to consider in determining whether to finalize the proposed action. The Director may, in his or her sole discretion, convene an informal hearing with representatives of the Bank to receive or discuss any such information. The Director, in his or her sole discretion, also may extend the period in which the Bank may respond to a notice for an additional 30 calendar days for good cause, or shorten such comment period if the Director determines the condition of the Bank requires faster action or a shorter comment period or if the Bank consents to a shorter comment period. The Director shall inform the Bank in writing, which may be provided as part of the notice required under paragraphs (a) or (b) of this section, of any decision to extend or shorten the comment period. The failure of a Bank to provide information during the allotted comment period will waive any right of the Bank to comment on the proposed action.

(d) *Final action.* At the earlier of the completion of the comment period established under paragraph (c) or the receipt of information provided by the Bank during such period, the Director shall determine whether to take the proposed action or actions that were the subject of the notice under paragraphs (a) or (b) of this section, after taking into consideration any information provided by the Bank. Such notice shall respond to any information submitted by the Bank. Any final order that the Bank take action, refrain from action or comply with any other requirement that was the subject of a notice under paragraph (b) of this section shall take effect upon the Bank's receipt of the notice required under this paragraph, unless a different effective date is set forth in this notice, and shall remain in effect and binding on the Bank until terminated in writing by the Director or until any terms and conditions for termination, as set forth in the notice, have been met.

(e) *Final actions under this section.* Any final decision that the Bank take action, refrain from action or comply with any other requirement that was the subject of a notice under paragraph (b) of this section shall constitute an order under the Safety and Soundness Act. The Director in his or her discretion may apply to the United States District Court for the District of Columbia or to the United States district court for the judicial district in which the Bank in question is established pursuant to section 3 of the Bank Act (12 U.S.C. 1423) for the enforcement of such order, as allowed under § 1375 of the Safety and Soundness Act (12 U.S.C. 4635) . In addition, a Bank or any executive officer or director of a Bank can be subject to enforcement action, including the imposition of civil monetary penalties, under § 1371, § 1372 or § 1376 of the Safety and Soundness Act (12 U.S.C. 4631, 4632, or 4636) for failure to comply with such an order.

(f) *Judicial review.* A Bank that is not classified as critically undercapitalized may obtain judicial review of any final capital classification decision or of any final decision to take supervisory action made by the Director under § 1229.2, § 1229.4, § 1229.7 or § 1229.9 in accordance with the requirements and procedures set forth in § 1369D of the Safety and Soundness Act (12 U.S.C. 4623).

Dated: January 26, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9–2083 Filed 1–29–09; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1252

RIN 2590–AA22

Portfolio Holdings

AGENCY: Federal Housing Finance Agency.

ACTION: Interim final rule; request for comments.

SUMMARY: The Federal Housing Finance Agency is issuing an interim final regulation to govern the portfolio holdings of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Comments on the issues and questions set forth in the preamble are requested, and the agency will amend the rule as appropriate after considering comments.

DATES: *Effective Date:* January 30, 2009.

Comment Date: Written comments must be submitted on or before June 1, 2009.

ADDRESSES: You may submit your comments, identified by ''Portfolio Holdings IFR/RFC, [RIN 2590–AA22],'' by any of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for submitting comments is: Alfred M. Pollard, General Counsel, Attention: Comments ''Portfolio Holdings IFR/RFC, [RIN 2590–AA22],'' Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivery/Courier:* The hand delivery address for submitting comments is: Alfred M. Pollard, General Counsel, Attention: Comments ''Portfolio Holdings IFR/RFC, [RIN 2590–AA22],'' 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.
- *E-mail:* Comments may be submitted via electronic mail at *RegComments@FHFA.gov* addressed to Alfred M. Pollard, General Counsel. Please include ''Portfolio Holdings IFR/RFC, [RIN 2590–AA22]'' in the subject line of the message.
- *Federal eRulemaking:* Instructions on comment submission are also available on the eRulemaking portal at *http://www.regulations.gov*.

The Federal Housing Finance Agency (FHFA) requests that comments submitted in hard copy also be accompanied by the electronic version in Microsoft Word or in a portable document format (PDF) on 3.5'' disk or CD–ROM, and identify the comments as pertaining to the Portfolio Holdings Interim Final Rule.

FOR FURTHER INFORMATION CONTACT: Ming-Yuen Meyer-Fong, Office of the General Counsel, (202) 414–3798, or Valerie Smith, Office of Policy Analysis and Research, (202) 414–3770, Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339. For more information on this Interim Final Regulation, see the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Comments and Access

Instructions: FHFA requests that comments submitted in hard copy also be accompanied by the electronic version in Microsoft® Word or in a portable document format (PDF) on 3.5'' disk or CD–ROM, and identify that comments pertain to ''Portfolio Holdings IFR/RFC, [RIN 2590–AA22].''

Statement of Availability: This Interim Final Regulation as well as any comments posted may be accessed via the internet. Users can access the FHFA web page at *http://www.fhfa.gov*; select Supervision and Regulations Tab; select Regulations, Notices and Public Comments; then, select the link titled ''Portfolio Holdings'' or via the worldwide eRulemaking portal at *http://www.regulations.gov*. User can also access Exhibits A to F referenced in this interim rule document. Specifically, Exhibit A (Amended and Restated Senior Preferred Stock Purchase

Agreement for Fannie Mae) may be accessed at *http://www.treas.gov/press/releases/reports/seniorpreferredstockpurchaseagreementfnm1.pdf*, and Exhibit B (Amended and Restated Senior Preferred Stock Purchase Agreement for Freddie Mac) at *http://www.treas.gov/press/releases/reports/seniorpreferredstockpurchaseagreementfrea.pdf.* Also, Exhibit C (Certificate of Designation of Terms of Variable Liquidation Preference Senior Preferred Stock, Series 2008–2 for Fannie Mae) may be accessed at *http://www.treas.gov/press/releases/reports/certificatefnm2.pdf*, and Exhibit D (Certificate of Terms and Conditions of Variable Liquidation Preference Senior Preferred Stock for Freddie Mac) may be accessed at *http://www.treas.gov/press/releases/reports/certificatefreb.pdf.* Finally, Exhibit E (Warrant to Purchase Common Stock of Fannie Mae) may be accessed at *http://www.treas.gov/press/releases/reports/warrantfnm3.pdf*, and Exhibit F (Warrant to Purchase Common Stock of Freddie Mac) may be accessed at *http://www.treas.gov/press/releases/reports/warrantfrec.pdf.* 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 (FHFA) at (202) 414–6924.

