stability Oversight Council, which was recently created by the Dodd-Frank Act. In your view, what role should the FSOC play, if any, in improving financial regulation, and how would you plan to carry out your responsibilities as a member, if confirmed?

A.19. I think that it is appropriate for FHFA to be a voting member of the FSOC, given that the agency's regulated entities have a significant role in the housing finance system today. I understand that most of the members of the Council are also engaged in various aspects of the interagency rule-making to develop the regulations required to implement Dodd-Frank. If confirmed, I will continue to support these efforts, providing information and data, as necessary, as well as the expertise of agency staff to discuss and debate the important issues to be addressed in the regulations.

Q.20. *Fed and Systemic Risk.* The "Housing and Economic Recovery Act" (HERA) required that the FHFA consult the Federal Reserve (Fed) on all regulatory matters related to authorities granted by HERA. This was an effort to make certain that the FHFA remained mindful of the impact of its decisions on financial system stability. Going forward, what do you believe should be the role of the FSOC or the Fed in mitigating systemic risks posed by Fannie and Freddie?

A.20. My understanding of the provision in HERA that required FHFA to consult with the Federal Reserve on significant rules is that it expired in December 2009. I would note that HERA requires an oversight board for FHFA with certain regulators providing advice to the agency. In addition, the Dodd-Frank bill makes FHFA a member of the Financial Stability Oversight Council. In its role on the FSOC, FHFA would work with other regulators to consider the systemic impact of the GSEs on markets as well as the impact of market events on the GSEs. FHFA has primary authority to work to avoid unsafe and unsound practices at the GSEs that could have a systemic risk.

Q.21. *Influence and Oversight.* Given the involvement of both Treasury and HUD in loan modification programs in which Fannie and Freddie participate, there may be instances in which these agencies have strong opinions as to what actions Fannie and Freddie should take regarding certain policies. What is your view of the appropriate role for either the Secretary of Treasury or the HUD Secretary with respect to the oversight and management of Fannie Mae and Freddie Mac? Does either have any authority related to FHFA and its responsibilities as conservator?

A.21. As I understand it, FHFA is an independent regulator and therefore is not accountable to the Treasury Department or Department of Housing and Urban Development for its decisions. I would note that the Treasury Department does have a contractual relationship with the GSEs through the Preferred Stock Purchase Agreements and the financial agent contracts for the Making Home Affordable program. FHFA also works with the Treasury Department and other Federal regulators through the Financial Stability Oversight Council and, should I be confirmed, I would, of course, willingly listen to their views and coordinate with them on systemic risk issues. However, my role as Director would be to make the appropriate decisions related to the entities that I would regulate—the GSEs—and I would prioritize the goals of the conservatorship in any decision I make.

Q.22. Would it be appropriate for either to ask you to take some action that is inconsistent with conserving Fannie Mae and Freddie Mac assets, such as principle reductions or not pursuing “putbacks” to protect bank solvency?

A.22. Should I be confirmed as Director of the FHFA, my main duty would be to conserve and preserve the assets of the GSEs in conservatorship. While I would consider input from a variety of sources in reaching a decision, any decision would ultimately be made in light of my role as an independent regulator and conservator of the GSEs. Regarding principal reduction specifically, I understand that FHFA has publicly stated that the idea of principal reduction is under review. I have no further knowledge of the topic, other than what I have read in press accounts.

Q.23. If confirmed, what course of action would you take if asked to make a decision that might somehow benefit the public, but would be detrimental to Fannie Mae and Freddie Mac and thus also detrimental to the interest of the taxpayer?

A.23. If confirmed, my main duty as Director of FHFA would be to conserve and preserve the assets of Fannie Mae and Freddie Mac in conservatorship. My course of action would entail seeking input from a variety of sources, both within FHFA and the GSEs, as well as seeking input from external sources. The ultimate decision would conform to my role as an independent regulator and conservator of the GSEs, to preserve and conserve GSE assets.

Q.24. *Freddie Mac Suing IRS.* On October 22, Freddie Mac filed suit against the Internal Revenue Service (IRS), disputing the IRS's determination that Freddie Mac owes $3 billion of additional income taxes and penalties for the 1998 to 2005 tax years. While, as conservator, the FHFA has a duty to preserve and conserve Freddie Mac's assets and property, and the Secretary of the Treasury has the duty to enforce revenue laws, this dispute seems to be an instance of the right hand suing the left, given that the taxpayers essentially own Freddie Mac.

If confirmed, would you expect that the FHFA and Treasury could work out a solution to this dispute that would avoid a scenario in which the taxpayers gain nothing but a bill for attorney fees? Would you pursue such a solution? How would you go about making this happen?

A.24. I am unaware of the details of the dispute between Freddie Mac and the IRS, but I understand that this matter is now before the U.S. Tax Court. If confirmed as Director of FHFA, I would work with my colleagues at the FHFA and the IRS to determine if a resolution is possible, without the need for further litigation.

Q.25. *When To Expedite Foreclosures.* Press reports detailing problems with the preparation and notarization of foreclosure documents by some servicers has led to increased discussions regarding foreclosure procedures and their impact on the housing market. One such issue is the length of time now required to foreclose in certain States. While every homeowner deserves the right to proper due process, averages approaching a year and a half in some instances add significant costs to our economy.

In what instances, if any, should FHFA instruct Fannie Mae and Freddie Mac to pursue foreclosure expeditiously? If confirmed, would you as FHFA Director advocate suspension of the so-called "dual track" process of mortgage modification? If so, what tradeoffs would you be making and what empirical assessment guides your decision?

A.25. As the North Carolina Commissioner of Banks, I have worked directly on foreclosure prevention programs and therefore have been closely following the national press on foreclosure processing problems. I have heard local and city officials in North Carolina express serious dismay when vacant properties languish and create blight in local communities, and I have heard from consumer advocates who oppose the "dual track" process as unfair to the troubled homeowner, so I am very interested in finding a middle ground to address these competing problems. While all of my decisions as Director of FHFA will be based on the overriding principals of conservatorship, if confirmed, I will certainly take a look at the situation and work to find some common ground—to ensure that homeowners are provided with every opportunity to keep their homes, yet to move foreclosure processing along promptly when necessary, to protect local neighborhoods from the harmful effects of abandoned and vacant properties.

Q.26. *Financial Statements.* Mr. Smith, as a prospective conservator for Government-owned enterprises with large portfolios and scales of business, you need to be intimately familiar with the financial conditions of the enterprises. What financial statements of Fannie Mae, Freddie Mac or the Federal Home Loan Banks have you read during the past year, and what have you taken away from those statements?

A.26. I have read the SEC filings of the GSEs, with particular attention to Fannie Mae, and the consolidated financial statements of the Federal Home Loan Banks. I also thoroughly read the examination reports published by FHFA on all of their regulated entities. Frankly, I find the FHFA reports most helpful in understanding the weaknesses and condition of the GSEs. These reports highlight a number of supervisory concerns that I intend to focus on in my role as regulator and conservator, if confirmed for this position.

Several things occurred to me as I reviewed the financial statements. Recently, Fannie Mae and Freddie Mac were required, due to accounting rule changes, to bring on the balance sheet all their guaranteed loans. I was struck by the impact of the consolidated statements on the scope of their operations and the difficulty it creates in comparing results quarter-to-quarter or year-to-year. I was also struck by the extensive discussions of the national economy and levels of employment, which are material factors that have to be disclosed as part of the financial statements. The descriptions in the reports highlight that there are critical factors to the success of the GSEs that are not under FHFA's control, but that must be closely monitored.

Q.27. Do you believe that you possess sufficient knowledge of FHFA's authorities and responsibilities and of Fannie Mae, Freddie Mac, and the FHLB's operations to be able to properly manage FHFA immediately, if you are confirmed? Are there any areas where you would need time to get yourself up to speed? If so, what areas?

A.27. As a result of my nomination, I have done my best to familiarize myself with the authorities and responsibilities mentioned in your question. If confirmed, I will act only after careful study of the relevant authorities and in consultation with staff.

