

United States Senate
WASHINGTON, DC 20510

June 13, 2019

Donald H. Layton
Chief Executive Officer
Freddie Mac
8200 Jones Branch Drive
McLean, Virginia 22102

Dear Mr. Layton:

We write to seek information about media reports that Kushner Companies, the family business of White House Senior Advisor Jared Kushner, received an \$800 million loan backed by Freddie Mac (Freddie) in a transaction with Berkadia Commercial Mortgage LLC (Berkadia).¹ Mr. Kushner's status as a key White House advisor to President Donald Trump, his failure to effectively divest from Kushner Companies, and Kushner Company's history of using Mr. Kushner's position in seeking project funding raises serious questions about conflicts of interest and whether Kushner Companies may have received special treatment from Freddie, which is currently in government conservatorship.

Freddie Mac is chartered by Congress to "provide liquidity, stability and affordability" in the mortgage market by purchasing and securitizing mortgages from primary lenders.² In addition to single-family mortgages, Freddie purchases mortgages for multifamily projects and is regulated by the Financial Housing Finance Agency (FHFA).³ In September 2008, in the midst of the deepening housing crisis, Freddie received a Federal bailout and FHFA became its conservator.⁴ FHFA is an independent regulatory agency led by a single director appointed by the President who can only be fired for cause. As conservator, FHFA has "broad authority" over Freddie and, though most day-to-day decisions have been delegated to a board of directors, FHFA oversees "critical matters." Comptroller of the Currency Joseph Otting served as Acting Director of the FHFA from January 7, 2019 until Mark Calabria, Donald Trump's nominee for the position, was confirmed on April 4, 2019.⁵

¹ Bloomberg, "Kushner Cos. Gets \$800 Million Federally Backed Apartment Loan," David Kocieniewski and Caleb Melby, May 23, 2019, <https://www.bloomberg.com/news/articles/2019-05-23/kushner-cos-gets-800-million-federally-backed-apartment-loan>.

² Federal Housing Finance Agency, "Fannie Mae and Freddie Mac," <https://www.fhfa.gov/SupervisionRegulation/FannieMaeandFreddieMac/Pages/About-Fannie-Mae---Freddie-Mac.aspx>.

³ *Id.*

⁴ Federal Housing Finance Agency "History of Fannie Mae & Freddie Mac Conservatorships," <https://www.fhfa.gov/Conservatorship/Pages/History-of-Fannie-Mae--Freddie-Conservatorships.aspx>.

⁵ Housing Wire, "Senate confirms Mark Calabria to lead FHFA," Caroline Basile, April 4, 2019, <https://www.housingwire.com/articles/48725-senate-confirms-mark-calabria-to-lead-fhfa>; Housing Wire, "FHFA Will Not Defend its Constitutionality in Court," Kelsey Ramirez, January 21, 2019, <https://www.housingwire.com/articles/47966-fhfa-will-not-defend-its-constitutionality-in-court>.

In May, media reports indicated that Kushner Companies received a large loan guaranteed by Freddie to buy thousands of apartments.⁶ This loan will enable Kushner Companies to purchase over 6,000 apartments across 16 properties in Maryland and Virginia, which is the company's "biggest purchase in a decade."⁷ According to Freddie's loan approval process, Freddie "underwrite[s] each multifamily mortgage loan in-house before agreeing to buy it."⁸ The underwriting process for multi-family loans is "complex," and deals are underwritten by Freddie individually.⁹ Freddie looks at a variety of information – from termite inspection reports, to credit reports, to expected rent per unit – in making a determination about whether to guarantee a loan.¹⁰

Mr. Kushner's sustained involvement with Kushner Companies raises questions about whether he or someone acting on his behalf inappropriately intervened in this loan approval process. In January 2017, Mr. Kushner announced that he was resigning as Chief Executive Officer of Kushner Companies and divesting "substantial assets" in order to avoid conflicts of interest.¹¹ However, according to media reports, Mr. Kushner retains ongoing interests in the company.¹² Subsequent media reports revealed that Mr. Kushner, in spite of his work for the President, was "keeping parts of his family business," including "some real-estate holdings associated with Kushner Companies,"¹³ and that his divestments were of a "very limited form" because he merely "transfer[red] ownership in some of his assets ... to his brother and to a trust overseen by his mother."¹⁴

We are especially concerned about this transaction because of Kushner Companies' history of seeking to engage in deals that raise conflicts of interest issues with Mr. Kushner. In early 2017, Kushner Companies attempted to secure a business partnership with Anbang Insurance Group, a Chinese-based company with "close ties to the Chinese state," after Mr.

⁶ Bloomberg, "Kushner Cos. Gets \$800 Million Federally Backed Apartment Loan," David Kocieniewski and Caleb Melby, May 23, 2019, <https://www.bloomberg.com/news/articles/2019-05-23/kushner-cos-gets-800-million-federally-backed-apartment-loan>.

⁷ *Id.*

⁸ Freddie Mac, "Impeccable Credit Quality," <https://mf.freddiemac.com/about/credit-quality.html>.

⁹ Federal Housing Finance Agency, "Supplemental Examination Guidance – Public," <https://www.fhfa.gov/SupervisionRegulation/ExaminerResources/Documents/Multifamily%20Mortgage%20Underwriting%20and%20Acquisitions%20-%20Final%20Version%201%200.pdf>.

