

December 12, 2001

Alfred M. Pollard, Esquire
General Counsel
Office of Federal Housing and Enterprise Oversight
1700 G Street NW, 4th Floor
Washington, DC 20552

Re: Comments regarding proposed corporate governance regulation, RIN 2550 - AA20

Dear Mr. Pollard:

I am writing to you in my capacity as President and Chief Executive Officer of the National Association of Corporate Directors ("NACD"). NACD is the leading educational, publishing, and advisory organization on board leadership in the United States. We are a not-for-profit organization supporting the needs of individuals serving on and working with corporate boards of directors ranging from *Fortune* 500 and Nasdaq companies to smaller OTC, private, and closely held companies. Our organization is comprised of approximately 3,000 members who serve on, or deal regularly with, corporate boards of directors. We are the only professional association for corporate boards, directors, and board advisors. The organization promotes high professional standards and conducts research on important corporate governance issues. The goals of the NACD are to provide an authoritative voice and forum for matters of policy and practice and an opportunity for regular interactions among board members. The NACD also provides educational programs for boards of directors concerning both traditional and cutting edge board-related issues. Our Blue Ribbon Commission Reports on director compensation, director professionalism, audit committees, the role of the board in corporate strategy, CEO succession, and CEO and board evaluation are regarded as setting the "gold standard" in practical principles for effective corporate governance. NACD reports led the way in the movement toward director independence and high boardroom standards.

Based on these studies and our experience, the NACD is concerned that your proposed regulations concerning requirements for members of the board of Fannie Mae take a "heavy handed," prescriptive approach to governance principles - an approach that is neither effective nor adaptive to emerging governance trends. The OFHEO proposal is not consistent with the standards adopted by state law or by the Federal banking agencies. Instead the OFHEO proposal specifies numerous director responsibilities that are not defined and can be enforced at OFHEO's discretion without any tie to established concepts of conduct. For example, a responsibility such as "to devote sufficient time and attention" for board meetings is important, but this cannot be codified because circumstances change rapidly.

The proposed OFHEO regulation creates a scheme of board governance in an enforceable regulation that is so much more restrictive than what other boards of large corporations currently require, that we believe it could cause current board members to consider resignation and to discourage directors from serving on Fannie Mae's board in the future. Our membership cares deeply about matters of policy and practice for board members in general - and specifically cares about the creation of inappropriate corporate governance standards that might impair the fair and correct treatment of any qualified director.

In addition, placing board conduct responsibilities in an enforceable agency regulation is in and of itself questionable from the standpoint of mainstream corporate governance. When coupled with the very stringent prohibition on indemnification contained in this proposal, a Fannie Mae board member could be placed at serious financial risk. This would not be the case if board member conduct were governed by state law or agency guidance, as in the case of corporate and bank boards.

Delaware law provides a widely recognized standard model for indemnification of directors. Under Delaware law, a director cannot be indemnified for acting in clear disregard of corporate interests but otherwise has very broad access to advancement of the expenses of defense and indemnification from damage awards or penalties, except in egregious cases of abuse. This is both appropriate and an accepted principle for large corporate boards. As state legislatures and courts have recognized, adequate indemnification policies play a key role in attracting and retaining qualified board members.

While we are aware that some bank boards may be subject to stricter indemnification provisions, these provisions are based on a law adopted by Congress after lengthy public policy debate, and in circumstances where there had been significant institutional failures. Furthermore, these provisions are clearly laid out in statute and are tied to very specific violations related to a past history of problems. This is a far cry from the proposed OFHEO regulations, which can be applied at the discretion of a regulatory agency.

We at the NACD seriously question whether the qualified individuals that a large, major corporation like Fannie Mae strives to attract as directors would put themselves at financial and reputational risk to join the Fannie Mae Board if the proposed regulations are adopted. They would not only be exposing themselves to undefined standards of conduct but also be risking the denial of access to indemnification if those standards are violated.

Sincerely,

Roger W. Raber
President and Chief Executive Officer