Q.28. *Leadership and Tradeoffs.* In discussing your views about leadership at FHFA, you testified that: "Leadership in this context means determining how to address critical local needs in conjunction with the agency's duties of conservatorship."

Could you elaborate on what you mean by "local needs" and how you would use resources available to, or guided by, the Federal Housing Finance Agency to address those needs? Could you describe how you would balance local needs with needs of taxpayers who are invested in Fannie Mae and Freddie Mac?

A.28. I was referring to the fact that Fannie Mae and Freddie Mac are very large players in the housing finance system and that their activities can have an impact on local communities. For example, the large numbers of foreclosures are creating a high volume of properties that must be sold, which can affect neighborhoods if the properties are not moved to sale in an expeditious manner. If confirmed, my priority would be to minimize further losses to the taxpayer, but I would also be conscious of the effect of Enterprise activities on local real estate markets.

Q.29. *FHFA Role in the Future of Housing.* In your testimony, you identify that conservatorship of Fannie Mae and Freddie Mac cannot be a long-term solution and that Congress and the Administration have important decisions to make with respect to housing finance. You go on to state that: "If confirmed, I look forward to working with you and having FHFA become an active participant in this process." Could you elaborate on what you mean by FHFA being an "active participant" in the process involving decisions by Congress and the Administration with respect to the Nation's housing finance system?

A.29. In preparing for this nomination, I have had occasion to review various proposals and options to restructure the GSEs and the housing finance system. I am also aware that the Administration is preparing a proposal for Congress's consideration in January. If confirmed, I look forward to working with my colleagues at FHFA to advise Congress about the costs and benefits on any proposals that would be brought before you. As Director of FHFA, I expect to provide you factual information and data, and I hope that FHFA can serve as a trusted adviser as you deliberate the future of the housing finance system.

Q.30. *Abusive Lending and the Housing Bubble.* Mr. Smith, according to a November 12 article in the *New York Times,* you played a "crucial role" in North Carolina's response to the collapse of the housing market.

The article goes on to say that: "He identified abuses by lenders as an important factor in the boom and bust . . . "

Mr. Smith, have you identified abuses by lenders as an important factor in the boom and bust that has been experienced in the Nation's housing market? If not, do you believe that such abuses have been an important factor? If so, could you quantify the contribution of lender abuse to the boom and bust in the housing market or identify the empirical evidence upon which your belief is based?

A.30. During my entire term as North Carolina Commissioner of Banks, starting in 2002, I was involved in the implementation and enforcement of a licensing system for mortgage brokers and bankers not affiliated with banking organizations. The statute under which this system was implemented, the North Carolina Mortgage Lending Act (MLA), like the high-cost loan law (commonly called the "predatory lending law") that preceded it, had been adopted by large bipartisan majorities of both houses of the North Carolina General Assembly in response to perceived abuses in the market place, particularly the high-cost segment of the market, which ranged from churning of loans (repeated refinancing with no net benefit to the borrower) to outright fraud. Enforcement of the MLA resulted in the removal from the market of literally hundreds of originators and their employers who had no business being in the mortgage business and, in the worst instances, in Federal and State criminal prosecutions. As the most recent Conservator's Report of FHFA (Second Quarter 2010) shows, the work my colleagues and I have done in mortgage licensing has taken place during a period when the GSEs (including Ginnie Mae) accounted for a relatively small share of the MBS market: 54 percent in 2004, 45 percent in 2005, 44 percent in 2006 and 63 percent in 2007. The Conservator's Report graphically shows a large increase during this period in private label securities. In my view, these securities, which were the financing source for the abusive practices mentioned above, contributed to the financial crisis.

Q.31. *Foreclosure Prevention.* Mr. Smith, during your nomination hearing before the Senate Committee on Banking, Housing, and Urban Affairs, it was identified that you oversaw a "foreclosure prevention program" in North Carolina. Please provide a description of the successes or failures of that program and summary statistics of the program's performance.

A.31. Pursuant to legislation adopted by the North Carolina General Assembly, commencing November 1, 2008, the Office of Commissioner of Banks implemented a program that requires filing of a notice with the Office of Administrator of the Courts prior to the filing of a foreclosure action and a deferral period of 45 days (extendable once, for cause shown). The law also required, and funded from the agency's reserves, outreach to borrowers and referral to counselors with regard to high-cost loans. At the time of the statute's adoption, foreclosure starts were running at the rate of about 60,000 a year, primarily on high-cost loans. In more recent times, the rate of foreclosure starts has increased and its composition has changed to predominately conforming loans. Pursuant to further State legislation reflecting this change, effective November 1, 2010, the General Assembly extended the reach of the program to all home loans and funded it with a one-time fee on the filing of foreclosures. Over the course of its operation, the State Home Foreclosure Prevention Program has referred over 13,000 borrowers to counseling and has kept 5,237 families in their homes to date. A "save" is determined by follow-up with counselors to ensure that the loan has been modified or restructured, that the family can afford the payments, and that the family is, in fact, still in the home. Modifications as the result of counseling are voluntary as a rule; my office has no statutory authority to compel modifications. I believe that the SHFPP is a success in that it has prevented foreclosure for a significant number of families. The principal challenges the SHFPP has faced have been borrowers' reluctance to respond to outreach efforts in a timely way, as well as difficulties experienced by homeowners, counselors, and servicers in seeing the loss mitigation process through to ultimate resolution. Loan modifications are typically a document-intensive process that takes proactive coordination on the part of all involved.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM JOSEPH A. SMITH, JR.

Q.1. At our last full Committee hearing examining foreclosure processing and loan modification issues, we heard from Governor Tarullo of the Federal Reserve. He said, "while bank regulatory agencies can and should respond to specific failings that are being identified in our interagency examination, there is a strong case to be made that broader solutions are needed both to address structural problems in the mortgage servicing industry and to accelerate the pace of mortgage modifications or other loss mitigation efforts." Do you agree with this statement? Why or why not?

A.1. I believe that reform of the mortgage finance system should include a coordinated and coherent system of regulation of all aspects of the mortgage process from origination through foreclosure. The SAFE Act, which is included in the Housing and Economic Recovery Act, is an example of the way in which Federal and State regulators can work together on the origination end; comparable coordination in the remainder of the process is very important.

Q.2. What do you see as FHFA's major challenge(s) going forward?

A.2. FHFA's major challenges are: (i) managing the tension between the duties of conservator, statutory affordable housing goals and aspects of the ongoing crisis, the most recent manifestations of which involve foreclosure; and (ii) attracting, retaining, and motivating the human capital necessary to carry out its mission.

Q.3. What would be your top priorities if the Senate confirmed you?

A.3. My top priorities would be: (i) prudent and effective management of the conservatorship of the Enterprises; (ii) effective assistance to Congress as it considers housing finance market reforms; and (iii) effective supervision of the Federal Home Loan Bank System.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR KOHL FROM JOSEPH A. SMITH, JR.

Q.1. Fannie Mae and Freddie Mac have dramatically increased their nonguarantee fees over the past 2 years. These include a set fee applicable to all mortgages, as well as separate delivery fees that are tied to a borrower's credit score, initial loan-to-value ratio and other factors. Fannie Mae and Freddie Mac claim that these fees are used for risk mitigation purposes.

The GSEs charter requires them to use one of three forms of credit enhancement to mitigate their risk on low down payment loans. The one used most frequently is mortgage insurance. These credit enhancements employ private sector capital which minimizes risk to the GSES and, therefore to taxpayers, and are less expensive for borrowers. As Director, what will you do to eliminate these fees and ensure that the GSE use proper risk mitigation tools? Furthermore do you believe that these fees are driving homebuyers, who are putting less than 20 percent of the home's value toward the down payment, to purchase a home with an FHA mortgage rather than with mortgage insurance?