¹⁰ Freddie Mac Multifamily, "Exhibit 1: Underwriting Checklists," December 14, 2017, https://mf.freddiemac.com/docs/Exhibit_1.1_Conventional_UW_Checklist.pdf.

¹¹ Politico, "Kushner to Resign From Exec Post, Divest Sizable Assets," Annie Karni, January 9, 2017, <https://www.politico.com/story/2017/01/jared-kushner-divest-assets-trump-adviser-233368>.

¹² ProPublica, "White House Power Player Jared Kushner Is Keeping Parts of His Real-Estate Empire," Justin Elliot and Al Shaw, February 24, 2017, <https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire>.

¹³ ProPublica, "White House Power Player Jared Kushner Is Keeping Parts of His Real-Estate Empire," Justin Elliot and Al Shaw, February 24, 2017, <https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire>.

¹⁴ The New Yorker, "Jared Kushner's Trumpian Divestment Strategy," John Cassidy, January 10, 2017, <https://www.newyorker.com/news/john-cassidy/jared-kushners-trumpian-divestment-strategy>.

Kushner dined with Anbang executives about the transaction months earlier.¹⁵ This proposed deal to renovate 666 Fifth Avenue, a Manhattan office tower owned by Kushner Companies, fell apart when the “unusually favorable terms for the [Kushner] family” became public.¹⁶ Later that year, Kushner Companies received a \$325 million loan from Citigroup to finance a group of office buildings “shortly after Mr. Kushner met in the White House with Citigroup’s chief executive.”¹⁷ Kushner Companies also received more than \$180 million in loans from Apollo Global Management to refinance a Chicago skyscraper mortgage after Apollo’s senior managing director met with Mr. Kushner on several occasions at the White House.¹⁸ Furthermore, another report this week revealed that Cadre, a real estate company part-owned by Mr. Kushner, has received “\$90 million in foreign funding from an opaque offshore vehicle” while Mr. Kushner has served as a foreign envoy for the United States.¹⁹

While there is presently no specific indication of any wrongdoing by Freddie in this matter, the fact pattern in this case – of Kushner Companies receiving its largest loan in a decade, Mr. Kushner’s refusal to fully and clearly divest from his former company, and the Kushner Companies’ recent history of engaging in transactions that appear to raise conflicts of interest for Mr. Kushner – raise significant questions about the circumstances under which Freddie approved and Kushner Companies received this loan.

To address our concerns about this matter, we ask that you provide answers to the following questions no later than June 27, 2019:

1. What was the process by which Freddie Mac approved the \$800 million loan to Berkadia?
 - a. Which officials at Freddie Mac were involved in the evaluation and approval process?
 - b. Please provide a full timeline of the application and approval process, and key decisions made during the process.
 - c. Did Freddie Mac staff prepare any evaluations or analyses of this loan? If so, what did these evaluations or analyses show?
2. What are the full terms and conditions of this loan?
 - a. With approval of this loan, what risks did taxpayers assume?
3. Did Jared Kushner communicate with any official at Freddie Mac regarding this loan?

¹⁵ New York Times, “Jared Kushner, a Trump In-Law and Adviser, Chases a Chinese Deal,” Susanne Craig, Jo Becker, and Jesse Drucker, January 7, 2017, <https://www.nytimes.com/2017/01/07/us/politics/jared-kushner-trump-business.html>.

¹⁶ Bloomberg, “Investors Think Twice About Deals With Trumps and Kushners,” Caleb Melby, May 18, 2017, <https://www.bloomberg.com/news/articles/2017-05-18/investors-think-twice-about-deals-with-trumps-and-kushners>.

¹⁷ New York Times, “Kushner’s Family Business Received Loans After White House Meetings,” Jesse Drucker, Kate Kelly, and Ben Protess, February 28, 2018, <https://www.nytimes.com/2018/02/28/business/jared-kushner-apollo-citigroup-loans.html>.


¹⁸ *Id.*

¹⁹ The Guardian, “Company Part-Owned by Jared Kushner Got \$90m From Unknown Offshore Investors Since 2017,” Jon Swaine, June 10, 2019, <https://www.theguardian.com/us-news/2019/jun/10/jared-kushner-real-estate-cadre-goldman-sachs>.

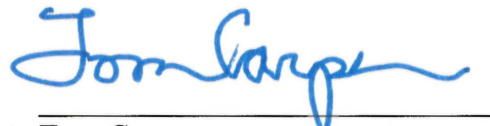
- a. If so, please provide a summary of, and copies of, all such communications.
4. Which individuals, if any, that were associated or affiliated with Kushner Companies communicated with officials at Freddie Mac regarding this loan?
 - a. Please provide a summary of, and copies of, all such communication.
5. Did any other Administration official communicate with any Freddie Mac official regarding this loan?
 - a. If so, please provide a summary of, and copies of, all such communications.
6. Did Kushner Companies provide Freddie Mac with any disclosures indicating the ongoing involvement or financial interests of Jared Kushner in Kushner Companies, or in this particular project? If so, please provide the following information:
 - a. Freddie Mac's understanding of what interests Mr. Kushner still holds in Kushner Companies.
 - b. Any financial interests of Mr. Kushner in this project.
 - c. Please provide a copy of disclosures provided to Freddie Mac.

Thank you for your swift attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Tom Carper
United States Senator