June 1, 2009

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

Re: Portfolio Holdings IFR/RFC, [RIN 2590-AA22].

Dear Mr. Pollard:

The Mortgage Bankers Association (MBA)[1] appreciates the opportunity to submit comments in response to the Federal Housing Finance Agency's (FHFA) Interim Final Rule (Interim Rule)[2] on the portfolio holdings of the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac. The Interim Rule implements an Housing and Economic Recovery Act (HERA)[3] provision requiring the FHFA to establish regulatory criteria governing the GSEs' portfolio holdings. According to HERA, the criteria should ensure the GSEs' portfolio holdings are backed by sufficient capital and consistent with the mission and safety and soundness concerns of the GSEs.

In formulating MBA's response to the interim rule, MBA notes that the GSEs are currently in conservatorship, and neither the FHFA nor the GSEs have expressed a long-term strategy for the GSEs' futures. In fact, the FHFA recently stated that the post-conservatorship status of the GSEs will likely involve congressional action.[4] As a result, the current characteristics, purpose and need for the GSEs' portfolios, if not the GSEs themselves, may be different post-conservatorship. Therefore, MBA's comments relate exclusively to the Interim Rule within the context of the current environment and powers of the GSEs.

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

[2] 74 Fed. Reg. 19, 5609-5618, (Jan. 30, 2009).

[3] Pub. L. 110-289, 122 Stat. 2564, July 30, 2008.

[4] Federal Housing Finance Agency Report to Congress 2008, 3, (May 18, 2009).

MBA Position
In light of the stipulations mentioned above, MBA supports the measured approach taken by the FHFA to implement the GSE portfolio requirements mandated by HERA. MBA further believes the GSEs' portfolios provide value beyond that which could be obtained by their securitization activities. Nevertheless, MBA believes the GSEs' portfolios should be subject to limits on their size, holdings and other characteristics described below. Moreover, MBA also believes the GSEs should be required to maintain capital levels commensurate with the risk profiles of their portfolios.

Benefits of the GSEs' Portfolios
The GSEs' have two statutorily mandated objectives – to provide stability in the secondary mortgage market and improve the distribution of capital available for mortgage financing.[5] The GSEs' securitization activities improve the distribution of capital because securities backed by pools of mortgages attract a broader array of investors than the mortgages themselves. However, the distribution of investment capital (i.e. liquidity) hinges on the existence of willing buyers and sellers (i.e. investors). As witnessed during the past two years, it is difficult if not impossible to guarantee a constant and consistent flow of private funds into real estate-related investments. When these investments are no longer attractive to the investment community, the mortgage finance system ceases to function without a liquidity provider of last resort. The GSEs' portfolios enable them to provide liquidity in the absence of other sources, thus providing stability in the secondary mortgage market.

The GSEs' portfolios also enable the GSEs to purchase mortgage types that have yet to develop a risk profile to satisfy investors' need for consistency and reliability. As a result, the GSEs' portfolios serve as "incubators" for advancements in housing finance.

Another way the GSEs' portfolios benefit the secondary mortgage market is by aggregating small groups of mortgages. By accumulating many small loans, or loans from many small lenders, into larger pools or structured transactions, the GSEs can lower borrowing costs and assist underserved markets and small businesses.

The GSEs' ability to aggregate loans also benefits lenders that rely on warehouse lines of credit for funding purposes. During times when warehouse lending is constrained, the GSEs provide a vital service by allowing lenders to roll loans off warehouse lines quickly. Without the ability of the GSEs to use their portfolios to reduce the length of time loans stay in warehouse with banks, the volume of business would be significantly constrained.

Permissible Portfolio Assets
MBA believes the GSEs' portfolio purchases should have a nexus with their statutory objectives. MBA would not object to even narrower limits, such as to prime, conforming

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[5] 12 U.S.C. 1716.

products. Given our support for rigorous capital requirements however, MBA is open to exceptions for purchases specifically for capital management purposes. MBA notes that, in the past, the GSEs have made non-mortgage investments because of the need to maintain capital in a readily liquefiable form. MBA believes that clarifying the extent of the GSEs' government guarantee would restore investor confidence in the GSEs' mortgage-related assets, thus boosting the liquidity of those assets.

Other Portfolio Characteristics
MBA requests that the GSEs' portfolio requirements provide counter-cyclical incentives to the GSEs' mortgage purchases. For example, during periods of adequate liquidity in the secondary market, MBA suggests a *de minimus* portfolio requirement for the GSEs. The *de minimus* amount should be set at a level that permits the GSEs to use their portfolios for "incubation" or aggregation purposes. A *de minimus* requirement would also ensure the GSEs' portfolio infrastructures remain operable and ready to ramp up if additional liquidity support becomes necessary.

MBA further believes the GSEs should be permitted to expand their portfolio holdings during periods of market distress or in the absence of other sources of secondary market liquidity. We understand the difficulty in setting parameters regarding what constitutes "market distress" or what levels of illiquidity should trigger the GSEs' portfolio expansion. MBA therefore believes supervisory discretion would be tolerated so long as the factors the FHFA will use in making these determinations are clearly articulated in advance.

MBA also suggests care should be taken when conditions warrant returning the GSEs' portfolio levels to the *de minimus* amount so as not to overwhelm an unsteady market. MBA believes the FHFA should encourage the GSEs to sell their portfolio holdings in an expeditious manner without setting a rigid deadline.

Regulatory Oversight
As mentioned above, MBA believes the GSEs' portfolio holdings should be subject to rigorous capital requirements. Specifically, we recommend that the FHFA calibrate the GSEs' capital requirements in a manner that provides incentive for the GSEs to minimize their portfolio holdings.

MBA further reiterates the uncertainty surrounding the financial markets and the future of the GSEs, and requests that the FHFA establish interim portfolio parameters until higher levels of predictability and consistency return to the market. For example, HERA directs the FHFA to periodically review the portfolio holdings of the GSEs. Perhaps the FHFA could establish a formal mechanism for adjusting the GSEs' portfolio regulations in conjunction with these reviews.

Conclusion

MBA appreciates the opportunity to comment on the Interim Rule within the current statutory framework and conservatorship status of the GSEs. Like the FHFA, MBA believes conservatorship is not a functional long-term business model. We stand ready to begin a dialogue with the FHFA and other policy-makers regarding the future of the secondary market and the GSEs. In the meantime, should you have any further questions regarding the issues raised in this letter, please contact Michael Carrier, Associate Vice President of Secondary and Capital Markets, at (202) 557-2870 or mcarrier@mortgagebankers.org.

Sincerely,

John A. Courson
President and Chief Executive Officer
Mortgage Bankers Association

Michael D. Berman, CMB
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