Proposed Rules

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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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 932, 955, 956, and 966

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1269 and 1273

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Parts 1720 and 1750

RIN 2590–AA40

Alternatives to Use of Credit Ratings in Regulations Governing the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Federal Home Loan Banks

AGENCIES: Federal Housing Finance Board; Federal Housing Finance Agency; and Office of Federal Housing Enterprise Oversight.

ACTION: Advance notice of proposed rulemaking; request for comment.

SUMMARY: A number of regulations applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), and the Federal Home Loan Banks (Banks), contain specific references to, or requirements based on, credit ratings issued by credit rating organizations registered with the Securities and Exchange Commission as nationally recognized statistical rating organizations (NRSROs). Section 939A of the recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides Federal agencies with one-year to review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings, and to remove such references or requirements. In this advance notice of proposed rulemaking (ANPR), the Federal Housing Finance Agency (FHFA) describes the relevant regulations affected by this provision of the Dodd-Frank Act and requests comments on potential alternatives to the use of credit ratings in these regulations.

DATES: Comments on the proposed rule must be received on or before March 17, 2011.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AA40 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the *Federal eRulemaking Portal,* please also send it by e-mail to FHFA at *RegComments@FHFA.gov* to ensure timely receipt by the agency. Please include "RIN 2590–AA40" in the subject line of the message.
- *E-mail:* Comments to Alfred M. Pollard, General Counsel may be sent by e-mail to *RegComments@FHFA.gov.* Please include "RIN 2590–AA40" in the subject line of the message.
- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA40, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA40, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Scott Smith, Associate Director, Office of Capital Supervision, 202–414–8922, Federal Housing Finance Agency; Thomas E. Joseph, Senior Attorney-Advisor, 202–414–3095; or Jamie Schwing, Associate General Counsel, 202–414–3787, Office of General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552; or Amy Bogdon, Associate Director for Regulatory Policy and Programs, Division of Federal Home Loan Bank Regulation, 202–408–2546 (these are not toll-free numbers), Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006. The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the ANPR, and will develop proposed regulations after taking all comments into consideration. Copies of all comments will be posted on the internet Web site at *https://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at 202–414–6924.

II. Background

A. Creation of the Federal Housing Finance Agency and Recent Legislation

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Enterprises, the supervisory and oversight responsibilities of the Federal Housing Finance Board (Finance Board) over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent) and certain functions of the Department of Housing and Urban Development. *See id.* at section 1101, 122 Stat. 2661–62. FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including that they maintain adequate capital and internal controls, that their activities foster liquid, efficient, competitive and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See id.* at section 1102, 122 Stat. 2663–64. The Enterprises, the Banks, and the OF continue to operate under regulations

promulgated by OFHEO and the Finance Board until such regulations are superseded by regulations issued by FHFA. *See id.* at sections 1302, 1312, 122 Stat. 2795, 2798.

B. The Enterprises

The Enterprises are chartered by Congress for the purpose of establishing secondary market facilities for residential mortgages. *See* 12 U.S.C. 1716 *et seq.;* 12 U.S.C. 1451 *et seq.* Congress established the Enterprises to provide stability in the secondary mortgage market for residential mortgages, to respond appropriately to the private capital market, to provide ongoing assistance to the secondary market for residential mortgages, and to promote access to mortgage credit throughout the nation. *Id.*

On September 6, 2008, the Director of FHFA appointed FHFA as conservator of the Enterprises in accordance with the Safety and Soundness Act, as amended by HERA. The Enterprises remain under conservatorship at this time. Although the Enterprises' substantial market presence has been important to restoring market stability, neither company would be capable of serving the mortgage market today without the ongoing financial support provided by the United States Department of Treasury. The Administration has announced its intention to develop and present to Congress a proposal for the future of the nation's housing finance system that will include a proposal for the ultimate resolution of the Enterprises in conservatorship. While reliance on the Treasury Department's backing will continue until legislation produces a final resolution to the Enterprises' future, FHFA is monitoring the activities of the Enterprises to: (a) limit their risk and exposure by avoiding new lines of business; (b) ensure profitability in their new books of business without deterring market participation or hindering market recovery; and (c) minimize losses on the mortgages already on their books.