A.1. From what I understand, Fannie Mae and Freddie Mac use various strategies to reduce losses to the taxpayer including credit enhancements, such as private mortgage insurance, and guarantee fees to cover the cost of potential losses. I have heard the concerns about loan level pricing by the GSEs, including its impact on private mortgage insurance. Should I be confirmed as Director of FHFA, I will review this issue with staff and the GSEs to better understand how those fees are set, to what extent they are necessary to compensate for risk, and the interplay between the fees and the credit enhancement.

Q.2. In Wisconsin, 87 percent of our commercial banks are members of the Federal Home Loan Bank of Chicago. Bankers in Wisconsin tell me how valuable the Federal Home Loan Bank of Chicago is to their business as a source of low-cost funding and mortgage-related services. During the liquidity crisis of 2007 and 2008—as other sources of funding dried up virtually overnight and before the Federal Reserve or the Administration had time to devise a response—the Home Loan Banks proved especially valuable as the only reliable source of funding for financial institutions, particularly smaller community banks.

The Chicago Home Loan Bank increased its lending to Wisconsin financial institutions approximately 56 percent from July of 2007 to January of 2009—resulting in an additional $4.9 billion of funding to better help Wisconsin banks serve the needs of their customers and their communities. While not well understood outside of financial circles, this rapid infusion of liquidity into the financial system in a safe and controlled manner helped prevent the financial crisis from becoming even more disastrous.

What are your thoughts on the Federal Home Loan Banks and their mission of providing funding to community lenders through all business cycles?

Are there any specific areas or operations of the Home Loan Banks that you are concerned about or that you plan to focus on as their regulator?

Are there any specific changes to the Home Loan Banks that you would recommend?

A.2. As I said in my testimony, community banks are dear to my heart and the Federal Home Loan Banks are crucial to the success of many community banks. The Federal Home Loan Banks provided critically needed liquidity during the financial crisis. I am aware that the Federal Home Loan Bank System is a matter of heightened supervisory concern for FHFA. If confirmed, I intend to address these supervisory concerns with the Federal Home Loan Banks and their member banks to maintain and strengthen the Home Loan Bank System.

Q.3. Many of the Federal Home Loan Banks, including the Chicago Bank, operate mortgage purchase programs that allow their member banks to sell traditional fixed-rate loans they originate directly to their Home Loan Bank, or to the loans through their Home Loan Bank as an alternative secondary market option. Many of these programs are different from mortgage purchases made by Fannie Mae and Freddie Mac because participating lenders are able to share in the credit risks of their mortgage loans, thereby keeping "skin in the game." This innovative structure has proven to be very successful. The percentages of loans that are seriously delinquent or are in foreclosure are only about one-third of the loans purchased by Fannie Mae and Freddie Mac.

These programs are also very popular with FHLB member banks, particularly community banks. In Wisconsin, more than 125 lenders have funded more than $13 billion of mortgage loans using these programs to help a family buy a new home or lower the costs of their existing mortgage through refinancing. The superb credit performance of the loans demonstrates that local community banks and thrifts originate very high quality mortgages.

Are you familiar with the unique risk sharing structure used by the Home Loan Bank mortgage programs?

Do you plan to encourage the further development and growth of these programs?

Are there lessons in these programs that can be applied as we look to reform the housing finance industry?

A.3. Based on the information I have at this time, I am not familiar with the details of this program. If confirmed, I undertake to consult with my colleagues at FHFA to assess this program in light of the supervisory regime for the Federal Home Loan Bank of Chicago and the Federal Home Loan Bank System as a whole.

Q.4. Farmers back in Wisconsin often tell me that they have trouble finding banks that are willing to lend to them. I also hear from Bankers that regulators often make it difficult for them to expand their agriculture farm loan portfolios. The Gramm-Leach-Bliley Act expanded the available collateral from Community Financial Institution members of the Federal Home Loan Banks to include agricultural and small business loans. A recent report released by the Government Accountability Office found that:

- Small business and agricultural loans account for only 1 percent of FHLB advances;
- Implementation has fallen short of the congressional intent to improve economic development in local communities and enhance the availability of capital for agricultural loans.

Why do you think the Federal Home Loan Banks have fallen short of the Congressional intent to improve the development of local communities?

Do you think that Federal Home Loan Banks should facilitate more agriculture lending?

Do you plan to encourage Home Loan Banks to facilitate more agriculture lending for their member banks?

A.4. Based on my experience as North Carolina Commissioner of Banks, I appreciate the difficulties farmers have in obtaining credit. If confirmed as Director of FHFA, I intend to review the current status of agricultural lending by members of the Federal Home Loan Bank System and work with Federal Home Loan Banks and their members to develop an appropriate participation by such banks in that important market. To the extent that these activities are relatively new to the Federal Home Loan Banks or their members, any increase in agricultural lending would have to be done in a way that does not compromise the integrity the Federal Home Loan Banks or the Federal Home Loan Bank System.

Q.5. Let me get your views on the structure of Government sponsored enterprises (GSEs). Because all GSEs have at least the implicit backing of American taxpayers, the structure of these entities is very important. The 12 Federal Home Loan Banks are each organized as a cooperative, as are the Farm Credit Banks. Unlike corporations with publicly traded stock, such as Fannie Mae and Freddie Mac, a cooperative structure ensures the interests of a GSE's customers are closely aligned with those of its shareholders because they are largely the same group. This structure also greatly reduces a GSEs' incentive to take unnecessary risks in order to meet high profit expectations. For example, all Home Loan Bank loans to members are underwritten to strict, traditional standards and are fully secured by high-quality collateral.

What are your views of the cooperative structure of the Home Loan Banks? Do you believe this structure should be preserved and protected, including protecting the par value stock of GSE shareholders?

Do you believe this structure has merit for future housing finance entities that Congress might create?

A.5. The model of the Federal Home Loan Banks proved successful during the financial crisis, providing critically needed liquidity to community banks across the Nation. As Congress considers the future of the housing finance system and potential options for restructuring, they should consider the successes of the Federal Home Loan Bank System as part of their deliberations.

Q.6. I would like to discuss a local Government innovation called Property Assessed Clean Energy, or PACE financing. Wisconsin enacted a law in 2009 that allows local governments that set up financing districts to offer loan programs to pay back investments in renewable energy systems through property tax payments. As a result of this law, the Milwaukee Shines Solar PACE Loan Program was created in March 2010 making the City of Milwaukee one of the first municipalities in the country to implement a PACE financing mechanism. This program was suspended in July after the Federal Housing Finance Agency released guidance on Pace liens.

Are you aware that the Federal Housing Finance Agency (FHFA) issued a statement on July 6 that blocked PACE pilot programs across that Nation and in Wisconsin?

Will you agree to revisit PACE and work with stakeholders on this issue?

A.6. The protection of the priority of liens with respect to loans financed or guaranteed by the GSEs is critical to conservatorship. However, I understand the FHFA is currently a party to litigation with respect to PACE loans. Accordingly, should I be confirmed, I may well be a named party in such litigation. This being the case, I believe that any further comment on the subject would be inappropriate at this time.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BENNET FROM JOSEPH A. SMITH, JR.

Q.1. Property Assessed Clean Energy (PACE) Financing is a creative mechanism to help finance the installation of clean energy projects and energy efficiency upgrades on residences. My home State of Colorado is at an impasse with the FHFA on the continued use of this mechanism because the Agency has issued guidance that has essentially halted PACE programs across the country. Can you state your position on PACE?

A.1. I understand and agree with the goals of PACE programs, to provide the opportunity for homeowners to make energy improvements to their homes. However, the protection of the priority of liens with respect to loans financed or guaranteed by the GSEs is critical to FHFA's mandate of conservatorship.

Q.2. The Colorado counties of Gunnison, Pitkin, Eagle, and Boulder all passed legislation to promote PACE financing. The State legislature and Governor Ritter seized on this momentum and recently passed statewide authorizing legislation as well—all of which are dependent on the establishment of so-called "improvement districts." Are improvement districts (PACE districts) for energy efficiency and renewable energy different than the more traditional improvement districts used for water, sewer, sidewalks, roadways, *etc.*—and if so, how and why?