II. Background

A. Establishment of the Federal Housing Finance Agency

On July 30, 2008, the President signed the Housing and Economic Recovery Act (Act) (Pub. L. 110–289, 122 Stat. 2564). Among other things, the Act established a new independent executive branch agency known as the Federal Housing Finance Agency and transferred the supervisory and oversight responsibilities for Fannie Mae and Freddie Mac (the Enterprises) from the Office of Federal Housing Enterprise Oversight (OFHEO). The Enterprises are government-sponsored enterprises (GSEs) chartered by Congress for the purposes of establishing secondary market facilities for residential mortgages. 12 U.S.C. 1716 *et seq.* (Fannie Mae Charter Act) and 12 U.S.C. 1451, *et seq.* (Freddie Mac Corporation Act). Specifically, Congress established the Enterprises to provide stability in the secondary market for residential mortgages, respond appropriately to the private capital market, provide ongoing assistance to the secondary market for residential mortgages, and promote access to mortgage credit throughout the country. *Id.*

The Act amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) (Pub. L. 102–550, (*codified at* 12 U.S.C. 4501 *et seq.*). Among other things, the Act required FHFA to establish criteria by regulation governing the portfolio holdings of the Enterprises. 12 U.S.C. 4624. The purpose of such regulation is to ensure that the portfolio holdings are backed by sufficient capital and consistent with the mission and the safe and sound operations of the Enterprises. 12 U.S.C. 4624(a). Further, the Act directed that FHFA consider the ability of the Enterprises to provide a liquid secondary market through securitization activities, the portfolio holdings in relation to the overall mortgage market, and adherence to standards of prudential management and operations established by FHFA in accordance with section 1313B of the Act. 12 U.S.C. 4624. The Act also required that any criteria governing Enterprise portfolio holdings ensure that such holdings are consistent with the Enterprises' mission, which includes facilitating the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes. 12 U.S.C. 4624(a); 12 U.S.C. 4501(7).

B. Discussion and Analysis of Interim Rule

The FHFA is issuing this regulation as an interim final rule, with an effective date of January 30, 2009. The name of the newly established part 1252 will read ''Portfolio Holdings,'' which will contain the rules governing Enterprise portfolio holdings. The provisions of this regulation are adopted on an interim final basis and will remain in effect until amended. A 120-day comment period is provided on the interim final rule and on the topics and questions raised in the Request for Comments section.

In accordance with section 1109(b) of the Act, FHFA is required to issue regulations establishing criteria governing Enterprise portfolio holdings. The criteria should ensure that Enterprise portfolio holdings are backed by sufficient capital and consistent with the mission as well as the safe and sound operations of the Enterprises. 12 U.S.C. 4624(a).

The Act authorizes the Director to order temporary adjustments to the established criteria for an Enterprise or both Enterprises, including during times of economic distress or market disruption. 12 U.S.C. 4624(b). In addition, the Act provides that the Director monitor the portfolio of each Enterprise and authorizes the Director to order an Enterprise to dispose of or acquire any asset under terms and conditions to be determined by the Director, if the Director determines that such action is consistent with the purposes of the Safety and Soundness Act or the authorizing statute of the Enterprise. 12 U.S.C. 4624(c).

C. Enterprise Conservatorships and Senior Preferred Stock Agreements With the Department of the Treasury

On September 6, 2008, FHFA, with the concurrence of the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve, placed Fannie Mae and Freddie Mac into conservatorship. By board approval, both Enterprises consented to the appointment of a conservator. FHFA's goals in placing the Enterprises into conservatorship included enhancing their capacity to fulfill their mission of providing liquidity and stability to the mortgage markets and mitigating the systemic risk posed by the Enterprises, which had contributed to instability in mortgage and broader financial markets. Upon a determination by the Director of FHFA that either Enterprise has returned to a safe and solvent condition and the systemic risks contributing to the conservatorship decision have been addressed adequately, the Director will issue an order terminating the conservatorship of that Enterprise. There is no exact time frame as to when the conservatorship of either Enterprise may end.

In order to prevent Enterprise capital from being exhausted, FHFA, upon appointing itself conservator for the Enterprises and on behalf of each Enterprise, entered into separate Senior Preferred Stock Purchase Agreements (Stock Purchase Agreements) with the Department of the Treasury. *See* Exhibits A & B (Stock Purchase Agreements for Fannie Mae and Freddie Mac). Under the Stock Purchase Agreements, each Enterprise's capacity to issue new guarantees of mortgage-backed securities (MBS) and to maintain and grow its mortgage portfolio holdings was fortified through a commitment by the Department of the Treasury to acquire up to $100 billion of senior preferred stock in that Enterprise as necessary to ensure that the Enterprise avoid a negative net worth. In exchange for that commitment, each of the Enterprises granted to the Department of the Treasury shares of Senior Preferred Stock with an initial liquidation preference of $1 billion (and which value would increase with each investment by the Department of the Treasury up to Treasury's commitment of $100 billion for each Enterprise, as well as with any unpaid commitment fees or dividends owed). *Id.*; *see also* Exhibits C & D (Certificates of Designation of Terms of Variable Liquidation Preference Senior Preferred Stock, Series 2008–2 for Fannie Mae and Freddie Mac). The Enterprises also granted to the Department of the Treasury warrants for shares of common stock. *See* Exhibits E & F (Warrants to Purchase Common Stock of Fannie Mae and Freddie Mac). In conjunction with enhancing the Enterprises' capacity to engage in new business and to maintain and grow their mortgage portfolio holdings, the Stock Purchase Agreements also established criteria governing those holdings.

Under the portfolio holdings criteria set forth in the Stock Purchase Agreements, each Enterprise may, through December 31, 2009, increase its mortgage assets to a level not to exceed $850 billion, thereby allowing each Enterprise to provide additional liquidity during this period of mortgage market stress. After December 31, 2009, the portfolio holdings criteria set forth in the Stock Purchase Agreements require the reduction of each Enterprise's mortgage assets at the rate of 10 percent per year until they reach a size of $250 billion, which would be around the year 2020. That reduction is expected to be achieved largely through natural run-off. The portfolio holdings criteria set forth in the Stock Purchase Agreements do not address Enterprise holdings of non-mortgage assets.

III. Section-by-Section Analysis

Section 1252.1

Section 1252.1 adopts the portfolio holdings criteria established by the Stock Purchase Agreements, as they may be amended from time to time, as the standards for this rule. Under the current Stock Purchase Agreements, which currently have the same portfolio holdings criteria for both Enterprises, an Enterprise may grow its mortgage assets up to $850 billion on December 31, 2009. Starting on December 31, 2010, the Enterprise must hold 10 percent less mortgage assets in its portfolio than at the end of the preceding year until those assets reach a level of $250 billion, at which point, no further decrease is currently required. Adjustments could be made to those criteria by amendment of the Stock Purchase Agreements.

FHFA's establishment of criteria governing Enterprise portfolio holdings in the Stock Purchase Agreements represents an exercise of authority consistent with the authority granted by Congress under section 1369E of the Safety and Soundness Act. FHFA's goals for the conservatorship include fortifying Enterprise capacity to support the secondary mortgage market. The criteria for Enterprise portfolio holdings established in the Stock Purchase Agreements allow the Enterprises immediate capacity to provide stability and liquidity to the secondary mortgage market, while mitigating systemic risk, and facilitating Enterprise efforts to achieve a balance between their mission and safe and sound operations in the intermediate term. Given the severe deterioration in mortgage market conditions and findings by FHFA that the Enterprises were unable to raise capital, immediate, coordinated government action was required to reinforce Enterprise capacity to provide liquidity to the secondary mortgage market. Establishing criteria governing Enterprise portfolio holdings was an essential part of that action.

