May 12, 2023

Ms. Sandra Thompson
Director
Federal Housing Finance Agency
400 Seventh Street SW
10th Floor
Washington D.C. 20219

RE: Enterprise Regulatory Capital Framework Amendments (RIN 2590-AB27)

Dear Director Thompson:

The National Council of State Housing Agencies (NCSHA),[1] on behalf of the nation's state housing finance agencies (HFAs), thanks you for the opportunity to submit comments on the Federal Housing Finance Agency's (FHFA) proposed rule to amend several provisions of the Enterprise Regulatory Capital Framework (ERCF) for the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac.

NCSHA commends FHFA for proposing adjustments to the ERCF that better reflect market risk and will enable the GSEs and FHFA to carry out their mandates to support safe and sound financing for affordable multifamily housing and facilitate the availability of single-family mortgage financing nationwide. We are especially supportive of the proposal to lower the risk multiplier for multifamily properties that receive government subsidies – including from the Low-Income Housing Tax Credit (Housing Credit), Section 8 project-based rental assistance, and state and local affordable housing programs – by 40 percent.

We urge FHFA to consider, given the relative safety and critical public purpose of such investments, adjusting the risk multiplier further downward. We also ask that the risk multiplier for properties that receive funding through the HOME Investment Partnerships program (HOME) or tax-exempt multifamily Housing Bonds also be reduced.

[1] NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

Moving forward, we hope FHFA will continue to examine the ERCF to explore potential changes that will reflect market conditions and allow the GSEs to better fulfill their affordable housing missions.

Below are our responses to several questions FHFA posed in the proposed rule, as well as general comments on several other provisions.

Question 8: Is the 0.6 risk multiplier for multifamily mortgage exposures secured by properties with a government subsidy appropriately calibrated?

NCSHA strongly supports FHFA's proposal to apply a lower risk multiplier for multifamily mortgages on subsidized housing properties. This change will incentivize the GSEs to expand their financing of properties that need affordable capital and pose reduced risk because of the support of critical government housing programs, including the Housing Credit and Section 8 project-based assistance.

The ERCF does not currently differentiate between multifamily mortgage exposures backed by properties with government subsidies and mortgages backed by unsubsidized properties. This is despite the fact that, as FHFA notes in the proposed rule, properties with government subsidies rarely suffer losses. Further, a considerable share of the multifamily business both Fannie Mae and Freddie Mac conducts each year involves mortgages on properties with government subsidies, which has proven to be mutually beneficial for the GSEs, the properties, and their tenants. FHFA included such a differential in its 2017 Conservatorship Capital Framework for the GSEs, which the ERCF replaced, and in its 2018 proposed rule establishing capital standards for the GSEs.

We particularly appreciate that the proposed rule specifies that mortgages backed by properties financed by Housing Credit investments will be subject to the lower risk multiplier. Since its creation, the Housing Credit has become the most successful affordable rental housing production program in history. By providing an incentive for private-sector investment, the Housing Credit has financed more than 3.7 million apartments for low-income households, adding nearly 150,000 units to the inventory each year.[2] Studies consistently demonstrate that Housing Credit property delinquencies and foreclosures are very low.

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[2] National Council of State Housing Agencies, State HFA Factbook: NCSHA Annual Survey Results 2021, October 2022.

As our nation faces an unprecedented and growing affordable housing crisis, it is critical that the Housing Credit and other housing programs get as much support as possible. Consequently, we ask FHFA to consider reducing the risk multiplier for multifamily mortgages on government subsidized properties to a level lower than .6. According to FHFA's estimates, reducing the risk multiplier for multifamily mortgages on subsidized properties from 1 to .6 will lower the GSEs' capital requirements by $400 million combined, a relatively minimal amount considering the large amount of capital the GSEs are required to hold. This suggests that reducing the multiplier for such mortgages to a level below .6 may be feasible without posing significant risk to the GSEs' financial health.

Question 9: Is the restriction that at least 20 percent of units must be made available at or below 80 percent of AMI appropriately calibrated?

The proposed standard is appropriate for most programs. However, each state and locality have different housing needs. In some parts of the country, there is a need for programs that support affordable housing options for middle-income households in addition to lower-income households.