A.2. I am unfamiliar with the specifics regarding Colorado's improvement districts and look forward to working with my colleagues to better understand the details of the situation, should I be confirmed as FHFA Director.

Q.3. Throughout Colorado, many homeowners who had hoped to make energy efficiency improvements on their properties have been disappointed in FHFA's lack of progress on the PACE program. Would you consider revisiting the FHFA's current position on the program?

A.3. I understand the FHFA is currently a party to litigation with respect to PACE loans. Accordingly, should I be confirmed, I may well be a named party in such litigation. This being the case, I believe that any further comment on the subject would be inappropriate at this time.

Q.4. FHFA has indicated general skepticism about the reliability and relative value of energy efficiency capital improvements. Do you support solutions to help homeowners save money through energy efficiency improvements?

A.4. I do support solutions that help homeowners save money through energy efficient improvements to their homes. I believe that it is the responsibility of the Department of Energy to determine measurable standards for reliability and relative value of energy improvements.

Q.5. I hope you can work with me and my staff until we find an amicable solution to this impasse on the PACE program. Can I have a pledge from you and FHFA that you will continue to work with my office to find a solution to this problem?

A.5. It is my understanding that the current impasse and related litigation was preceded by a substantial amount of discussion and attempts at accommodation between interested parties. That being said, and if confirmed, I am more than willing to work with you to identify an appropriate approach going forward.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM JOSEPH A. SMITH, JR.

Q.1. We need to fix our Nation's broken housing finance system and reduce the Government's involvement in the housing market from current levels where the GSEs and FHA are guaranteeing about 95 percent of all new mortgages. Some alternatives being discussed range from a completely privatized housing finance system to a system in which the Government takes the first-loss position in the entire conforming mortgage market. What are the positive and negative aspects of the range of options for reforming Fannie Mae and Freddie Mac?

A.1. In preparing for this nomination, I have had occasion to review various proposals and options to restructure the GSEs and the housing finance system. I am also aware that the Administration is preparing a proposal for Congress' consideration in January. If confirmed, I look forward to working with my colleagues at FHFA to advise Congress about the costs and benefits on any proposals that would be brought before you. As Director of FHFA, I expect to provide you factual information and data, and I hope that FHFA can serve as a trusted adviser as you deliberate on the future of the housing finance system.

Q.2. In January, the Treasury Department is required to submit its report on how to reform Fannie Mae, Freddie Mac, and the housing finance system as a whole. What input has FHFA had in this report and what role do you plan to take in this debate?

A.2. I have had no discussions with the Treasury Department or Administration on their plan for reforming the housing finance system and the GSEs. I am not aware of FHFA's level of involvement in developing options on the future structure of the GSEs or the housing finance system as a whole. If confirmed, I look forward to contributing to the dialogue and, as the Director of the FHFA, providing information to help facilitate Congress' deliberations on the future of the GSEs.

Q.3. According to an August FHFA report, Fannie Mae and Freddie Mac have burnt through $226 billion in capital since the middle of the 2007. The Congressional Budget Office has estimated that, in the wake of the housing bubble and the unprecedented deflation in housing values that resulted, the Government's cost to bail out Fannie Mae and Freddie Mac will eventually reach $381 billion. If confirmed, what internal steps will you take at FHFA to reduce taxpayer losses?

A.3. Should I be confirmed as Director of the FHFA, my main duty is to conserve and preserve the assets of the GSEs in conservatorship and work to right the ships so that they emerge from conservatorship, in whatever form Congress deems appropriate, in a stronger position to fulfill whatever functions Congress may give them. If confirmed, I intend to pursue three main strategies, which are consistent with the approach that the prior leadership of the FHFA has taken: (1) minimize the losses on the poor quality existing book of business; (2) ensure that the GSEs take on good quality business going forward, with the fees effectively covering the expected risk; and (3) work to stabilize the housing market, which is in the best interest of not only the GSEs, but also homeowners and taxpayers who have supported these two firms.

Q.4. According to the *Wall Street Journal:*

> Fannie Mae and Freddie Mac are in talks with Obama administration officials to join fledgling Government programs aimed at reducing loan balances of mortgages where borrowers owe more than their homes are worth, according to people familiar with the situation. An agreement with the two Government-owned mortgage giants to write down so-called underwater loans could reduce the threat to the U.S. housing market from the glut of homeowners believed at risk of default should their personal finances or home prices worsen. A deal would deepen losses at Fannie Mae and Freddie Mac, which already have cost taxpayers about $134 billion.

What is your perspective on this proposal and how will this impact projected losses on Fannie Mae and Freddie Mac?

A.4. While I have read the article you referred to, I have no specific knowledge of this particular plan or these discussions on principal reduction. If confirmed, I pledge to work with my colleagues at FHFA to carefully evaluate any principal reduction proposals from the perspective of the conservator, working to conserve the GSEs' assets and reduce their losses. I believe that all of my decisions related to Fannie Mae and Freddie Mac should have the primary goal of protecting the taxpayers.

Q.5. On Christmas Eve, the Treasury Department lifted the $400 billion loss cap on the two companies, creating a potentially unlimited liability, and effectively providing the full faith and credit of the Government in support of their debt. Would you support reestablishing the $200 billion cap per entity and accelerate the 10 percent reductions of the mortgage portfolios, effectively requiring the companies to shrink those portfolios by holding a combined $100 billion from their current levels?

A.5. My understanding of the Preferred Stock Purchase Agreements is that they are contracts between the Treasury Department and the GSEs. From my perspective, should I be confirmed as FHFA Director, these agreements are in place and stand as agreed to. They are the starting point for my work as conservator, to preserve and conserve the GSEs' assets. I understand that, under the terms of the agreements, the GSEs must reduce their portfolios by 10 percent each year. I have personal experience as the North Carolina Commissioner of Banks with quick sales of an institution's assets during resolution and I do not believe that such actions always result in the best price. Consequently, in my view, any decision to accelerate the pace of the disposition of assets would need to be made after analysis of the impact of such action on real estate markets, capital markets, and the financial position of the GSEs.

Q.6. During consideration of financial reform, I pushed an amendment to include in the debt calculations of the budget resolution the debt obligations of Fannie and Freddie as long as they were in conservatorship or receivership. Although the amendment received a majority of votes (47–46) it failed because the procedural vote needed 60 votes to pass. Would you support including the debt obligations of Fannie and Freddie in the budget?

A.6. Decisions about what should be on or off the Federal budget should be made by Congress and the Administration, through the Office of Management and Budget. Experts in Federal Government accounting are in a better position to make this determination.

Q.7. When the Congress developed legislation to combine the regulation of Fannie Mae, Freddie Mac and the Federal Home Loan Banks under one new regulator, we wanted to be sure that the differences between Fannie and Freddie and the Federal Home Loan Banks were recognized by the FHFA in its supervision and regulatory duties. How will you approach Congress' direction to recognize and preserve the differences and unique characteristics of the Federal Home Loan Banks as you develop policies and regulations for all of your regulated entities?

A.7. As I said in my testimony, community banks are dear to my heart and the Federal Home Loan Banks are crucial to the success of many community banks. The Federal Home Loan Bank model proved successful during the financial crisis, providing critically needed liquidity to smaller institutions that cannot access the capital markets on their own. However, I am aware that the Federal Home Loan Bank System is a matter of heightened supervisory concern for FHFA. If confirmed, I intend to address these supervisory concerns with the Federal Home Loan Banks and their member banks to maintain and strengthen the Home Loan Bank System.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORKER FROM JOSEPH A. SMITH, JR.

Q.1. This week the *Wall Street Journal* reported that Treasury may be pressuring Fannie and Freddie to modify loans in their portfolio in a manner that will make them eligible for a FHA's principle write down refinance program. But as you know, FHFA is an independent Federal agency. Can you provide assurance that the decisions you make as the Director of FHFA will be done independently of political pressure? And will you assure us that all decisions you make with regard to the management of the GSE's existing books will be done with the principal goal of minimizing additional costs to the taxpayer or recouping taxpayer losses?