Section 1252.2

Section 1252.2 addresses the effective duration of the interim rule. FHFA expects these regulations to be effective until any amendment or until the Enterprises are no longer subject to the terms and obligations of the Stock Purchase Agreements.

IV. Regulatory Requirements

A. Paperwork Reduction Act

The interim rule does not contain any information collection requirement to require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, the requirements of the Paperwork Reduction Act do not apply.

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. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the interim final rule under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the interim final rule is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

C. Good Cause for Issuance of Interim Final Rule

An agency may issue an interim final rule when the agency for good cause finds that notice and public procedure thereon are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b). The interim final rule issued herein meets the Act's requirement for issuance of regulations establishing portfolio holdings pursuant to section 1369E of the Safety and Soundness Act, 12 U.S.C. 4501 *et seq.*, *as amended*, as well as the requirements for good cause pursuant to 5 U.S.C. 553(b).

HERA requires the Director to issue regulations establishing the portfolio holding standards for the Enterprises within 180 days of enactment. In addition, this interim final rule adopts criteria governing the portfolio holdings of the Enterprises that have been in place and currently govern the actions of the Enterprises. Given these facts, the Director has determined that prior notice and comment procedures are impractical and contrary to public interest.

Further, given that the Enterprises received notice of the portfolio holdings criteria set forth in the Stock Purchase Agreements, and consented to the portfolio holdings criteria through their conservator, opportunity for further comment by the Enterprises is unnecessary. The issuance of this interim final rule and publication in the **Federal Register** serve to comply with the formal requirement in the Act that FHFA issue regulations within 180 days of enactment. *See* section 1109(b) of the Act.

V. Request for Comments

A. Interim Final Rule (§§ 1252.1 and 1252.2)

FHFA is interested in receiving comments on all aspects of the Interim Final Rule, and all relevant comments will be considered. FHFA will amend the interim final rule as appropriate after reviewing comments received.

FHFA also requests comments on the issues and questions set forth herein to give the public an opportunity to comment on criteria governing Enterprise portfolio holdings that will apply when the Enterprises are no longer subject to Stock Purchase Agreements that establish holdings criteria. When addressing a specific question contained in this interim final rule, FHFA asks that commenters specifically note, by number, which question is being addressed. In particular, the FHFA is seeking comments in the areas and on the issues discussed below. Comments should be identified as pertaining to the Portfolio Holdings IFR and should be submitted as indicated in the **ADDRESSES** section of this preamble.

B. Request for Comments

FHFA as conservator is working to restore each Enterprise to a safe and sound condition. FHFA anticipates that, once housing and mortgage markets stabilize, the Enterprises may return to profitability. While many—including, for example, then-Secretary of the Treasury Henry M. Paulson [1]—have suggested major changes in the structure or roles of the Enterprises, until Congress acts to make changes to their charters, FHFA must implement current law in the best way possible. Accordingly, FHFA plans to develop a regulation establishing criteria that will govern their portfolio holdings at such time as the Enterprises are no longer subject to Stock Purchase Agreements that establish portfolio holdings criteria.

1. Public Policy Objectives of the Regulation

Section 1369E of the Safety and Soundness Act specifies two public policy objectives that guide FHFA's development of a regulation establishing criteria governing Enterprise portfolio holdings. The first objective is ensuring that portfolio holdings are backed by sufficient capital. 12 U.S.C. 4624(a). The Enterprises are subject to capital regulations as set forth in 12 CFR part 1750. As initially enacted, in 1992, the Safety and Soundness Act established fixed minimum capital requirements in statute, directed OFHEO to establish risk-based capital requirements for the Enterprises as prescribed in statute, and greatly limited the agency's flexibility with respect to adjusting those risk-based capital requirements. Capital regulations issued in accordance with those authorities allowed the Enterprises to operate with considerable leverage relative to their risks and relative to other regulated financial institutions, regardless of economic conditions or the phase of the mortgage credit cycle. Each Enterprise's core capital—comparable to Tier 1 capital for banks—consistently represented less than 2 percent of the sum of its mortgage assets and guaranteed MBS. High leverage relative to their risks contributed significantly to the systemic risk posed by the Enterprises and their inability to continue to perform their mission and operate in a safe and sound manner as they incurred losses in 2007 and 2008.

Under the Act, OFHEO's capital regulations remain in effect for the Enterprises until modified or replaced. The Act amended the Safety and Soundness Act to provide FHFA with broad authorities with respect to capital regulation comparable to those possessed by the federal bank regulatory agencies. Accordingly, FHFA has begun to develop a new and more rigorous capital regime that will be applicable to the Enterprises after the conservatorships are terminated. FHFA intends that any new risk-based capital regulation and any amendment to an existing minimum capital regulation ensure that the Enterprises' portfolio holdings are backed by sufficient capital, consistent with the requirements of section 1369E of the Safety and Soundness Act.

FHFA has determined that it is prudent and in the best interests of the secondary mortgage market to suspend capital classifications of the Enterprises, during the conservatorships, in light of the Senior Preferred Stock Purchase Agreements. FHFA continues to closely monitor Enterprise capital levels, but the existing statutory and FHFA-directed regulatory capital requirements are not binding during the conservatorships.

The second public policy objective that guides FHFA's development of a regulation is ensuring that the Enterprises' portfolio holdings are consistent with their mission and safe and sound operations. The statutory mission of the Enterprises is to provide stability in the secondary market for residential mortgages, respond appropriately to the private capital market, provide ongoing assistance to the secondary market for residential mortgages by increasing the liquidity of mortgage investments and improving the distribution of capital available for residential mortgage lending, promote access to mortgage credit throughout the country, and support financing for housing affordable by low- and moderate-income households and in underserved areas. The mission is most challenging and most important during the part of the mortgage credit cycle when market conditions are weakest. Thus, the Enterprises, as a matter of public policy, must maintain sufficient financial strength to make business decisions throughout that cycle that are relatively unconstrained by solvency or liquidity problems. To do so, the Enterprises must limit their risk exposures and build sufficient capital, relative to their risks, in periods of housing and mortgage market expansion, to be able to absorb losses and maintain sufficient capital to comply with regulatory capital requirements and perform their mission during contractions in the housing sector or the broader economy. In addition, to fulfill their mission to provide stability and ongoing assistance to the secondary mortgage market, the Enterprises should not themselves present unnecessary systemic risk to the secondary market or the broader mortgage finance or financial markets. FHFA intends that a regulation establishing criteria governing Enterprise portfolio holdings, in combination with a revised capital regime for the Enterprises, will give them incentives that will promote their ability to perform their mission at all points in the mortgage credit cycle.

