showpdf.htm?docid=399206, or in the Commission's Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

The Commission will not consider the petition's merits until after the comment period closes. If the Commission decides that the petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

On behalf of the Commission,

Dated: September 7, 2018.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–20095 Filed 9–14–18; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1248

RIN 2590–AA94

Uniform Mortgage-Backed Security

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or Agency) is providing notice and inviting comment on a proposed rule to improve the liquidity of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (the Enterprises) To-Be-Announced (TBA) eligible mortgage-backed securities (MBS) by requiring the Enterprises to maintain policies that promote aligned investor cash flows both on current TBA-eligible MBS, and, upon its implementation, on the Uniform Mortgage-Backed Security (UMBS)—a common, fungible MBS that will be eligible for trading in the TBA market for fixed-rate mortgage loans backed by 1–4 unit (single-family) properties.

DATES: Written comments must be received on or before November 16, 2018.

ADDRESSES: You may submit your written comments on this proposed rule, identified by regulatory information number: RIN 2590–AA94 by any of the following methods:

- *Agency website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://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. Please include ''RIN 2590–AA94'' in the subject line of the message.
- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA94, Federal Housing Finance Agency, Constitution Center (OGC Eighth Floor), 400 7th St. SW, Washington, DC 20219. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9:00 a.m. and 5:00 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–AA94, Federal Housing Finance Agency, Constitution Center (OGC Eighth Floor), 400 7th St. 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: Robert Fishman, Senior Associate Director, Division of Conservatorship, (202) 649–3527, *Robert.Fishman@fhfa.gov,* or James P. Jordan, Associate General Counsel, Office of General Counsel, (202) 649–3060, *James.Jordan@fhfa.gov.* These are not toll-free numbers. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will consider all comments before issuing a final rule. FHFA will post for public inspection all comments received by the deadline without change, including any personal information you provide, such as your name, address, email address, and telephone number on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

II. Background

On October 4, 2012, FHFA published and requested public input on a white paper entitled *Building a New Infrastructure for the Secondary Mortgage Market.*[1] The white paper proposed a new securitization platform (the ''Common Securitization Platform'' or ''CSP''). The goal of the proposal was to improve housing finance while not limiting market choices or innovation. The proposal identified principles critical to the success of an efficient secondary mortgage market—including promoting liquidity, attracting private capital, benefiting borrowers, and operating flexibly and efficiently. FHFA's proposal involved the standardization of functions that are common across the industry, such as the issuance and settlement of mortgage-backed securities (MBS) and their monthly bond administration.

In response to the white paper, FHFA received input from a broad cross-section of stakeholders in the securitization process. Generally, the respondents supported the technological aspects and the proposed functions of the CSP. In October 2013, Fannie Mae and Freddie Mac formally established a joint venture to develop the CSP, using as a legal vehicle a limited liability company—Common Securitization Solutions, LLC (CSS).

On May 13, 2014, FHFA published its *2014 Strategic Plan for the Conservatorships of Fannie Mae and Freddie Mac* (*2014 Strategic Plan*). The *2014 Strategic Plan Scorecard*[2] set a goal that the Enterprises, through CSS, develop a single, common Enterprise MBS as part of the broader CSP build. FHFA had determined that a single, common Enterprise MBS would promote liquidity and improve the distribution of investment capital. FHFA concluded that by making Freddie Mac MBS fungible with Fannie Mae MBS, both the Fannie Mae and Freddie Mac MBS markets would become more and equally liquid. Reports indicated that Freddie Mac was spending as much as $400 million dollars per annum in market adjusted pricing (MAP)[3] and that Freddie Mac's MAP costs were attributable to its MBS being less liquid than Fannie Mae MBS.[4] Those amounts have

[1] *https://www.fhfa.gov/PolicyProgramsResearch/Research/PaperDocuments/FHFA_Securitization_White_Paper_N508L.pdf* (last accessed 08/17/2018).

[2] Post-conservatorship, FHFA began publishing *Scorecards,* which provide the implementation roadmap for the *Strategic Plan for the Conservatorships of Fannie Mae and Freddie Mac.* The *Scorecards* include specific objectives and timetables for the Enterprises in support of the Strategic Plan.

[3] MAP is a cash payment or discount in the contractual ongoing guarantee fee based on spreads between Fannie Mae and Freddie Mac MBS.

[4] *See e.g.,* Laurie Goodman, Lewis Ranieri, *Charting a Course to a Single Security* (September

Continued

subsequently declined, but could rise again depending on market conditions. Successful adoption of UMBS would eliminate Freddie Mac's MAP cost and facilitate more competitive pricing, which could then flow through to mortgage borrowers.

On August 12, 2014, FHFA published a request for input (*2014 RFI*) [5] on the Single Security (now known as the ''Uniform Mortgage-Backed Security'' or ''UMBS'') and invited feedback on all aspects of the proposed UMBS structure and, in particular, requested input on the following questions: 1. What key factors regarding TBA eligibility [6] status should be considered in the design of and transition to a Single Security? 2. What issues should be considered in seeking to ensure broad market liquidity for the legacy securities? 3. What operational, system, policy (*e.g.,* investment guideline), or other effects on the industry should be considered? 4. What can be done to ensure a smooth implementation of a Single Security with minimal risk of market disruption?

