

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 AGENCY

12 CFR Part 1227

RIN 2590–AB23

Suspended Counterparty Program

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is proposing to amend its Suspended Counterparty Program (SCP) regulation by removing the term “reputational harm.” This amendment would eliminate redundancy and affirm that FHFA’s supervision of counterparty risk is based on material and measurable risks.

DATES: Written comments must be received on or before August 12, 2026.

ADDRESSES: You may submit your comments, identified by regulatory information number (RIN) 2590–AB23, by any of the following methods:

- *Agency website:* <https://www.fhfa.gov/regulation/federal-register?comments=open>.
- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB23.

- *Hand Delivered/Courier:* The hand delivery address is: Federal Housing Finance Agency, Attention: Comments/RIN 2590–AB23, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance 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: Federal Housing Finance Agency,

Attention: Comments/RIN 2590–AB23, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT:

Chris Bederka, Senior Counsel, Office of General Counsel, Christopher.Bederka@fhfa.gov, (202) 510–0950. This is not a toll-free number. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of this proposed rule and will take all comments into consideration before issuing a final rule. Comments, including any personally identifiable information such as name and contact information, will be posted to the electronic rulemaking docket on the FHFA public website at <http://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA’s internal rulemaking file and will be considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA’s *Policy on Communications with Outside*

Parties in Connection with FHFA Rulemakings, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA’s *FOIA Reference Guide* <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

II. Background

The current SCP regulation requires the Federal Home Loan Mortgage Corporation (Freddie Mac) and any affiliate thereof, the Federal National Mortgage Association (Fannie Mae) and any affiliate thereof (individually, an Enterprise and together, the Enterprises), and any Federal Home Loan Bank (Bank) (collectively, the regulated entities) to submit a report to FHFA when it becomes aware that an individual or institution with which it is doing or has done business has been found within the past three years to have committed actions the SCP regulation defines as covered misconduct. FHFA may issue proposed suspension orders based on the reports it has received from the regulated entities, a referral submitted by the FHFA Office of Inspector General, or based on other information. Both the affected individual or institution and the regulated entities have an opportunity to respond to any proposed suspension order.

Under the current SCP regulation, FHFA may issue a final suspension order based on a written record, if the record shows that the underlying misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity. Final suspension orders direct the regulated entities to cease or refrain from doing business with the suspended individual or institution. The affected individual or institution may appeal a final suspension order to the FHFA Director.

Orders issued under the SCP regulation fall within FHFA’s general supervisory authority over the regulated entities, specifically its authority under sections 1313, 1313B, and 1319G of the Safety and Soundness Act. Section

1313B of the Safety and Soundness Act authorizes FHFA to establish standards, by regulation or guideline, for each regulated entity regarding prudential management of risks. *See* 12 U.S.C. 4513b. The Director may also require by order that the regulated entities take any action that will best carry out the purposes of that section. *See* 12 U.S.C. 4513b(b)(2)(B)(iii). Section 1319G(a) of the Safety and Soundness Act authorizes FHFA to issue any regulations, guidelines, or orders necessary to ensure that the purposes of the Safety and Soundness Act and the Enterprise charter acts are accomplished. *See* 12 U.S.C. 4526(a). Finally, section 1313(a)(2) of the Safety and Soundness Act authorizes FHFA to exercise such incidental powers as may be necessary in the supervision and regulation of each regulated entity. *See* 12 U.S.C. 4513(a)(2).

III. Proposed Amendment

Under the existing SCP regulation, FHFA may issue a proposed or final suspension order if a respondent meets a two-prong test. First, the respondent must engage in covered misconduct. Second, the covered misconduct must be of a type that would be likely to cause significant financial or *reputational* harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity.¹ The SCP regulation defines covered misconduct as “[a]ny conviction or administrative sanction within the past three (3) years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offense, in each case in connection with a mortgage, mortgage business, mortgage securities or other lending product.”²

FHFA’s experience implementing the SCP regulation has demonstrated that the inclusion of “reputational harm” in the second prong is unnecessary because all covered misconduct inherently involves a risk of financial harm or potential threat to the safety and soundness of the regulated entities. For example, a counterparty convicted of fraud in connection with a mortgage security inherently presents a risk of financial harm to a regulated entity, making reputational harm a redundant consideration for purposes of the SCP. Consequently, eliminating reputational harm would not cause counterparties that committed covered misconduct to avoid suspension because those

counterparties would still meet the financial harm or safety and soundness risk prong.

Moreover, FHFA believes that the inclusion of the concept of “reputational harm” as a basis for regulatory action increases subjectivity and uncertainty in regulation. Although FHFA recognizes the importance of its regulated entities’ reputations, most activities that could negatively impact a regulated entity’s reputation do so through the traditional risk channels FHFA closely monitors (*e.g.*, credit risk, market risk, and operational risk, among others). Focus on reputational harm potentially diverts agency resources from more salient risks without adding material value from a safety and soundness perspective. To improve the efficiency and effectiveness of FHFA supervision and regulation, FHFA proposes to remove reputational harm from the SCP regulation. The proposed removal of reputational harm would align FHFA with other financial regulators that are removing reputational risk from their supervisory programs and regulations.³

The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (FDIC) issued a joint notice of proposed rulemaking that would codify the removal of reputation risk from their supervisory programs and prohibit the agencies from criticizing, formally or informally, or taking adverse action against an institution or any employee of an institution on the basis of reputation risk.⁴ The FDIC also announced that it removed references to reputation risk from its guidance, policy documents, and examination manuals.⁵ The National Credit Union Administration separately issued a notice of proposed rulemaking to codify the elimination of reputation risk from its supervisory program.⁶

³ President Donald J. Trump signed Executive Order 14331, titled “Guaranteeing Fair Banking for All Americans,” on August 7, 2025. Executive Order 14331 directed each appropriate Federal banking regulator to remove the use of reputation risk or equivalent concepts from their guidance documents, manuals, and other materials used to regulate or examine financial institutions over which they have jurisdiction. FHFA is not a Federal banking regulator as contemplated by the Executive Order, however, FHFA is aligning with other financial regulatory agencies to promote consistency.

