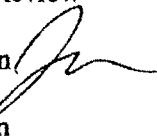




# Federal Housing Finance Agency

## MEMORANDUM

TO: George P. Grob, Deputy Inspector General, Office of Evaluations and  
Richard Parker, Director, Office of Policy, Oversight and Review

FROM: Jon D. Greenlee, Deputy Director for Enterprise Regulation 

SUBJECT: FHFA-OIG Memorandum Regarding LIBOR Manipulation

DATE: November 15, 2012

---

This is a response to the memorandum from Inspector General Linick to Acting Director DeMarco dated November 2, 2012, which describes FHFA-OIG concerns about potential financial losses to the Enterprises resulting from alleged manipulation of the London Interbank Offered Rate. The memorandum included three recommendations and requested the FHFA's response to those recommendations by November 16, 2012. Below are the FHFA-OIG recommendations and FHFA's responses. Please do not hesitate to call if you have any questions.

**(1) Require the Enterprises to conduct or commission detailed analyses of the potential financial losses due to LIBOR manipulation.**

In recent months, DER staff had several conversations with Enterprise staff about the press coverage of allegations of LIBOR manipulation and whether there might be any impact on the Enterprises. In early October 2012, DER staff held conference calls with compliance staff at Fannie Mae and Freddie Mac to discuss the issue in more detail, to learn of steps currently underway at each Enterprise, and to alert the Enterprises to a forthcoming supervisory request for Enterprise action.

DER, with input from FHFA's General Counsel, prepared a letter to each Enterprise, requesting that the Enterprise take appropriate steps to determine whether it should take any legal action relating to LIBOR manipulation. The letter was sent to each Enterprise on October 12, 2012 (see copies attached). Each letter stated, in part, that

...it would be prudent for [the Enterprise] to undertake an appropriate process that would result in a basic cost-benefit analysis of whether there may be any action that [the Enterprise] could reasonably pursue. Initial analysis could include a description of what review or monitoring of this issue has been done by [the Enterprise] to date, rough estimates of financial impact, general assessment of

potential legal claims, or other factors that serve as the basis for a conclusion as to advisability of action by [the Enterprise] at this time.

Each Enterprise was requested to submit an initial analysis describing its approach by October 29, 2012.

A written response was received from each Enterprise on November 1, 2012 (see copies attached). The responses indicate that each Enterprise has efforts in process and has dedicated resources to review this issue. Each Enterprise has engaged the law firm of Dickstein Shapiro and additional resources with economic expertise to assist in conducting the assessment requested. Such an assessment is essential to avoid actions that either are misdirected or would not be productive.

**(2) Promptly consider options for appropriate legal action, if warranted.**

The October 12 letters to the Enterprises noted the questions “whether [the Enterprise] sustained any losses attributable to alleged manipulation of LIBOR and, if so, how such losses could be quantified and whether there would be a viable basis for [the Enterprise] and possibly FHFA in pursuing legal action to recoup such losses.” The Enterprises’ November 1 submissions indicate that once there is an analysis of damages, options for legal actions will be considered. The Freddie Mac response identifies existing class actions that could be joined. The Enterprise is alert to potential timing considerations, but notes that none of the possible classes has yet been certified.

FHFA has not yet made any determination regarding legal action by the Agency. The General Counsel is involved in the ongoing dialogue on this issue and would take into account the Agency’s supervisory responsibilities and its role as conservator in making any recommendation to the Acting Director about Agency legal action.

**(3) Coordinate efforts and share information with other federal and state regulatory agencies.**

As the Enterprises’ efforts proceed and FHFA learns more about the analysis of potential losses and the costs and benefits of legal options, DER will reach out to its counterparts at other supervisory agencies to share information as appropriate. The General Counsel has already, and will continue, to consult with the Department of Justice, as appropriate.

Attachments



## Federal Housing Finance Agency

Constitution Center

400 7<sup>th</sup> Street, S.W.