On October 7, 2014, under the auspices of FHFA, the Enterprises began engaging in joint discussions to define the parameters of a potential UMBS, including security features and disclosure requirements.

On May 15, 2015, FHFA issued *An Update on the Structure of the Single Security* (*May 2015 Update*),[7] which reported that respondents to the *2014 RFI* were generally supportive of the UMBS. In answer to the *2014 RFI* questions outlined above, respondents identified, as key elements to UMBS success, general alignment on Enterprise policy and practices affecting prepayment speeds, implementation steps, and the fungibility of legacy securities and UMBS. Some respondents expressed concerns about the prospects for fungibility of legacy securities and UMBS, a potential decrease in the quality of cheapest-to-deliver collateral, the potential for an increase in stipulated trades that could detract from liquidity in the TBA market, and the costs of implementation.[8]

After observation of the joint discussions between the Enterprises, careful review of the 24 letters in response to the *2014 RFI*,[9] and consideration of the respondents' recommended changes, FHFA as conservator determined that: (1) Each Enterprise would issue and guarantee first-level UMBS backed by mortgage loans that the Enterprise has acquired. The Enterprises would not cross-guarantee each other's first-level UMBS; (2) The key features of the new UMBS would be the same as those of the current Fannie Mae MBS, including a payment delay of 55 days; (3) UMBS would finance fixed-rate mortgage loans now eligible for financing through the TBA market; (4) Mortgage sellers would continue to be able to contribute mortgage loans to multiple-lender pools; (5) Each Enterprise would be able to issue second-level re-securitizations or ''Supers'' backed by UMBS or other Supers issued by either Enterprise.[10] In order for a legacy Freddie Mac Mortgage Participation Certificate (PC) to be re-securitized, the investor would have to first exchange the PC for a UMBS issued by Freddie Mac, so that the payment date of all of the securities in the collateral pool backing the re-securitization would be the same (see (8) below); (6) The loan- and security-level disclosures for UMBS would closely resemble those of Freddie Mac PCs; (7) Existing Enterprise policies and practices related to the removal of mortgage loans from securities (buyouts), which already were aligned substantially, would be generally similar and more closely aligned for purposes of the UMBS. FHFA and the Enterprises would carefully assess the potential effect on prepayment speeds of any potential changes in Enterprise programs, policies, and practices developed or considered. Maintaining the existing high degree of similarity between the prepayment speeds of the Enterprises' securities would be an important objective for FHFA; and (8) Freddie Mac would offer investors the option to exchange legacy PCs for UMBS backed by the same mortgage loans and would compensate investors with a one-time payment for the estimated cost of the change in the payment delay.

The *May 2015 Update* solicited public input on FHFA's determinations. While respondents were generally supportive of FHFA's determinations, they requested further clarification on the following items: (1) How alignment in key Enterprise policies and practices would be ensured going forward; (2) how Freddie Mac would determine the one-time payment amount associated with the change in the security payment delay from 45 days to 55 days; (3) the timing of implementation of the initiative; and, (4) how certain market risks would be addressed.[11] The proposed rule and subsequent FHFA Updates as discussed below address these items.

In July 2015, Fannie Mae, Freddie Mac, and CSS assembled a Single Security/CSP Industry Advisory Group (IAG) to provide feedback and share information with CSS and the Enterprises related to the UMBS and the development of the CSP. The group's members included representatives from the American Bankers Association, Center for Responsible Lending, Financial Services Roundtable, Fixed Income Clearing Corporation, Independent Community Bankers of America, Mortgage Bankers Association, Securities Industry and Financial Markets Association, and the Structured Finance Industry Group. Fannie Mae and Freddie Mac also initiated UMBS and CSP web pages that provide regular progress updates and allow visitors to register to submit questions.

On July 7, 2016, FHFA published *An Update on Implementation of the Single Security and the Common Securitization Platform* (*July 2016 Update*).[12] That update noted that in

3, 2014) (*https://www.urban.org/sites/default/files/publication/22916/413218-Charting-the-Course-to-a-Single-Security.PDF*).

[5] *https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/RFI-Single-Security-FINAL-8-11-2014.pdf* (last accessed 08/17/2018).

[6] To-be-announced (TBA) eligible MBS are MBS that meet certain market criteria for fungibility, *e.g.,* they have the same maturity, coupon, face value, price, and settlement date. The specific MBS delivered to fulfill a to-be-announced trade is not designated at the time the trade is made. Rather the seller promises to deliver, on an agreed upon date, an MBS that conforms to the agreed upon criteria. Typically, the specific MBS delivered to complete the trade are announced 48 hours prior to the settlement date. The ability to forward trade the TBA-eligible MBS allows lenders to offer mortgage borrowers ''rate locks,'' *i.e.,* contract with borrowers to supply mortgage loans at a given rate, provided that the borrower settles the mortgage loan within a specified time period.

[7] *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Single%20Security%20Update%20final.pdf* (last accessed 08/17/2018).

[8] The *May 2015 Update* provides a detailed analysis of the input received and the bases for FHFA's acceptance or rejection of recommendations beginning on p. 5. *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Single%20Security%20Update%20final.pdf* (last accessed 08/17/2018).

