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MIKE HOUSE
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July 24, 2006

Alfred M. Pollard, Esq.
General Counsel
Office of Federal Housing Enterprise Oversight
Fourth Floor
1700 G Street NW
Washington, DC 20552

Re: RIN 2550-AA35

Dear Mr. Pollard:

FM Policy Focus is pleased to comment on the Office of Federal Housing Enterprise Oversight (OFHEO) proposal to make preliminary changes to the risk-based capital (RBC) rules governing Fannie Mae and Freddie Mac [71 FR 35231]. FM Policy Focus represents a coalition of financial-services and mortgage trade associations dedicated to effective regulation of the government-sponsored enterprises (GSEs). Thus, we believe that an effective RBC regime is essential. We applaud OFHEO for beginning to review the RBC rules.

As you undoubtedly recognize, the pending reform legislation provides OFHEO enhanced flexibility in making the fundamental revisions required to the RBC regime, and therefore we support speedy enactment of first-class legislation. Nevertheless, we support OFHEO's current review of the RBC rules and believe a complete overhaul should be initiated now to ensure that GSE capital does, in fact, appropriately protect taxpayers from risk.

We confine our comments in this letter to specific recommendations to improve the transparency and effectiveness of OFHEO's review of new GSE activities. As discussed in more detail below, FM Policy Focus recommends that OFHEO revise this process in conjunction with this rulemaking to ensure that, going forward, any revisions to the current rules are done in a transparent fashion that ensures OFHEO has complete, objective information on which to base RBC decisions before – not after – new activities commence. OFHEO's current process, in contrast, is opaque and affords no opportunity for before-the-fact public comment. Our view is that OFHEO should afford opportunity for advance notice and comment on these activities, comparable to the process now practiced by banking regulators.

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Although we are sure that OFHEO reaches its own RBC determinations on new products, the current system provides that the only advance source of information on which to base such decisions is provided by the applicable GSE. The GSEs will, of course, always argue for the lowest possible RBC requirement and complex new product structures may make it difficult for OFHEO to assess the supporting GSE-provided analysis in a timely fashion. Outside comment would thus help to ensure an appropriate RBC charge and, perhaps, even speed GSE product innovation.

Currently, OFHEO provides information on new activities and changed RBC treatment in a section of the agency's website that must be monitored every day to discover any RBC changes. The website provides only a short description of the activity and the applicable capital treatment, making it hard to understand the context of the ruling and its implications for total GSE capital adequacy. The only way the public may comment on the capital rulings is by sending an e-mail through a link at this point on the OFHEO website. It is unclear the value of any such comments since all of the capital rulings thus posted appear to be final. The current RBC proposal retroactively provides greater detail on decisions already made, but this is in some cases years after the decision now being codified was reached. The proposal does not set forth a process for ensuring adequate before-the-fact notice and comment regarding future new activities.

FM Policy Focus suggests that OFHEO adopt the banking agencies' practice of releasing all substantive revisions to the RBC rules, including those for new activities, for prior notice and comment. This would ensure, as noted, that OFHEO has complete and – importantly – objective information on which to base RBC. We thus suggest a formal notice and comment process for all major RBC decisions related to new GSE programs, products and activities. For minor variations, we suggest a process similar to that used by the Office of the Comptroller of the Currency and the Federal Reserve Board. These agencies each month post interpretive rulings and letters, including those that detail capital for activities that are variations on those addressed in the underlying capital regulations. These interpretive letters are clearly noted each month as new postings, ensuring transparency and providing the agencies with outside comment as needed.

Again, thank you very much for the indications in this proposal that OFHEO plans soon to begin a substantive revision to the current RBC rule. We would be pleased to provide additional information on the points raised above regarding the current process for new activities and the larger rewrite.

Sincerely,

