Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750

RIN 2550–AA03

Minimum Capital

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) proposes to issue a regulation for determining the minimum capital requirement for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). The proposed regulation defines the necessary terms and sets forth the methodology for computing the minimum capital level. The proposed regulation also establishes procedures for the filing of quarterly minimum capital reports by each Enterprise. In addition, the proposed regulation establishes procedures under which OFHEO will determine the capital classification of each Enterprise on a quarterly basis.

DATES: Written comments on the proposed regulation must be received by August 7, 1995.

ADDRESSES: All comments concerning the proposed regulation should be addressed to Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., 4th Floor, Washington, D.C. 20552. Copies of all communications received will be available for examination by interested parties at the Office of Federal Housing Enterprise Oversight.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel (202/414–3800); or Michael P. Scott, Assistant Director, Office of Research, Analysis and Capital Standards (202/

414–3800), 1700 G Street NW., 4th Floor, Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 *et seq.* (Act), established the Office of Federal Housing Enterprise Oversight (OFHEO). OFHEO is an independent office within the Department of Housing and Urban Development with responsibility for ensuring that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) are adequately capitalized and operating in a safe and sound manner. Included among the express statutory authorities of the Director of OFHEO is the authority to issue regulations establishing the capital level requirements.[1]

On February 8, 1995, OFHEO published an Advance Notice of Proposed Rulemaking[2] as the first step toward developing the risk-based capital regulation required by section 1361 of the Act.[3] The risk-based capital requirements will be based on a stress test to be developed by OFHEO. The stress test will determine the amount of capital that an Enterprise must hold to absorb the projected losses associated with credit and interest rate risks during a ten-year period of economic stress. That amount plus an additional 30 percent to cover management and operations risks will constitute the risk-based capital level of the Enterprise.

Separate from the risk-based capital requirements, section 1362 of the Act prescribes the minimum capital requirement for the Enterprises.[4] Unlike the risk-based capital requirements, which are based on the stress test, the minimum capital level is computed largely on the basis of statutorily established ratios that are applied to certain defined on- and off-balance sheet items of the Enterprises.

An Enterprise's capital serves as a cushion to absorb financial losses, thereby reducing the risk of failure. As

specified by the Act, the minimum capital level of an Enterprise represents an essential amount of capital needed as protection against the broad categories of risk in its businesses. The minimum capital level is not designed to address the risks of specific exposures within these categories. In addition, none of the capital levels specified in the Act represents the amount needed by an Enterprise to operate safely and soundly under all circumstances.

Section 1364 of the Act[5] requires the Director of OFHEO to determine the capital classification of each Enterprise not less than quarterly. The proposed minimum capital regulation provides procedures for each Enterprise to file a minimum capital level report each quarter and at other times, as required by the Director. In addition, it implements the provisions of section 1368 of the Act,[6] which require OFHEO to provide each Enterprise with notice and an opportunity to comment on its capital classification.

II. Interim Procedures

As discussed below, the Act specifies the minimum capital ratios applicable to on-balance sheet assets and to certain off-balance sheet obligations, *e.g.*, mortgage-backed securities (MBS), but requires adjustment of the minimum capital ratio applicable to other off-balance sheet obligations. Following the appointment of the Director of OFHEO, OFHEO implemented the statutory minimum capital and capital classification provisions by establishing, through administrative action, interim procedures for computing the minimum capital level. These interim procedures will continue to be used until the effective date of the final minimum capital regulation.

On-Balance Sheet Assets

The interim procedures apply the minimum capital ratio applicable to on-balance sheet assets as specified in section 1362(a)(1) of the Act.[7] That section establishes a minimum capital ratio of 2.50 percent of the aggregate on-balance sheet assets of the Enterprises determined in accordance with generally accepted accounting principles (GAAP).

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[1] Act, section 1313(b)(1) (12 U.S.C. 4513(b)(1)).
[2] 60 FR 7468, Feb. 8, 1995.
[3] 12 U.S.C. 4611.
[4] 12 U.S.C. 4612.

[5] 12 U.S.C. 4614.
[6] 12 U.S.C. 4618.
[7] 12 U.S.C. 4612(a)(1).