[9] *https://www.fhfa.gov/AboutUs/Contact/Pages/input-submissions.aspx.* (select Single Security in pull down menu) (last accessed 08/17/2018).

[10] Hereinafter, unless otherwise noted, any reference to ''UMBS'' includes Supers.

[11] *https://www.fhfa.gov/AboutUs/Contact/Pages/input-submissions.aspx* (select Single Security Structure Update 2015 in pull down menu) (last accessed 08/17/2018). An August 21, 2015 letter from the Securities Industry and Financial Markets Association (SIFMA) suggested or requested clarity on the following: (1) Alignment of Enterprise policies, practices, prepayment speeds, and the role of FHFA in ensuring such alignment, including recommendations on specific areas for alignment; (2) a formal review and comment process for Enterprise policy and practice changes and performance monitoring by FHFA; and (3) implementation milestones and timeline. *https://www.sifma.org/wp-content/uploads/2017/05/sifma-submits-comment-to-the-fhfa-on-the-structure-of-the-single-security-update.pdf* (last accessed 08/17/2018).

[12] *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Implementation-of-the-SS-and-the-CSP_772016.pdf* (last accessed 08/17/2018).

response to industry concerns about the potential for differences in Fannie Mae and Freddie Mac's policies to affect prepayment speeds, *FHFA's 2016 FHFA Conservatorship Scorecard* [13] established the following goals for the Enterprises: (1) Assess new or revised Enterprise programs, policies, and practices for their effect on the cash flows of MBS eligible for financing through the TBA market, *e.g.,* prepayments and the removal of delinquent mortgage loans from securities in exchange for payment of the remaining principal amount to the investor (repurchases or buy-outs); (2) Provide ongoing monitoring of loan acquisitions, security issuances, and prepayments; and (3) Provide all relevant information on a timely basis to support FHFA reviews.

On September 6, 2017, Fannie Mae and Freddie Mac published the *Single Security Initiative Market Adoption Playbook* (*Playbook*).[14] The *Playbook* provided an explanation of changes to the Enterprises' security programs associated with the Single Security Initiative. The *Playbook* provided detailed information about how the transition to UMBS and Supers would affect the day-to-day operations of key market segments. The *Playbook* also identified possible actions market participants should consider taking to ensure a smooth transition to TBA trading in the new securities and served as a tool to help market participants adapt their business policies, procedures, and processes to the UMBS and Supers prior to their implementation in 2019.

On December 4, 2017, FHFA published an *Update on the Single Security Initiative and the Common Securitization Platform* (*December 2017 Update*) [15] that focused on Enterprise and FHFA outreach to market participants to prepare for implementation. The *December 2017 Update* provided additional details on how FHFA would monitor the *ex post* alignment of Enterprise prepayment speeds, and stated that FHFA would seek general alignment on the observed prepayments associated with Enterprise UMBS at the cohort level. The *December 2017 Update* clarified that by ''general alignment,'' FHFA meant that those cash flows should be similar rather than identical; *i.e.,* sufficiently similar as to not induce UMBS investors to make stipulated trades.[16] For this purpose, FHFA would define a cohort as TBA-eligible securities with the same coupon, maturity, and issuance year.[17] FHFA announced that it would set a minimum standard to trigger a review of the differences in prepayment speeds of any given cohort.[18] In general, FHFA would investigate differences between actual Fannie Mae and Freddie Mac prepayment speeds when the divergence for a cohort exceeded a one-month conditional prepayment rate (CPR) of two percentage points.[19] For a divergence in the one-month CPR of three percentage points or more, FHFA would require that the Enterprises report the likely cause of the divergence be reported to FHFA. FHFA would base the percentage triggers on the current interest rate environment and mortgage rates, but the triggers would be subject to change.

Additionally, in response to market participants' requests for more transparency about the data FHFA monitors and FHFA's uses of that data, the *December 2017 Update* Appendix B provided samples of data, including prepayment data, that FHFA receives and reviews on a monthly basis, as well as descriptions of how FHFA uses that data.

In the first quarter of 2018, FHFA published its first *Prepayment Monitoring Report* (*PMR*).[20] Going forward, FHFA plans to continue to monitor and publish reports that include third-party data pertaining to the alignment of prepayment speeds on the Enterprises' TBA-eligible securities, including the one-month CPRs for each cohort.

In December 2017, FHFA received a second SIFMA letter, this time addressing FHFA's *December 2017 Update.* In addition to reiterating and expanding on its August 21, 2015 letter (*see supra* note 11), SIFMA recommended that FHFA adopt a regulation on how general alignment of programs, policies, and practices affecting prepayment speeds will be enforced, including thresholds for regulatory action.[21]

On March 28, 2018, FHFA announced that on June 3, 2019 the Enterprises would start issuing a new common security,[22] the UMBS, in place of their current offerings of TBA-eligible MBS.

