Quicken Loans

1050 Woodward Ave. | Detroit, MI 48226

January 8, 2021

The Honorable Mark Calabria
Director
Federal Housing Finance Agency
400 Seventh Street SW, 8th Floor
Washington, DC 20219

RE: RIN 2590-AA17; Notice of Proposed Rulemaking on Prior Approval for Enterprise Products

Director Calabria:

Quicken Loans, LLC ("Quicken Loans") appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) Proposed Rule regarding 12 CFR 1253 et. seq. to replace the 2009 Interim Final Rule establishing a process for Fannie Mae and Freddie Mac (collectively the "Enterprises") to obtain the FHFA Director's prior approval for new products and prior notice of a new activity.

Detroit-based Quicken Loans, the nation's largest home mortgage lender, enables the American Dream of homeownership and financial freedom through its obsession with an industry-leading, digital-driven client experience in closing mortgages across all 50 states. In late 2015, Quicken Loans introduced *Rocket Mortgage*, the first fully digital mortgage experience. Currently, 98% of all home loans originated by Quicken Loans utilize Rocket Mortgage Technology. Today, Quicken Loans and the Rock Family of Companies employs more than 19,000 full-time team members in Detroit's urban core. The company generates loan production from web centers located in Detroit, Cleveland and Phoenix and operates a centralized loan processing facility in Detroit. Quicken Loans has ranked in the top-30 of FORTUNE magazine's annual "100 Best Companies to Work For" 17 consecutive years. Quicken Loans is also ranked highest in the country for customer satisfaction for primary mortgage origination by *J.D. Power* for 11 consecutive years (2010-2020) and ranked highest in the country for customer satisfaction among all mortgage servicers for the past seven consecutive years (2014-2020).

We understand the overarching goal of the Proposed Rule is to enhance the safety and soundness of the secondary mortgage market by ensuring the Enterprises adhere to their statutory missions. However, FHFA did not articulate in the NPRM the use of any data-driven approaches in its rationale for this Proposed Rule, so it is unclear what actual or potential risks FHFA is attempting to solve. We believe the Proposed Rule presents a number of challenges for the Enterprises (and market participants) because: a) the "New Activity Approval Process" lacks efficiency and transparency, b) stifles competition and innovation, and c) poses significant post-conservatorship concerns.

Innovation Enables the Enterprises to Accomplish Statutory Mission

By most accounts, the Enterprises represent a massive share of the American mortgage market through their combined ownership and/or guarantee of close to 5.6 trillion dollars worth of U.S. residential mortgages. The Enterprises are how mainstream America obtains a home loan. The Proposed Rule, as written, focuses on "New Products" for the Enterprises, which aims squarely at innovation. In reality, however, the type of innovation that has occurred or even been possible over

the last decade has ***not*** been a new product. Instead, innovation has been incremental improvements to simplifying the consumer experience while improving data integrity in applying for a mortgage. In this way, the industry has made it easier for consumers and lowered risk to investors and the market. Such improvements were nothing attention grabbing, just the granular work of evaluating the source and verification of data and documents. Stronger credit decisions, robust verifications, less redundancy and delays have been achieved on existing mortgage products. Yet, no investor has expressed as much interest in working on challenging and newly evolving topics such as eNotes, self-employment income, gig economy income, or even alternative credit models aside from the Enterprises.

Likewise, pilots continue to be referred to (or even described) by some as any and every type of activity deployed within the Enterprises. However, the majority of "pilots" are process improvements. For example, single source verification (SSV) is a pilot that evaluates the best and most efficient way to verify income and employment from a single source: the direct deposit record within a client's bank account. The client no longer needs to collect, scan, and submit pages and pages of their personal banking and employment information. The lender and investor are able to receive verified data directly from the best source of information. SSV is innovation, and it was not easy nor a smooth process. Whether it is obstacles within the banking system or obstacles within the attribution of direct deposit codes themselves, this work is technical, expensive and time consuming. And this work is not done.

