CRE Finance Council
The Voice of Commercial Real Estate Finance

May 12, 2023

Clinton Jones
General Counsel
Attention: Comments/ RIN 2590-AB27
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20219

Re: Proposed Rules on Enterprise Regulatory Capital Framework
RIN 2590-AB27

Dear Mr. Jones,

The CRE Finance Council (CREFC) is pleased to provide comments on the Federal Housing Finance Agency's (FHFA's) Proposed Amendments to the Enterprise Regulatory Capital Framework (Proposal).[1]

CREFC comprises over 400 institutional members representing U.S. commercial and multifamily real estate investors, lenders, and service providers – a market with over $5 trillion of commercial real estate ("CRE") debt outstanding. Our principal functions include setting market standards, facilitating the free and open flow of market information, and education at all levels.

One of our core missions is to foster the efficient and sustainable operation of CRE securitizations. To this end, we have worked closely with policymakers to educate and inform legislative and regulatory actions to help optimize market standards and regulations for this important commercial and multifamily liquidity provider.

SUBSIDIZED HOUSING RISK MULTIPLIER

We welcome the FHFA's reintroduction of the 0.6x Subsidized Housing multiplier for multifamily mortgage exposures secured by one or more properties with at least one applicable government subsidy. We believe that the role of the Enterprises in ensuring the availability of capital for affordable and other under-served housing sectors is critically important and aligned with their publicly stated mission. As stated frequently in statements by FHFA officials and on

[1] Federal Housing Finance Agency, Notice of Proposed Rulemaking, *Enterprise Regulatory Capital Framework Commingled Securities, Multifamily Government Subsidy, Derivatives, and Other Enhancements*, 88 Fed. Reg. 15306 (M arch 13, 2023)

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the agency's website, one of their key strategic goals is to "foster housing finance markets that promote equitable access to affordable and sustainable housing.[2]

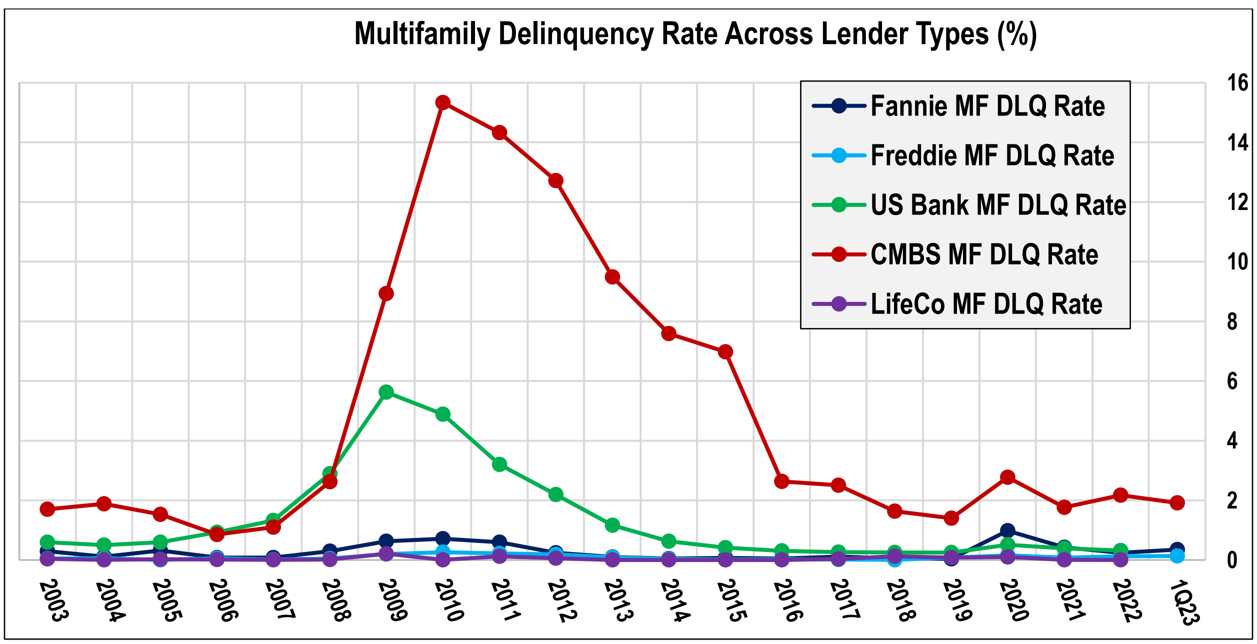
ADJUSTMENT TO MULTIFAMILY RISK WEIGHTS

Multifamily Risk-Weights Too High Relative to Single Family

The Proposal notes that several commenters on the FHFA's 2020 notice of proposed rulemaking on Enterprise capital recommended that the FHFA introduce a risk multiplier to reflect that multifamily mortgage exposures associated with government-subsidized properties are less risky than those associated with unsubsidized properties. We would like to reiterate the position we have made in previous comment letters that capital requirements for multifamily exposures **in general** are still too high. We believe that a reduction in risk weights for multifamily exposures would more accurately reflect the risk being addressed.

