March 10, 2000

Mr. Alfred M. Pollard
General Counsel
Office of Federal Housing Enterprise Oversight
1700 G Street, N.W., 4th Floor
Washington, D.C. 20552

Re: *Risk-Based Capital, proposed rule, RIN 2550-AA02*

Dear Mr. Pollard:

Our company, AMRESCO Capital L.P., is an active provider of mortgages for multifamily housing on a nationwide basis, and is an active participant in both the Fannie Mae DUS and Freddie Mac Program Plus multifamily lending programs. This letter is written in comment on the second Notice of Proposed Rulemaking on Risk-based Capital for Fannie Mae and Freddie Mac.

Fannie Mae's and Freddie Mac's continued financial strength and active participation in housing markets should be critical objectives of any regulatory scheme. Fannie Mae and Freddie Mac play a vital role in our nation's housing markets. Their presence is particularly important for affordable housing, as this market segment may not be as well served by private (non- GSE) capital. We support OFHEO's efforts to ensure safety and soundness, including the development of risk based capital standards.

We also believe that OFHEO's objectives for this rule should include the following:
- capital standards should be set at the lowest possible level consistent with safety and soundness in order to maintain Fannie Mae's and Freddie Mac's vital role in the housing markets;
- regulatory models, processes, and standards should be replicable and capable of incorporation into Fannie Mae's and Freddie Mac's normal business and planning processes;
- regulation should be cost-effective.

We are concerned that regulations which (1) are not well crafted, (2) cannot be readily incorporated into operating business practices, (3) do not provide for innovation, and (4) are not designed with a “least cost” approach (again, consistent with safety and soundness) could create disincentives, raise prices, and ultimately work to reduce housing availability and affordability. While we are convinced that OFHEO has worked hard and long to develop an effective rule, we think it can and should be improved in each of the areas cited above. In general, we feel that the models used are overly complex and extremely difficult to replicate. We urge you to consider changes to the rule to help meet these objectives.

Our specific comments on the multifamily sections of the proposed rule follow.

The model appears to overestimate the capital required to support multifamily lending for the following reasons:

- incorrect treatment of certain events/variables (prepayment behavior, balloon refinance risk);
- excessively severe baseline assumptions based on an extremely limited data set (loss severity assumptions far in excess of actual experience and results of other academic studies).

In addition, we are particularly concerned about the rule’s treatment of counterparty risk and its specific negative consequences for the Fannie Mae DUS program. Our concerns are as follows:

- The model overcapitalizes for general counterparty risk, particularly for companies rated below AAA, as compared to generally accepted industry/capital markets standards.
- The model treats Fannie Mae DUS lenders as generic counterparties, and does not take into account the many specific operating processes, standards and safeguards built into the program. In this case, the model isn’t specific enough.

Fannie Mae’s DUS program represents an extremely effective partnership. The DUS lenders are Fannie Mae’s primary source for multifamily mortgages, both conventional and affordable. The risk-sharing aspects of the program are integral to its success, providing for flexibility and responsiveness while maintaining the quality of the mortgages. The track record of the program speaks for itself, as Fannie Mae’s DUS portfolio has performed measurably better than its non-DUS portfolio.

We do not believe that the fist loss position in the loans held by the DUS lenders should be treated as generic counterparty risk. As part and parcel of the program, Fannie Mae maintains comprehensive standards including:

- Minimum net worth requirements that increase with portfolio growth;
- Liquidity reserves maintained with a commercial trustee
- Loan loss reserves maintained by the lenders

In addition, Fannie Mae maintains a tight system of controls, policies and procedures, and monitoring designed to assure loan quality at origination and while in portfolio. Fannie Mae also has access to the significant unencumbered servicing value of its lenders' portfolios as additional support for their obligations.

We recommend that OFHEO evaluate Fannie Mae's exposure to its DUS lenders as a separate specific risk category, and in its evaluation take into account the standards and safeguards noted above.

In closing, our overriding concern is that requiring Fannie Mae and Freddie Mac to overcapitalize for risks creates disincentives and dislocations, and contributes to increasing the cost and reducing the supply of multifamily housing. These adverse effects may be felt most strongly in the affordable housing markets, which are less effectively served by private capital sources.

We appreciate the opportunity to comment, and would be happy to make ourselves available to address our comments at greater length or answer any question you may have.

Sincerely,

[signed: Edward L. Hurley]

Edward L. Hurley
President