Our philosophy is best described by the phrase "the Gold is in the Guide". This is a concept we use to identify improvements within the Enterprises' underwriting guidelines. Within the last year, our credit policy team has combed each Enterprise's guide (which entailed 30+ people reviewing over 5,000 pages) to determine where changes can benefit our clients. Credit policy also includes risk management, and as a result, those suggestions reflect a holistic approach to the mortgage business. Further, this process benefits the entire industry as our observations and proposed changes can be applied to the standard guide across all eligible lenders. The end result is ***not*** a new product, but the incremental evolution and improvement of existing products.

These observations regarding the guidelines *could* be considered potential "new activities" in the broad language of the Proposed Rule. However, they should not be subject to FHFA review and approval (as the Proposed Rule would require) because it would remove all autonomy the Enterprises have over the guidelines. Assuming incremental improvement to the Enterprises underwriting guidelines and underwriting processes are not subject to the Proposed Rule, FHFA should make that clear.

Lack of clarity, though, on the definition or use of the word pilots as well as the parameters of "new activities" threatens the incremental innovation that has occurred over the last few years. Innovation is hard enough without the bureaucracy and delays implied in the structure of the Proposed Rule.

What have consumers gotten in return? What is the goal of this innovation?

The mortgage process for applicants to an Enterprise-eligible mortgage product is becoming more and more clear and objective. Credit decisions are faster and stronger than ever before. In the past, 10 conventional underwriters could give 10 different interpretations of the same specific section of a guide. Updating the guides brings clarity and the ability for replication to the process, which are keys for automation. A smooth process is a trusted one, especially when consumers receive

verification and certainty earlier in their mortgage process and with greater confirmation for lenders and investors alike.

Our investment in the Rocket Mortgage platform addressed redundancy and uncertainty in the traditional mortgage underwriting process. Consumers were asked for documents multiple times; documents that were merely a representation of the data not the actual data itself. Consumers were often unaware of what phase of the mortgage process they were in because banks and originators asked for the same item multiple times or at different stages. Rocket Mortgage proved that consumers want transparency, so the mortgage process is easier to understand. The innovation to make that possible is the hard work of incremental improvement in removing roadblocks, eliminating dead zones, and pain points in underwriting credit and collateral.

Until last year, this type of innovation continued. As FHFA prepared to review "pilots," generally, the opportunity to explore these improvements slowed or stopped completely. Our goal in responding to this Proposed Rule is twofold: 1) to emphasize the critical role innovation at the Enterprises plays in the consumer mortgage experience today, ***and*** 2) urge for clarity in the bright lines between guide improvement, new activities and new products.

Following appointment as conservator of the Enterprises[1], FHFA adopted the Interim Final Rule for Prior Approval for Enterprise Products ("Interim Rule") providing the framework for the Enterprises to obtain prior product approval, Notice of New Activity (for new activities and products), and the Notice of New Activity form.[2] The Interim Rule took effect in 2009 and has remained in place to date –a period basically encompassing the entire conservatorship –yet, it has been little used during the conservatorship.

Without question, the Interim Rule's prior approval, notice, and timeline requirements embody key elements of FHFA's statutory and regulatory responsibilities to ensure safety and soundness of the Enterprises. By extension, we also recognize FHFA's intent behind its contemplation of prior approval, especially as it considers the Enterprises potential exit from conservatorship. However, it is absolutely unclear what actual and/or impending risk of widespread financial market/system failure or economic instability FHFA is attempting to prevent through this current proposed rulemaking. Specifically, this Proposed Rule lacks both data driven insights into and examples of ***any*** activities or products actually deployed by the Enterprises that yielded alarmingly risky or mercurial outcomes as evidence that all "new" activities or products should be subject to prior approval as proposed.

For example, during the period under the Interim Rule, both Enterprises have implemented innovative technology approaches from verifying income, asset, and employment data to evaluating collateral data benefiting the valuation process. While there was no new product at the end of the process, Fannie Mae's Day 1 Certainty and Freddie Mac's Asset and Income Modeler provided an improved consumer experience saving time and avoiding delays. Neither Fannie Mae nor Freddie Mac proposed a new mortgage product when engineering a new way of calculating certain types of income. These innovations allowed all lenders to better serve consumers.