On July 10, 2018, FHFA received further input from SIFMA (*July SIFMA letter*).[23] This proposed rule and current FHFA practices address the points in the *July SIFMA letter.* Section 1248.6(a) of the proposed rule goes beyond SIFMA's chief request, and is consistent with FHFA's *July 2016, March 2017,* and *December 2017 Updates* in that it would require FHFA to review any changes to the Enterprises' policies, procedures, or practices that are projected to affect cohort level prepayments by creating a difference of more than 2% CPR between the two Enterprises (the *July SIFMA letter* suggested a 3% threshold). SIFMA also proposed: (1) That FHFA review any Enterprise program anticipated to either increase or decrease the population of borrowers by more than 2%; (2) that FHFA give special consideration to any Enterprise program that could materially affect cheapest-to-deliver (CTD) down to the decile level; and (3) that any program that materially changes credit risk, in the short or long term, taken on by the Enterprises should also be reviewed and potential issues assessed. The proposed rule answers SIFMA's concerns in proposed § 1248.6(a)(2) which would require the Enterprises to submit, in writing, for FHFA's approval, any changes that may cause misalignment (*i.e.,* cause the same cohort's one- month CPR to diverge by

[13] *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/2016-Scorecard.pdf%20* (last accessed 08/17/2018).

[14] *https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/Single-Security-Initiative-Market-Adoption-Playbook.pdf* (last accessed 08/17/2018).

[15] *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Update-on-the-Single-Security-Initiative-and-the-CSP_December-2017.pdf* (last accessed 08/17/2018).

[16] In this context, a stipulated trade or ''stip'' trade is a trade in which the investor stipulates that it will accept delivery only of a security issued by one enterprise or the other, *e.g.,* a Freddie Mac UMBS. So, even if industry practice is to allow an order for a UMBS to be filled with a UMBS issued by either a Fannie Mae and Freddie Mac, the investor would demand that its order be filled only with, *e.g.,* a Freddie Mac UMBS (the investor would stipulate that it would not accept delivery of a Fannie Mae UMBS).

[17] Notwithstanding the December 2017 Update reference to ''issuance year'' FHFA has used and will continue to use the industry standard of loan-origination year.

[18] *https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/SingleSecurityUpdatefinal.pdf.*

[19] CPR measures prepayments as a percentage of the current outstanding principal balance of the pool of loans backing a mortgage-backed security or cohort of those securities. As used in the *December 2017 Update* and in this proposed rule, the CPR is expressed as a compound annual rate.

[20] *See e.g., FHFA 1Q2018 Prepayment Monitoring Report, https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Prepayment-Monitoring_1Q2018.pdf* (last accessed 08/17/2018).

[21] *https://www.sifma.org/wp-content/uploads/2017/12/SIFMA-Comments-on-December-4-2017-Update-on-the-Single-Security.pdf* (last accessed 08/17/2018).

[22] ''Common security'' means a security with some common features, including: Payment delays of 55 days; pooling prefixes; mortgage coupon pooling requirements; minimum pool submission amounts; general loan requirements such as first lien position, good title, and non-delinquent status; seasoning requirements; and loan repurchase, substitution and removal guidelines.

[23] *https://www.sifma.org/wp-content/uploads/2018/07/Single-Security--Priority-Issues-to-be-resolved-before-launch.pdf* (last accessed 08/17/2018).

more than 2 percent), and specifically address in its submission to FHFA borrower impacts and the impact on CTD down to the decile level. Moreover, the proposed rule does not limit its application to just those metrics, but covers all of SIFMA's suggested measures and any other appropriate criteria, under proposed § 1248.3, which requires the Enterprises to align programs, policies, and practices to the extent that the Enterprises should reasonably foresee that changes could cause a misalignment of cash flows to investors in Enterprise TBA-eligible securities.[24] FHFA invites comment on how achievable the decile level of analysis is likely to be.

The *July SIFMA letter* also highlighted the importance of capturing the effect of different interest rate scenarios (plus or minus 100 basis point shocks, unchanged interest rates, and rates tracking the forward curve on the projection of prepayment speeds) on cash flows. FHFA has instructed each Enterprise in implementing the *2017 Scorecard* to use publicly disclosed information to develop non-public quarterly reports for FHFA that provide forward payment projections, by coupon, for the prior quarter's new issuances of both Enterprises' TBA-eligible securities. FHFA requires the reports to include: (1) Projected prepayment rates over the next six months under a range of interest rate scenarios, and (2) for the past quarter, the identification and analysis of any cohort where the prepayment projections between the Enterprises' issuances differ by a material amount. FHFA reviews these reports, but limits its application of the 2- and 3-percentage point thresholds described above by excluding cohorts with loan-origination years before 2012 or if the total original or current outstanding principal balance of the cohorts across both Enterprises is less than $10 billion.

FHFA requests public comment on whether it should continue that practice, and, if so, what metrics it should use to avoid being overly comprehensive, while focusing on cohorts that are of interest to the industry.

