NMHC National Multi Housing Council
National Apartment Association

January 17, 2001

Alfred Pollard
General Counsel
Office of Federal Housing Enterprise Oversight
Fourth Floor
1700 G Street, NW
Washington, DC 20552



Dear Mr. Pollard,

The National Multi Housing Council and National Apartment Association (NMHC/NAA) are pleased to provide comments on the proposed changes to the risk-based capital rule for the Government Sponsored Enterprises (the GSEs). We also appreciate the effort to correct the deficiencies in the September 13, 2001 final rule, and the changes contained in the proposed rule placed in the Federal Register for comment on December 18, 2001 (66 FR 65146). We appreciate OFHEO's efforts to provide a timely response in this matter, especially given the complexity of the risk-based capital rule as it pertains to the multifamily industry.

While we generally support the changes contained in the rule, our concern is that the cost and availability of capital to the multifamily market will be impacted, even in light of the recommended changes. Fannie Mae and Freddie Mac provided an estimated $40 billion in mortgage financing to the multifamily market in 2001, according to very recent presentations by the two firms at the NMHC annual meeting on January 9, 2002. They are the single largest source of financing for the multifamily industry, and, as such, their ability to meet the needs of the market have helped to provide one of the most stable and resilient multifamily markets in history.

Our comments are limited to the following issues:

**Haircut levels for unrated Delegated Underwriters and Servicers (DUS)**

NMHC/NAA support OFHEO's willingness to take into account factors that would permit a rating higher than BBB for un-rated DUS lenders. However, we are concerned with the proposed rule's requirement that any improvement in rating will be linked to fully funded reserves obligated to Fannie Mae. There are two potential impacts from this proposed solution. First, there is likely to be an increase in the mortgage rate charged to borrowers to fund such reserves and not impact the income to the DUS lender or to Fannie Mae. Second, because these ratings would not be known to borrowers, a borrower would need to obtain multiple DUS quotes because of the added costs to the DUS lender based upon its rating. Both would be disruptions to the mortgage lending process and the market.

**Counterparty Risk and Haircuts**

While we are supportive of the changes the proposed regulation contains over the final rule in that it reduces the haircut levels and extends the phase-in period, we are still concerned that the haircut levels may be too excessive. This is based on the fact the proposed rule specifies that the counterparty default rates are based on the default rates from the depression years and reflect worst annual cohorts of U.S. investment-grade issues since 1920. While it is prudent to look at historical periods, including those that reflect worst-case scenarios, we believe that OFHEO has selected to base its capital standard on an unreasonable and unlikely loss scenario. It is our understanding that the legislation specifies that the stress period is to be a national stress event characterized by the worst regional experience, not the Great Depression.

In addition, we believe that business practices today are far superior to those of the Great Depression and that the severity rate is still too high at 70 percent.

**Loan Seasoning Variable**

Because the historical data used to establish the loan-seasoning variable to determine default risk, OFHEO should adjust the variable for loans that were originated more recently and for future loans. This should be an adjustment that is made based on performance data on an annual basis.

We applaud OFHEO for their consideration of the changes to the final rule, its timely response and its consideration of our earlier comments. NMHC/NAA support the application of sound capital requirements for Fannie Mae and Freddie Mac that are based on market data, experience and are designed to strengthen these important sources of capital. We are available to provide any assistance you may need.

Should you have any questions, please do not hesitate to contact David Cardwell, Vice President of Finance and Technology at (202) 974-2336 or me at (202) 974-2335.

Sincerely,

CNRiddle

Clarine Nardi Riddle
Senior Vice President

cc: Doug Bibby, NMHC President
Doug Culkin, NAA Executive Vice President
David Cardwell, NMHC/NAA Vice President of Finance and Technology