A.1. The Federal Housing Finance Agency is an independent agency of Government. I am the head of an independent agency of State government now, I understand how important that independence is, and I appreciate that I will be similarly independent if I am confirmed. While there will be many varying interests before the agency, I will consider any proposal first and foremost from the perspective of conservator, with eye to protecting taxpayers. I understand that FHFA has publicly stated that the idea of principal reduction is under review. I have no further knowledge of the topic than what I have read in press accounts.

Q.2. Please briefly describe some of the general principles that you would like to see part of a new American housing finance system.

A.2. If confirmed as Director of FHFA, I would, of course, defer to Congress on the structure of the future system, but I would hope that the new system would include:

- appropriate regulation of all aspects of the mortgage finance system (origination, funding, servicing, foreclosure, REO)
- appropriate levels of consumer protection
- appropriate levels of capital for participants
- proper balancing of the private capital and Government support

If confirmed, I look forward to contributing to the discussion and, as the Director of the FHFA, providing information to help facilitate Congress' deliberations on the future of the GSEs.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR DEMINT FROM JOSEPH A. SMITH, JR.

Q.1. A December 8th, 2010, article in the *Wall Street Journal* referenced talks between the Obama administration and Fannie Mae and Freddie Mac aimed at encouraging the latter to join an FHA program whose goal is securing reductions in loan balances for homeowners having difficulties making their mortgage payments. Do you support having Fannie and Freddie forgive principal on mortgages in order for the borrowers to refinance into FHA loans?

A.1. While I have read the article you referred to, I have no specific knowledge of this particular plan or these discussions on principal reduction. If confirmed, I pledge to work with my colleagues at FHFA to carefully evaluate any principal reduction proposals from the perspective of the conservator working to conserve the GSEs assets and reduce their losses. All of my decisions related to Fannie Mae and Freddie Mac would be considered in the context of the primary goal of protecting the taxpayers.

Q.2. If the answer to the previous question is yes, can you please provide your reasoning, including how to square the potential added losses to Fannie and Freddie would be consistent with the FHFA's duties as a conservator to the enterprises and the goal of minimizing taxpayer losses?

A.2. Not applicable.

Q.3. Do you believe that reductions in loan balances should be a part of any programs that constitute the Government's response to the ongoing mortgage crisis?

A.3. I understand that FHFA has publicly stated that principal reduction is under review. If confirmed, I would take any prior review under consideration. However, the ultimate decision would be made to conform with FHFA's role as the regulator and conservator of the GSEs' assets.

Q.4. Would you consider the Administration's current HAMP program a successful one, and if so, by what standards?

A.4. It's not only appropriate, but also critical that the GSEs be fully engaged in loss mitigation efforts, including HAMP and non-HAMP modifications. The primary objective of these efforts has been to keep families in their homes, to stabilize the housing market, but also to minimize losses to Fannie and Freddie. I have heard the concerns about the HAMP program, and, if confirmed, commit to you that I am open to additional assessment of the program guidelines and whether there are changes that would make it more effective. In addition, I would look forward to hearing your thoughts on the subject.

Q.5. On December 24th, 2009, the Treasury Department removed any limits on assistance for Fannie and Freddie, who have currently cost taxpayers more than $150 billion dollars—do you believe that any limits are appropriate on the amount of taxpayer assistance that they can receive, and if so, could you please detail what limits you think would be appropriate and why? If you do not, could you please explain how that would be consistent with the goal of minimizing taxpayer losses?

A.5. My understanding of the Preferred Stock Purchase Agreements is that they are contracts between the Treasury Department and the GSEs. From my perspective, should I be confirmed as FHFA Director, these agreements are in place and stand as agreed to. As conservator, my primary responsibility is to limit losses to taxpayers from the GSEs.

Q.6. Can you please detail ways that you see or that you intend to use to increase the use of private capital, such as private mortgage insurance, as ways to mitigate risk of loss in Fannie and Freddie portfolios?

A.6. Fannie Mae and Freddie Mac are authorized to use several forms of credit enhancement, including private mortgage insurance, to mitigate risk. Since the onset of the mortgage crisis, the mortgage insurance industry has been fairly credit-constrained. Therefore, if confirmed, I would expect to carefully monitor the regulatory capital condition of these critical counterparties, to ensure that they do not pose any additional risk to the Enterprises.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR VITTER FROM JOSEPH A. SMITH, JR.

Q.1. In testimony to the Senate Banking Committee on "Mortgage Market Turmoil: Causes and Consequences," on March 22, 2007, you advocated for "FHA First" plan to deal with the problems in the mortgage market. You bemoaned the inability of FHA to offer subprime loans when you testified:

> Congress should take immediate steps to modernize FHA to enable it to be a viable option for home ownership by borrowers with credit blemishes. Much of the growth of the subprime industry came at the expense of FHA. Clearly, Congressional concerns of the solvency of the FHA insur-

ance fund led it to overreact and hamstrung the FHA from serving the subprime market.

Are you aware that the Federal Housing Administration mortgage insurance fund, used to pay claims, is currently below its 2 percent statutorily required capital ratio? If so, when did you become aware and does that change your opinion on an “FHA First” solution?

A.1. The testimony in question was on behalf of the Conference of State Bank Supervisors and was principally intended to present the efforts States had made to address abuses in the marketplace,. The discussion of FHA was a minor part of the testimony and was intended as a response to what the Federal Government might do to provide mortgage financing for low and moderate income borrowers. I was not an advocate regarding FHA at that time, in 2007, and am not now. If confirmed, I will deal with issues relating to the Enterprises, both in their current state and as the debate on restructuring goes forward.

Q.2. Are you aware that the 2010 annual study shows that the peak losses for the FHA are still 2–5 years out? If so, when did you become aware.

A.2. I have not done any review of FHA mortgage insurance fund.

Q.3. Are you aware that if the FHA takes no further action to more quickly increase its capital ratio that it will take until 2015 for the fund to reach that 2 percent requirement? If so, when did you become aware?

A.3. I have not done any review of FHA mortgage insurance fund.

Q.4. Do you still believe that Congress overreacted to concerns of the solvency of the FHA insurance fund or that the FHA did not adequately serve the subprime market?

A.4. I have not done any review of FHA mortgage insurance fund.

Q.5. You also testified at that same hearing in 2007 that, “in addition, Congress should encourage the GSE’s to devote their primary attention to affordable housing for all Americans, particularly the subprime market.” The action you suggest would have a devastating impact on the U.S. taxpayers subjecting them to even more dramatic losses. Do you still believe that is the appropriate role of the GSE’s?

A.5. During that hearing, in which I was testifying solely on behalf of the Conference of State Bank Supervisors, the point that I was intending to make was that Fannie and Freddie Mac could serve some number of creditworthy borrowers who were otherwise being offered subprime loans. Access to affordable, prime rate financing on safer terms would certainly have been a better option for many of these borrowers. I did not intend to convey that Fannie Mae and Freddie Mac should follow the lead of the subprime market; rather, my point was the opposite—that the American public would be better-served if traditional, conventional conforming loans represented a greater portion of the market.

Q.6. I believe your above comment is an inappropriate sentiment for someone who is charged with protecting the American taxpayers by governing the conservatorship of these two companies.

Do you agree the primary goal of the conservator should be to limit the amount of taxpayer dollars that need to be spent to prop up these companies?

A.6. Yes.

Q.7. The data clearly shows that Federal housing policy clearly played a large role in creating this crisis. New research by Edward Pinto, a former chief credit officer for Fannie Mae and a housing expert has found that, almost half of all mortgages in the financial system—27 million loans—were subprime or Alt-A mortgages. Two-thirds of these loans were held or guaranteed either by the U.S. Government or by Government-backed and controlled institutions like Fannie Mae and Freddie Mac. Clearly, the vast numbers of weak mortgages that have resulted in the financial crisis were made as a result of a concerted Government policy to increase homeownership in the United States.

