CALIFORNIA ASSOCIATION OF REALTORS®

August 31, 2020

Alfred M. Pollard,
General Counsel: Comments/RIN 2590-AA95
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street SW
Washington, Dc 20219



Re: RIN 2590-AA95; Notice of Proposed Rulemaking; Enterprise Regulatory Capital Framework

Dear General Counsel Pollard:

On behalf of the more than 200,000 members of the California Association of REALTORS® (C.A.R.), I am pleased to submit the following comments to the Federal Housing Finance Agency (FHFA) on its Notice of Proposed Rulemaking; Enterprise Regulatory Capital Framework (NPR). The financial wellbeing of the Enterprises (Fannie Mae and Freddie Mac) are a matter of utmost importance to the real estate industry as they guarantee roughly half of all outstanding mortgages. The ability of banks to provide sufficient capital to home buyers is dependent on the ability of the Enterprises to fulfill their roles in all market conditions. To that end, while C.A.R. supports the FHFA taking measured steps to build the Enterprises' capital reserves and provide a roadmap to exit conservatorship, we have great concerns with the NPR.

The roadmap must balance the role and mission of the Enterprises to provide affordable capital to the mortgage market. Unfortunately, the NPR sacrifices the role and mission to a political plan of expeditiously exiting conservatorship while shrinking the market share of the Enterprises.

Question 43: Are there any adjustments, simplifications, or other refinements that FHFA should consider for the risk multipliers for single-family mortgage exposures?

**The FHFA should eliminate any adjustments correlated to a buyer's FICO score.** This proposal is similar the loan level price adjustment and credit fees (LLPAs) the Enterprises implemented following the housing crisis. The NPR should use the same risk multiplier regardless of FICO score, otherwise the Enterprises are likely to increase the costs even more on loans with borrowers who have lower FICO scores.

The negative impact of the current LLPA's and their FICO risk based pricing can clearly be seen in the chart below.



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| <u>**Year**</u> | <u>**Average Fannie Mae FICO Score**</u> | <u>**Average Freddie Mac FICO Score**</u> |
|---|---|---|
| 2002 | 714 | 718 |
| 2012 | 761 | 755 |
| 2019 | 749 | 751 |
| July 2020 Combined Average Purchase Loans | 758 | 758 |

Existing loans in the Enterprises' 2002 book of business were hardly considered risky and did not include subprime and alt-A mortgages. This significant increase in the average FICO scores is alarming given the role and mission of the Enterprises and the impact it has on the average homebuyer. This includes forcing qualified homebuyers to use the costlier FHA mortgages or simply preventing them from being unable to afford a home. More distressing is the disproportionate impact it has on the Black community which, according to a 2017 paper by the Urban Institute showed "more than 50 percent of white households have a FICO credit score above 700, compared with only 21 percent of black households."

These numbers are indications of a loss of focus on the promotion of homeownership and a sole emphasis on the bottom line of a company that has ignored its role and mission. The NPR is another step down that path.

<u>Question 104: Which, if any aspects of the proposed rule should be further aligned with the U.S. banking framework?</u>

**C.A.R. believes the Enterprises' capital should not be modeled and/or aligned with the banking industry.** During the FHFA's June 4, 2020, webinar on the NPR, it was revealed the FHFA looked to the banks to determine how much capital would be required by the Enterprises. However, C.A.R. believes the capital rules for the Enterprises should reflect the actual business they participate in, best described by former Freddie Mac CEO Don Layton as, "the GSEs are monoline secondary-market mortgage companies that purchase, securitize, and then guarantee mortgage credit risk." This is a business with a 50-plus year performance record through recession, inflation, increasing and declining interest rates, housing bubbles, wars, and everything else that has taken place during that time. Whereas the banks are depository institutions that provide business products and services that include savings, checking, investments, insurance, credit cards, auto loans, student loans, business loans, subprime loans, alt-A loans, boat loans, financial planning, and more. Using the banking model proposed in the NPR would force capital reserves of more than $240 billion for the Enterprises. This is an amazingly large number given their safe performance and strong regulations that now prohibit subprime and alt-A loans, and limiting them to just the conforming mortgages.

<u>Question 107: In addition to the questions asked above, FHFA requests comments on any aspect of the proposed rule.</u>

**C.A.R. is asking FHFA to reconsider the rule to provide greater consideration to the increase in mortgage costs and increased number of qualified homebuyers who will pay more for mortgages, or who will no longer be able to afford the cost of a mortgage because of increased fees.** C.A.R. is concerned the NPR is a continuation of policy implemented over the decade, and specifically over the last six months that has prioritized capital reserves, even in times of market and economic instability. These include guarantee fee increases in 2008, 2011, 2012, 2013, and most recently to purchase mortgages in forbearance and the new Adverse Market Refinance Fee.

Experts agree the implementation of the NPR will INCREASE the guarantee fee (g-fee). The rule will require over $240 billion in reserves given their current book, if they are unable to raise that capital from the private market, they will likely need to raise fees on mortgages in order to help meet that goal. Once the goal is met the Enterprises will likely need to increase their fees to maintain a return on equity for investors. This cost will not only be borne by homebuyers, but as our comments to Q43 demonstrate, those that can least afford it will be disproportionately burdened.

If it was just a one-time event this may not be alarming; however, these fees have been continuously increasing and the impact is having a detrimental impact on homebuyers.

**Eliminate subjective and complex capital requirements.** C.A.R. again reemphasizes that the Enterprises business model does not indicate the need for such a complex capital requirement. Mandating multiple calculations to determine the "greater of the two" formulas is unnecessary. The additional buffers only add to the complexity and excess.

In closing, C.A.R. thanks the FHFA for consideration of our comments on this important topic. C.A.R. is supportive of the goals of strong Enterprises and protecting the American taxpayer. We hope the FHFA will make necessary changes to ensure the Enterprises prioritize homeownership and reduce the negative impact the NPR as written will have on homebuyers. If you would like to discuss any of the issues raised in this letter please contact Matt Roberts, C.A.R.'s Federal Government Affairs Manager, at matthewr@car.org or 213-739-8284.

Sincerely,
Jeanne Radsick

President, California Association of REALTORS®

cc: National Association of REALTORS®
California Members of the House Financial Services Committee