



November 25, 2008

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, D.C. 20429

Attention: Comments/Legal ESS

Re: FDIC – RIN 3064-AD34
Minimum Capital Ratios; Capital Adequacy Guidelines; Capital Maintenance;
Capital: Treatment of Certain Claims on or Guaranteed by the Federal National
Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage
Corporation (Freddie Mac)

Dear Mr. Feldman:

On behalf of Capmark Bank I appreciate the opportunity to comment on the joint notice of proposed rulemaking published in the Federal Register on Monday, October 27, 2008, that proposes to allow banking organization to assign a 10 percent risk weight to claims on, and portions of claims guaranteed by Fannie Mae and Freddie Mac (“Proposed Rule”).

I commend the agencies for their joint effort to reduce the capital requirement of banking organizations holding Fannie Mae and Freddie Mac obligations. However, I have concerns as set forth below that the exclusion of the Federal Home Loan Banks (“FHLBanks”) is a significant and unfortunate oversight. I fear that if the Proposed Rule is promulgated, without appropriate amendment, it may result in unintended adverse consequences for the banking system that are particularly troubling during this time of economic stress.

First, with the exclusion of the FHLBanks the Proposed Rule suggests that agencies of the U.S. government do not support the FHLBanks and their mission to the same degree they support Fannie Mae and Freddie Mac. Such a perception does not make sense in the context of other recent actions for several reasons. First, Congress created a new regulator, the Federal Housing Finance Agency (FHFA) to oversee all of the housing government-sponsored enterprises (GSEs) including the FHLBanks. Second, when the new regulator took control of Fannie Mae and Freddie Mac, the director of the FHFA

remarked that the FHLBanks are performing remarkably well and are well capitalized. Third, the U.S. Treasury is providing the same temporary backstop funding facility to all of the housing GSEs through the GSE Credit Facility. Finally, the New York Fed is providing support for the FHLBanks, as well as for Fannie Mae and Freddie Mac, by purchasing their discount notes in recent open market operations.

Second, and perhaps my greatest concern, the Proposed Rule will result in further increases in the cost of advances available from the FHLBanks. Despite the recent actions mentioned above, spreads between FHLBank senior debt and comparable bonds issued by Fannie Mae and Freddie Mac have widened since these entities were placed in conservatorship by the FHFA. If investors continue to believe that the obligations of the FHLBanks are somehow less creditworthy than those of Fannie Mae and Freddie Mac, they will continue to demand higher yields on FHLBank bonds, resulting in higher advance rates—at a time when the banking industry is already challenged in its ability to support housing finance and economic growth. The lower risk weighting also makes FHLBank debt less attractive than debt issued by Fannie Mae and Freddie Mac for investors that are insured institutions, since those investors would have to hold twice as much capital to support the same level of investment.

Thousands of community banks depend upon the FHLBanks for access to liquidity and competitively priced funding. FHLBank advances enable the country's banking institutions to offer mortgages and small business loans at competitive and affordable costs in communities nationwide. I sincerely doubt that the federal banking agencies wish to raise the cost of funds for banks in this troubled market.

On behalf of Capmark Bank, I strongly urge the FDIC, the Comptroller of the Currency, the Federal Reserve Board Governors, and the OTS to continue to provide equal treatment regarding the debt securities of all of the housing GSEs with regard to risk-based capital rules. I believe this to be the course of action that achieves the most favorable outcome for all stakeholders in the housing GSEs during this extraordinary time of financial crisis.

In advance, thank you for your careful consideration of my comments. Should you have any questions regarding my comments, please do not hesitate contacting me.

Respectfully,



Steven J. Nielsen
President and CEO

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