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November 21, 2008

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance
Corporation
550 Seventeenth Street, N.W.
Washington, D.C. 20429

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Avenue,
N.W.
Washington, D.C. 20551

Re: FDIC RIN# 3064-AD34
Treatment of Certain Claims
On, or Guaranteed By, Fannie
Mae and Freddie Mac

Re: Docket No. R-1335

Office of the Comptroller of the
Currency
250 E Street, S.W., Mail Stop 1-5
Washington, D.C. 20219

Regulation Comments, Chief
Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Att: OTS-2008-0014

Re: Docket No. OCC-2008-0016

Ladies and Gentlemen:

In response to the notice of proposed rulemaking to lower the risk-based capital weightings that regulated depository institutions assign to Fannie Mae and Freddie Mac securities from 20 percent to 10 percent (which was jointly published by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the Office of the Comptroller of the Currency in the October 27, 2008 Federal Register) the New York Bankers Association (NYBA) is submitting these comments. While NYBA welcomes the proposed capital requirement for holding obligations of Fannie Mae and Freddie Mac, we are concerned that the exclusion of the Federal Home Loan Banks (FHLBanks) from the proposed rule is a significant oversight, which could result in unintended adverse consequences for the

banking system during this time of economic stress. NYBA is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. Our members have aggregate assets in excess of \$9 trillion and more than 300,000 New York employees.

We are concerned that the exclusion of FHLBank obligations from the lowered risk-based capital weightings, may give the impression that agencies of the U.S. government do not support the FHLBanks and their mission to the same degree as they support Fannie Mae and Freddie Mac. Such a perception does not make sense for the following reasons. First, Congress created a new regulator, the Federal Housing Finance Agency (FHFA) to oversee all of the housing GSEs, including the FHLBanks. (It is important to note, that the FHFA Director has since commented that the FHLBanks are performing remarkably well and are well capitalized.) Second, the Treasury is providing the same temporary backstop funding facility to all of the housing GSEs through the GSE Credit Facility. Finally, the New York Fed is providing support for the FHLBanks, as well as Fannie Mae and Freddie Mac, by purchasing their discount notes in recent open market operations.

Despite these actions, investors are demonstrating a preference for Fannie and Freddie obligations. Since these entities were placed into conservatorship by the FHFA, the FHLBanks' cost of issuing senior debt has actually *increased* by 20 to 30 basis points in comparison with comparable bonds issued by Fannie Mae and Freddie Mac. We are concerned that exclusion of the FHLBanks from the proposal's change in risk weightings, will, therefore, only serve to exacerbate the apparent existing perception, held by some, that the obligations of FHLBanks are somehow less creditworthy than those of Fannie Mae and Freddie Mac.

Our greatest concern is that this proposal will result in further increases in the cost of advances available from the FHLBanks. Thousands of community banks depend upon access to low-cost liquidity from the FHLBanks, which allows the FHLBanks to lower home ownership costs in communities all across the nation. If investors continue to believe, however, that the obligations of the FHLBanks are less creditworthy than those of Fannie Mae and Freddie Mac, they will demand higher yields to purchase FHLBank bonds. This, in turn, will result in higher advance rates during a period when financial institutions are faced with the challenge of supporting housing finance and economic growth in their local communities under difficult circumstances in the credit markets. We do not believe this to be an outcome that was intended, nor in the banking system's best interests.

We strongly urge the FDIC, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the OTS to treat debt securities of **all** housing GSEs as comparable with regard to risk-based capital rules. We believe this to be the course of action that achieves the most favorable outcome

for all stakeholders in the housing GSEs – and ultimately even more importantly, for American consumers - during this extraordinary time of financial crisis.

We thank you for the opportunity to comment on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Smith". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping tail.

Michael P. Smith