Another concern raised in the *July SIFMA letter* relates to the transparency of the processes for review and implementation of new or changed programs, policies, and practices at the Enterprises. Section 1248.6 of the proposed rule requires each Enterprise to establish and maintain an Enterprise-wide governance process to ensure that any proposed changes to covered programs, policies, and practices that may cause a reasonably foreseeable misalignment ''are identified, reviewed, escalated, and submitted, in writing, to FHFA for review and approval in a timely manner.'' Additionally, under current practices, most changes are announced publicly by the Enterprises either in advance of or at the time of their implementation through updates to their Seller/Servicer guides. The Enterprises provide advance notice for changes that require adjustments from other market participants. For significant changes affecting prepayment alignment, FHFA makes announcements as well. For example, in August 2017, FHFA issued a news release about modification to the Enterprises' high-LTV streamlined refinance programs.[25]

The *July SIFMA letter* also recommends that FHFA issue and publicly disclose standard reports. SIFMA suggested that the standard reports, minimally, should include typical cohort-level prepayments and loan-level characteristics. However, because cohort-level impact could be minimal due to the large size and diversification of annual coupon issuance, the *July SIFMA letter* suggests that special consideration should be paid to deviations in more narrow breakouts such as cheapest to deliver quartiles, deciles, loan balance breakouts, geographic concentrations, and otherwise. Starting in January 2018, FHFA began publishing quarterly *PMRs,* which provide detailed, cohort-level information on 30-year, fixed-rate TBA-eligible MBS issued by each Enterprise.[26] The *PMRs* also include tables showing prepayment information at the decile level for each cohort, including average loan characteristics within each decile. Section 1248.7 of the proposed rule also authorizes FHFA to ''require an Enterprise to undertake additional analysis, monitoring, or reporting to further the purposes of [the proposed rule].''

III. Purpose of the Proposed Rule

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires FHFA to ensure that the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets.[27] FHFA believes that the proposed rule (described in section IV. Proposed Rule) is necessary for the successful adoption of the UMBS. FHFA also believes that the proposed rule and successful adoption of the UMBS will enhance liquidity, efficiency, and competition in the TBA-eligible MBS market.

Liquidity, Efficiency, and Competition

Liquidity

Currently, Fannie Mae has outstanding roughly $2.3 trillion in estimated tradeable TBA-eligible MBS.[28] Freddie Mac has outstanding roughly $1.3 trillion in estimated tradeable TBA-eligible MBS. FHFA believes that combining the two markets into a single UMBS market would increase the liquidity in Fannie Mae TBA-eligible MBS by adding roughly $1.3 trillion to the tradeable supply and increase the liquidity in Freddie Mac TBA-eligible MBS by adding roughly $2.3 trillion to the estimated tradeable supply. FHFA believes that this increase in estimated tradeable supply would result in better execution and help to prevent squeezes[29] in both markets. Moreover, FHFA believes that these benefits would be accentuated for lesser-traded TBA-eligible MBS (*e.g.,* currently, 30-year coupons of less than 3.0 and greater than 4.5 percent). That is, FHFA anticipates that TBA-eligible MBS with lower trading volumes would benefit most from combining the Fannie Mae and Freddie Mac markets. FHFA also believes that the benefits of increased liquidity and improved execution will flow through to borrowers.

FHFA requests comment on the possible magnitude of these effects, and the best ways to estimate them.

[24] The proposed rule refers to programs, policies, and practices that have the potential to cause a misalignment of cash flows to investors in Enterprise TBA-eligible securities as ''covered programs, policies, and practices.''

[25] *https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Modifications-to-High-LTV-Streamlined-Refi-Program-and-Extension-of-HARP-Thru-12-2018.aspx* (last accessed 08/17/2018).

[26] *See e.g., FHFA 1Q2018 PMR, https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Prepayment-Monitoring_1Q2018.pdf* (last accessed 08/17/2018).

[27] 12 U.S.C. 4513(a)(1)(B)(ii).

[28] ''Estimated Tradeable'' here is used to mean *all* Enterprise MBS that are 15-year, 20-year, or 30-year, and that have not been resecuritized as collateralized mortgage obligations. Industry analysts often exclude pools that are traded in the specified market and held by the Federal Reserve Bank of New York.

[29] A ''squeeze'' means a lack of supply for TBA-eligible MBS sellers to cover their trades. The TBA-eligible MBS seller may face penalties for not delivering on a TBA contract, so it may be ''squeezed'' when the deliverable supply available to cover its trade is limited, *i.e.,* the TBA-eligible MBS seller may be forced to pay a premium above what it would pay in a liquid market. The cost of that premium potentially may be passed to borrowers.

Efficiency

FHFA believes that standardizing Fannie Mae and Freddie Mac policies that affect cash flows to investors in TBA-eligible MBS will benefit market participants and homeowners in the same manner that market participants and homeowners benefit from the standardization that underlies TBA eligibility. A Federal Reserve Bank of New York publication on *TBA Trading and Liquidity in the Agency MBS Market* (FRBNY Report) argues that standardization ''simplifies the analytical and risk management challenges for participants in agency MBS markets'' and that ''rather than attempting to value each individual security participants need only to analyze the more tractable set of risks associated with the parameters of each TBA contract.'' [30] FHFA foresees this proposed rule and the UMBS having an analogous effect on investors in TBA-eligible Fannie Mae MBS and Freddie Mac PCs. By instituting regulations that further standardize those products, the proposed rule and the UMBS would reduce complexity and the cost of analytics. As stated in the FRBNY Report, standardization ''helps encourage market participation from a broader group of investors, notably foreign central banks and a variety of mutual funds and hedge funds, translating into a greater supply of capital for financing mortgages.'' The FRBNY Report estimated that, with respect to the TBA market, increased liquidity from standardization benefited borrowers 10 to 25 basis points on average in 2009 and 2010, and that the benefits of standardization would be larger during periods of greater market stress.