Until recently, very little innovation occurred in the mortgage servicing space. The Enterprises were the only investors willing to streamline the modification process and create improvements to a

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[1] Housing and Economic Recovery Actof 2008; 122 U.S.C. 2654

[2] Interim Final Rule, 12 CFR 1253 et. seq.

consistent servicing process. In fact, the Enterprises are incentivized to innovate in mortgage servicing when few other parties are based on the structure and economics of the mortgage servicing industry. The point is not that this innovation or other types of innovation could not occur under the conditions outlined in the Proposed Rule but that additional layers or obstacles to the spark of innovation could have unintended consequences. The Enterprises servicing innovation actually incentivized private market entrepreneurship and several mortgage servicing startups have now introduced solutions.

In fact, the Proposed Rule creates an entire cadre of hinderances and confusion in its attempts to clarify the Interim Rule's definitions of the new activities and products, the review process, and the timelines for approving a new product. To wit, the initial reading of the Proposed Rule leaves one asking – what is broken? Further reading reveals the Interim Rule's lack of use over the course of the Enterprise' eleven-year conservatorship coupled with potential hinderances and confusion essentially renders the current Proposed Rule anecdotal at best.

<u>The Proposed Rule's "New Activity Approval Process" Lacks Efficiency and Transparency</u>

At its most fundamental level, the Proposed Rule is imbued with inefficiencies, particularly as it relates to the new activity approval process. New activities and new products sought by the Enterprises would need to be reported in advance to FHFA; and if the new activity is deemed to be a "new product," it would need to be reviewed, subject to public comment, and approved by the Director.[3] Operating from this baseline has the potential to create a protracted approval process that will become exceedingly and unnecessarily bureaucratic in execution.

A bureaucratic approval process is completely antithetical to FHFA's own articulated mission and vision for a "competitive, liquid, efficient, and resilient (CLEAR)" housing finance market.[4] More specifically, requiring every new activity to be reviewed by FHFA in advance of implementation has the potential to add months to the approval process and will undoubtedly stifle competition among market participants.

Most important, the Proposed Rule completely lacks transparency into FHFA's approval decision-making process. As it stands now, the Proposed Rule provides no substantive insight into why a new activity may be rejected by FHFA. In effect, the Proposed Rule grants FHFA the power to reject – with virtually no explanation or disclosure– any and every proposal submitted by the Enterprises. Further, if neither the Enterprises nor market participants have insight into why proposed activities and products are rejected, they will refrain from investing their time, human capital, and financial resources into creating new ideas for the Enterprises to deploy.

Moreover, without any disclosure into the rejection of a potential product, both Enterprises could be simultaneously disadvantaged. For example, if one Enterprise submits a product for approval but is rejected, and the reason for rejection was an issue(s) that fell just short of being able to be rectified, that rejection effectively stops the other Enterprise from pursuing a similar product, idea, or resolution that could have "fixed" the issue(s) with the original product. FHFA should perhaps consider the implications of a default setting that all new activities and products must go through this type of review rather than provide criteria and boundaries by which the Enterprises may operate.

[3] See Proposed §§1253.3(a); 1235.4; 1253.6, Prior Approval for Enterprise Products.
[4] Federal Housing Finance Agency Strategic Plan, Fiscal Years 2021- 2024; September 22, 2020, https://www.fhfa.gov/AboutUs/Reports/Pages/FHFA-Strategic-Plan-Fiscal-Years-2021-2024.aspx

The Proposed Rule Stifles Competition and Innovation

It is frequently suggested that today's housing finance market is anti-competitive outside of the Enterprises –a notion which we believe to be a misconception. There is, in fact, competition elsewhere especially as lenders are shifting their capabilities to digital platforms.[5] The Proposed Rule could directly stifle competition by specifically undermining the incentive to innovate, thereby resulting in stagnation across the industry because market participants are left to assume without approval from the Enterprises the risk is "not allowed." The Enterprises not only provide liquidity and stability to the market but a sense of what is prudent. Limiting the Enterprises on the assumption that activities like underwriting process innovation will simply occur elsewhere is not based on market experience over the last 10 years.