2. Questions Requesting Public Comment Regarding Standards Governing Portfolio Holdings of Mortgage Assets

The Enterprises' mortgage portfolio holdings have long been a source of debate by lawmakers, policy makers, researchers, and others, principally because of the size of those holdings. Recent events that eventually caused FHFA to place the Enterprises in conservatorship highlight the risks posed by their large mortgage portfolio holdings and the failure of the Enterprises to hold capital commensurate with the risks posed by those holdings. In mid-2006, the Enterprises agreed to cap the growth of their mortgage portfolio holdings due to their accounting, internal control, and risk management weaknesses. Recent events also underscore the need to establish criteria governing the holdings that will allow the Enterprises to carry out their mission in a safe and sound manner.

Section 1369E of the Safety and Soundness Act makes clear that Congress considered the Enterprises' mortgage portfolio holdings necessary for them to carry out their mission, at least in some circumstances. Accordingly, Congress granted FHFA authority to complete determine the appropriate size and composition of the mortgage portfolio holdings going forward, and whether the Enterprises should and how they can be encouraged

[1] Remarks by Treasury Secretary Henry M. Paulson, Jr., ''The Role of the GSEs in Supporting the Housing Recovery,'' before the Economic Club of Washington (January 7, 2009).

to operate in a more counter-cyclical[2] fashion so that they can respond appropriately when the secondary mortgage market is under stress. FHFA invites public comments on those and related issues. Separate questions are posed about Enterprise *purchases* of mortgage assets for portfolio and about portfolio *holdings* of those assets, since those activities raise distinct issues.

i. Benefits of Enterprise Purchases of Mortgage Assets for Portfolio.

The Enterprises provide liquidity—ready access to funds on reasonable terms—to the thousands of banks, thrifts, and mortgage companies that make loans to housing in the U.S. The Enterprises do so primarily by transforming individual mortgages into MBS backed by Enterprise guarantees of timely payment of principal and interest. Lenders provide the Enterprises with the individual mortgages used to create Enterprise MBS and use the cash raised to engage in further lending. Securitization helps provide a continuous, stable supply of funds to finance purchases of homes by individuals and families and apartment buildings and other multifamily dwellings by investors.

In some circumstances, the Enterprises provide additional liquidity and stability to the secondary mortgage market by buying whole loans from lenders, and by purchasing MBS that they or the Government National Mortgage Association (Ginnie Mae) have guaranteed, or private-label MBS issued by large lenders or Wall Street firms. The Enterprises hold those mortgage assets in portfolio and finance them with debt. By standing ready to purchase MBS they have guaranteed when the market yields of those securities are high relative to the yields of alternative investments, the Enterprises enhance the liquidity of the MBS. Enterprise purchases of selected tranches of private-label MBS may also enhance the liquidity and reduce the yields of those securities.

The economic benefits provided by Enterprise purchases of mortgage assets for their portfolios during periods when the secondary mortgage market is generally liquid and stable are uncertain. Research at the Federal Reserve Board, using data from a period of relative market stability, found that purchases for the Enterprises' portfolios appear to have no material effect on the cost or availability of mortgage credit.[3] Studies conducted by other researchers have found that the Enterprises' purchases of whole loans and MBS for their portfolios reduce mortgage interest rates and mortgage rate volatility, increase the volume of mortgage lending and refinancing, and increase liquidity in the secondary mortgage market.[4]

A large portion of the mortgage assets purchased for portfolio by the Enterprises finance dwelling units that are affordable to low- and moderate-income households, or are located in geographic areas designated as underserved. Those and other loans may have characteristics that make them difficult or uneconomical to securitize. Enterprise purchases of such loans may enhance the liquidity and lower the interest rates that lenders require on those assets. The Enterprises' acquisition of those assets for portfolio may increase the availability and reduce the cost of such financing more than securitization alone.[5]

Further, the Enterprises can support mortgage markets and the housing sector and reduce market yields of MBS by purchasing those securities during periods of severe stress or turmoil in mortgage markets or the broader financial system. In the recent period of mortgage market stress, Enterprise purchases of MBS appear to have had some impact on the secondary market pricing and liquidity of mortgage securities of those securities. When such conditions ease, the Enterprises may be able to sell such mortgage assets in an orderly manner, rather than holding them indefinitely in portfolio.

Question 1: What additional benefits are provided to the secondary mortgage market and the housing sector by Enterprise purchases for portfolio of mortgage loans and MBS, beyond the benefits provided by their securitization activities? What is the magnitude of those additional benefits?

Question 2: Is it possible for the Enterprises to fulfill their mission of providing stability and liquidity to the secondary mortgage market without purchasing mortgage assets for portfolio? If so, how? If not, what types of mortgage assets should they be allowed to purchase for portfolio, and in what amounts?

Question 3: Could the U.S. government better ensure the liquidity and stability of the secondary mortgage market other than through Enterprise purchases of mortgage assets for portfolio—for example, through the activities of the Federal Reserve System, mortgage asset purchases by the Department of the Treasury, or the provision of an explicit government guarantee of MBS securitized by the Enterprises?

Question 4: Should the Enterprises' purchases of mortgage assets vary over the mortgage credit cycle or with conditions in the secondary mortgage market? If so, how?

Question 5: If the Enterprises purchase large volumes of mortgage assets during periods of stress or turmoil in the secondary mortgage market, should they be required to sell those assets once that market stabilizes? If so, when and how should the Enterprises conduct such sales?

ii. Benefits of Enterprise Mortgage Portfolio Holdings.

The Enterprises' portfolio holdings of mortgage assets grew rapidly beginning in the 1990s and extending through the early part of the current decade. The pace of that growth greatly exceeded the growth of the mortgage market as a whole, as measured by residential mortgage debt outstanding (RMDO). The Enterprises' combined holdings of mortgage assets increased from $135 billion, or 4.7 percent of RMDO, at the end of 1990, to $1,410 billion, or 20.4 percent of RMDO, at the end of 2002. In the years that ensued, the Enterprises were plagued by accounting scandals related to the hedging of their mortgage portfolios, internal control problems, and other issues that led to the imposition of supervisory restrictions on the growth of their mortgage assets and capital surcharges. Between 2004 and 2007, the mortgage portfolios of the Enterprises shrunk or grew significantly more slowly than RMDO. At the end of June 2008, their combined holdings of mortgage assets totaled $1,541 billion, or 12.7 percent of RMDO.

Historically, key beneficiaries of the Enterprises' large mortgage portfolio holdings were their shareholders, who profited from the Enterprises' low funding costs. Some types of mortgage assets acquired for the portfolio may have contributed to the Enterprises' mission objectives. Such assets may have included whole loans that finance affordable housing that are not easily

[2] Financial institutions and markets experience periodic lending booms and busts that amplify the business cycle, making economic activity more volatile than it would otherwise be. Counter-cyclical behavior by the Enterprises—building up capital relative to their risks in periods of housing and mortgage market expansion and using that capital to absorb losses and increase their activity during contractions—might reduce the volatility of mortgage lending, housing activity, and overall economic activity.

[3] Andrea Lehnert, S. Wayne Passmore, and Shane Sherland, ''GSEs, Mortgage Rates, and Secondary Market Activities.'' (April 2008) *Journal of Real Estate Finance and Economics* 36(3), 343–363.