FHFA requests comments on the benefits of the standardization that would result from the proposed rule and UMBS.

Competition

Current State

FHFA also believes that the proposed rule and the UMBS would encourage competition between Fannie Mae and Freddie Mac. For example, The Urban Institute has argued that the UMBS would benefit consumers with lower pricing for products for which the competition between Fannie Mae and Freddie Mac is limited, like Home Affordable Refinance Program (HARP) loans.[31] The Urban Institute contends that borrowers with Freddie Mac-owned loans often pay higher rates than those with Fannie Mae-owned loans because, under programs like HARP, Freddie Mac borrowers can refinance only through Freddie Mac (*i.e.,* Freddie Mac does not have to compete with Fannie Mae for these borrowers), and, for these loans Freddie Mac does not subsidize its guarantee fees to retain business, so borrowers rather than Freddie Mac pay the illiquidity premium. The Urban Institute contends that moving to the UMBS would remove Fannie Mae's liquidity and pricing advantage, thereby boosting competition between Fannie Mae and Freddie Mac, with potential benefits to mortgage rates and the availability of mortgage credit.

FHFA requests comments on the effect of the proposed rule and UMBS on the current state of competition between Fannie Mae and Freddie Mac.

Future State

FHFA believes that this proposed rule and successful adoption of the UMBS would better enable transition to any form of future MBS market directed by Congress in potential housing finance reform legislation.[32] The UMBS would facilitate greater competition in the secondary mortgage market by enabling the entry of future market participants. The availability of the CSP and the potential for a new guarantor to trade its own UMBS in a fungible UMBS market would remove two major barriers to entry—Fannie Mae and Freddie Mac's advantages in (a) infrastructure and (b) liquidity—that would otherwise prevent a new entrant from competing in the secondary market.

FHFA requests comments on the effect of the proposed rule and UMBS on the future state of competition in the secondary mortgage market.

IV. Proposed Rule

The Enterprises have been developing the UMBS under auspices of FHFA, as their conservator. As described above, FHFA recognizes that the market participants will need to accept the fungibility of the UMBS, regardless of which Enterprise is the issuer, in order for the secondary market to realize the potential liquidity benefits.

The industry has expressed concerns that Fannie Mae and Freddie Mac UMBS may not be truly fungible because differences in Fannie Mae and Freddie Mac policies could result in materially differing cash flows (as a result of, *e.g.,* differing prepayment speeds).

FHFA has proposed this rule to ensure that Fannie Mae and Freddie Mac programs, policies, and practices that individually have a material effect on cash flows (including policies that affect prepayment speeds) are aligned and will continue to be aligned. The proposed rule defines a materially misaligned program, policy, or practice as one that causes a divergence of at least three percentage points in the one-month CPR for a cohort or divergence greater than the prevailing threshold set by FHFA per proposed § 1248.5(c).

Generally, this proposed rule would codify existing FHFA requirements (as described in section II. Background).

The fundamental mandate in the proposed rule would be that the Enterprises generally align in programs, policies, and practices that affect cash flows to TBA-eligible MBS investors. The remaining provisions of the proposed rule would establish a regime for maintaining alignment through consultation, reporting, and FHFA oversight. Proposed § 1248.8 would provide for a *de minimis* exception to eliminate unnecessary administrative burden, particularly with respect to pilot or other smaller scale programs. FHFA requests comments on the *de minimis* exception.

V. Request for Comments

FHFA requests comment on all aspects of the proposed rule, in addition to those specifically posed in the preamble.

Proposed Part 1248 would cover how FHFA oversees the alignment of cash flows for Fannie Mae and Freddie Mac TBA-eligible MBS. It would make clarifying and general updates to the UMBS regime that is currently in development,[33] but would not fundamentally change the UMBS proposal that FHFA provided notice of, solicited input upon, and received and considered written data, views, and arguments during the 60-day period following its *2014 RFI,* or the recapitulation of the proposal in the subsequent *May 2015 Update, July 2016*

[30] *https://www.newyorkfed.org/medialibrary/media/research/epr/2013/1212vick.pdf.*

[31] Laurie Goodman, Lewis Ranieri, *Charting a Course to a Single Security* (September 3, 2014) (*https://www.urban.org/sites/default/files/publication/22916/413218-Charting-the-Course-to-a-Single-Security.PDF*).

[32] Three major housing finance reform bills have proposed the continuance of the CSP and the issuance of some form of common security as a means to facilitate new market participants. *See,* Protecting American Taxpayers and Homeowners Act of 2013 (PATH Act), H.R. 2767, 113th Cong. §§ 311 and 322 (2013); Housing Finance Reform and Tax Payer Protection Act of 2013 (Corker-Warner), S. 1217, 113th Cong. §§ 232 and 223 (2013); Amendment to Housing Finance Reform and Tax Payer Protection Act of 2014 (Johnson-Crapo), S. 1217, 113th Cong. §§ 325 and 326 (2014).

