FannieMae

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BY ELECTRONIC MAIL AND COURIER

Alfred M. Pollard, Esq.
General Counsel
Office of Federal Housing Enterprise Oversight
1700 G Street, NW
Fourth Floor
Washington, DC 20552

Re: Comments on Proposed Technical and Correcting Amendments to Risk-Based Capital Rule, RIN 2550-AA26

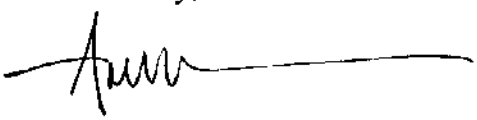
Dear Mr. Pollard:

Fannie Mae welcomes this opportunity to comment on the regulatory changes proposed in the September 12, 2002 *Federal Register* by the Office of Federal Housing Enterprise Oversight ("OFHEO"). *See* 67 Fed. Reg. 57760 (September 12, 2002). OFHEO characterizes these revisions as technical amendments that are intended to address certain provisions in the risk-based capital ("RBC") rule applicable to Fannie Mae and Freddie Mac that are out-of-date, incorrect, or contain typographical errors. *Id.* at 57761. The changes include, for example, language that would alter the RBC framework to account for the effect of Financial Accounting Standard 133 on total capital. *Id.* OFHEO states that the objective of this rulemaking proceeding is to enhance the accuracy of the RBC calculation. *Id.* at 57760.

Fannie Mae supports the proposed amendments to the RBC requirement. They reflect the commendable fact that OFHEO is committed to an ongoing technical review of the regulatory engineering of the RBC rule. Given the great complexity of the RBC construct, such an approach is central to the RBC requirement's proper functioning over time.

We understand that the complexities of the RBC transition period have raised many novel issues requiring quick action by the agency. Fannie Mae thinks it is vital, however, that OFHEO consider the important statutory requirements applicable to rulemaking proceedings under the Administrative Procedure Act as it continues to refine the rule. Specifically, under 5 U.S.C. §553(d), publication of a final rule in the *Federal Register*

must occur not less than thirty days before the rule becomes effective, except for good cause found and published with the rule. While the proposal, if adopted, would become effective immediately upon publication in the *Federal Register*, the preamble to the proposal offers no explanation whatsoever as to why the agency seeks to avoid the normal thirty-day delay in the effective date of the proposed revisions. In our view, this requirement is particularly important in situations where an agency has elected to offer interested parties an abnormally short comment period--only ten days, in this case.

Thank you.

Sincerely,