This point is particularly timely because this week the *Wall Street Journal* reported that Fannie Mae and Freddie Mac are in talks with the Obama administration officials to increase the number of loans the two companies will reduce the loan balances for underwater borrowers. The article says, "the Obama administration is pressuring Fannie Mae and Freddie Mac, through their primary regulator, The Federal Housing Finance Agency. The Administration wants the firms to join a program run by the Federal Housing Administration that allows banks and other creditors, which agree to write down mortgages, to essentially hand off reduced loans to the FHA."

Of course, taking these write downs will mean not just new, huge losses for both Fannie Mae and Freddie Mac but also for the American taxpayer.

The *WSJ* article continues, "one of the reasons Fannie Mae and Freddie Mac are reluctant to reduce principal is because it limits their options to reduce losses." They can do this either by collecting claims from mortgage insurers or by forcing banks to buy back loans.

If the GSE's are in conservatorship largely because of subprime loans they either originated or invested in, do you believe that you were wrong to have previously advocated for the GSE's to give "primary attention to affordable housing for all Americans, particularly in the subprime market?"

A.7. As I mentioned in response to a previous question, I did not intend for my comments to advocate for the GSEs to have a greater role in the subprime market. I have carefully read FHFA's latest Conservator's Report and, based on that information, believe that the vast majority of losses they have experienced to date are from the single family guarantee business. In fact, according to the third quarter report, 82 percent of their charges against capital were from the single family guarantee business and only 4 percent from investments, including purchases of subprime securities. This data suggests that the GSEs' subprime investments were not the primary reason that it was necessary to place them in conservatorship and that my focus as conservator, should I be confirmed, should be on minimizing losses in their main line of business in conventional mortgages.

Q.8. Can you tell the Committee what you think of the idea of forcing these two companies to write down more loans?

A.8. While I have read the article you referred to, I have no specific knowledge of this particular plan or these discussions on principal reduction. If confirmed, I pledge to work with my colleagues at FHFA to carefully evaluate any principal reduction proposals from the perspective of the conservator, working to conserve the GSEs' assets and reduce their losses. I believe all of my decisions related to Fannie Mae and Freddie Mac should have the primary goal of protecting the taxpayers.

Q.9. Do you think the two companies should put back all loans that are appropriate on the banks that made them and collect relevant mortgage insurance to those loans?

A.9. Both Fannie Mae and Freddie Mac have contracts with the lenders from whom they purchased the loans which specify that the loans meet certain standards. As conservator, I would expect these banks and mortgage insurance companies to honor their contracts and repurchase any loans that do not meet the standards.

Q.10. Do you pledge to resist Administration efforts to use your role as the conservator and regulator of Fannie Mae and Freddie Mac to force the two companies to participate in a dramatic write down program that would subject taxpayers to tremendous losses?

A.10. The Federal Housing Finance Agency is an independent agency of Government. I am the head of an independent agency of State government now, and I understand how important that independence is and will be, if I am confirmed. While there will be many varying interests before the agency, I will consider any proposal first and foremost from the perspective of conservator, with an eye to protecting taxpayers. I understand that FHFA has publicly stated that the idea of principal reduction is under review. I have no further knowledge of the topic than what I have read in press accounts.

Q.11. Currently, Fannie Mae and Freddie Mac are owned by the taxpayers. Last month Fannie Mae and Freddie Mac posted additional losses, increasing the amount they have taken from the U.S. Treasury to $153 billion. Thanks to a dramatic announcement by the Treasury Department, in what some have called the Christmas Eve massacre, the two failed mortgage giants can draw an unlimited amount of taxpayer dollars from the U.S. Treasury in order to cover losses they suffer. The two companies have been delisted from the New York Stock Exchange. Unfortunately, the real price tag of resolving these two companies has yet to be presented honestly to the taxpayer. Do you support putting Fannie Mae and Freddie Mac on budget where they belong?

A.11. Decisions about what should be on or off the Federal budget are made by Congress and the Administration. If confirmed, it would not be my role to make these budgetary determinations.

Q.12. The Treasury Department has repeatedly kicked the can down the road when it comes to reform of Fannie Mae and Freddie Mac. On June 18, 2009, at a Senate Banking Committee hearing on the Administration's proposal to modernize the financial regulatory system, United States Treasury Secretary Timothy Geithner agreed with me that "Fannie and Freddie were a core part of what went wrong in our system," and that Congress and the Administration are facing "a challenge for exit, what the future should be. We have to fundamentally rethink what the appropriate role of the Government is in the future."

Yet, the Administration didn't include Fannie and Freddie at all when it announced a blue print to reform the financial regulatory system. Despite the Administration's promises to submit a reform proposal to the Congress along with the President's budget earlier this year, they now promise a plan next year. According to Inside the GSEs, "we've been holding meetings," said a Treasury senior policy advisor, "and more are expected."

If confirmed, as the conservator of these two companies, what do you see as your role in determining an exit strategy for the taxpayers? Will you commit to developing a plan for this Committee to review that will end the conservatorship of both Fannie and Freddie?

A.12. In preparing for this nomination, I have had occasion to review various proposals and options to restructure the GSEs and the housing finance system. I am also aware that the Administration is preparing a proposal for Congress's consideration in January. If confirmed, I look forward to working with my colleagues at FHFA to advise Congress about the costs and benefits on any proposals that would be brought before you. As Director of FHFA, if confirmed, I would provide you with factual information and data, and I would hope that FHFA would serve as a trusted adviser as you deliberate on the future of the housing finance system.

Q.13. The 2009 FHFA annual report, issued in May 2010, said:

> The condition and performance of 6 of the 12 FHLBanks are less than adequate. At these FHLBanks, the principal supervisory issue is private-label mortgage-backed securities (MBS) investments. Half the FHLBanks incurred credit-related impairment charges of more than $200 million on private label MBS in 2009. Four FHLBanks have negative accumulated other comprehensive income, mostly reflecting noncredit impairment on private-label MBS, in excess of their retained earnings, and this excess is large at two FHLBanks, Seattle and Boston.
>
> At the Seattle FHLBank, this condition has led me to use my discretionary authority to deem that FHLBank "undercapitalized" despite holding capital in excess of required regulatory minimums. During 2009, the FHLBanks collectively made substantial progress in improving the rigor and consistency of their analytics in determining the valuation of their private-label MBS.

I believe this issue is of the upmost importance because of the Dodd-Frank bill. In Dodd-Frank legislative language prohibited institutions from lending to any unaffiliated company an amount that exceeds 25 percent of the capital stock and surplus of the lending institution. Originally, the Senate version applied this rule to the Federal Home Loan Banks. At the time this seemed to be appropriate because the FHFA already has the authority to institute concentration limits on the institutions which it regulates. But, frankly, that increases the pressure on you at the FHFA to get this issue right.

As you may be aware, at one point during the financial crisis, the Federal Home Loan Bank of San Francisco had 62 percent of its advances (loans) to JPMorgan, Citi, and Wachovia.

Do you think that the Federal home loan banks should have a concentration limit on loans to one borrower?

A.13. As a banking regulator, the issue of concentrations of all kinds is important to me. If confirmed, I intend to address this question with FHFA staff as one of a number of supervisory issues that should be considered as part of a dialogue regarding how best to strengthen the system.

Q.14. What is the maximum amount you think a Federal home loan bank should lend to one borrower?

A.14. If confirmed, I will review this issue with FHFA staff and revise the current policy, if appropriate.

Q.15. Do you believe that the FHFA should have a policy on this?

A.15. I do.

Q.16. What strategic role do you envision for the FHLB System in the future?

A.16. I believe that the Federal Home Loan Bank System can be an important source of funding and support for community banks. To that end, I support Acting Director DeMarco's call for the system to return to its core mission and traditional methods of operation.

