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Washington, DC 20548

B-333259

May 18, 2021

The Honorable Sherrod Brown
Chairman
The Honorable Patrick J. Toomey
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: Resolution Planning*

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) entitled “Resolution Planning” (RIN: 2590-AB13). We received the rule on April 28, 2021. It was published in the *Federal Register* as a final rule on May 4, 2021. 86 Fed. Reg. 23577. The effective date is July 6, 2021.

FHFA stated that this final rule requires Fannie Mae and Freddie Mac (the Enterprises) to develop plans to facilitate their rapid and orderly resolution in the event FHFA is appointed receiver. According to FHFA, a resolution planning rule is an important part of FHFA's ongoing effort to develop a robust prudential regulatory framework for the Enterprises, including capital, liquidity, and stress testing requirements, as well as enhanced supervision, which will be critical to FHFA's supervision of the Enterprises, particularly in the event of an exit from conservatorship. FHFA asserts that requiring the Enterprises to develop resolution plans would support its efforts as receiver for the Enterprises to, among other things, minimize disruption in the national housing finance markets by providing for the continued operation of an Enterprise's core business lines by a limited-life regulated entity; ensure that private-sector investors in Enterprise securities, including Enterprise debt, stand to bear losses in accordance with the statutory priority of payments while minimizing unnecessary losses and costs to these investors. Lastly, FHFA stated that resolution planning will help foster market discipline in part through FHFA's publication of “public” sections of Enterprise resolution plans.

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.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Clinton Jones
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
ENTITLED
“RESOLUTION PLANNING”
(RIN: 2590-AB13)

(i) Cost-benefit analysis

In its submission to us, the 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 certified that this final rule will not have a significant economic impact on a substantial number of small entities because the final rule applies only to Fannie Mae and Freddie Mac (the Enterprises), which 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); 44 U.S.C. § 3502(5).

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

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

On January 8, 2021, FHFA published a notice of proposed rulemaking, associated with this final rule, in the *Federal Register*. 86 Fed. Reg. 1326. FHFA stated that it received 14 comments on the proposed rule, which included comments from each Enterprise, the Mortgage Bankers Association, the American Bankers Association, the National Association of Home Builders, the Housing Policy Council, the National Association of Realtors, the Center for Responsible Lending, and the Heritage Foundation, as well as comments from five individuals including a former Chief Executive Officer of Freddie Mac. According to FHFA, most comments were supportive of resolution planning generally, and many suggested areas where the proposed rule could be improved or clarified. FHFA addressed these comments by topic in the preamble of the final rule.

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

FHFA determined that this final rule does not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under PRA. Therefore, FHFA stated, it did not submit any information to OMB for review.

Statutory authorization for the rule

FHFA promulgated this final rule pursuant to sections 4511, 4513, and 4526 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.