[33] The ''existing UMBS regime'' refers to the UMBS characteristics upon which the Enterprises have agreed to prior to this rulemaking and the alignment requirements FHFA has imposed during the conservatorships.

Update, March 2017 Update, and *December 2017 Update* for which FHFA also solicited and carefully considered public input. FHFA is providing the public with another 60-day period following publication of the proposed rule to submit additional comments.

VI. Regulatory Impact

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), FHFA may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. FHFA has reviewed this proposed rule and determined that it does not contain any new, or revise any existing, collections of information. As FHFA considers public comments and finalizes the rulemaking, the PRA determination will be evaluated.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to analyze a regulation's impact on small entities if the regulation is expected to have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of this proposed rule and the General Counsel of FHFA certifies that the proposed rule, if adopted as a final rule, is not likely to have a significant economic impact on a substantial number of small entities because it applies only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act. Therefore, an initial regulatory flexibility analysis is not required.

VII. Statutory Authority

A. Safety and Soundness Act

The Safety and Soundness Act provides that a principal duty of the FHFA Director is ''to ensure that . . . the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets.'' [34] The Safety and Soundness Act also provides that the FHFA Director ''shall have general regulatory authority over each regulated entity and the Office of Finance, and shall exercise such general regulatory authority, including such duties and authorities set forth under 12 U.S.C. 4513, to ensure that the purposes of [the] Act, the authorizing statutes [including the Federal National Mortgage Association Charter Act (*Charter Act*); and the Federal Home Loan Mortgage Corporation Act (*Corporation Act*)], and any other applicable law are carried out.'' [35]

B. Fannie Mae Charter Act

Among other purposes, the *Charter Act* requires Fannie Mae to ''promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by *increasing the liquidity of mortgage investments and improving the distribution of investment capital* available for residential mortgage financing.'' [36]

C. Freddie Mac Corporation Act

Similarly, the *Corporation Act* requires Freddie Mac ''to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by *increasing the liquidity of mortgage investments and improving the distribution of investment capital available* for residential mortgage financing.'' [37] FHFA has determined that the UMBS will enhance liquidity in national mortgage markets and that general alignment of Enterprise programs, policies, and practices that affect cash flows to TBA-eligible MBS investors is necessary for the UMBS to achieve market acceptance. Moreover, FHFA has determined that the proposed rule is authorized both under the FHFA Director's duty to ensure that the operations and activities of Fannie Mae and Freddie Mac foster liquid, efficient, competitive, and resilient national housing finance markets, and the FHFA Director's duty to ensure that Fannie Mae and Freddie Mac fulfill the purposes of the *Charter Act* and *Corporation Act,* which include increasing the liquidity of mortgage investments.

List of Subjects in 12 CFR Part 1248

Credit, Government securities, Investments, Mortgages, Recordkeeping and reporting requirements, Securities.

Authority and Issuance

Accordingly, for the reasons stated in the Preamble, FHFA proposes to amend Chapter XII of Title 12 of the Code of Federal Regulations by adding new part 1248 to subchapter C to read as follows:

PART 1248—UNIFORM MORTGAGE-BACKED SECURITIES

Secs.

Authority: 12 U.S.C. 1451, 1716, 4511, and 4526.

§ 1248.1 Definitions.

For the purposes of this part:

Align or alignment means to be sufficiently similar or sufficient similarity as to produce a conditional prepayment rate (CPR) divergence of less than two percentage points (or less than the prevailing threshold for alignment set by FHFA, per § 1248.5(c)), in the one-month CPR for a cohort.

Cohort means all TBA-eligible securities with the same coupon, maturity, and loan-origination year.

Conditional Prepayment Rate or CPR, also known as the constant prepayment rate, means the rate at which investors receive outstanding principal in advance of scheduled principal payments. This includes receipts of principal that result from borrower prepayments and for any other reason. The CPR is expressed as a compound annual rate.

Covered Programs, Policies, or Practices means management decisions or actions that have reasonably foreseeable effects on cash flows to TBA-eligible MBS investors (*e.g.,* effects that result from prepayment rates and the circumstances under which mortgage loans are removed from MBS). These include management decisions or actions about: Single-family guarantee fees; loan level price adjustments and delivery fee portions of single-family guarantee fees; eligibility standards for sellers and servicers; financial and operational standards for private mortgage insurers; streamlined modification and refinance programs; removal of mortgage loans from securities; servicer compensation; proposals that could materially change the credit risk profile of the single-family mortgages securitized by an Enterprise; selling guide requirements for documenting creditworthiness, ability to repay, and adherence to collateral standards; refinances of HARP-eligible loans; contract provisions under which certain sellers commit to sell to an Enterprise a minimum share of the mortgage loans they originate that are eligible for sale to the Enterprises; loan modification offerings; loss mitigation practices during disasters; and alternatives to repurchase for representation and warranty violations.

[34] 12 U.S.C. 4513(a)(1)(B)(ii).

[35] 12 U.S.C. 4511(b)(2).

[36] 12 U.S.C. 1716(4) (emphasis added).

