NAFCU

National Association of Federal Credit Unions

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Fred R. Becker, Jr.

President and CEO

February 3, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Re: HUD and FHA Policies Regarding Strategic Mortgage Defaults

Dear Chairman Johnson and Ranking Member ~~Shelby~~: Chairman Johnson

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today regarding an increasing trend whereby homeowners who have the capacity to make their mortgage payments instead choose to default. This concept of "strategic default" is troubling to community-based financial institutions like credit unions and is prolonging the recovery of our troubled housing market by creating an influx of avoidable foreclosures. This should not be condoned by the housing policies of the federal government.

NAFCU has formally requested that the Department of Housing and Urban Development (HUD) and the Federal Housing Administration (FHA) institute policies as soon as possible to discourage strategic defaults. In addition, we ask that the Senate Banking Committee strongly consider holding a hearing to further review this important and timely matter.

As you may know, under FHA's current policy, persons who strategically default on their mortgages will not be able to obtain another FHA loan for a minimum of three years. Comparatively, Fannie Mae has instituted a policy that prohibits a borrower that has strategically defaulted from obtaining a Fannie-backed mortgage for seven years. The consequence of FHA's three-year lockout period, among other things, is that a borrower with a GSE-backed loan can strategically default on his or her loan and after three years, can then obtain a FHA loan. Clearly this policy fails to provide adequate disincentive against strategic default in the housing market. In addition, it advertises the FHA as the place to obtain another loan even after a borrower fails to meet previous obligations which, in the case of mortgages back by the GSEs, are obligations to the taxpayer.

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NAFCU has formally urged HUD and FHA to increase the lockout period and implement other policies that would ensure that the FHA is not propped up to be a safe haven for those who strategically defaulted on previous mortgages.

NAFCU has long supported the important role that FHA plays in our nation's housing market. The FHA's viability is critical going forward, especially as providing an option for those who otherwise are unable to obtain a mortgage in the conventional mortgage market. A central mission of the FHA must continue to be one which focuses on this demographic, which includes first time homebuyers who many not have the down payment necessary to obtain a conventional mortgage.

Despite not engaging in the unscrupulous activities that often led many borrowers into mortgages they cannot afford, credit unions and their members have been greatly affected by the declining housing market. Like a vast majority of homeowners, many credit union members have seen the value of their homes decline. For those confronted with financial difficulties, credit unions have been second to none in finding creative yet responsible solutions, including refinancing and loan modifications, to help their members keep their home.

As you know, the effect of foreclosure is devastating on families who lose their home because of their inability to meet their mortgage obligations. Foreclosures, however, also affect the neighborhood and the community at large as foreclosure sales almost always drive home values down. Thus, it is very important that those with an ability to pay are not encouraged to walk away from their homes.

For the reasons listed above, NAFCU believes that the Senate Banking Committee plays an important role in ensuring that HUD and the FHA are reviewing their policies with respect to strategic default. As evidenced by the enclosed *RealtyTrac* article, there has been an apparent rise in the number of strategic defaults and increased marketing of the option by companies offering help (for a fee) for underwater homeowners. Again, we urge you to consider holding a hearing on this topic as you continue to look for ways to revive our struggling housing market.

I greatly appreciate your time and attention to this matter. Should you have any questions or would like to discuss this matter further, please contact me at fbecker@nafcu.org or (703) 842-2215 or Dan Berger, Executive Vice President for Government Affairs at dberger@nafcu.org or (703) 842-2803.

Sincerely,

Chairman Johnson -
We strongly hope
you will closely examine
this activity!

Fred R. Becker, Jr.
President and CEO

cc: Members of the Senate Banking Committee

Enclosure: *RealtyTrac*, "…Strategic Default 'Only Choice' for Some" 1.18.2012

RealtyTrac

YouWalkAway CEO: Strategic Default "Only Choice" for Some

January 18, 2012
By Octavio Nuiry, Staff Writer

Strategic defaults are on the rise, writes Jon Maddux, CEO of YouWalkAway in the December 2011 issue of the *Foreclosure News Report,* a monthly newsletter published by RealtyTrac. In an article titled, "The Evolution of Strategic Default," Maddux describes the evolution of strategic default since he founded YouWalkAway four years ago.

"We saw the term 'walk away' become 'strategic default' and news headlines go from 'deadbeat homeowners walk away' to 'credit savvy borrowers choose strategic default,'" he wrote. "Clearly there is a socioeconomic shift in the way people are viewing foreclosure today. The stigma has been eroded and people feel they need to do what's in the best interest of their family and themselves.

"People are coming to the conclusion that they made a bad financial decision in buying their home during the boom, and that they have been financially derailed from their goals," Maddux continued. "Looking at a trajectory, they realize they have to make a choice now to make sure they can get back on track for their future."

The pool of potential strategic defaulters is massive. As of January 2012, 12.5 million mortgage loans nationwide were in a negative equity position, or "underwater," according to RealtyTrac data. We consider the loan underwater if the loan amount is at least 25 percent higher than the estimated value of the property securing the loan.

Those 12.5 million underwater loans represent 28 percent of the 45 million outstanding mortgage loans nationwide. The percentage underwater is much higher in some states like Nevada (62 percent), Michigan (56 percent), Florida (46 percent), and Arizona (44 percent).

Not only are strategic defaults rising, but wealthy homeowners are fighting foreclosure for longer, according to what we're hearing from members of the RealtyTrac Agent Network.

For high-asset properties, "The buyers have deeper pockets, they have more lasting power and they have more legal representation … to stave off foreclosures," said Mike Mazzone, principal broker at Park City Realty Group in Park City, Utah. "They're just getting really creative with their legal team, but that only lasts for so long."

So, where are we headed, according to Maddux?

"I see more and more people coming to terms with the fact that without a principle reduction, losing their home may be a step back in the right direction to improve their financial future," he writes. "Strategic default is still a young phrase, but it has evolved over the last few years. It's not the "F" word any longer, and for many homeowners it has become a doorway back to freedom. I don't feel strategic default should be someone's first choice, however for some it may be their only one."