State HFAs and other state and local housing agencies set up their programs to meet the specific needs of their constituents. It would be counter-productive to make mortgages backed by properties supported by such programs ineligible for the reduced multiplier despite meeting a critical affordable housing need and posing little additional risk to the GSEs. Therefore, we ask FHFA to raise the income threshold or consider a process via which the GSEs could request that mortgages subsidized through state and local programs with different income standards be eligible for the reduced multiplier.

Question 11: Do FHFA's proposed categories of applicable government subsidies appropriately capture the population of multifamily government subsidies that are significant, long-term, and continuous?

The three categories of applicable subsidies enumerated in the proposed rule – the Housing Credit, Section 8 project-based rental assistance, and state and local affordable housing programs that require the provision of affordable housing for the life of the loan, are all appropriate choices. We ask FHFA to make two more federal affordable housing programs eligible for the reduced multiplier: the HOME Investment Partnerships program and tax-exempt private activity multifamily Housing Bonds.

The HOME program provides funding to state and local governments to support affordable housing activities for low-income families. States and localities target flexible

HOME funds to the particular needs of their communities, including the construction or preservation of multifamily housing.

The HOME program is targeted to help families most in need. All HOME funds must be used to benefit low-income households (at or below 80 percent of area median income, or AMI), and 90 percent of rental funds must benefit very low-income families (at or below 60 percent of AMI). HOME consistently has exceeded these requirements by assisting families with incomes below the HOME limits. For example, since 2013, more than 40 percent of those assisted with affordable rental housing have been extremely low-income families (at or below 30 percent of AMI). HOME rental units must remain affordable to low-income families for a period of 5 to 20 years, depending on the type and amount of HOME assistance they receive. New construction rental units must remain affordable for 20 years.

HFAs issue tax-exempt private activity multifamily Housing Bonds to finance the acquisition, construction, and rehabilitation of multifamily housing for low-income renters. Investors are willing to accept a lower rate of return for Housing Bonds than they would get on other investments because the interest on the bonds is exempt from federal income tax. The lower rate is passed on to lower the interest rate paid by developers of affordable rental housing.

Developments financed by multifamily Housing Bonds must set aside at least 40 percent of their apartments for families with incomes of 60 percent of AMI or less, or 20 percent for families with incomes of 50 percent of AMI or less. In total, state HFAs have utilized multifamily housing bonds to finance nearly 1.3 million apartments for lower-income families.

Both the HOME program and multifamily Housing Bonds have strong track records of supporting affordable housing options for those who need it most and posing little risk of default, making them ideal choices for the reduced risk multiplier. We recommend they be included in the list of eligible subsidies in the final rule.

Reduced Risk Requirements on Comingled Mortgage Securities

NCSHA supports FHFA’s proposal to reduce the risk weighting and credit conversion factor for guarantees of uniform mortgage-backed securities (UMBS) that contain loans guaranteed by both Fannie Mae and Freddie Mac. Lowering the capital requirements for such securities will increase their liquidity, thus increasing the liquidity in the single-family mortgage market in general. There appears to be no rationale for requiring higher risk standards for comingled securities than for those UMBS backed solely by loans from one of the GSEs.

Representative Credit Scores for Single-Family Mortgages

The proposed rule would change how the GSEs determine a home buyer's representative credit score for the purposes of the ERCF. The representative credit score determines how much capital the GSEs will need to hold for the loan and, consequently, impacts costs for the consumer. The proposed changes would ensure that home buyers would not have their representative credit score undeservedly lowered – and the cost of their loans increased – when the GSEs implement the bi-merge credit reporting requirement.

NCSHA thanks FHFA for initiating the positive changes contained in the proposed rule that would reduce costs for responsible low- and moderate-income home buyers while having minimal impact on the GSEs' finances. For the same reason, we also support FHFA's proposal to increase the original default credit score for single-family mortgage exposures without a permissible credit score at origination from 600 to 680.

Thank you again for the opportunity to comment on FHFA's proposed changes to the ERCF. Please let us know if we can provide any additional information as you consider our recommendations.

Sincerely,

Garth Rieman
Director, Housing Advocacy and Strategic Initiatives