Q.17. How should the role of the FHLBs be addressed in the upcoming reform of the U.S. housing finance system?

A.17. This issue will, of course, be for Congress to decide. If confirmed, I look forward to working with Congress as it considers proposals to deal with this very important matter.

Q.18. Regarding the Federal Home Loan banks, should they be consolidated? Why, or why not?

A.18. I am aware that FHFA has recently issued a proposed rule on this topic, to permit the merger of Federal Home Loan Banks, but I do not have any personal, settled views on the subject.

Q.19. Given that some banks have encountered serious financial trouble before and during the crisis, does the Nation need 12 Federal home loan banks? Why, or why not?

A.19. While I personally prefer a diverse and geographically distributed system—a view that is shared by the community bankers I talk to—the number of home loan banks will be determined by the quality of their operations and, ultimately, by Congress.

Q.20. Would the FHLB system be collectively stronger if there were fewer FHLBs than currently exist? Why, or why not?

A.20. If confirmed, I would address the issue as part of FHFA's supervisory activities with regard to the Federal Home Loan Banks system and with Congress, if the system is included in reform legislation.

Q.21. Should some or all of the Federal Home Loan banks be considered systemically risky?

A.21. Given the interdependence of the member banks of the Federal Home Loan Bank System and their relationship to community banks, I believe that the Federal Home Loan Banks are very important, but not necessarily systemically risky.

Q.22. Freddie Mac has recently announced two fees without giving any explanation as to where the money is going. Since the company is being kept alive through the forced generosity of the taxpayer, taxpayers deserve to know what those fees are and how they are being used. Are they being put in a reserve fund to pay future losses or is it for something else?

A.22. At this time, I am not familiar with the operational aspects of Freddie Mac's accounting and how income generated by fees is recorded and retained.

Q.23. What is the appropriate role of FHFA in overseeing and commenting on the fees like these and their uses?

A.23. FHFA's primary role in overseeing the Enterprises' fee-setting and collection activities must be to ensure that the loan-level charges are adequate to cover the future potential losses as well as any administrative expenses incurred in guaranteeing the loans so that the fees cover the costs of doing business. In other words, FHFA, as regulator and conservator, must prevent any underpricing of risk, which would create additional taxpayer losses.

Q.24. Without further explanation, it is unclear who benefits from these fees. By FHFA inaction in this area, the fees are driving the market to FHA which, despite some limited Congressional action to allow for increased premiums, is still a ticking time bomb. It is the Banking Committee's responsibility to make sure that there isn't a huge taxpayer bailout of yet another housing entity. Both the FHA and GSEs are completely backed by the U.S. taxpayer and we must understand how the pricing used by one company drives taxpayer exposure to another company or agency.

As part of this hearing record will you provide this Committee with all the supporting documents necessary to understand these new fees, and how they are being used by the two companies?

A.24. Until confirmed, I am unable to access nonpublic documentation at FHFA's regulated entities. If confirmed, I would look into this situation further and would be happy to meet with you to discuss pricing.

Q.25. As a State Banking Commissioner, you were in a unique position to see more of what was happening "on the ground." What changes, if any, would you recommend to the mortgage modification programs that have been in place—HAMP and HARP? Clearly, the programs, as currently structured, have struggled and have not been as effective as the Administration promised they would be. It seems that these programs were structured to extend the problem and pretend that it would resolve itself over time.

A.25. It's not only appropriate, but also critical that the GSEs be fully engaged in loss mitigation efforts, including HAMP and non-HAMP modifications in order to minimize their losses under conservatorship. I would note that the Treasury Department runs the HAMP program. I have heard concerns about the HAMP program and about the GSE high-LTV refinance program, HARP. If confirmed, I commit to you that I am open to additional assessment of the program guidelines for the GSEs' implementation of HAMP modifications, non-HAMP modifications, and HARP refinances, and whether there are changes that would make these programs more effective. In addition, I would look forward to hearing your thoughts on the subject.

Q.26. What is your view of the recent Foreclosure Crisis (*i.e.,* robosigning, *etc.*)? North Carolina was a nonjudicial State, do you believe we should be looking towards some type of global settlement so that this problem can be resolved?

A.26. I am concerned about the recent problems in the foreclosure process and, from my position as North Carolina Commissioner of Banks, have seen the impact both on homeowners and neighborhoods and communities in my State. We must strike a balance to ensure that homeowners are provided with every opportunity to keep their homes, yet to move foreclosure processing along promptly when necessary in order to protect local neighborhoods from the harmful effects of abandoned and vacant properties. I am unaware of any details or plans related to a global settlement and therefore cannot comment on it at this time.

Q.27. Some have suggested the creation of an explicit Government guarantee for mortgage-backed securities in the event of significant losses in the market. Fannie and Freddie, meanwhile, would be privatized after a transition period and any securitizers would pay premiums to the Government for the MBS guarantee. What are the benefits or drawbacks of such an approach? Do you favor such an approach?

A.27. If Congress decides to provide for an explicit Government guarantee, I believe that they should consider the costs of such a guarantee and who will bear those costs; any guarantee must be appropriately priced to compensate for risk, to cover potential losses.

Q.28. How would such a MBS-guarantee-like system have fared in the financial crisis?

A.28. Given that a number of other facets of the system would likely differ if the Enterprises were set up to provide an explicit Federal guarantee, I cannot speculate how such a system would have fared.

Q.29. Would the cost of a MBS-guarantee-like system to taxpayers have been higher or lower than the estimated cost of the conservatorship of Fannie and Freddie?

A.29. As North Carolina Commissioner of Banking, I think that it was clear that risk was substantially underpriced during the period leading up to the crisis, for both nonguaranteed and guaranteed loans alike. That said, I do not think that this type of cost analysis would be simple to perform, given the numerous external factors that would need to be considered.

Q.30. Should the Government have any significant role in the mortgage market? Please describe the role you believe the Government should play in the mortgage market.

A.30. I think that we can all agree that there have been advantages to the Government role in the housing market, based on a system established during the Great Depression, including the widespread availability of an affordable 30-year mortgage product with the ability to prepay. Going forward, there are certainly segments of the larger market where the Government can make a difference, for example supporting multifamily rental housing and first time homebuyers. Of course, the ultimate decisions regarding the role of the Federal Government in housing finance will be up to you in Congress. If confirmed, I am committed to assisting you in that important work.

Q.31. Property Assessed Clean Energy loans have garnered a lot of attention recently. PACE loans encourage home-energy improvements through special property-tax assessments for homeowners that are senior to existing mortgage debt. This summer the FHFA's Acting Director Edward J. DeMarco had this to say:

> In keeping with our safety and soundness obligations, the Federal Housing Finance Agency will defend vigorously its actions that aim to protect taxpayers, lenders, Fannie Mae and Freddie Mac. Homeowners should not be placed at risk by programs that alter lien priorities and fail to operate with sound underwriting guidelines and consumer protections. Mortgage holders should not be forced to absorb new credit risks after they have already purchased or guaranteed a mortgage.

Do you agree with Mr. DeMarco?

Would you continue to direct Fannie and Freddie to avoid participating in the PACE program, or would you reverse the FHFA's position on this issue? What affect would PACE loans have on the ability for borrowers to get second liens on primary residences in general?

A.31. I am familiar with the general direction of FHFA's view on PACE and its potential affect on first lien mortgages, but I have not studied the issue closely. If confirmed as Director, I would consult with the agency experts in this area and review their analysis of the situation. The protection of the priority of liens with respect to loans financed or guaranteed by the GSEs is critical to conservatorship. However, I understand the FHFA is currently a party to litigation with respect to PACE loans. Accordingly, should I be confirmed, I may well be a named party in such litigation. This being the case I believe that any further comment on the subject would be inappropriate at this time.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

Letter Submitted by the Conference of State Bank Supervisors

Conference of State Bank Supervisors
Champions of the State Banking System since 1902

11/12/2010
Media Release

Conference of State Bank Supervisors
1155 Connecticut Avenue, NW, Fifth Floor, Washington, DC, 20036

CSBS Statement on Nomination of Joseph A. Smith, Jr. as Director of Federal Housing Finance Agency

Statement by Neil Milner, President & CEO

I am very pleased with President Obama's nomination of Joe Smith to lead the Federal Housing Finance Agency. As the North Carolina Commissioner of Banks, Joe has been a respected leader in his state, regulating banks, thrifts, mortgage banks and brokers, and a variety of consumer finance entities. In addition, Joe has been an advocate for financial literacy and economic inclusion for consumers.