In our response to the FHFA's 2021 capital proposal, we noted that in the past, aggressive loan underwriting practices and significant shifts in the tax treatment of real estate helped propel building boom and bust cycles in real estate, including the multifamily sector. Underwriting practices have, however, improved significantly, now incorporating more conservative and robust assumptions in analyses of property performance and growth expectations over time and across cycles.

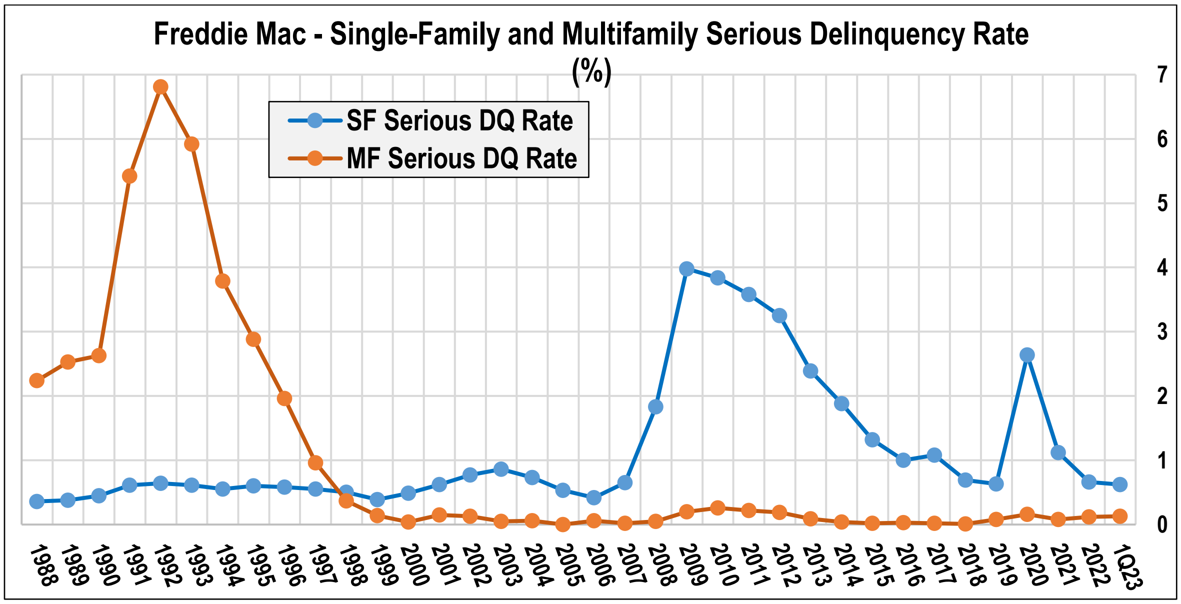
Furthermore, with data becoming increasingly transparent and credit analysis increasingly sophisticated, loan performance has improved. Multifamily's solid performance across all platforms during the COVID-19 crisis serves to substantiate that view, as demonstrated in the below graph.