It has also been suggested that the Enterprises operate and innovate like technology companies. To that end, we submit that in comparison to the private market (where there has been little to no innovation outside of digital origination), it has actually been the Enterprises leading the way in supporting advancements of new activity–particularly as it relates to underwriting, collateral policy, appraisal processes, etc. Accordingly, we believe the Proposed Rule will stifle innovation for at least two reasons.

First, the Proposed Rule could create unnecessary delays caused by an administrative backlog if the Enterprises are forced to seek FHFA approval every time there is a new activity or even an iterative change to an existing activity or product. Second, and perhaps most important, the Proposed Rule could negatively impact the Enterprises motivation to continue to support and/or pursue innovation.

As mentioned above, the Proposed Rule lacks transparency into FHFA's reasons for approval or rejection. The lack of transparency would directly stifle innovation because it essentially creates an impetus for FHFA to simply default to rejection for any new activity or product under the Proposed Rule. In an environment where FHFA can unilaterally end existing activities without notice or explanation, the Enterprises would have virtually no incentive to seek approval for new activities or new products. Simply put, the Proposed Rule could essentially have a chilling effect, which is an unintended consequence that begs the question: If the Enterprises are leading the way in deploying certain types of innovation, what will happen if they stop since the Proposed Rule renders it futile for them to do so?

Pilots are examples of innovation which could be negatively impacted by the Proposed Rule. Unless the pilot falls into one of the enumerated exclusions[6], FHFA expects a Notice of New Activity to be submitted –even if the pilot did not trigger one of the other paragraphs that actually describe a new activity.[7] The Proposed Rule's categories for identifying pilots and activities resulting from pilots is virtually all encompassing…a pilot Notice would need to be submitted to FHFA for approval for ***any*** reason.[8] The rationale provided for this broad sweeping requirement is "[d]espite [the] possible

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[5] Choi, Jung; Kaul, Karan; and Goodman, Laurie. "Fintech Innovation in the Home Purchase and Financing Market" Urban Institute, July 2019, p.8.
https://www.urban.org/sites/default/files/publication/100533/fintech_innovation_in_the_home_purchase_and_financing_market_0.pdf
[6] See Proposed §1253.3(b), Prior Approval for Enterprise Products, New Activity Description and Exclusions.
[7] Id. at §1253.3(a),
[8] Id. at §1253.3(a)(v) and (vi)

limited size or financial impact on the Enterprises and the markets, pilots sometimes have an outsized effect in other areas such as furthering technological change" and "[a]n additional variable is that pilots often extend for lengthy periods of time and sometimes change form as a natural consequence of conducting exploratory types of business."[9] The suggestion that pilots present the potential for an "outsized effect" in "furthering technological change" or could possibly extend for "lengthy periods of time" in "conducting exploratory types of business" directly reveals how FHFA's prior approval of pilots can literally stop innovation in its tracks pursuant to the Proposed Rule.

We recognize pilots may present a measure of potential risk to the Enterprises and perhaps to the markets as well. However, as market participants, we do not operate with a blind eye toward the statutory and/or regulatory obligations for safety and soundness. The mortgage market remains the evaluation and pricing of risk. As risks evolve and change over time, modifications to standards such as documentation standards, data requirements and existing procedures also much change. The potential risk is not always new risk, sometimes it is different risk. For that reason, safety and soundness are guiding principles when we present innovation opportunities to the Enterprises. The reality is not all pilot programs work, and some are more successful than others; but this Proposed Rule will surely limit the ability to explore those possibilities. We recognize concerns exist over the fairness and transparency of innovation within the Enterprises and support the progress and competition from all stakeholders in the mortgage industry.

We urge FHFA to preserve and encourage deployment of pilot programs for the benefit of the Enterprises and the industry as a whole. It is entirely feasible to do so within the parameters of the Safety and Soundness Act without FHFA having to give approval, particularly since it has not done so under the Interim Rule over the last 11 years of the Enterprises' conservatorship.