As an elected leader of CSBS, he has represented his peers in testimony before Congress and with their federal counterparts. During the unfolding mortgage and broader financial crises, Joe was an important and thoughtful voice on the challenges facing mortgage finance and the condition of the banking industry. Joe was an active leader and a passionate supporter for the creation of the Nationwide Mortgage Licensing System (NMLS). The NMLS has proved to be an effective and valuable model for the regulation of consumer finance and a coordinated supervisory system.

While we will miss Joe in the Commissioner ranks, he will bring a valuable perspective on the implementation of Dodd-Frank and the future of mortgage finance in the United States.

# # #

Media Contact: Catherine Woody, Senior Director of Communications, cwoody@csbs.org or 202.728.5733.

The Conference of State Bank Supervisors (CSBS) is the nationwide organization for state bank regulation, representing the bank regulators of the 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. State authorities supervise approximately 6,000 state-chartered financial institutions. Further, the majority of state banking departments also oversee mortgage providers and other financial service providers. CSBS is also responsible for improving the quality of state bank supervision by providing performance evaluation and accreditation programs for the banking departments, as well as supervisory education and training programs for state personnel.

1155 Connecticut Ave NW, 5th Floor \ Washington, DC \ 20036-4306 \ Tel. 202.296.2840 \ Fax. 202.296.1928

Letter Submitted by the Mortgage Bankers Association

MORTGAGE BANKERS ASSOCIATION
Investing in communities

December 3, 2010

The Honorable Chris Dodd
Chairman
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Dodd and Ranking Member Shelby,

On behalf of the Mortgage Bankers Association (MBA)[1], I am writing you today to strongly support the nomination of Joseph A. Smith, Jr. to be Director of the Federal Housing Finance Agency (FHFA). I urge you to take up and confirm the nomination as expeditiously as possible.

The FHFA oversees vital components of our country's secondary mortgage markets – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. In its role as regulator of these government sponsored enterprises, the FHFA's mission is to ensure their safety and soundness, support housing finance and affordable housing, and promote a stable and liquid mortgage market.

Joseph Smith would bring tremendous expertise and a deep commitment to strengthening the nation's housing finance system. Since 2002, he has been the North Carolina Commissioner of Banks with responsibility for supervising state-chartered banks and trust companies, as well as mortgage lenders and brokers. He was previously the general counsel for Centura Banks, Inc.

Commissioner Smith is an excellent choice to lead FHFA through the current turmoil in the housing and secondary mortgage markets. His unparalleled experience and expertise in the supervision of complex financial institutions will serve him well in his new position.

We look forward to continue working with Commissioner Smith and hope that the Senate will move quickly to approve his nomination.

Sincerely,

John A. Courson

John A. Courson
President and Chief Executive Officer

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

1331 L Street, NW | Washington, DC 20005 | www.mortgagebankers.org | (202) 557-2700

Letter Submitted by the National Association of Realtors

REALTOR®
NATIONAL ASSOCIATION *of* REALTORS®

Ron Phipps
ABR, CRS, GRI, GREEN, e-PRO
2011 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS
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Joe Ventrone, Vice President
Jamie Gregory, Deputy Chief Lobbyist

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December 6, 2010

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

Dear Chairman Dodd:

On behalf of the 1.1 million members of the National Association of REALTORS®, we offer our support for the nomination of Joseph A. Smith, Jr. as Director of the Federal Housing Finance Agency (FHFA).

Mr. Smith's recent service as the North Carolina Bank Commissioner coupled with his legal experience in the financial services regulatory realm will make him a great asset to FHFA. As the debate over the future of the government-sponsored enterprises (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks) and the nation's housing finance system intensifies, his expertise and knowledge will provide discussion participants with the relevant insights required to make the decisions necessary to reform and rebuild our great housing finance system.

The National Association of REALTORS® urges confirmation of Joseph A. Smith Jr., and stands ready to work with FHFA and Congress on finding solutions that will help abate the continuing housing finance crisis.

Sincerely,

Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO
2011 President, National Association of REALTORS®

EQUAL HOUSING OPPORTUNITY

Letter Submitted by the Independent Community Bankers of America

ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA

December 7, 2010

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing, and Urban Affairs
U. S. Senate
Washington, DC 20510

The Honorable Richard Shelby
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
U.S. Senate
Washington, DC 20510

Dear Chairman Dodd and Ranking Member Shelby:

I write to express my strong support for the nomination of Joe Smith to lead the Federal Housing Finance Agency. Joe's experience in financial services, both in the private and public sectors, as well as his thoughtfulness and dedication gives me every expectation that he will be highly effective in that role.

Joe has served as North Carolina Commissioner of Banks since 2002 where he has overseen the supervision of banks and thrifts as well as mortgage brokers, mortgage companies, and other consumer finance entities. He served as Chairman of the Conference of State Bank Supervisors for 2009 and 2010 and was an informed and influential voice during consideration of the Dodd-Frank Act. He has also served as Chairman of the CSBS Legislative and Regulatory Committee. I am pleased that he also has private sector experience as general counsel of a bank holding company and has practiced securities and banking law.

Perhaps most importantly from our perspective, Joe has demonstrated a keen appreciation for the place of community banks in the financial services competitive landscape and their significant role in providing consumer mortgages. I am very pleased that Joe will lead the FHFA during the implementation of the Dodd-Frank Act and the coming debate over the future of housing finance. I look forward to his confirmation.

Thank you for your consideration.

Sincerely,
/s/
Camden R. Fine
President and CEO

cc: Neil Milner, President and CEO
Conference of State Bank Supervisors

INDEPENDENT COMMUNITY BANKERS of AMERICA *The Nation's Voice for Community Banks.®*
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Letter Submitted by the National Association of Home Builders

National Association of Home Builders

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Washington, DC 20005

T 800 368 5242
F 202 266 8400

www.nahb.org

NAHB

December 7, 2010

The Honorable Chris Dodd
Chairman
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Reference: Support Nomination of Joseph A. Smith, Jr. to be Director of the Federal Housing Finance Agency

Dear Chairman Dodd and Ranking Member Shelby:

On behalf of the 175,000 members of the National Association of Home Builders (NAHB), I am pleased to offer NAHB's support for the nomination of Joseph A. Smith, Jr. to be the Director of the Federal Housing Finance Agency (FHFA). I urge you to take up and confirm his nomination as expeditiously as possible.

FHFA oversees vital components of our country's secondary mortgage market – consisting of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. FHFA's role in regulating these government sponsored entities is to ensure their safety and soundness, support housing finance and affordable housing, and promote stable and liquid residential mortgage financing.

NAHB believes it is essential to have a strong and experienced leader for the FHFA, especially during this time of continued turmoil in the housing finance system. Commissioner Smith's unparalleled experience and expertise in supervising complex financial institutions make him an excellent choice to lead the FHFA. Since 2002, Commissioner Smith has been the North Carolina Commissioner of Banks with supervising responsibility of state-chartered banks and trust companies. He was previously the general counsel for Centura Banks, Inc.

The challenges facing FHFA and the nation's housing finance system are formidable. NAHB believes Commissioner Smith has the knowledge and understanding of the current crisis that is needed to develop and implement lasting solutions to these problems.

NAHB looks forward to working with Commissioner Smith as the new FHFA Director. We hope that the Senate will move quickly to approve his nomination.

Best regards,

Gerald M. Howard
Chief Executive Officer