C. The Bank System

The twelve Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).[1] *See* 12 U.S.C. 1423, 1432(a). The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank. *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430(b). Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential credit through its member institutions. *See* 12 U.S.C. 1427. Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock. *See* 12 U.S.C. 1424; 12 CFR part 1263.

As government-sponsored enterprises, the Banks are granted certain privileges under federal law. In light of those privileges, the Banks typically can borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity lower than most other entities. The Banks pass along a portion of their funding advantage to their members—and ultimately to consumers—by providing advances and other financial services at rates that would not otherwise be available to their members. Consolidated obligations (COs), consisting of bonds and discount notes, are the principal funding source for the Banks. The OF issues all COs on behalf of the twelve Banks. Although each Bank is primarily liable for the portion of COs corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal and interest on all COs. 12 CFR 966.9.

D. Dodd-Frank Act Provisions

Section 939A of the recently enacted Dodd-Frank Act requires Federal agencies within one-year to: (i) Review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument; and (ii) to the extent those regulations contain any references to, or requirements regarding credit ratings, remove such references or requirements. *See* section 939A, Public Law 111–203, 124 Stat. 1887 (July 21, 2010). In place of such credit-rating based requirements, agencies are instructed to substitute appropriate standards for determining credit-worthiness. The new law further provides that, to the extent feasible, an agency should adopt a uniform standard of credit-worthiness for use in its regulations, taking into account the entities regulated by it and the purposes for which such regulated entities would rely on the credit-worthiness standard. At the conclusion of the review, each agency is required to transmit a report to Congress describing the modifications to its regulations that were made.

A number of regulations applicable to the Enterprises or the Bank System (which were previously adopted by OFHEO or the Finance Board, but remain in effect, or more recently adopted by FHFA) contain specific references to credit ratings issued by NRSROs for purposes of assigning capital requirements or setting investment or counterparty exposure limits. FHFA is issuing this ANPR to help it assess how it can change these regulations and to identify standards that may be appropriate as replacements for credit ratings issued by NRSROs. Federal banking agencies have also issued ANPRs as part of their process to address similar issues with regard to references to credit ratings in their capital regulations and prudential standards. *See* 75 FR 49423 (Aug. 13, 2010), and 75 FR 52283 (Aug. 25, 2010). The specific FHFA regulations at issue are discussed more fully below.

E. Considerations of Differences Between the Banks and the Enterprises

Section 1201 of HERA requires the Director, when promulgating regulations relating to the Banks, to consider the following differences between the Banks and the Enterprises: cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. *See* section 1201 Public Law 110–289, 122 Stat. 2782–83 (*amending* 12 U.S.C. 4513). The Director also may consider any other differences that are deemed appropriate. While the Dodd-Frank Act mandates that each agency try, to the extent feasible, to develop uniform standards of credit-worthiness for use in its regulations in preparing any proposed rules, FHFA also will consider the differences between the Banks and the Enterprises as they relate to the above factors and how such factors may lead to differences between any standards ultimately adopted. To aid it in developing proposed regulations, FHFA requests comments from the public about whether or how differences related to these factors should be reflected in any possible regulations.

[1] Each Bank is generally referred to by the name of the city in which it is located. The twelve Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle. The twelve Banks and the OF are collectively referred to as, and considered to make up, the Bank System.

III. Request for Comments

A. Description of Applicable Regulations

The regulations in question can be divided into two broad categories. The first category contains regulations that relate to capital requirements and apply specific capital charges based on NRSRO ratings of financial instruments or counterparties. The second category involves prudential standards and limits that may be applied to a regulated entity or on a regulated entity's investment or other business activities that reference or are otherwise based on credit ratings issued by NRSROs.

