

March 27, 2000

Ms. Anne Dewey, General Counsel  
Office of General Counsel  
Office of Federal Housing Enterprise Oversight  
1700 G Street, N. W., Fourth Floor  
Washington, D.C. 20552

Dear Ms. Dewey:

The National Bankers Association (NBA) is writing to provide comments on the proposed rule for risk-based capital for Fannie Mae and Freddie Mac. As you know, the NBA is the trade association for women and minority-owned banks. We have a rich history during our 73 years in existence as an association. Attached please find literature on NBA.

As a trade association for regulated institutions we appreciate the importance of the work being done by the Office of Federal Housing Enterprise Oversight. We commend you for the work that has already gone into this rule. Safety and soundness regulation is critical to the smooth operation of the financial markets. Developing the right rules for Fannie Mae and Freddie Mac is important.

We believe that the best regulations are those that are developed taking in account the full context in which they will be applied. To this point, we are writing to call to your attention certain impacts in the rule that could affect the way our members work with Fannie Mae and Freddie Mac, but more importantly could set back the progress we have made in the affordable housing market. Given the mission focus of our association, the latter is very important to us.

First, let me start by discussing the effect of the haircuts in the rule. All of our member institutions will be negatively impacted by this construction. The GSEs are discouraged from dealing with any counter-party, regardless of the credit rating of the entity, because the haircuts do not appear to be properly aligned with the risk presented. Moreover, the construction of the rule seems to apply a belt and suspenders approach. Let me cite one example. "AAA" rated institutions spend an enormous amount of their time and capital to receive this rating. They do so because it establishes them as a valuable and dependable partner. Before they can get such a rating, they must go through extensive analysis of their operations, business strategies, risk profile, management capacity, among other things. It is highly improbable that the GSEs will experience a loss from all of their "AAA" counter-parties at the level proposed in the rule.

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The treatment of un-rated parties (in the context of the haircuts) is of particular concern to us. Many of our members are un-rated. This, however, does not mean that they are undesirable risks - a definite message from the construction of the rule. While we recognize that an un-rated company poses a higher risk to the GSEs, we believe the degree of capital required is not properly calibrated.

While it is prudent to be cautious and have the correct amount of capital for counter-party risk, it is also important for the financial success of financial institutions that they deploy their resources wisely. As you know financial success is an important component of safety and soundness. It has been said that too much capital can be a bad thing. Too much capital imposes costs that preclude an institution from taking prudent risks that impede delivery of products and services at the prices that people need. This can be detrimental not just for the success of the institution, but also to the detriment of consumers of limited means for whom the correct pricing of a product can mean the difference between access to capital and being shut out of the mainstream markets.

In a similar vein, the treatment of credit enhancements (including risk sharing arrangements) could use further consideration. The rule could be read to imply that risk sharing and credit enhancements (such as spread accounts) are a bad thing. From our point of view, risk sharing and credit enhancements are a good thing. Risk sharing creates a broader group of investors who have a stake in the success of an investment. Besides, sometimes the use of credit enhancements may be the only way in which we (and others like the GSEs) can soundly structure a transaction in support of affordable housing. We urge you to carefully consider what has been proposed to ensure the right balance is achieved.

Another area of concern is the manner in which home price volatility is handled in the rule. The construction of the rule creates a large degree of disparity in the pricing for the same loan originated in different parts of the country. We are not objecting to the need to provide for this volatility in the rule, however, we believe a less disruptive mechanism would be more appropriate. A national measure that provides a relatively constant effect across all geographic areas would achieve the same result without the significant negative impact. Moreover, the knowledge that there will be liquidity in the market at all times is critical to the smooth operations of our members. This stability is especially crucial during difficult economic times. This stability is important not just to the efficient operation of our members, but also to our ability to continue steady service to underserved consumers which can be the ones hardest hit during temporary downturns.

A review of the rule also discloses a significant disadvantage for low down payment loans. Our experience shows that low down payment loans are a cornerstone to the ability of our members to help more and more of their customers become homeowners. These loans are underwritten with an eye towards long-term homeownership and we believe them to be safe and sound loans. We recognize that these loans may not perform as well as loans with higher down payments. Nevertheless, we believe that the capital required for these loans is too high. We believe the capital

required for low down payment loans could be readjusted without harming the objective to ensure the safe and sound operation of the GSEs.

The final point we would like to address is the apparent impact of the rule on the ability of the GSEs to innovate and respond quickly to the needs of our members. Innovation is especially important to the work we do to serve the affordable housing market. Speedy response can make a big difference as well. As we design more and better products to serve consumers who have not been able to participate in the recent increases in homeownership rates, we need to know that the GSEs will be able to support our efforts.

While we have raised some very difficult issues we remain confident that OFHEO is creative and will be able to preserve the primary objective of the rule of ensuring the safety and soundness of Fannie Mae and Freddie Mac, and still issue a rule that avoids the negative consequences we raised in this letter. Thank you for the serious consideration I am sure you will give to these issues.

Sincerely,

[Signed: Norma Alexander Hart]

Norma Alexander Hart  
President