Washington, D.C. 20024

Telephone: (202) 649-3800

Facsimile: (202) 649-1071

[www.fhfa.gov](http://www.fhfa.gov)

October 12, 2012

Mr. Joseph Evers  
Vice President, Compliance  
and Regulatory Affairs  
Freddie Mac  
8200 Jones Branch Drive  
McLean, VA 22102-3110

Dear Mr. Evers:

As we discussed, I am writing to follow up on discussions about the allegations of LIBOR manipulation that surfaced in recent months and whether there could be any impact on Freddie Mac. The question has been raised whether Freddie Mac sustained any losses attributable to alleged manipulation of LIBOR and, if so, how such losses could be quantified and whether there would be a viable basis for Freddie Mac and possibly FHFA in pursuing legal action to recoup such losses. This question presents several challenges, such as the difficulty of determining the downward reduction of LIBOR at various points in time since 2008, the complexity of recalculating trading activity to arrive at a net figure and the identification of a third party against which Freddie Mac might have a cause of action, either independently or as a member of a class.

Notwithstanding these challenges, it would be prudent for Freddie Mac to undertake an appropriate process that would result in a basic cost-benefit analysis of whether there may be any action that Freddie Mac could reasonably pursue. Initial analysis could include a description of what review or monitoring of this issue has been done by Freddie Mac to date, rough estimates of financial impact, general assessment of potential legal claims, or other factors that serve as the basis for a conclusion as to advisability of action by Freddie Mac at this time.

Please forward to Duane Creel a copy of your initial analysis that describes Freddie Mac's approach by October 29, 2012. Please provide a copy of the analysis to FHFA's Office of General Counsel. I expect that this will be covered by FHFA's ongoing monitoring in the months ahead. Please don't hesitate to contact Duane, at [REDACTED], or me, at [REDACTED], with any questions. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon D. Greenlee', with a long horizontal flourish extending to the right.

Jon D. Greenlee  
Deputy Director  
Division of Enterprise Regulation

cc: Alfred Pollard, General Counsel  
Duane Creel, EIC, Freddie Mac  
Nina Nichols, Assistant Deputy Director



## Federal Housing Finance Agency

Constitution Center

400 7<sup>th</sup> Street, S.W.

Washington, D.C. 20024

Telephone: (202) 649-3800

Facsimile: (202) 649-1071

[www.fhfa.gov](http://www.fhfa.gov)

October 12, 2012

Ms. Nancy Jardini  
Senior Vice President, Chief Compliance  
and Ethics Officer  
Fannie Mae  
3900 Wisconsin Avenue, N.W.  
Washington, D.C. 20016-2892

Dear Ms. Jardini:

As we discussed, I am writing to follow up on discussions about the allegations of LIBOR manipulation that surfaced in recent months and whether there could be any impact on Fannie Mae. The question has been raised whether Fannie Mae sustained any losses attributable to alleged manipulation of LIBOR and, if so, how such losses could be quantified and whether there would be a viable basis for Fannie Mae and possibly FHFA in pursuing legal action to recoup such losses. This question presents several challenges, such as the difficulty of determining the downward reduction of LIBOR at various points in time since 2008, the complexity of recalculating trading activity to arrive at a net figure and the identification of a third party against which Fannie Mae might have a cause of action, either independently or as a member of a class.

Notwithstanding these challenges, it would be prudent for Fannie Mae to undertake an appropriate process that would result in a basic cost-benefit analysis of whether there may be any action that Fannie Mae could reasonably pursue. Initial analysis could include a description of what review or monitoring of this issue has been done by Fannie Mae to date, rough estimates of financial impact, general assessment of potential legal claims, or other factors that serve as the basis for a conclusion as to advisability of action by Fannie Mae at this time.

Please forward to Owen Lennon a copy of your initial analysis that describes Fannie Mae's approach by October 29, 2012. Please provide a copy of the analysis to FHFA's Office of General Counsel. I expect that this will be covered by FHFA's ongoing monitoring in the months ahead. Please don't hesitate to contact Owen, at [REDACTED], or me, at [REDACTED], with any questions. Thank you for your prompt attention to this matter.

Sincerely,



Jon D. Greenlee  
Deputy Director  
Division of Enterprise Regulation

cc: Alfred Pollard, General Counsel  
Owen Lennon, EIC, Fannie Mae  
Nina Nichols, Assistant Deputy Director

NT