⁴ 90 FR 48825 (Oct. 30, 2025).

⁵ Agencies Issue Proposal to Prohibit Use of Reputation Risk by Regulators; FDIC Removes References to Reputation Risk from Examination and Other Materials, FDIC (Oct. 7, 2025), available at <https://www.fdic.gov/news/financial-institution-letters/2025/agencies-issue-proposal-prohibit-use-reputation-risk>.

⁶ 90 FR 48409 (Oct. 21, 2025).

Accordingly, the proposed rule would amend §§ 1227.5(b)(2) and 1227.6(a)(2) to remove the term “or reputational.” The amended language would read “The covered misconduct is of a type that would be likely to cause significant financial harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity.” Section 1227.9(b) and (c), detailing the process for requesting a reconsideration of a suspension order, would similarly be amended to remove the term “or reputational.” For the foregoing reasons, FHFA proposes amending the Suspended Counterparty Rule.

IV. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act requires FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Enterprises and the Banks with respect to the Banks’ cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; joint and several liability; and any other differences FHFA considers appropriate. *See* 12 U.S.C. 4513(f). In preparing this proposed rule, FHFA considered the differences between the Banks and the Enterprises as they relate to the above factors and determined that the Banks should not be treated differently from the Enterprises for purposes of the proposed rule. The public may comment on whether these differences should result in any revisions to the proposed amendment.

V. Regulatory Impact

A. Paperwork Reduction Act

The proposed rule does not contain any information collection requirement that requires the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation’s impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities (5

¹ 12 CFR 1227.5(b).

² 12 CFR 1227.2.

U.S.C. 605(b)). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

C. FHFA Alignment With Administration Policy

On February 19, 2025, the President issued Executive Order 14219 under which federal agencies are required to review all regulations subject to their jurisdiction and repeal, as appropriate, regulations inconsistent with law or policy.⁷ Administration policy includes the policy to be “prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens.”⁸ Administrative priorities include lowering the cost of housing and expanding housing supply.⁹ Administration policies also include, under Executive Order 14173, protecting the civil rights of all Americans, terminating discriminatory and illegal preferences, programs, and activities, and combating illegal private sector diversity, equity, and inclusion preferences, policies, programs, and activities;¹⁰ and, under Executive Order 14151 terminating to the maximum extent allowed by law, all equity programs or action plans.¹¹ Further, Administration policy is to focus enforcement resources on regulations that are squarely authorized by constitutional Federal statutes and to reduce regulatory burden.¹² FHFA believes that amending part 1227 will align with one or more of these policies.

D. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), a determination must be made whether a regulatory action is significant and therefore subject to review by the OMB in accordance with the requirements of

the Executive Order.¹³ Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.¹⁴ This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OMB has determined that this proposed rule is a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, but not an “economically significant regulatory action” as defined in section 3(f)(1). Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.¹⁵ This proposed rule, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action.

VI. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *regulations.gov*). The proposal and the required summary can be found at www.regulations.gov.

List of Subjects in 12 CFR Part 1227

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4526, FHFA proposes to amend part 1227 of chapter XII of title 12 of the Code of Federal Regulations as follows:

SUBCHAPTER B—ENTITY REGULATIONS

PART 1227—SUSPENDED COUNTERPARTY PROGRAM

■ 1. The authority citation for part 1227 continues to read as follows:

Authority: 12 U.S.C. 4513, 4513b, 4514, 4526.

¹³ 58 FR 51735 (Oct. 4, 1993).

¹⁴ 76 FR 3821 (Jan. 21, 2011).

¹⁵ 90 FR 9065 (Feb. 6, 2025).

PART 1227—[Amended]

■ 2. In part 1227, remove the text “or reputational”, wherever it appears.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2026–14036 Filed 7–10–26; 8:45 am]

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1272

RIN 2590–AB52

Federal Home Loan Bank New Business Activities

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of Proposed Rulemaking; repeal of 12 CFR part 1272.

SUMMARY: The Federal Housing Finance Agency (“FHFA” or the “Agency”) is requesting comment on this notice of proposed rulemaking repealing the New Business Activities regulation.

DATES: FHFA will accept written comments on the proposed rule on or before August 12, 2026.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB52, by any one of the following methods:

- **Agency Website:** <https://www.fhfa.gov/regulation/federal-register?comments=open>.
- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB52.

• **Hand Delivered/Courier:** The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB52, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance 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: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB52, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC

⁷ Executive Order 14219 (February 19, 2025), section 2, at 90 FR 10583 (Feb. 25, 2025).

⁸ Executive Order 14192 (January 31, 2025), section 2, at 90 FR 9065 (Feb. 6, 2025).

⁹ Presidential Memorandum of January 20, 2025, at 90 FR 8245 (Jan. 28, 2025).

¹⁰ Executive Order 14173 (January 21, 2025), section 2, at 90 FR 8633 (Jan. 31, 2025).

¹¹ Executive Order 14151 (January 20, 2025), section 2(b)(i), at 90 FR 8339 (Jan. 29, 2025).

¹² Executive Order 14219 (February 19, 2025), section 1, at 90 FR 10583 (Feb. 25, 2025).