[4] See the studies cited in James C. Miller, III, and James E. Pearce, *Revisiting the Net Benefits of Freddie Mac and Fannie Mae* (a study prepared for Freddie Mac, November 2006).

[5] Bernanke, Ben S., ''GSE Portfolios, Systemic Risk, and Affordable Housing,'' Speech before the Independent Community Bankers of America's Annual Convention and Techworld, Honolulu, Hawaii (March 6, 2007).

securitized because of non-standard features and small volumes, as well as mortgage securities that are backed by affordable housing loans and that are not traded in markets with the broad appeal and liquidity of Enterprise MBS. The mortgage portfolios have also been used to support the Enterprises' securitization activities, to provide liquidity and stability to the secondary mortgage market, and to support the liquidity of the Enterprises' own MBS.

Question 6: Could the benefits of the Enterprises' mortgage portfolio holdings be achieved if the levels of those holdings were substantially lower than current levels? Could the Enterprises carry out their mission of providing stability and liquidity to the secondary mortgage market and of supporting affordable housing without maintaining portfolios of mortgage assets? If so, explain how.

iii. Additional Risks to the Enterprises Posed by Their Mortgage Portfolio Holdings.

The Enterprises' securitization activities and portfolio holdings of whole loans expose them to mortgage credit risk—the risk of losses if borrowers do not make their payments due or default on their loans. The recent credit crisis demonstrates that broad-based and sizable losses from exposure to mortgage credit risk can occur. Securitization and portfolio investment in whole loans also expose the Enterprises to the risk that lenders, mortgage servicers, and mortgage insurers may not fulfill their contractual obligations, with significant consequences during a systemic event.

The mortgage portfolios of the Enterprises expose them to risks beyond those posed by their securitization activities. The principal additional risks are interest rate risk, derivatives counterparty credit risk, the risk of declines in the fair values of MBS holdings due to increased credit and market liquidity risks, funding and basis risks, and operational risks. Their exposure to interest rate risk arises primarily from the long-term, fixed-rate mortgages that they hold, directly or through MBS. Because borrowers can prepay their mortgages at any time, a mismatch of the durations of Enterprise mortgage assets and liabilities can result. The Enterprises use various techniques, including hedging with derivatives, to manage the risk resulting from this mismatch. Using derivatives to hedge that risk exposes the Enterprises to derivatives counterparty credit risk. The Enterprises' holdings of private-label MBS pose additional credit risk and significant risk of asset price declines due to declines in market liquidity. Funding risk is the risk that a firm will be unable to obtain funds at a reasonable cost or at all when its existing debt matures or its payments are due. Basis risk is the risk that the interest rates in different financial markets will not move in the same direction or amount at the same time.

Operational risk can manifest itself in a number of ways, most commonly through the breakdown of internal controls, ineffective corporate governance, inadequate policies and procedures, employee behavior, and external events. The Enterprises face operational risks due to technology failures, business disruptions, internal or external fraud, processing errors, and weaknesses in internal policies and procedures. For example, the accounting scandals at both Enterprises in the early part of the decade were partially due to irregularities in the implementation of complex derivatives accounting principles.

Section 1369E of the Safety and Soundness Act requires that in establishing criteria governing the Enterprises' portfolio holdings, the Director shall consider the Enterprises' adherence to prudent management and operations standards established under section 1313B of the Act. 12 U.S.C. 4624(a). Those standards must address many issues related to managing risks posed by the Enterprises' mortgage portfolio holdings, including management of interest rate risk exposure, management of market risk, adequacy and maintenance of liquidity and reserves, management of asset and investment portfolio growth, overall risk management processes, management of credit and counterparty risk, and management of operational risks.

Question 7: Aside from reducing the volume or altering the composition of mortgage assets held by the Enterprises, are there other ways in which FHFA can use criteria governing their mortgage portfolio holdings to reduce their exposure to or improve their management of interest rate, credit, operational, and other risks? If so, what approaches should FHFA take?

Question 8: How can FHFA best use criteria governing mortgage portfolio holdings, in conjunction with capital regulations and other supervisory tools, such as prudent management and operations standards established in accordance with section 1313B of the Safety and Soundness Act, to address the Enterprises' exposure to the additional risks posed by such holdings?

iv. Systemic Risk Posed by Enterprise Mortgage Portfolio Holdings.

There is broad agreement among policymakers and economists that the Enterprises pose substantial systemic risk to mortgage markets and the broader financial system.[6] As the Treasury Department recently stated, ''[t]he systemic importance of these two enterprises, and the systemic impact of a collapse of either, cannot be overstated.'' [7] The Enterprises' systemic risk arises from four sources:

- High leverage increases the risk of Enterprise failure and of the adverse consequences for mortgage lending and housing activity attendant on such failure.
- The Enterprises' combined mortgage assets totaled nearly $1.6 trillion as of November 30, 2008. If either Enterprise had to shrink its portfolio holdings rapidly, the market values of the mortgage assets held by many other financial institutions would be adversely affected, exacerbating solvency and liquidity problems.
- Mortgage lender dependence on the Enterprises, already high since the mid-1980s, has increased substantially since the collapse of the secondary market for private-label MBS in the third quarter of 2007. If either Enterprise greatly reduced or sharply curtailed its mortgage purchases, mortgage rates would increase, which would reduce new mortgage lending, depress the market values of mortgage assets held throughout the industry, and tend to weaken housing and the broader economy.
- Outstanding Enterprise debt—over $1.6 trillion at the end of November 2008—is widely held by commercial banks in the U.S., institutional investors, foreign central banks, and other foreign investors. If Enterprise

[6] *See*, among many other studies, Bernanke, Ben S., ''GSE Portfolios, Systemic Risk, and Affordable Housing,'' Speech before the Independent Community Bankers of America's Annual Convention and Techworld, Honolulu, Hawaii (March 6, 2007); Eisenbeis, Robert A, W. Scott Frame, and Larry D. Wall, ''An Analysis of the Systemic Risks Posed by Fannie Mae and Freddie Mac and an Evaluation of the Policy Options for Reducing Those Risks,'' *Journal of Financial Services Research* (Vol. 31, Nos. 2–3, June 2007), 75–99; Greenspan, Alan, ''Government-Sponsored Enterprises,'' Remarks Delivered at the Conference on Housing, Mortgage Finance, and the Macroeconomy, Federal Reserve Bank of Atlanta (May 19, 2005); Mankiw, N. Gregory, Remarks at the Conference of State Bank Supervisors, State Banking Summit and Leadership Conference (November 6, 2003); Office of Federal Housing Enterprise Oversight, *Systemic Risk: Fannie Mae, Freddie Mac, and the Role of OFHEO* (Washington, DC: February 2003); and Poole, William. ''Housing in the Macroeconomy,'' *Review*, Federal Reserve Bank of St. Louis (May/June 2003), 1–8.

