



**Mortgage
Insurance
Companies
of America**

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Executive Vice President

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Alfred M. Pollard, Esq.
General Counsel
Attention: Comments/RIN 2590-AA13
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552

Re: RIN 2590-AA13

Dear Mr. Pollard:

The Mortgage Insurance Companies of America (MICA) is pleased to comment on the notice of proposed rulemaking (NPR) of the Federal Housing Finance Agency (FHFA or the agency) that would establish guidance on prudential management and operations standards for the government-sponsored enterprises (GSEs).¹

MICA strongly supported this section of the Housing and Economic Recovery Act of 2008 (HERA) when it was enacted², and we encourage FHFA quickly to issue a final rule so that all of the GSEs can ensure that their internal controls, corporate governance and risk-management procedures are robust as strain in the residential-mortgage and overall financial markets continues. Even in conservatorship, Fannie Mae and Freddie Mac must ensure appropriate prudential operations so that the taxpayer is protected from risk related to ongoing operations.

In these comments, MICA will specifically address those sections of the NPR governing credit-risk management, an issue of particular importance to the private mortgage insurance (MI) industry. MIs insure Fannie Mae and Freddie Mac against the higher credit risk associated with mortgages where the loan-to-value (LTV) ratio is above eighty percent, as required by the GSEs' charters.³ MICA members also provide MI to the Federal Home Loan Banks (FHLBs), reducing the risk to them and, thus, the taxpayer related to various FHLB mortgage-purchase programs. MICA members have disciplined

¹ Federal Housing Finance Agency, *Proposed Rule: Prudential Management and Operations Standards* 76 Fed Reg. 35791 (June 20, 2011) available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-06-20/pdf/2011-15100.pdf>.

² The Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654, Sec. 1108.

³ See 12 U.S.C. § 1717 and 12 U.S.C. § 1454 respectively for Fannie Mae and Freddie Mac.

underwriting and model-validation procedures to ensure that the risk they insure for all of the GSEs is prudent and meets appropriate actuarial and state-regulatory standards. However, a vital double check for MICA members is robust internal credit-risk management procedures at all of the GSEs. We believe that much of the risk in the mortgage market now would have been averted had all of the GSEs put in place disciplined credit-risk management procedures and the broader risk-management framework now stipulated in the NPR, making it an essential part of the new regulatory framework needed to stabilize U.S. mortgage finance going forward.

With specific regard to the NPR, MICA offers the following comments and suggestions:

- We strongly support Principle 8 under Standard 9 (“Management of Credit and Counterparty Risk”) which requires the GSEs to make “informed” credit decisions. FHFA may wish to expand upon this to ensure that the GSEs’ credit-risk decisions are not only informed at the outset, but validated by back-testing and evaluated over time so that any needed improvements in credit-risk protocols are instituted in a timely fashion. FHFA may also wish to stipulate that, in connection with the guidance provided related to corporate governance, that senior management monitor performance under applicable credit-risk standards so that the number of exceptions are noted and any sizeable deviations from board-established risk tolerances are immediately identified and corrected. We also support Principle 10 which, similar to Principle 8, requires GSEs to have procedures in place to handle problem credits.
- MICA also supports Principle 9 in Standard 9, which instructs the GSEs to ensure that counterparty claims are “enforceable.” We would note that this is the case with private mortgage insurance, which operates under state-regulatory standards and law, including contract law, that ensure claims are enforceable. This is in sharp contrast to claims posed through credit default swaps (CDS) and similar instruments, where the definition of “default” that may trigger a claim is not a matter of law, but rather a decision by a group of industry participants in the applicable trade association. The complexities of assigning claims in complex instruments like CDS also make enforcement of claims highly complex, while mortgage insurance is provided by a single counterparty which is, as noted, required to honor valid claims.

- MICA also strongly endorses Principles 11 and 12 in Standard 9 which would ensure that the GSEs going forward have appropriate transparent stress-testing and validation procedures in place to protect themselves and financial markets from risk. It is of course important to reiterate the need for ongoing legal and regulatory compliance in all areas related to credit-risk management.

MICA would be pleased to provide FHFA with detailed suggestions on policies and procedures to implement these Principles and to be of whatever additional assistance FHFA may suggest with regard to ongoing efforts to enhance the safety and soundness of the GSEs.

Sincerely,

Suzanne C. Hutchinson