May 12, 2023

Mr. Clinton Jones

General Counsel
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20219

Attention: Comments/ RIN-2590-AB27, Enterprise Regulatory Capital Framework - Commingled Securities, Multifamily Government Subsidy, Derivatives, and Other Enhancements

Dear Mr. Jones:

The Housing Policy Council ("HPC")[1] appreciates the opportunity to submit this comment letter in response to the Federal Housing Finance Agency's ("FHFA") Notice of Proposed Rulemaking (the "NPR") on the Enterprise Regulatory Capital Framework (the "ERCF") for Fannie Mae and Freddie Mac (the "Enterprises").[2] HPC member companies have substantial engagement with Fannie Mae and Freddie Mac (the "Enterprises") as originators and servicers of residential mortgages that are securitized by the Enterprises, as counterparties to the Enterprises in credit risk transfer structures, and as private mortgage insurers that provide loan-level credit enhancement on certain Enterprise mortgages. As such, the members of HPC have a direct interest in the impact of the capital framework on the pricing and business decisions of the Enterprises, as well as the manner in which the capital framework contributes to a competitive, equitable, and sound housing finance system.

HPC appreciates FHFA's continued review of the ERCF and supports those proposed changes for which we have the relevant information needed to consider the impacts. That said, with regard to the agency's proposal to determine the representative credit score for single family mortgages by averaging the two scores used in the bi-merge credit report, we respectfully note that it is not possible to provide informed input without the release of historical data. This data release is scheduled for the fourth quarter of 2023, according to the FHFA's March announcement regarding the shift. Because stakeholders need data to assess the new methodology that will be used to determine the representative credit score, and, generally, changes to credit score requirements necessitate extensive back testing to properly estimate performance projections and pricing, this change to the ERCF should be made in conjunction with the finalization of that proposal.

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[1] The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers; mortgage, hazard, and title insurers; and technology and data companies. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth-building for families. For more information, visit www.housingpolicycouncil.org

[2] 88 Fed. Reg. 15306 (March 13, 2023)

The most important proposed modification to the ERCF is the reduction to 5% from 20% for the risk weight for guarantees on commingled securities. We agree with the FHFA position that this change will better support fungibility, "by reducing an Enterprise's incentive to only guarantee Supers securities collateralized by its own UMBS – a practice that could lead to different volumes and investor perceptions of UMBS issued by each Enterprise, and potentially to a bifurcation of UMBS pricing and trading."[3] The statement mirrors HPC's previous comments on this subject.

We support this modification as a step in the right direction. However, we continue to recommend that FHFA assign a zero-percent credit risk capital requirement for an MBS guaranteed by the other Enterprise. In our 2020 comment letter to the agency, we argued that any non-zero percent risk weight will result in a double capital charge on the securities underlying the MBS.[4] Although we are pleased that FHFA has now revisited this issue and reduced the risk weight, we still believe that is should be eliminated altogether.

To reiterate our argument here, we believe that the non-zero risk weight effectively requires added capital due to the use of UMBS without any corresponding change in risk. A non-zero risk-weight effectively requires FHFA-regulated capital be held two places for the same risk. That is, the proposal continues to result in a double capital charge on the securities underlying the UMBS as each Enterprise is required to record a charge not only for its own exposure, but also for the exposure of the other Enterprise, which already has taken a charge for that exposure, thus increasing capital beyond both Enterprises' aggregate total credit risk. If the capital rule works as designed, this means that each Enterprise is appropriately capitalized in relation to its risks, and thus there is no need for the Enterprises to hold capital for the risks that the other poses, as it is simply duplicative of risks already accounted for. Therefore, we reiterate our recommendation for a zero percent risk weight on these exposures.

Thank you for consideration of our recommendation.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
President
Housing Policy Council

[3] Fact Sheet: Proposed Rule to Amend the Enterprise Regulatory Capital Framework, February 23, 2023

[4] Housing Policy Council Comment Letter to FHFA August 31, 2020.