[7] Department of the Treasury, *Responses to Questions of the First Report of the Congressional Oversight Panel for Economic Stabilization* (December 31, 2008), 10.

solvency or liquidity problems led to large declines in the market value of that debt, there could be serious adverse effects on banks and other investors. The Enterprises are also among the largest end-users of over-the-counter (OTC) interest rate derivatives. Uncertainty about how counterparties would replace their OTC derivatives with one or both Enterprises, if either failed, could adversely affect those institutions and the OTC derivatives markets.

As noted above, a key objective of placing the Enterprises in conservatorship and executing the Stock Purchase Agreements was to limit the systemic risk they posed, which had risen sharply in 2007 and the first half of 2008, as they reported financial losses and their leverage and borrowing costs increased, and to avoid adverse consequences for the housing sector and economy. If the mortgage portfolio holdings of the Enterprises were reduced in order to limit the systemic risk they pose, the overall effect on financial stability would depend on what other entities acquired the assets, how they funded the assets and managed the associated risks, and how much capital they held against those risks.

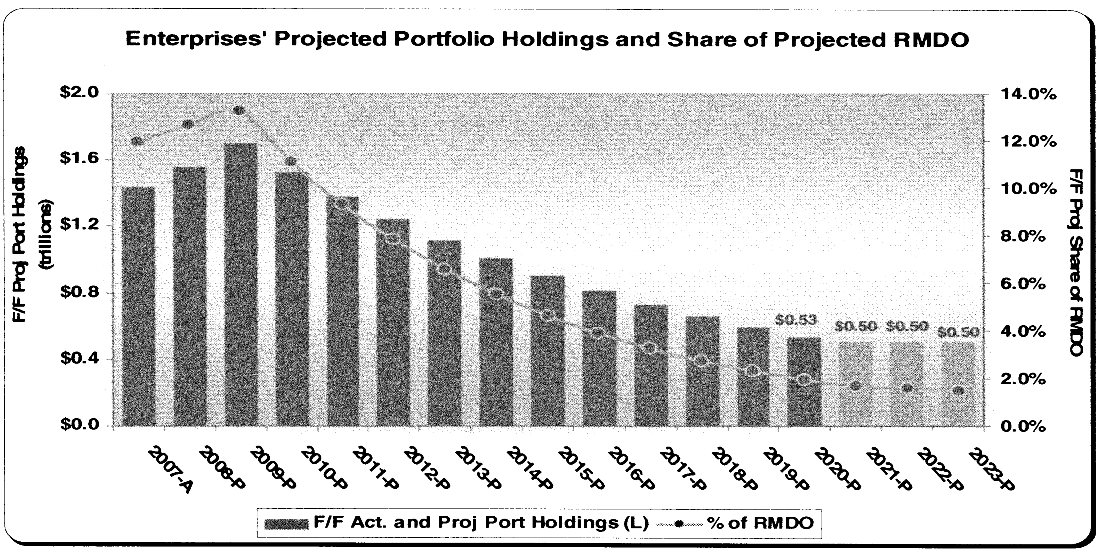
Question 9: Should FHFA use criteria governing the Enterprises' mortgage portfolio holdings to mitigate the systemic risk posed by the Enterprises? If so, how? If the mortgage portfolio holdings of the Enterprises were reduced in an effort to mitigate the systemic risk posed by the Enterprises, how would the stability of the mortgage markets and the broader financial system be affected? What steps could the federal government take to maximize any improvement in stability?

v. Criteria Governing Enterprise Mortgage Portfolio Holdings.

a. Size of Mortgage Portfolio Holdings.

Under the portfolio holdings criteria established in the Stock Purchase Agreements, the mortgage assets of each Enterprise will decline by 10 percent each year starting in 2010 and each year thereafter until the holdings of each Enterprise reached $250 billion. FHFA projects that would occur in 2020, at the end of which each Enterprise's mortgage portfolio holdings would represent about 2.0 percent of projected RMDO. (Chart 1).

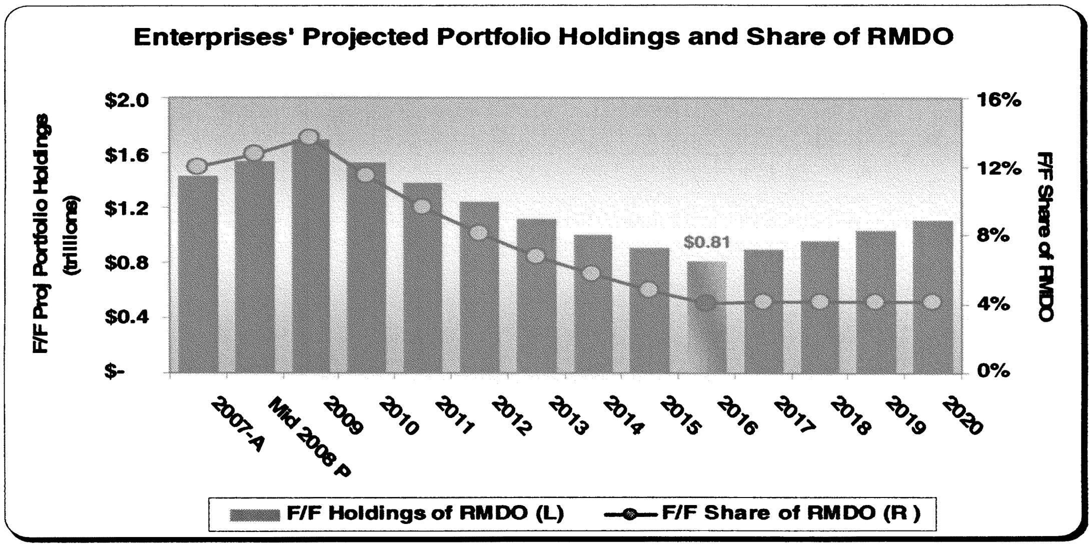
Chart 1
Projected Combined Enterprise Mortgage Portfolio Holdings in Dollars and as a Share of Residential Mortgage Debt Outstanding (RMDO) under the Senior Preferred Stock Purchase Agreements



Source: FHFA based on data from the Enterprises and the Federal Reserve Board

Another approach could establish criteria that, rather than specifying dollar amounts, specified maximum ratios between each Enterprise's mortgage assets and some indicator of the size of the mortgage market such as RMDO. For example, the criteria could require each Enterprise's mortgage assets to decline as required by the Stock Purchase Agreements until each Enterprise's mortgage portfolio represented no more than, say, 2.1 percent of RMDO—the share that $250 billion represented as of mid-2008—and limit each portfolio's future growth so as to maintain its ratio to RMDO at 2.1 percent thereafter. FHFA projects that would occur in 2016, at the end of which each Enterprise's mortgage assets would be about $400 billion (Chart 2). Under any such approach, increases in the mortgage assets of an Enterprise or both Enterprises could be permitted on a temporary basis in times of economic distress or market disruption, consistent with 12 U.S.C. 4624(b).

