

## Global Policy Advocacy

### Case Study: U.S. housing finance reform

#### BACKGROUND

For nearly twelve years, we have served as the coordinating partner of a broad coalition of housing finance investors, servicers, originators, and insurers concerned about the financial stability of the U.S. housing government sponsored enterprises (GSEs) – Fannie Mae and Freddie Mac.

Fannie Mae and Freddie Mac were chartered by the US Congress to provide support for the secondary mortgage market by assembling pools of mortgages which backed securities sold to individual and to institutional investors. These securities – known as mortgage-backed securities, or MBS – were highly sought after, marketed as stable investments with predictable rates of return and minimal default risk. Both companies were publicly-held and competed directly with private sector housing finance. Although limited by federal statute and regulation to specific price points, Fannie Mae and Freddie Mac effectively controlled the U.S. housing finance market because of their huge size and their proprietary underwriting systems. As their power grew, their private sector customers found that the two companies had evolved into formidable competitors.

#### THE ISSUE

Fannie Mae and Freddie Mac – known as the housing GSEs – had long provided an extremely liquid secondary market for U.S. mortgages that was unequaled anywhere in the world. However, near the end of the 1990s, it became increasingly clear that the GSEs were using their unique “agency” status and their government subsidies to benefit insiders and stockholders rather than the affordable housing market they were supposed to support. Simultaneously, both companies were beginning to expand their businesses from their core mission of supporting affordable housing finance by initiating “pilot programs” and investments that provided services with tenuous links to housing finance. Finally, both companies were manipulating their portfolios to maximize profits rather than support low mortgage rates for qualified U.S. homebuyers, while simultaneously assuming huge financial risks that were ultimately to be backed by the American taxpayers.

The GSEs enjoyed several privileges worth millions of dollars to their executives and stockholders: their stock was not registered

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with the U.S. Securities and Exchange Commission (SEC), despite their massive size; both companies were perceived to be tied directly to the federal government, and indeed, each had a small, but significant, line of credit to the U.S. Treasury; and because of an extensive political advocacy program and extensive marketing, enjoyed a uniquely uncritical relationship with the U.S. Congress.

#### WHAT WE DID

In 1999, we helped to organize several financial industry trade associations into a single coalition whose goal was to educate the Congress and the agencies’ federal regulator that both GSEs were drifting from their original purpose, diluting their support for affordable housing and adding potential risk for American taxpayers that could be devastating if the single-family housing market suffered reverses.

That work included preparing graphs which charted the explosive growth of the GSEs and the financial threat they posed to the American taxpayer. Our lawyers and advisors coordinated the work of legislative, economic, and marketing consultants to develop and present a unified strategy to educate the Congress and the Administration about the potential risks posed by the GSEs. We drafted legislation that provided expanded oversight powers for the GSEs’ regulator and required that the stock and the MBS of each company be registered with the SEC, as was required of their private sector competitors.

#### THE RESULT

Legislation was adopted by the Congress in July 2008, barely six weeks before Fannie Mae and Freddie Mac were placed into conservatorship by the federal government, executing powers under the newly adopted legislation.

If you have any queries about this case study or our Global Policy Advocacy practice more generally, please contact:

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