



441 G St. N.W.
Washington, DC 20548

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December 30, 2020

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Federal Housing Finance Agency; Department of Housing and Urban Development, Office of Federal Housing Enterprise Oversight: Enterprise Regulatory Capital Framework*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Housing Finance Agency (FHFA); Department of Housing and Urban Development, Office of Federal Housing Enterprise Oversight (OFHEO) entitled "Enterprise Regulatory Capital Framework" (RIN: 2590-AA95). We received the rule on November 19, 2020. It was published in the *Federal Register* as a final rule on December 17, 2020. 85 Fed. Reg. 82150. The effective date of this rule is February 16, 2021.

According to FHFA, it is adopting this final rule that establishes risk-based and leverage capital requirements for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). FHFA stated that the final rule also makes conforming amendments to definitions in FHFA's regulations governing assessments and minimum capital and removes the OFHEO regulation on capital for Fannie Mae and Freddie Mac.

Enclosed is our assessment of FHFA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Alfred M. Pollard
General Counsel
Federal Housing Finance Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL HOUSING FINANCE AGENCY;
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT
ENTITLED
“ENTERPRISE REGULATORY CAPITAL FRAMEWORK”
(RIN: 2590-AA95)

(i) Cost-benefit analysis

In its submission to us, Federal Housing Finance Agency (FHFA) indicated that it considered preparation of an analysis of the costs and benefits of this final rule to be not applicable.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The General Counsel of FHFA certifies that the final rule will not have a significant economic impact on a substantial number of small entities because the final rule is applicable only to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), which, according to FHFA, are not small entities for purposes of RFA.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, FHFA is not subject to the Act. See 2 U.S.C. §§ 658(1), 1502(1).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On June 30, 2020, FHFA published in the *Federal Register* a notice of proposed rulemaking seeking comment on a new regulatory capital framework for Fannie Mae and Freddie Mac. *Enterprise Regulatory Capital Framework*, 85 Fed. Reg. 39274 (proposed rule). According to FHFA, the proposed rule was a re-proposal of the regulatory capital framework set forth in a notice of proposed rulemaking published in the *Federal Register* on July 17, 2018. *Enterprise Capital Requirements*, 83 Fed. Reg. 33312. FHFA received 128 comments on the proposed rule from Fannie Mae and Freddie Mac, trade associations, consumer advocacy groups, private individuals, and other interested parties. FHFA addressed comments in the preamble of this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

According to FHFA this final rule does not contain information collection requirements as defined under PRA.

Statutory authorization for the rule

FHFA promulgated this final rule pursuant to sections 4511, 4513, 4513b, 4514, 4515, 4526, 4611, and 4612 of title 12, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FHFA is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FHFA is not subject to the Order.