Chart 2
Projected Combined Enterprise Mortgage Portfolio Holdings in Dollars and as a Share of Residential Mortgage Debt Outstanding (RMDO) Under an Alternative to the Senior Preferred Stock Purchase Agreements



Sources: FHFA based on data from the Enterprises and the Federal Reserve Board

Other criteria could be devised to internalize at the Enterprises some of the potential costs of large portfolio holdings, in order to create an incentive for the Enterprises to restrain those holdings below a desired level. Thus, the criteria could impose a firm limit on the mortgage assets of each Enterprise, but create a range below that limit within which holdings would be increasingly discouraged. For example, that range could begin at their combined share of RMDO at the end of 1991 (5 percent—2.5 percent per Enterprise) and go as high as their combined market share at the end of 1994, the mid-point of the seven-year period 1991 through 1997 (or 8.3 percent—4.1 percent per Enterprise). A sliding scale minimum capital surcharge could apply if an Enterprise chose to hold more than the lower amount of the range. The surcharge would increase as the holdings moved toward the limit, with a maximum surcharge of, perhaps, an additional two percent of mortgage assets.

Yet another approach could establish criteria that would allow the mortgage portfolio holdings of each Enterprise to expand and contract with its mortgage credit book of business—the sum of those holdings plus its guaranteed MBS held by other investors.

Question 10: Should the size of the Enterprises' mortgage portfolio holdings be limited to a fixed dollar amount, be linked to a market indicator, or be linked to the size of their MBS outstanding?

Question 11: Should the permissible size of the Enterprises' holdings of mortgage assets vary in a manner related to the phase of the mortgage credit cycle or conditions in the secondary mortgage market? If so, how should FHFA monitor that cycle or secondary mortgage market conditions, and how should the permissible size of those holdings vary?

Question 12: How could decreases in the Enterprises' mortgage portfolio holdings affect their operational infrastructures? How would changes in their operational infrastructures affect their ability to expand their purchases of mortgage assets for portfolio during times of stress in the secondary mortgage market? Does each Enterprise need a minimum level of mortgage portfolio holdings to maintain the infrastructure needed to expand its purchases under such conditions?

Question 13: Should each Enterprise's minimum capital requirement increase with the size or composition of its mortgage portfolio holdings? If so, how should such increase be imposed? Should a capital surcharge be imposed on each Enterprise if its mortgage portfolio holdings exceed some level? If so, how should such surcharge be imposed?

b. Composition of Mortgage Portfolio Holdings.

Criteria regarding the Enterprises' mortgage portfolios could limit their holdings of certain types of assets, while encouraging them to hold more of mortgage products that make a greater contribution to specific elements of their mission.

Question 14: Should FHFA restrict the types of mortgage assets the Enterprises are allowed to hold to those that are strictly related to specific elements of their mission? If so, how should those assets be defined? For example, should FHFA prohibit or place a limit on each Enterprise's holdings of mortgage-related securities guaranteed by the other Enterprise or Ginnie Mae or its holdings of private-label MBS?

Question 15: Should FHFA require that assets purchased for the portfolio each year comply with affordable housing goals and sub-goals established for that year?

Question 16: Should FHFA allow the Enterprises to hold, without limit, either whole loans (or securities backed by them) that finance affordable housing not easily securitized because of non-standard features and small volumes or mortgage securities backed by loans that finance affordable housing, where markets for those securities are small or thin? Please provide examples of such loans or securities. Alternatively, should FHFA place a limit on the amount of such loans or securities that an Enterprise can hold? If so, what is an appropriate level?

c. Funding of Mortgage Portfolio Holdings.

The Enterprises fund their portfolios of mortgage assets largely by issuing debt. The Enterprises are also highly leveraged—historically, each Enterprise's core capital represented less than 2 percent of the sum of its mortgage assets and guaranteed MBS. The Enterprises have relied heavily on short-term debt to fund their mortgage portfolio holdings, used financial derivatives to alter synthetically the maturity of that debt, and depended on their ability to roll over debt and enter into new derivatives contracts in all market conditions. Because of the favorable funding costs enjoyed by the Enterprises, they benefitted from attractive spreads between the yields on the assets comprising their mortgage portfolio holdings and their cost of funds. FHFA will address issues related to the funding of Enterprise mortgage assets through promulgation of risk management standards, the agency's examination process, and by a new risk-based capital standard.

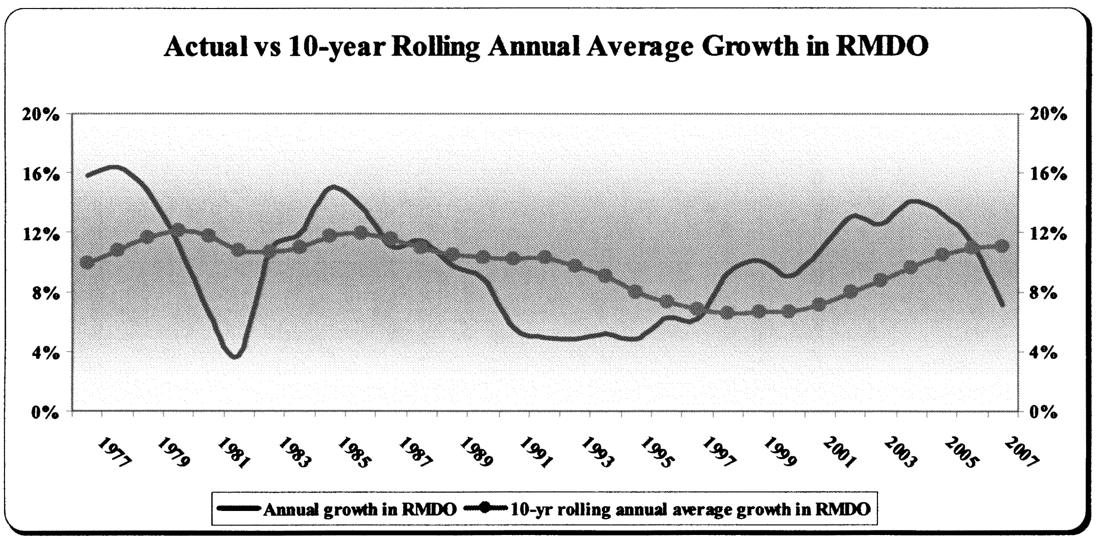
Question 17: Should FHFA establish criteria governing the Enterprises' mortgage portfolio holdings that specify that the Enterprises adhere to a specific maximum ratio of short-term debt to mortgage assets or minimum ratio of callable debt to long-term, fixed-rate mortgage assets or to total long-term debt?

Question 18: Should FHFA specify criteria that condition Enterprise mortgage portfolio holdings above a certain amount on maintaining measures of the risks—*e.g.*, duration and convexity—associated with those portfolios within specified levels? Should adherence to appropriate limits on such risks be addressed through of prudential management and operations standards in accordance with section 1313B of the Act and FHFA's examination process?

d. Counter-Cyclical Changes in Enterprise Mortgage Portfolio Holdings.