[37] Section 301(b)(4) (12 U.S.C. 1451 note) (emphasis added).

Material misalignment means divergence of at least three percentage points in the one-month CPR for a cohort, or a prolonged misalignment (as determined by FHFA), or divergence greater than the prevailing threshold set by FHFA, per § 1248.5(c).

Misalign or misalignment means diverge by or a divergence of two percentage points or more (or more than the prevailing percentage threshold set by FHFA, per § 1248.5(c)), in the one-month CPR for a cohort.

Mortgage-backed security or MBS means securities collateralized by a pool or pools of single-family mortgages.

Supers means single-class re-securitizations of UMBS.

To-Be-Announced Eligible Mortgage-Backed Security (TBA-Eligible MBS) means Enterprise MBS (including Freddie Mac Participation Certificates, Giants, MBS, UMBS, and Supers; and Fannie Mae MBS, Megas, UMBS, and Supers) that meet criteria such that the market considers them sufficiently fungible to be forward traded in the TBA market.

Uniform Mortgage Backed Security or UMBS means a single-class MBS backed by fixed-rate mortgage loans on 1–4 unit (single-family) properties issued by either Enterprise which has the same characteristics (such as payment delay, pooling prefixes, and minimum pool submission amounts) regardless of which Enterprise is the issuer.

§ 1248.2 Purpose.

The purpose of this part is to:

(a) Enhance liquidity in the MBS marketplace, and to that end, enable adoption of the UMBS, by achieving sufficient similarity of cash flows on cohorts of TBA-eligible MBS such that investors will accept delivery of UMBS from either issuer in settlement of trades on the TBA market.

(b) Provide transparency and durability into the process for creating alignment.

§ 1248.3 General alignment.

Each Enterprise's covered programs, policies, and practices must align with the other Enterprise's covered programs, policies, and practices.

§ 1248.4 Enterprise consultation.

When and in the manner instructed by FHFA, the Enterprises shall consult with each other on any issues, including changes to covered programs, policies, and practices that potentially or actually cause cash flows to TBA-eligible MBS investors to misalign.

§ 1248.5 Misalignment.

(a) The Enterprises must report any misalignment to FHFA.

(b) The Enterprises must submit, in a timely manner, a written report to FHFA on any material misalignment describing, at a minimum, the likely cause of material misalignment and the Enterprises' plan to address the material misalignment.

(c) FHFA will *temporarily* adjust the percentages in the definitions of align, misalignment, and material misalignment, if FHFA determines that market conditions dictate that an adjustment is appropriate.

(1) In adjusting the percentages, FHFA will consider:

(i) The prevailing level and volatility of interest rates,

(ii) The level of credit risk embedded in the Enterprises' TBA-eligible MBS, and

(iii) Such other factors as FHFA may, in consultation with the Enterprises, determine to be appropriate to promote market confidence in the alignment of cash flows to TBA-eligible MBS investors and to foster the efficiency and liquidity of the secondary mortgage market.

(2) If adjusted percentages remain in effect for six months or more, FHFA will amend this Part's definitions by **Federal Register** Notice, with opportunity for public comment.

§ 1248.6 Covered programs, policies, and practices.

(a) *Enterprise Change Management Processes.* Each Enterprise must establish and maintain an Enterprise-wide governance process to ensure that any proposed changes to covered programs, policies, and practices that may cause misalignment are identified, reviewed, escalated, and submitted, in writing, to FHFA for review and approval in a timely manner.

(1) Submissions to FHFA must include projections for prepayment rates and for removals of delinquent loans under a range of interest rate environments and assumptions concerning borrower defaults.

(2) Submissions to FHFA must include an analysis of the impact on borrower demand and impact on the cheapest-to-deliver security down to the decile.

(3) Submissions to FHFA must include an analysis of identified risks and may include potential mitigating actions.

(b) *Enterprise Monitoring.* Any changes to covered programs, policies, and practices that an Enterprise reasonably should identify as having been a likely cause of an unanticipated divergence between Enterprises in the one month CPR of the same cohort shall be reported promptly to FHFA in writing.

(c) *FHFA Monitoring.* FHFA will monitor changes to covered programs, policies, and practices for effects on cash flows to TBA-eligible MBS investors.

§ 1248.7 Remedial actions.

(a) Based on its review of reports submitted by the Enterprises and reports issued by independent parties, FHFA may:

(1) Require an Enterprise to undertake additional analysis, monitoring, or reporting to further the purposes of this part.

(2) Require an Enterprise to change covered programs, policies, and practices that FHFA determines may conflict with the purposes of this part.

(b) To address material misalignment, FHFA may require additional and expedient Enterprise actions based on:

(1) Consultation with the Enterprises regarding the cause of the material misalignment;

(2) Review of Enterprise compliance with previously agreed upon or FHFA-required actions; and

(3) Review of the effectiveness of such actions to determine whether they are achieving the purpose of this part.

§ 1248.8 *De minimis* exception.

FHFA may exclude from the requirements of this Part, covered programs, policies, or practices that solely affect cohorts with unpaid principal balances below $5 billion.

Dated: September 11, 2018.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2018–20124 Filed 9–14–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0792; Product Identifier 2018–NM–090–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was