

December 21, 2000

Mr. Robert S. Seiler, Jr.  
Manager of Policy Analysis  
Office of Federal Housing Enterprise Oversight  
1700 G Street, N.W., Fourth Floor  
Washington, D.C. 20552

Dear Mr. Seiler:

I am writing in response to the Office of Federal Housing Enterprise Oversight's (OFHEO) call for public comments in the *Federal Register* on the issue of the potential systemic risk posed by Fannie Mae and Freddie Mac to the nation's financial system and to the U.S. housing finance market (65 *Fed. Reg.* 64718, October 30, 2000). As an organization with considerable expertise in the area of risk assessment, the Center for Regulatory Effectiveness (CRE) is pleased to offer the agency its comments and recommendations on this significant area of inquiry.

### ***About the CRE***

The Center for Regulatory Effectiveness was established in 1996, after passage of the Congressional Review Act, to provide Congress with independent analyses of agency regulations. From this initial organizing concept, CRE has grown into a nationally recognized clearinghouse for recommendations and activities to improve the federal regulatory process.

CRE has no members, but it receives, from time to time, financial support, services in kind, and work product from trade associations and private companies. Thus, CRE is able to draw upon the views of hundreds of firms. In addition, the CRE Advisory Board consists of former career officials from the Office of Management and Budget's (OMB) Office of Information and Regulatory, each of whom brings their own perspective to the Center.

Another unique feature of the CRE is its website ([www.TheCRE.com](http://www.TheCRE.com)) which is designed to promote sound public policy and regulation by facilitating interaction between government, industry, organized groups, and the interested public. The CRE website encourages dialogue by reporting on various regulations or issues with the potential for regulatory action. CRE also identifies opportunities for public comments on these issues and has introduced the concept of an “Interactive Public Docket,” which allows for ongoing debate of proposed regulations even beyond the close of formal agency public comment periods. I invite you to visit our website as a way to better understand our organization and the types of issues in which we are interested.

### ***CRE Comments on OFHEO’s Systemic Risk Inquiry***

As noted above, the Center for Regulatory Effectiveness has been very active in the field of risk assessment, albeit in the environmental area, as is demonstrated on our website. The field of environmental risk assessment has been evolving for decades to reach its current state of reliability for regulatory purposes, and while CRE applauds the expansion of risk assessment to other disciplines, such steps must be taken deliberately and with great care.

Therefore, in undertaking its review of systemic risk, CRE believes OFHEO should:

- (1) Post all comments it receives on the systemic risk issue on its website, so that interested parties can see and respond to the views and concerns expressed by their peers.
- (2) In order to reach the broadest possible audience on this important issue, OFHEO should summarize and address comment received during this initial public comment period and then publish this analysis in the *Federal Register* for a second 60-day comment period.
  - In light of the agency’s own statement that “... OFHEO has consistently classified the Enterprises as adequately capitalized ... financially sound and well managed,” time is clearly not of the essence, and the agency would benefit from a thorough airing of all facets of this important matter. (65 *Fed. Reg.* 64718, 64718.)
- (3) OFHEO should consult with other federal agencies – particularly agencies with regulatory responsibilities for financial markets – to determine whether they have conducted assessments of systemic risk in their own areas of regulatory responsibility. Where such prior experience does exist, OFHEO staff should draw upon such expertise to the extent possible.

- (4) In conducting its inquiry, OFHEO will need to define certain key terms and concepts. Specifically:
- OFHEO should define up front what will be an allowable level of risk to the system. This will provide the agency with an objective standard for comparison before delving into the intricacies of the enterprises' operations and procedures.
  - OFHEO should also define a working definition of the threshold of systemic risk which will necessitate action by OFHEO and/or the enterprises.

CRE agrees with OFHEO that Fannie Mae and Freddie Mac have performed exceptionally well in the past, and while OFHEO's inquiry is valid and in keeping with its regulatory responsibilities, there is no basis for the enterprises to be seen as suspect. The enterprises might be encouraged to consider additional efforts at transparency, as such efforts by any organization routinely benefit interested parties and the public. However, particularly in operations which are apparently working well, it is imperative that the agency gather a significant amount of information with ample opportunities for public comment prior to taking any regulatory action. Otherwise, the very financial system and housing finance markets which OFHEO seeks to protect could be jeopardized.

Lastly, we would note that analyses generated by OFHEO will have to comply with the "Data Quality" provisions of the recently enacted FY 2001 Consolidated Appropriations Act. Please feel free to contact us or our website if you need additional information on this new statutory provision.

Sincerely,

[signed Jim J. Tozzi]

Jim J. Tozzi  
Member, CRE Board of Advisors