

June 5, 2018

Via Electronic Submission

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Constitution Center
400 7th Street SW, 8th Floor
Washington, DC 20219

RE: Comment on RIN 2590-AA90—Responsibilities of Boards of Directors, Corporate Practices, and Corporate Governance

Dear Mr. Pollard:

U.S. Mortgage Insurers (“USMI”)¹ welcomes the opportunity to submit a comment on the Federal Housing Finance Agency’s (“FHFA”) proposed rule² to amend its regulation concerning the “Responsibilities of Boards of Directors, Corporate Practices, and Corporate Governance” (“Regulation”)³. A central component of the proposed rule is that the existing Regulation pertaining to the Federal Home Loan Banks’ strategic business plans would be amended to apply to Fannie Mae and Freddie Mac, the government-sponsored enterprises (“Enterprises”). USMI supports expanding the Regulation to include the Enterprises in order to better understand their business activities and use measurable objectives to hold the Enterprises accountable for achieving their missions and public purposes. USMI and our member companies specifically support referencing “authorized new activities” in the “measurable operating goals and objectives” requirement of the strategic business plans, and believe the Regulation should include the following:

- Metrics regarding the expansion or contraction of the Enterprises’ activities, including an assessment of potential impact on the housing finance market, and how the entities respond to their statutory missions and purposes (in effect, to enable a common starting point for discussions concerning the roles played by the Enterprises in the U.S. housing finance system and to monitor change in those roles over time); and
- Provide clarity between the Regulation’s discussion of “significant activities” in the strategic business planning process and the apparent non-use of the regulation intended to assess proposed new activities and programs at the Enterprises.⁴

The strategic business plans would be an additional tool for the FHFA to carry out its oversight of the Enterprises. This would be similar to the National Association of Insurance Commissioners’ (“NAIC”) Own Risk and Solvency Assessment (“ORSA”)⁵ that is required of insurance companies, including mortgage insurance companies, to examine current and future risks. The Regulation rightly emphasizes current and emerging risks at the Enterprises. One area that warrants attention under the

¹ USMI is a trade association comprising the following private mortgage insurance companies: Essent Guaranty, Inc.; Genworth Mortgage Insurance Corporation; Mortgage Guaranty Insurance Corporation; National Mortgage Insurance Corporation; and Radian Guaranty Inc.

² 83 Fed. Reg. 14781 (April 6, 2018).

³ 12 CFR 1239. 80 Fed. Reg. 72327 (November 19, 2015).

⁴ Prior Approval for Enterprise Products. 12 CFR 1253. 74 Fed. Reg. 31602 (July 2, 2009).

⁵ NAIC adopted ORSA following the financial crisis and it requires insurance companies to issue their own assessment of their current and future risks using an internal risk self-assessment process that allows state insurance regulators to form an enhanced view of an insurance company’s ability to withstand financial stress.

strategic business plans is the stress testing of the Enterprises' credit risk transfer programs' capacity to assess potential or expected shortfalls in investor demand during times of economic stress, or during times when returns on housing investment are lower than for other asset classes. The strategic business plans would also allow the Enterprises' boards of directors and the FHFA to monitor and review the Enterprises' activities and footprint in the housing finance system to ensure that the entities are operating within both the letter and spirit of their Congressional charters.⁶ The strategic business plans should include specific metrics by which the Enterprises will be assessed.

USMI recently submitted a comment to the FHFA's "Notice of Regulatory Review"⁷ in which we raised concerns about the interaction – and at times tension – between the FHFA's regulatory and conservatorship authorities. Actions taken by the FHFA could greatly vary depending on whether the FHFA exercises oversight as a conservator or as a federal regulator. USMI does not read the Housing and Economic Recovery Act of 2008 ("HERA")⁸ as giving the FHFA the option of disregarding its regulatory responsibilities regarding the Enterprises, particularly since the period of crisis that prompted placing the Enterprises into conservatorship has long since passed. The Regulation should be accompanied by the development and issuance of regulatory guidance on how the FHFA views the relationship between its conservatorship authority and regulatory obligations under HERA. A transparent and comprehensive explanation of the FHFA's dual roles would ensure proper oversight of the Enterprises and inform all market participants of the processes the FHFA employs as either conservator or regulator. This is particularly true as it relates to new activities and products, where there is clear potential for confusion as to how permitting activities or products that appear to expand the Enterprises' roles in the housing market are consistent with FHFA's role as conservator.

USMI supports the Regulation's expansion of strategic business plans to Fannie Mae and Freddie Mac and for your consideration of our suggestions as the FHFA works to ensure that the Enterprises operate safely, soundly, and in a manner consistent with their charters not displacing opportunities for comprehensive housing finance reform. USMI appreciates the opportunity to comment on the FHFA's Regulation and questions or requests for further information may be directed to Lindsey Johnson, President of USMI, at ljohnson@usmi.org or 202-280-1820.

Sincerely,



Lindsey Johnson
President

⁶ See Federal National Mortgage Association Charter Act, 12 U.S.C. § 1716 (2010) and Federal Home Loan Mortgage Corporation Act, Pub. L. 91-351, 84 Stat. 450 (2010).

⁷ 83 Fed. Reg. 14605 (April 5, 2018).

⁸ Pub. L. 110-289, 122 Stat. 2654 (July 2008).