The Proposed Rule Presents Significant Post-Conservatorship Concerns

One of FHFA's stated goals in its 2021-2024 Strategic Plan is to make certain the Enterprises have, among other things, "a low risk, resilient operating environment, and a strong and resilient management framework" to enable them to operate successfully in a range of post-conservatorship scenarios.[10] The Proposed Rule appears to be positioned as a tool to accomplish that goal. FHFA has also indicated the Proposed Rule will "help clarify the post-conservatorship housing finance market."[11] However, we do not believe the Proposed Rule will be effective in facilitating either a low risk operating environment or provide clarity for the Enterprises post-conservatorship.

Once the Enterprises emerge from conservatorship, they will be subject to a number of potential changes –from their business models to their capital requirements– against an economy impacted by the COVID-19 pandemic. Given the complexities involved with those potential changes, we believe the Proposed Rule will only create additional administrative and process challenges for the Enterprises to navigate should it be implemented. From a purely practical standpoint, that is not a productive way for the Enterprises to operate when they exit conservatorship. The Proposed Rule establishes a default of no activity unless it is preapproved or precleared through FHFA reviewers rather than establishing a framework that allows research and innovation activity as long as it meets

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[9] See 12 CFR Part 1253, RIN 2590-AA17, Notice of Proposed Rulemaking Prior Approval for Enterprise Products, pg. 13.

[10] Federal Housing Finance Agency Strategic Plan, Fiscal Years 2021- 2024; September 22, 2020, p. 9, https://www.fhfa.gov/AboutUs/Reports/Pages/FHFA-Strategic-Plan-Fiscal-Years-2021-2024.aspx

[11] "FHFA Proposes New Fannie, Freddie Product Rule", *The Mortgage Note*, October 19, 2020, https://www.themortgagenote.org/fhfa-proposes-new-fannie-freddie-product-rule/

certain criteria and is submitted when appropriate for approval. The change from "No, unless" to "Yes, if" is a small yet significant enough change to influence the culture of an organization, while allowing for the priorities of safety and soundness to remain paramount.

Lastly, should this Proposed Rule take effect, top talent from the Enterprises will continue to depart once the conservatorship ends. The entrepreneurial spirit which has been a part of the Enterprises to date could be threatened in the bureaucratic environment the Proposed Rule seeks to create, as the staff and thought leaders would have no control over what is approved (or not) at the Director's discretion.

SPECIFIC COMMENTS & PROPOSALS

1. **FHFA requests comments on the scope of the criteria for identifying a new activity, specifically on whether they are sufficient for capturing an activity that would require an Enterprise to submit Notice of a New Activity to FHFA.**

   The scope of the criteria for identifying new activity is too broad to efficiently allow FHFA to control for new risks being introduced to the Enterprises. Minor guideline changes for the purposes of clarification, enhancements to existing technology applications, or evolution of policy based on new types of income, debts, assets, or other underwriting criteria would need to be reviewed and published for comment. For example, Fannie Mae recently clarified that IRS Form 1040 may show proof of receipt for Social Security Income to align with Freddie Mac. Under the current scope, this change makes sense, yet it would be unnecessarily delayed under the Proposed Rule. Where the rule accommodates for "substantially similar" activity to be approved, the Rule does not articulate how one Enterprise would be aware of the substantially similar activity in order to move efficiently toward approval.

   FHFA should consider disclosure of approved activities to encourage substantially similar activity while at the same time contemplating how that might be viewed or operationalized in the market post-conservatorship.

2. **FHFA requests comments on whether the criteria used to identify a new activity are unambiguous and transparent or, if not, how they can be improved.**

   We believe the criteria used to identify a new activity in the Proposed Rule is both ambiguous and opaque. As it relates to the ambiguity, §1253.3 of the Proposed Rule addresses the criteria for identifying activity (and its exclusions), but the description of the nature of an "activity" is extremely broad. The description includes: "a business line, business practice, offering or service, including guarantee, financial instrument, consulting or marketing, that the Enterprise provides to the market either on a standalone basis or as part of a business line, business practice, offering, or service."[12] That criteria basically subjects the entire "universe of actions" within the operations of an Enterprise to prior approval.