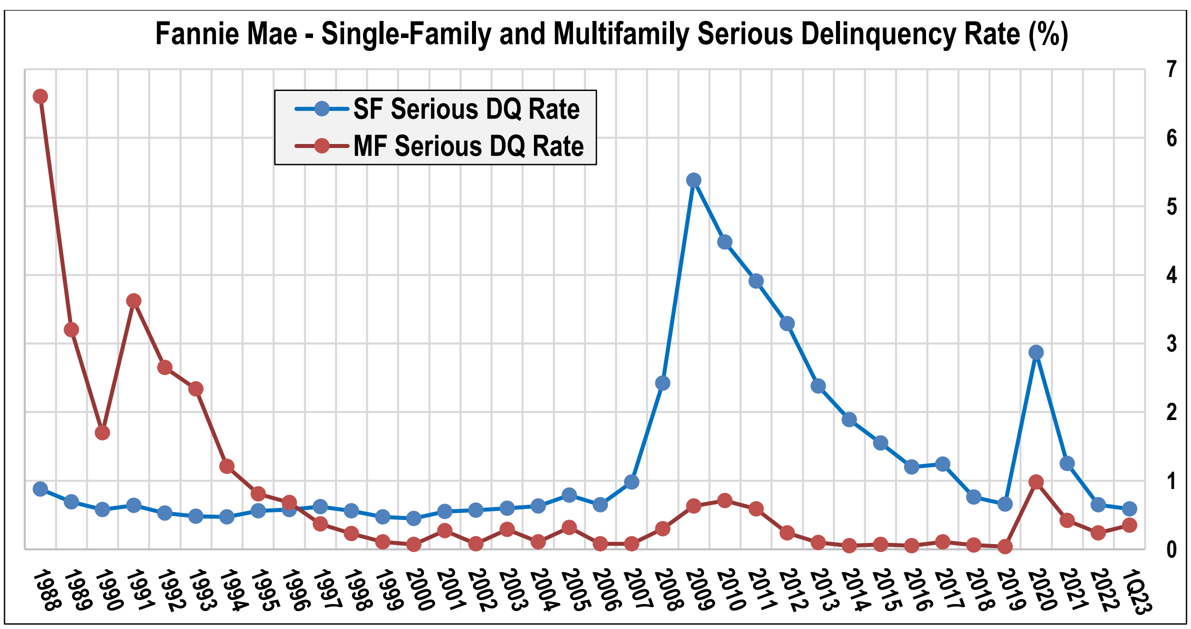
Source: *Fannie Mae, Freddie Mac, FDIC, ACLI, Intex, and Trepp. US Bank and CMBS delinquency rates are 30+ days, while all others are 60+ days.*

[2] https://www.fhfa.gov/AboutUs

Under FHFA's capital framework, as noted in the 2020 proposal, as of September 30, 2019, the Enterprises' average risk weights for single family and multifamily mortgage exposures would have been 26 percent and 51 percent, respectively.[3] However, as the graphs below demonstrate, capital requirements for multifamily exposures that are significantly higher than those for single-family lending do not reflect actual experience. During the financial crisis, Freddie Mac's single-family serious delinquency (DQ) rate peaked nearly 20 times higher than its multifamily serious DQ rate. As for Fannie Mae, single-family serious DQ rates were nearly nine times higher than its multifamily DQ rate.



***Source**: Freddie Mac.*



***Source**: Fannie Mae.*

[3] https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/FS.pdf. (These average risk weights are determined based on the credit risk capital requirements for single family and multifamily mortgage exposures after adjustments for mortgage insurance and other loan-level credit enhancements but before any adjustment for CRT.)

We are not suggesting that all multifamily risk is lower than single family risk, and support the recommendation in the DUS Advisory Council letter that capital multipliers should differentiate multifamily product subtypes with materially different risk profiles. **Overall, our strong view is that all multifamily risk weights should be reviewed – and potentially reduced – in the final capital rule.** The data underlying any decisions regarding risk weights should also be shared with the industry.