1. Risk-Based Capital Requirements

a. Enterprises

The risk-based capital requirements applicable to the Enterprises apply capital charges in part based on reference to credit ratings issued by NRSROs. Soon after placing the Enterprises in conservatorship, FHFA announced that, although it would closely monitor Enterprise capital levels, existing statutory and FHFA-directed regulatory capital requirements would not be binding on the Enterprises during the conservatorship. Even though not currently binding, the regulations for the Enterprises described below are still in effect, and FHFA might need to adopt new risk-based requirements for the Enterprises or their successors in a post-conservatorship environment. Thus, the question of credit-worthiness in applying a risk-based credit charge is relevant in considering risk-based capital requirements.

The current Enterprise risk-based capital regulations set forth detailed criteria for a stress test that is used to estimate losses for an Enterprise over a specific period. Under the requirements, an Enterprise's total capital must be sufficient so that it would remain positive during the entire stress period. *See* 12 CFR 1750.13. One component of the test, the Counterparty Default component, accounts for the risk of default by credit enhancement and derivative contract counterparties, and by corporate, municipal and mortgage-related securities. 12 CFR part 1750, subpart B, Appendix A, section 3.5. In calculating the Counterparty Default component, the regulations establish five rating categories, and slot counterparties and securities into these categories by reference to ratings issued by an NRSRO for the counterparty or security. The regulations, in turn, specify the maximum reduction in cash flows during the stress period to reflect the risk of default by a counterparty or for a specific security based in part on the assigned ratings category. *Id.* The reduced cash flows decrease earnings, or increase losses, which then translate to lower equity during the stress test. The difference between equity during the binding month of the stress test and starting equity forms the basis of an Enterprise's risk-based capital requirement.

b. Banks

Similarly, the risk-based capital requirements applicable to the Banks require the Banks to hold risk-based capital sufficient to meet the credit risk capital requirement for all assets, off-balance sheet items, and derivative contracts. *See* 12 CFR 932.4. The credit risk capital requirement is calculated in large part based on the credit ratings assigned by the NRSROs to a particular counterparty or to a specific financial instrument, and on maturity. *Id.*

2. Prudential Requirements

The other area of FHFA regulations that may reference or otherwise be based on credit ratings issued by NRSROs involves prudential standards or limits that may be applied to a regulated entity or to its investment activity. This is especially true for the Banks, for which a number of regulations reference such ratings.

a. Enterprises

With regard to the Enterprises, the references to credit ratings are found in guidance on non-mortgage liquidity investments set forth in Appendix B to part 1720. 12 CFR part 1720, Appendix B. Specifically, the guidance states that, as a safety and soundness matter, the Enterprises should establish minimum credit standards for any security eligible for purchase, and if such standards involve or cite credit ratings, NRSRO ratings should be used. *Id.* at section C(3)(c)(i). The policy also provides that sound risk management practices include disclosure about the risk of non-mortgage liquidity investments, including disclosure concerning credit quality or ratings of investments. *Id.* at section D(1). These provisions, however, unlike many of the requirements that apply to the Banks, do not necessarily require the Enterprises to take or refrain from specific actions based on NRSRO ratings or to use NRSRO ratings for specific purposes and therefore may be outside the scope of section 939A of the Dodd-Frank Act.

b. Banks

There are currently six regulations that apply to the Banks which contain various provisions that reference credit ratings or impose limitations or other requirements on the Banks based on ratings issued by NRSROs. A brief description of these regulations follows.

Bank Capital, 12 CFR part 932. In addition to the specific credit risk capital charge provisions discussed above, other prudential provisions in the part 932 capital regulations reference NRSRO ratings and establish limits on Bank activity based on such ratings. First, a Bank, with the permission of FHFA, is allowed to reduce the operations risk component of its risk-based capital charge if the Bank obtains insurance to cover operations risk from an insurer with a credit rating no lower than the second highest investment grade rating from an NRSRO. 12 CFR 932.6(b)(2). To date, however, no Bank has ever relied on this provision or sought the regulator's approval to reduce its operations risk capital charge by obtaining insurance. The capital provisions also impose limits on a Bank's unsecured credit exposure to a single counterparty and group of affiliated counterparties, and set those limits based on credit ratings issued by an NRSRO. 12 CFR 932.9. The limits become more restrictive as the credit rating declines.[2]