   For example, the Proposed Rule describes a new activity as an activity that "[R]equires a new type of resource, data, process, infrastructure, policy, or modification" but excludes "Any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an Enterprise." We support this exclusion but want to ensure the

[12] See Proposed §1253.3(a)(1), Prior Approval for Enterprise Products, New Activity Description and Exclusions.

research & development of a modification to mortgage underwriting criteria is well understood. Most of what Quicken Loans considers a “pilot” is a modification to mortgage underwriting criteria; yet “pilot” is commonly used to imply something much greater in scope and substance. A “pilot” is not well defined even within the Proposed Rule.

The Proposed Rule needs to create transparency around its operationalization, particularly as it relates to decision making behind the new activity or product rejections. We understand transparency may involve the potential of inadvertent disclosure of proprietary aspects of new activities or products, which is a risk both the Enterprises (and their market counterparties) would seek to avoid. Accordingly, it is essential to consider maintaining a degree of confidentiality with respect to the disclosure. We believe FHFA could, at a minimum, provide what category the reason for rejection falls in to also provide some level of directional disclosure.

Additionally, there may also be a gap created by the Proposed Rule between the determination of a new activity and the normal business activities within the Enterprises. Specifically, when the Enterprises contemplate or evaluate any modification or change, ***everything*** not classified as a New Activity must be covered by an explicit exclusion. If a routine activity or modification within the Enterprises is neither classified as a New Activity nor covered by an exclusion, then a gap exists between those decisions and a New Activity. The result, in practice, would leave no autonomy in decision-making at the Enterprises without an exception from FHFA. In other words, the Proposed Rule does not clearly identify what “work” crosses the line between a modification (or even contemplation of a modification) into a New Activity as it relates to organizing both the day-to-day business of the Enterprises and any contemplated changes (i.e., New Activities and New Products).

We suggest FHFA consider either specifically define or tailor the new activity criteria more narrowly so that it is less likely to be broadly interpreted.

Depending on how FHFA resolves this potential ambiguity, our response to Question #3 would change. For example, if an explicit exception for modifications (or changes, additions, subtractions, etc) to the underwriting guidelines is so broad it could provide an exception to some modification that does increase incremental risk to the Enterprises. However, it’s difficult to tailor a modification exception that delineates between normal reactions to the market versus ones that pose new and different risks. The rule is likely to drive the Enterprises to submit all modifications to underwriting guidelines through FHFA. These modifications vary from small to significant impacting the treatment of consumers on a daily basis and yet the entities best positioned to evaluate and implement changes must outsource that function to FHFA reviewers.

3. **FHFA requests comments on how the exclusion for the automated underwriting systems as set forth in the Safety and Soundness Act should be applied to related but independent systems and to future technology systems.**

We support exclusion of automatic underwriting systems (as set forth in §1253.3(b)) from the requirements of the Proposed Rule. We believe the exclusion should cover any database used on a daily basis, and should extend broadly to other technology systems. These exclusions allow for the technology systems to be nimble and to make any small or iterative changes, which are especially important in the event of a natural disaster, crisis or extreme market shift and those changes are needed swiftly. Examples of services that should be included in this exclusion are

Collateral Underwriter, Condo Product Manager, Desktop Underwriter and Desktop Originator, Desktop Underwriter Validation Service, EarlyCheck, Uniform Collateral Data Portal, or any other services, APIs, or technology innovations that merely enhance ease of access to housing data.

4. **FHFA requests comments on whether the exclusions should be narrowed or expanded, consistent with the Safety and Soundness Act.**

   We believe the exclusions in the Proposed Rule should be expanded, which would eliminate the need for the Enterprises to seek FHFA approval unnecessarily. This includes pilots that have now become standards, such as the Desktop Underwriter Validation Service.

