

UNITED STATES OF AMERICA
FEDERAL HOUSING FINANCE AGENCY

**In Re: Information Submission with
Respect to Executive Compensation**

Order No. 2014-OR-FNMA-3

**ORDER ON INFORMATION SUBMISSION
WITH RESPECT TO EXECUTIVE COMPENSATION**

Background

Section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act (the Safety and Soundness Act) requires the Director of the Federal Housing Finance Agency (FHFA) to prohibit executive compensation at the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (the Enterprises), and the Federal Home Loan Banks (the Banks) (collectively, the regulated entities) that is not reasonable and comparable to compensation paid at similar institutions. That authority is implemented by regulation at 12 CFR part 1230 (the executive compensation regulation). That regulation applies to the regulated entities and, by reason of FHFA's general supervisory authority, to the Federal Home Loan Bank System's Office of Finance (OF).

To carry out its statutory obligation, FHFA must receive timely information from the regulated entities and OF with respect to forthcoming compensation actions. That information was previously collected from the Enterprises pursuant to a regulation of the Office of Federal Housing Enterprise Oversight, 12 CFR § 1770.4 (rescinded by the new regulation referenced above), and from the Banks pursuant to a memorandum to them from Acting Deputy Director Ronald A. Rosenfeld on October 1, 2008 (the Rosenfeld Memorandum).

Section 1314 of the Safety and Soundness Act authorizes FHFA to require regulated entities, by order, to submit such reports on their management, activities, and operation as the Director considers appropriate. Separately, the Enterprises provide information to FHFA in accordance with their conservatorship status. This Order describes the information that must be submitted to FHFA under the executive compensation regulation for regulated entities when not in conservatorship or receivership, and supersedes the Rosenfeld Memorandum.

Order

In general

A regulated entity and OF shall provide, in a format suitable to FHFA, all relevant information needed to calculate the value of compensation intended to be provided, including base pay, incentive compensation, severance, change-in-control compensation, retirement, perquisites, any other cash payments, and any other element of compensation (as defined in the

executive compensation regulation) that is specifically requested. Submission of incentive plans must include the associated goals and projected payments. Incentive compensation plan payments must be accompanied by the associated goals and achievement against the goals.

The following materials shall be provided by each regulated entity and OF to FHFA for review:

- (1) Resolutions and minutes, including supporting materials and related reports, from meetings of the board of directors or its designated committee responsible for compensation when the board or committee takes any action regarding a compensation matter that affects executive officers (as defined in the executive compensation regulation);
- (2) With respect to executive officers, proposed plans or agreements, and red-lined versions, if applicable, of the following types prior to adoption or amendment: incentive compensation plans, severance plans, change-in-control agreements, retirement plans, pension plans, plans providing perquisites or other cash payments, plans that apply principally to executive officers, and individually negotiated agreements;
- (3) Any study conducted by or on behalf of a regulated entity or OF with respect to compensation of executive officers;
- (4) As applicable, the annual compensation report to Congress, both a draft prior to submission to Congress for FHFA review, and the final report as submitted;
- (5) A current organizational chart when changes occur affecting the status of executive officers;
- (6) The appropriate market data supporting any requests for changes in compensation with respect to executive officers; and
- (7) Such other information as FHFA may request.

Termination benefits

For submissions relating to termination benefits, a regulated entity and OF shall submit to FHFA the following materials:

- (1) Any applicable agreement relevant to the calculation of termination benefits, including termination agreements, severance agreements, and change-in-control agreements that apply to executive officers;
- (2) With respect to executive officers, all relevant information, data, plans, and assumptions and calculations for the potential total dollar value or range of values of any post-termination benefits or payouts; and
- (3) Such other information as FHFA may request.

Hiring or promotion of executive officers

For submissions relating to hiring or promotion of executive officers, a regulated entity and OF shall submit to FHFA the following materials:

- (1) A description of the specific responsibilities of the position;
- (2) Salary and benefit history of previous executives in similar positions for the previous three completed fiscal years;
- (3) Any comparability studies produced for the position and evaluated by the selecting official or board of directors or its designated committee, as applicable;
- (4) All applicable agreements to be signed by the candidate;
- (5) Copies of all plans, including retirement, incentive, and benefit plans that will be available to the candidate;
- (6) Current compensation and position of the candidate;
- (7) The offer letter to the candidate; and
- (8) Such other information as FHFA may request.

Incentive plans and payouts

For submissions relating to incentive plans and payouts with respect to executive officers, a regulated entity and OF shall submit to FHFA the following materials:

- (1) The details of the incentive compensation plans and all changes to these plans (including a clean and a red-lined version against the previous year's plan), and the estimated payouts at threshold, target, and maximum achievement for the CEO/President and all other Named Executive Officers;
- (2) Associated performance goals and supporting documentation for the setting of the goals;
- (3) For Incentive Plan Payouts: all information, data, assumptions, and calculations for the total dollar values of the payouts of any incentive compensation, including base salary used for calculation, any internal audit reviews of performance, any documentation demonstrating achievement of goals for short-term and long-term awards, and the calculation used on the deferred incentive payment; and
- (4) Such other information as FHFA may request.

Submission deadlines

Any information to be submitted under this Order shall be provided in a timely fashion by each regulated entity and OF. Information submitted to FHFA should be submitted at least four weeks in advance of the proposed action to be considered timely. If the requested information reports an event or action, such as minutes or resolutions, including supporting materials and related reports, produced by or submitted to a Board or committee, the information shall be submitted to FHFA within two weeks after becoming final. Where the regulation prescribes a time period, that time period governs. In addition:

- (1) Changes to compensation shall be submitted to FHFA 30 days prior to the planned change. In the case of annual merit increases the dates for submission will generally be no later than the first week of December or another date as communicated by FHFA to ensure a timely response.
- (2) Termination packages shall be submitted to FHFA 30 days prior to the planned termination, and within five days of a termination for cause. In the latter case, if an agreement is entered into prior to review by FHFA, the agreement must include specific language informing the executive that the agreement has not been reviewed by FHFA and is subject to change by FHFA.
- (3) Hiring packages shall be submitted to FHFA not later than five business days prior to the date of the official offer to be made to the candidate. If necessary, an offer may be made to an executive officer on a more expedited basis as long as specific language is inserted in the offer letter informing the candidate that the information has not been reviewed by FHFA, and is subject to change by FHFA. If feasible, hiring packages should be submitted for review two weeks before the offer is to be made.
- (4) Incentive plan documents shall be submitted to FHFA no later than the end of the last month of the year prior to the start of the applicable plan year. For example, if the applicable plan starts in January of a given year, the proposed incentive plan shall be submitted to FHFA no later than the end of December of the prior year.
- (5) Incentive Plan Goals shall be submitted no later than one month after the beginning of the new fiscal year of the regulated entity or OF.
- (6) Proposed incentive payout packages shall be submitted to FHFA at least 30 days before the regulated entity or OF must take action in order that securities filings can be prepared and incentive payments paid no later than 75 days into the fiscal year (typically paid by March 15).

Any time period prior to an event or decision by which FHFA shall have received information as specified in this Order or in the executive compensation regulation shall begin when all the information specified has been delivered to FHFA.

Redactions

Information submitted pursuant to this Order must be submitted without redactions or omissions, except as necessary to preserve particularized claims of attorney-client communication privilege, which must be identified and described in a privilege log submitted simultaneously with the non-privileged material. FHFA may subsequently require the production of such information as determined to be necessary.

Effective Date

The foregoing Order is effective 30 days after issuance.



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Date: 11/24/2014

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