Acquired Member Assets, 12 CFR part 955. The acquired member asset regulations authorize Banks to purchase certain mortgage loans from their members, subject to a number of conditions. Among these conditions, is one that requires pools of loans to be credit enhanced by the member to the equivalent of an instrument having at least the fourth highest credit rating from an NRSRO, or such higher rating as the Bank may require. 12 CFR 955.3(a) and (b). The Bank rating must be determined using a methodology that is comparable to one used by an NRSRO, and the Bank must obtain written confirmation from the NRSRO that its methodology is equivalent. *Id.;* 12 CFR 955.3(b)(4) and (c). In addition, the regulation requires that, to the extent a Bank allows supplemental loan-level mortgage insurance as part of its AMA credit enhancement, such

[2] In addition, regulations require that, before first implementing the capital structure plan required by the Gramm-Leach-Bliley Act (GLB Act), Public Law 106–102, 113 Stat. 1338 (1999), each Bank was to obtain a review from an NRSRO to determine whether implementation of the plan would affect the credit rating of the Bank. 12 CFR 933.3. Because eleven of the twelve Banks have implemented their capital structure plans, only one Bank remains subject to this provision. More importantly, this regulation implements a Bank Act provision that specifically requires this review, and therefore cannot be altered without a change to the statute, which the Dodd-Frank Act did not amend. 12 U.S.C. 1426(c)(6)(B).

insurance must be from an insurer rated no lower than the second highest credit rating category by an NRSRO. 12 CFR 955.3(b)(1)(ii)(A). These provisions are all meant to assure that the Banks only buy pools of high quality mortgages and to limit the Banks' exposure to credit losses from these pools.[3]

Investments, 12 CFR part 956.[4] A number of provisions in the investment regulation limit Bank investments by reference to the rating issued by an NRSRO for a particular instrument. First, the Banks are prohibited from investing in any debt instrument that is rated below investment grade by an NRSRO at the time the investment is made. 12 CFR 956.3(a)(3). Another provision, which sets forth exceptions to a general prohibition on a Bank's investment in mortgages or other whole loans, specifically allows for investment in marketable direct obligations of state, local, or tribal government units or agencies, having at least the second highest credit rating from an NRSRO where the purchase would generate customized terms, necessary liquidity, or favorable pricing for the issuer's funding of housing or community lending. 12 CFR 956.3(a)(4)(iii). As with other prudential requirements, these regulatory provisions are intended to limit a Bank's exposure to credit and other risks, arising from its investment activities.[5]

Consolidated Obligations, 12 CFR part 966. The regulations in part 966 governing COs contain a number of references to and requirements based on NRSRO ratings. FHFA already has identified these provisions and sought comment both on potential credit-worthiness standards that could be applied to replace these provisions and on other action FHFA could take with regard to them, when it proposed amending and transferring the regulations in part 966 in conjunction with the recent proposed rule on Bank liabilities. *See* Proposed Rule: Federal Home Loan Bank Liabilities, 75 FR 68534, 68536–37 (Nov. 8, 2010). FHFA will consider the relevant comments received on the proposed Bank liability rule, along with the comments on this ANPR.

Letters of Credit, 12 CFR part 1269.[6] The regulation provides that a standby letter of credit issued or confirmed by a Bank on behalf of a member to assist the member in facilitating residential housing finance or community lending may be collateralized by obligations of a state or local government unit or agency, if the obligation is rated investment grade by an NRSRO. 12 CFR 1269.2(c)(2).

Office of Finance, 12 CFR part 1273.[7] The regulation assigns to OF the responsibility to manage the Bank System's relationship with NRSROs with regard to NRSRO ratings for COs. Because this provision does not impose a substantive requirement based on credit ratings issued by an NRSRO, but instead only assigns to OF the responsibility to manage the Bank System's relationship with NRSROs in connection with the rating of COs, the provision may be outside the scope of the Dodd-Frank Act.