   Consistency with the Safety and Soundness Act can still be preserved if the exclusions are responsibly expanded. As written, the Proposed Rule creates a "step zero" where the actual activity required to *consider* a new activity may need to be covered by submitting a Notice of New Activity to FHFA. As such, an exclusion should also exist for the time frame and research required to determine whether something should be submitted as a New Product or New Activity. Additionally, an explicit exclusion should be available for market research, demonstrations, and evaluation of potential changes at the Enterprises.

   As stated above, we recommend clarifying and ensuring that the exemption related to "Any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an Enterprise" include the evidence-gathering and research activities necessary to prove that a modification to mortgage underwriting criteria is explicitly approved for the Enterprises.

6. **FHFA requests comment on whether the scope of the exclusion described in proposed § 1253.8 is too broad or too narrow, given the requirements of the Safety and Soundness Act.**

   §1253.8 of the Proposed Rule (regarding "availability of an approved new product and substantially similar approved new product to the other Enterprise") seeks to describe the scope of the "substantially similar" exclusion the same way as the exclusion for approved new products proposed at §1253.3(b)(4). The Act provides an exclusion to its requirements for prior approval for "other activities that have been approved by the Director."[13] Taken together, the Proposed Rule and the Act are convoluted at best in determining when the exclusions for an approved new product or substantially similar approved new product would even apply. There simply is no bright line in this regard to be able to ascertain if the exclusion in §1253.8 is too broad or too narrow.

   Moreover, the Proposed Rule provides no clarity or definition as to what "substantially similar" means for purposes of exclusion. This lack of clarity could present a chilling effect for the Enterprises because it leaves them unclear as to ***who*** determines what products are substantially similar –is it FHFA or the Enterprises?

10. **In addition to the questions asked above, FHFA requests comments on any aspect of the proposed Prior Approval for Enterprise Products rule.**

[13] See 12 U.S.C. 4541(e), §1321(e), Safety and Soundness Act.

We believe it would be a grave mistake to attribute the lack of innovation in the private investor mortgage market (outside the Enterprises processes and products) to pilots or new activities within the Enterprises. Instead, the lack of innovation is likely due to other investment opportunities as well as the general return versus risks associated with mortgage loans. Further, we have not observed other entities looking to create or innovate new appraisal modernization workflows, evaluate seasonal income calculations, and rigorously test self-employed or gig income sources and types. This Proposed Rule does not unlock innovation –at least as it relates to investor guidelines.

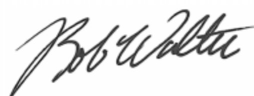
Over the last decade, the only path for innovation to occur in the mortgage industry has been through small, incremental advancements. While safety and soundness is the statutory basis for this Proposed Rule, it generally does nothing to enable or empower the mortgage market –it would only slow it down. This is not to suggest the market be put at risk solely for the sake of innovation; however, layering impediments upon the only existing processes and guideline innovation is neither necessary nor congruent with FHFA's stated purpose and missions. Moreover, while vendors may have different points of view in their responses to the Proposed Rule, ultimately investors must accept new changes and new innovations.

In conclusion, Quicken Loans recommends FHFA:

- Recognize innovation is core to FHFA and the Enterprises fulfilling their statutory missions and helping provide efficient, secure, and affordable access to mortgage credit for consumers;
- Should clearly define New Activity as separate from the day-to-day work of improving the Enterprises guidelines;
- Should consider either specifically defining or tailoring the new activity criteria more narrowly so that it is less likely to be broadly interpreted;
- Should remove the word "pilot" from the definition of a New Activity when finalizing the Proposed Rule as the word has never been clearly defined or consistently applied throughout the industry;
- Should extend exclusions to New Activities beyond the AUS and pricing changes to include process improvements and guideline improvements that are not best defined as a New Activity; and
- Should responsibly expand the explicit exclusion(s) to bring greater efficiency and allow for critical research and innovation

Quicken Loans looks forward to continued work with FHFA as it contemplates any framework considerations for new activities and products used by the Enterprises. Should you have any further questions, please contact Chrissi Johnson at (313)-373-0036 or at ChrissiJohnson@rockcentraldetroit.com.

Sincerely,



Bob Walters
President and Chief Operating Officer
Quicken Loans, LLC