NAHB
NATIONAL ASSOCIATION
OF HOME BUILDERS

DAVID L. LEDFORD

SENIOR VICE PRESIDENT
HOUSING FINANCE AND LAND DEVELOPMENT

May 29, 2009

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
4th Floor
1700 G Street, NW
Washington, DC 20552

Attention: Portfolio Holdings IFR/RFC, RIN 2590-AA22

Dear Mr. Pollard:

On behalf of more than 200,000 members of the National Association of Home Builders (NAHB), I am pleased to respond to the request for comments on the Federal Housing Finance Agency's (FHFA) Interim Final Rule (Rule) governing the portfolio holdings of Fannie Mae and Freddie Mac (Enterprises). The Housing and Economic Recovery Act (the Act), enacted on July 30, 2008, requires FHFA to establish criteria by regulation governing the portfolio holdings of the Enterprises. The purpose of such regulation is to ensure that the Enterprises' portfolio holdings are backed by sufficient capital and are consistent with their mission and safe and sound operations. Further, the Act directed that FHFA consider the ability of the Enterprises to provide a liquid secondary market through securitization activities and portfolio holdings in relation to the overall mortgage market.

While many have advocated for major changes in the structure and roles of the Enterprises, FHFA must implement the current law until Congress acts to make changes to their charters. Accordingly, FHFA plans to develop a regulation that will govern the Enterprises portfolio holdings at such time as the Enterprises are no longer subject to the Stock Purchase Agreements executed when the Enterprises were placed in conservatorship in September 2008. FHFA has requested comments on the issues and questions set forth in the Rule relating to the criteria governing portfolio holdings. Generally, FHFA requests comments on the benefits and risks, appropriate size and composition, and the mission-related need for such a portfolio.

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NAHB believes that the Enterprises should focus on the core business of securitizing mortgages and limited portfolio capacity should be permitted to accommodate mortgage and housing-related investments that do not have a secondary market outlet, including acquisition, development and construction loans. Notwithstanding this, NAHB believes it is critical for the federal government to provide a backstop to the housing finance system to ensure a reliable and adequate flow of affordable housing credit. The need for such support is heavily underscored by the current state of the system, where the Enterprises, the Federal Home Loan Banks (FHLBanks), and the Federal Housing Administration (FHA) are the only conduits for home mortgage credit. NAHB believes that the federal backstop must be a permanent fixture in order to ensure a consistent supply of mortgage liquidity, as well as to allow for rapid and effective responses to market dislocations and severe credit contractions. The retained portfolios are an important element of this backstop. The Enterprises must have the authority and ability to provide reliable liquidity to the mortgage markets during times of stress, which requires flexibility in terms of portfolio composition and size over the mortgage credit cycle, or with changing conditions in the secondary mortgage markets.

The Enterprises' portfolios have served as an important shock absorber for housing borrowers in times of economic crisis. This is evidenced by the relative stability in conforming mortgage availability as other sectors of the financial markets are experiencing severe volatility in credit availability and cost during this unprecedented credit crisis. In addition, the portfolios support the provision of mortgage credit through instruments, such as multifamily mortgages and various homeownership loans designed for lower-income borrowers that are not attractive to secondary market investors and, therefore, cannot be packaged and sold in mortgage-backed securities (MBS).

The Enterprises portfolio purchases also generate demand that results in lower yields (and generally narrower spreads relative to benchmarks) on MBS which has a direct and favorable impact on primary mortgage rates. While it is true that the Federal Reserve is the engine behind the historically low mortgage rates achieved in 2009, this buying activity underscores the necessity of the demand component in keeping mortgage rates at levels that will spur home refinance and home purchase activity. Only the Enterprises, or the Federal Government, have such capacity to impact rates in this manner. Without the flexibility to increase their respective portfolios, mortgage rates would certainly be adversely affected during periods of credit stress unless the Federal Reserve stands ready to replace the Enterprises as the largest mortgage liquidity provider now and into the future.

Enterprise portfolio operations have facilitated an expansion of investors in the U.S. housing markets. Foreign investors have supplied substantial amounts of capital for residential mortgages in this country through purchases of Enterprise debt. Some foreign investors are reluctant to invest in MBS, primarily due to unfamiliarity with the uneven prepayment patterns of underlying mortgage loans. The Enterprises have successfully negotiated this obstacle by funding their holdings with more traditional debt issued to foreign investors. Inflexible portfolio restrictions, or the elimination of the portfolios, would therefore constitute a major setback to successful efforts to broaden the sources of capital for the U.S. housing markets.

With regard to safety and soundness, FHFA should hold each Enterprise accountable through regulation to have the strategies, systems, personnel and capital that are adequate to fully mitigate any risk associated with the holding of mortgages and MBS as well as other portfolio investments. This would include the establishment of risk-based capital requirements to provide appropriate capital coverage for all portfolio-related activities. In addition, review of portfolio functions and operations should be an integral part of the regular safety and soundness examinations.

Finally, NAHB is concerned about the winding down of the Enterprises' portfolios. The Act requires that the portfolios be reduced by 10 percent per year after December 31, 2009. We urge FHFA to review the Stock Purchase Agreements, the basis for this requirement, and to adjust the criteria for reductions in the portfolios as warranted by market conditions. While portfolio restrictions may be prudent, now is not the time to wind down the portfolios as there appears to be no end in sight to the ongoing financial turmoil. While limits should be placed on portfolio holdings and activities, the regulations should be flexible enough to allow the Enterprises to act decisively in times of crisis. During these times, the Enterprises' portfolios must be available to support market liquidity and to maintain the supply and low cost of mortgages. As the markets function in a more normal fashion, the Enterprises should be allowed to reduce their portfolios in an orderly manner to avoid unnecessary volatility.

I appreciate this opportunity to comment on behalf of NAHB. Please direct questions regarding this matter to John Dimitri, NAHB's Director of Financial Institutions and Capital Markets, at 202-266-8529, or via e-mail at jdimitri@NAHB.com.

Sincerely,

David L. Ledford

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Senior Vice President
Housing Finance and Land Development

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