FHFA could establish criteria that limit the rate of growth of each Enterprise's mortgage assets once the Enterprise complied with criteria related to the size of those holdings. The growth limit could be tied to the average growth rate of the mortgage market over a long period, which would allow each Enterprise's portfolio holdings to grow more slowly (or rapidly) than the overall market during periods in which the market was expanding more rapidly (or slowly) than on average. That type of growth limit would require the Enterprises to vary the rate of growth of their mortgage portfolio holdings in a counter-cyclical manner. One way of achieving this could be to require that growth in each Enterprise's portfolio holdings be limited to the preceding 10-year rolling annual average growth rate of RMDO (Chart 3).

Chart 3



Source: FHFA based on data from the Federal Reserve Board

Question 19: Should FHFA create incentives for the Enterprises to behave in a counter-cyclical manner through criteria governing their portfolio holdings of mortgage and non-mortgage assets, regulatory capital requirements, or both? If so, how? What are the implications of specifying such criteria for the Enterprises' mission?

3. Questions Requesting Public Comment Regarding Standards Governing Enterprise Holdings of Non-Mortgage Assets

i. Benefits and Risks of Enterprises Holdings of Non-Mortgage Assets.

The Enterprises need to maintain adequate levels of liquidity so that they can carry out their day-to-day operating activities. Maintaining adequate levels of liquidity can help strengthen the Enterprises' ability to meet their statutory mission of providing stability and liquidity to the secondary mortgage market, during good times and during periods of market stress, without incurring extraordinary financing costs.

The risk of not maintaining a portfolio of highly liquid non-mortgage assets was illustrated in the recent market disruption. The quick reversal in market conditions illustrates how fast liquidity can disappear and how a prolonged period of market illiquidity can affect firms such as the Enterprises and their counterparties. Indeed, during that period, spreads between the yields of Enterprise debt and U.S. Treasury securities reached all time highs. In addition, the Enterprises' large holdings of mortgage assets were not useful sources of cash as the MBS repurchase agreement market shriveled, and sales of MBS would have only exacerbated problems in the market.

There is an opportunity cost associated with holding a sizable volume of generally low-yielding assets in an effort to ensure adequate liquidity in a financial crisis. However, up to a point that cost is offset by the potential benefit of the Enterprises being prepared to maintain funding for their long-term assets and to respond in an appropriate and meaningful way to a market disruption.

Question 20: What risks and costs are associated with requiring the Enterprises to maintain a portfolio of liquid, non-mortgage assets?

Question 21: Is it appropriate to require the Enterprises to hold a large portfolio of highly liquid assets even during periods of market tranquility? If so, why? Should the Enterprises be compensated for holding ''excess'' levels of non-mortgage assets during periods of market tranquility? If so, what are appropriate incentives?

ii. Standards Governing Enterprise Non-Mortgage Assets.

The rationale for establishing standards governing the size and composition of the Enterprises' non-mortgage assets is to ensure that they maintain sufficient liquidity to meet their obligations and engage in new business during market distress and to ensure that the Enterprises do not hold amounts of those assets beyond those needed to achieve their mission. That can be best achieved by requiring that the Enterprises maintain portfolios of marketable, highly liquid non-mortgage assets at prescribed levels. Those assets would be easily converted into cash, without loss of value and disruption to financial markets. Indeed, during a market crisis such as that experienced in the recent past, a portfolio of highly liquid non-mortgage assets would better enable the Enterprises to perform their mission of providing liquidity and stability to the secondary mortgage market.

a. Size of the Non-Mortgage Portfolios.

FHFA could establish criteria governing the size of the Enterprises' holding of non-mortgage assets. For example, the criteria could require that each Enterprise maintain a minimum balance of marketable, highly liquid non-mortgage assets equal to 30 days of expected net cash needs and totaling at least $30 billion at all times.

Question 22: Should the Enterprises be required to maintain a specific minimum dollar amount of highly liquid non-mortgage assets at all times? If so, what is an appropriate dollar amount? Alternatively, should the level of non-mortgage assets be set at a percentage of an Enterprise's total assets or a specified number of days of liquidity? If so, what is an appropriate percentage factor or number of days?

Question 23: Should the Enterprises' non-mortgage portfolios grow with the phases of the mortgage credit cycle or counter to that cycle? Should the Enterprises be given incentives for holding large volumes of liquid non-mortgage assets during periods of ample market liquidity? If so, how should such incentives be provided? For instance, after criteria governing holdings of non-mortgage assets are established, FHFA could reduce each Enterprise's minimum capital requirement by, for example, 75 percent of the amount of non-mortgage assets held to comply with those criteria.

b. Composition of the Non-Mortgage Portfolios.

In establishing criteria governing the composition of the Enterprises' non-mortgage portfolios, FHFA could require that U.S. Treasury securities with maturities of 30 days or less represent a specified percentage of each Enterprise's total non-mortgage assets (for example, 50 percent). The balance of each Enterprise's portfolio could include other marketable, liquid, highly-rated securities, with maturities of one year or less, such as the following—

- Commercial paper (rated A1/P1);
- Short-term Eurodollar time deposits;
- Short-term money market accounts; and
- Short-term municipal securities.

Question 24: Should the criteria enumerate the specific types of investments the Enterprises should hold in the non-mortgage portfolios. If so, what type assets should be included? Should U.S. Treasury securities represent a specific share of the non-mortgage portfolios? If so, what is an appropriate percentage or dollar amount?

Question 25: What is an appropriate maturity range for securities comprising the non-mortgage portfolios? How should holdings be distributed according to that range?

4. Questions Requesting Public Comment Regarding Temporary Adjustment of Criteria Governing Portfolio Holdings

The Act authorizes the Director to order temporary adjustments to the established criteria governing the portfolio holdings of an Enterprise or both Enterprises, including during times of economic distress or market dislocation. 12 U.S.C. 4624(b).

Question 26: Should FHFA attempt to specify in advance how it might adjust criteria governing Enterprise mortgage or non-mortgage portfolio holdings in specific circumstances?

List of Subjects

12 CFR Part 1252

Government-sponsored enterprises, Portfolio holdings, Mortgages.

Authority and Issuance

■ Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4624, the Federal Housing Finance Agency hereby amends Title 12, Chapter XII, Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Subchapter C—Enterprises

■ 1. Add Subchapter C consisting of part 1252 to read as follows:

PART 1252—PORTFOLIO HOLDINGS

Sec.
1252.1 Enterprise portfolio holdings criteria.
1252.2 Effective duration.

Authority: 12 U.S.C. 4624.

§ 1252.1 Enterprise portfolio holding criteria.

The Enterprises are required to comply with the portfolio holdings criteria set forth in their respective Senior Preferred Stock Purchase Agreements with the Department of the Treasury, as they may be amended from time to time.

§ 1252.2 Effective duration.

This part shall be in effect for each Enterprise so long as—

(a) This part has not been superseded through amendment, and

(b) The Enterprise remains subject to the terms and obligations of the respective Senior Preferred Stock Purchase Agreement.

Dated: January 16, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9–2047 Filed 1–29–09; 8:45 am]

BILLING CODE 8070–01–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Revisions of Regulations Concerning Procedures for Electronic Filing

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The Board is amending regulations concerning the procedures for filing documents with the Agency