B. Questions on Potential Changes to Credit-Worthiness Standards

1. Principles for a New Approach

Using NRSRO ratings in the regulations provided a supposedly objective, and neutral, third-party assessment of the credit risk of particular instruments and counterparties. The ratings also were transparent in that they were readily available to regulators, the regulated entities and the public at large, and information about changes in ratings was quickly made available. The use of NRSRO ratings also helped assure consistency in credit risk capital charges across regulated entities that were subject to the same rules with regard to a particular counterparty or financial instrument. The NRSRO ratings approach was also fairly straightforward to apply and did not create an undue burden on the regulated entities. Ideally, these general principles would carry over to any new approach, but now such principles must be achieved without reference to a third-party ratings system such as those developed by the NRSROs.

Specifically, FHFA believes that any new standard of credit-worthiness should: (i) Distinguish between different levels of credit risk, in an accurate and meaningful manner; (ii) be a transparent approach; (iii) be able to be applied consistently across regulated entities to the extent that they are subject to the same regulatory requirements; (iv) be straightforward and not unduly burdensome to apply; and (v) not be readily subject to manipulation. FHFA recognizes that there may be trade-offs among these principles. For example, an approach that is fairly standard and easy to apply may not sufficiently capture differences between high and low risk exposure and thereby may create perverse investment incentives. On the other hand, an approach that attempts to differentiate levels of credit risk may be complex or burdensome to apply and may not be readily transparent. In consideration of the alternative standards for determining credit-worthiness, we request comments on the following questions.

Question 1: What core principles would be most important in FHFA's development of new standards of credit-worthiness? Which principles are least important to developing robust new standards? Are there principles in addition to those above that should be incorporated into new standards? Do differences in the business models, structures and core mission and activities of the Banks and the Enterprises justify or compel developing approaches that may emphasize different core principles depending on whether the rule applies to the Banks or the Enterprises?

2. Alternative Approaches for Risk-Based Capital Requirements

In order for FHFA to eliminate the use of NRSRO ratings in calculating risk-based capital charges for regulated entities, it would need to develop an alternative basis on which it could assess credit risk capital charges. One approach would be to identify objective criteria that could be applied by each regulated entity in order to categorize credit exposures into different "buckets" and assess credit charges accordingly. The criteria could be broadly designated. For example, credit exposures could be divided into government and non-government, secured and un-secured, or other such categories, including maturity. Such a broad approach, however, may not be able to sufficiently and consistently

[3] In addition to these provisions, the AMA regulation also contains a capital provision which is applicable only to Banks that have not converted to the GLB Act capital structure. This provision sets capital charges on AMA pools whose credit risk is estimated by the Bank to be greater than that of an instrument receiving the second highest investment grade rating from an NRSRO. 12 CFR 955.6. Because eleven of the twelve Banks have converted to the GLB Act capital structure, only one Bank remains subject to this provision.

[4] In May 2010, FHFA proposed re-organizing the investment regulations in part 956 and transferring the regulations to 12 CFR part 1267. 75 FR 23631 (May 4, 2010).

[5] In addition to these provisions, the investment regulation also contains a capital provision which is applicable only to Banks that have not converted to the GLB Act capital structure. This provision sets capital charges on investments that have a putative rating below the second highest investment grade or are not rated by an NRSRO. 12 CFR 956.4. Because eleven of the twelve Banks have converted to the GLB Act capital structure, only one Bank remains subject to this provision.

[6] The Letters of credit regulations were transferred from 12 CFR part 960 to 12 CFR part 1269, effective March 26, 2010. 75 FR 8239 (Feb. 24, 2010).

[7] The regulations governing the OF were transferred from 12 CFR part 985 to 12 CFR part 1273, effective June 2, 2010. 75 FR 23152 (May 3, 2010).

account for difference in riskiness among exposures that fall into the same category.

FHFA could also consider adopting criteria that reference certain financial or other metrics related to the obligor or counterparty. To be meaningful, the criteria would need to account for or bear a reasonable correlation to the potential riskiness of default among different obligors or counterparties. Any criteria would also need to be readily obtainable by both FHFA and the regulated entities if this approach is to be workable.

Question 2: What types of objective criteria could be used to differentiate credit exposures and apply meaningful credit risk capital charges? Should different criteria be used for different broad classes of investments or exposures? Could there be perverse incentives or other "downsides" to this approach? What might be the problems with this approach?