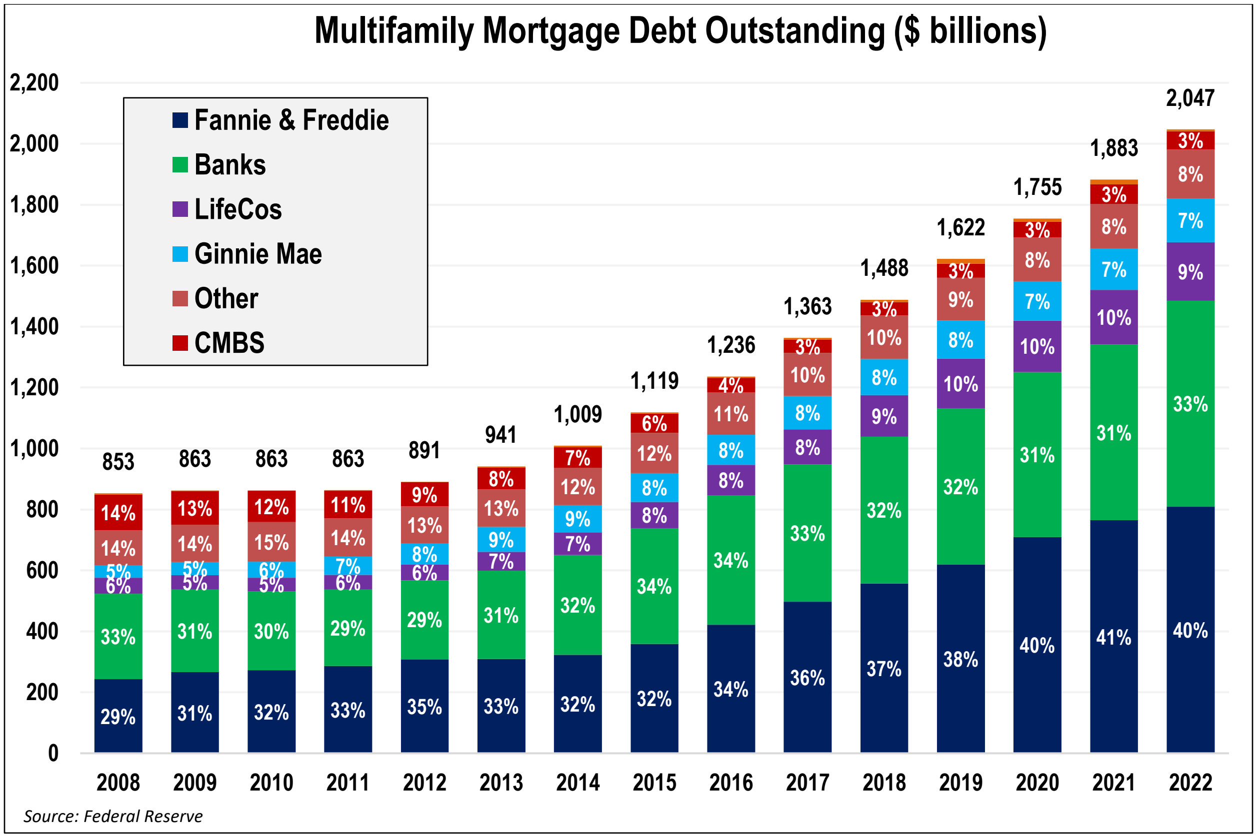
IMPORTANCE OF SECURITIZATION

Agency (100% multifamily) and Private-Label CMBS (all CRE asset classes, including multifamily) represent vital channels for delivering capital to finance America's main streets and homes. These markets ae among the most transparent and liquid in providing investors with detailed statistics and data on the underlying assets and monthly reporting on the performance of these assets. Additionally, the Enterprises' mandates to provide multifamily market liquidity and mission-driven affordable housing targets are made possible by a robust investor base, originators, servicers, and sponsors.

With high inflation triggering a breakneck pace of interest rate increases, borrowing costs for all sectors of commercial and multifamily real estate have risen significantly. Recent turmoil in the banking sector has further chilled credit availability. A robust securitization market allows investors to efficiently allocate capital and transparently distribute risk across the financial system to institutional investors rather than concentrating it solely in one lender type. Unnecessarily onerous capital requirements for CMBS will put pressure on borrowers to find debt capital elsewhere – and would exacerbate the already reduced liquidity as a result of the current banking crisis.

GREATER DIVERSITY IN MULTIFAMILY LENDING

Regardless of where multifamily risk-weights land, CREFC members continue to support greater diversity in multifamily lending, including increased private sector participation. As discussed in our previous comment letter, while we support the Enterprises' important role as leaders in the industry, the growth in their share of multifamily lending from 18 percent in 2000 to 40 percent in 2022 suggests that a prudent construct would allow for a more balanced and sustainable combination of public and private capital in this market. Encouraging additional private capital engagement in multifamily lending would not only diversify the multifamily sector, but also ensure appropriate and targeted levels of liquidity.



Source: Federal Reserve

Several of CREFC's non-Enterprise lenders have expressed their strong desire to increase multifamily exposure in their portfolios, stating that they cannot compete with the lower rates the Enterprises can offer. Given the sector's demonstrated cash-flow stability over time, greater participation in this market from non-Enterprise multifamily lenders would provide an increased level of safety and soundness for all institutions.

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We greatly appreciate this opportunity to comment on the proposed revisions to the Enterprise Regulatory Capital Framework, and look forward to working constructively with the FHFA on this important matter.

Sincerely,

Lisa Pendergast
Executive Director
CRE Finance Council