Another approach could be to build on each regulated entity's internal credit review process and allow an entity to assign exposure to various categories and assess risk charges based on qualitative and quantitative standards set by FHFA. For example, FHFA could assign limits or capital requirements based on regulated entities' internal ratings or some modification of such, as reviewed or approved by FHFA. This approach would be more subjective than the alternative discussed above but could allow FHFA to leverage the data collection and analysis already performed by the regulated entities.

Question 3: What qualitative and quantitative standards would FHFA need to set to implement an approach that relied on the regulated entities to generate internal estimates of credit risk exposures? What are the strengths and weaknesses of such an approach? What would be the strengths and weaknesses of having FHFA itself set credit risk capital charges based on its own estimates of risk?

Question 4: In order to apply a meaningful risk-based capital charge, FHFA needs to set forth requirements for the regulated entities to estimate the credit risk of their various exposures. Could an approach be developed that estimates a meaningful risk-based capital charge that avoids requiring a specific credit risk charge or specifying criteria to estimate credit risk? What might such an approach be?

3. Alternative Approaches to Prudential Regulations

FHFA could follow various approaches in replacing the NRSRO-referenced requirements in the regulations described above. One approach could be to require a regulated entity to analyze and document compliance with certain specific credit-worthiness standards or metrics set forth by FHFA. These standards would need to assure that the investment or activity is not speculative in nature, and instead carries credit risk appropriate for the regulated entity's risk profile and risk management practices. FHFA could also require the regulated entity to consider specific, broader investment criteria that go beyond credit-worthiness considerations in its analysis.

FHFA could also rely on the regulated entity's internal credit assessment process and let the regulated entities decide on what specific investments or exposures may be appropriate. Under this approach, FHFA would likely need to provide regulatory and policy guidance on how any internal credit assessment process is to be structured and to rely heavily on the supervisory process to make sure that the regulated entities are strictly following their own guidelines and are not assuming high levels of credit risk.

Finally, some of the regulations described in this ANPR could be deleted without necessarily exposing the regulated entities to significant risks. At the same time, FHFA could consider other approaches, such as a prohibition on investment in broad categories of instruments or on assumption of particular types of exposures to replace the ratings based requirements.

Question 5: What are the strengths and weaknesses of these various approaches? Are there any existing, objective tools or approaches that could readily replace references to ratings issued by NRSROs in the regulations discussed in this ANPR? Are there other approaches not discussed above that may be appropriate?

Question 6: What specific credit-worthiness or investment criteria should FHFA incorporate into a new regulation, if it decided to adopt such a regulation? For example, should FHFA limit investments by regulated entities to securities that would be eligible investments for money market funds, or to securities with original maturities of one-year or less, or based on other objective criteria? What principles would FHFA need to incorporate into any regulation or policy that was meant to govern a regulated entity's internal credit assessment process?

Question 7: Can any of the current prudential requirements that reference NRSROs or credit ratings be eliminated without compromising FHFA's ability to monitor and promote the safe or sound operations of the regulated entities?

Question 8: Is it important that FHFA's approach to replacing requirements in its regulations that reference credit ratings issued by NRSROs be consistent with that of other financial regulators, especially federal banking agencies?

Question 9: What are some other safeguards or requirements (not necessarily based on credit-worthiness standards) that might provide protections similar to those afforded under FHFA's current regulations that reference ratings issued by NRSROs?

Dated: January 25, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–2041 Filed 1–28–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 5 and 119

[Docket No. FAA–2009–0671; Notice No. 10–15]

RIN 2120–AJ86

Safety Management System for Part 121 Certificate Holders; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); Extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on November 5, 2010. In that document, the FAA proposed to require each certificate holder operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve its aviation related activities. Several trade and membership organizations representing various aviation industry segments have requested that the FAA extend the comment period closing date to allow time to adequately analyze the NPRM and prepare comments.

DATES: The comment period for the NPRM published on November 5, 2010, closing on February 3, 2011, is extended until March 7, 2011.

ADDRESSES: You may send comments identified by docket number FAA–2010–0997 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.