

## Federal Housing Enterprise Oversight, HUD

## § 1750.2

APPENDIX B TO SUBPART B OF PART 1750 [RESERVED]

AUTHORITY: 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4615, 4618.

### Subpart A—Minimum Capital

#### § 1750.1 General.

The regulation contained in this subpart A sets forth the methodology for computing the minimum capital requirement for each Enterprise. The board of directors of each Enterprise is responsible for ensuring that the Enterprise maintains capital at a level that is sufficient to ensure the continued financial viability of the Enterprise and that equals or exceeds the minimum capital requirement contained in this subpart A.

#### § 1750.2 Definitions.

For purposes of this subpart A, the following definitions shall apply:

*Affiliate* means any entity that controls, is controlled by, or is under common control with, an Enterprise, except as otherwise provided by the Director.

*Commitment* means any contractual, legally binding agreement that obligates an Enterprise to purchase or to securitize mortgages.

*Core Capital*—(1) Means the sum of (as determined in accordance with generally accepted accounting principles)—

- (i) The par or stated value of outstanding common stock;
- (ii) The par or stated value of outstanding perpetual, noncumulative preferred stock;
- (iii) Paid-in capital; and
- (iv) Retained earnings; and

(2) Does not include debt instruments or any amounts the Enterprise could be required to pay at the option of an investor to retire capital instruments.

*Director* means the Director of FHFO.

*Enterprise* means the Federal National Mortgage Association and any affiliate thereof or the Federal Home Loan Mortgage Corporation and any affiliate thereof.

*Foreign exchange rate contracts*—

(1) Means cross-currency interest rate swaps, forward foreign exchange contracts, currency options purchased

(including currency options purchased over-the-counter), and any other instrument that gives rise to similar credit risks; and

(2) Does not mean foreign exchange rate contracts with an original maturity of 14 calendar days or less and foreign exchange rate contracts traded on exchanges that require daily payment of variation margins.

*Interest rate contracts*—

(1) Means single currency interest rate swaps, basis swaps, forward rate agreements, interest rate options purchased (including caps, collars, and floors purchased), over-the-counter options purchased, and any other instrument that gives rise to similar credit risks (including when-issued securities and forward deposits accepted); and

(2) Does not mean such instruments traded on exchanges that require daily payment of variation margins.

*Mortgage-backed security* means a security, investment, or substantially equivalent instrument that represents an interest in a pool of loans secured by mortgages or deeds of trust where the principal or interest payments to the investor in the security or substantially equivalent instrument are guaranteed or effectively guaranteed by an Enterprise.

*Multifamily credit enhancement* means any guarantee, pledge, purchase arrangement, or other obligation or commitment provided or entered into by an Enterprise with respect to multifamily mortgages to provide credit enhancement, liquidity, interest rate support, and other guarantees and enhancements for revenue bonds issued by a state or local governmental unit (including a housing finance agency) or other bond issuer.

*1992 Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, found at Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102-550, 12 U.S.C. 4501 *et seq.*

*Notional amount* means the face value of the underlying financial instrument(s) on which an interest rate or foreign exchange rate contract is based.

*Off-balance sheet obligation* means a binding agreement, contract, or similar

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arrangement that requires or may require future payment(s) in money or kind by another party to an Enterprise, or that effectively guarantees all or part of such payment(s) to third parties (including commitments), where such agreement or contract is a source of credit risk that is not included on its balance sheet.

*OFHEO* means the Office of Federal Housing Enterprise Oversight.

*Other off-balance sheet obligations* means all off-balance sheet obligations of an Enterprise that are not mortgage-backed securities or substantially equivalent instruments and that are not resecuritized mortgage-backed securities, such as real estate mortgage investment conduits or similar resecuritized instruments.

*Perpetual, noncumulative preferred stock* means preferred stock that—

- (1) Does not have a maturity date;
- (2) Provides the issuer the ability and the legal right to eliminate dividends and does not permit the accruing or payment of impaired dividends;
- (3) Cannot be redeemed at the option of the holder; and
- (4) Has no other provisions that will require future redemption of the issue, in whole or in part, or that will reset the dividend periodically based, in whole or in part, on the Enterprise's current credit standing, such as auction rate, money market, or remarketable preferred stock, or that may cause the dividend to increase to a level that could create an incentive for the issuer to redeem the instrument, such as exploding rate stock.

*Qualifying collateral* means cash on deposit; securities issued or guaranteed by the central governments of the OECD-based group of countries,<sup>1</sup>

<sup>1</sup>The OECD-based group of countries comprises full members of the Organization for Economic Cooperation and Development (OECD) regardless of entry date, as well as countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow, but excludes any country that has rescheduled its external sovereign debt within the previous 5 years. A rescheduling of external sovereign debt generally would include any renegotiation of terms arising from a country's mobility or unwillingness to meet its external debt service obligations, but gen-

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United States Government agencies, or United States Government-sponsored agencies; and securities issued by multilateral lending institutions or regional development banks.

#### § 1750.3 Procedure and timing.

(a) Each Enterprise shall file with the Director a minimum capital report each quarter or at such other times as the Director requires, in his or her sole discretion. The report shall contain the information that responds to all of the items required by OFHEO in written instructions to the Enterprise, including, but not limited to:

(1) Estimate of the minimum capital requirement;

(2) Estimate of core capital coverage or shortfall relative to the estimated minimum capital requirement;

(3) Such other information as may be required by the Director.

(b) The quarterly minimum capital report shall be submitted not later than April 30, July 30, October 30, and January 30 of each year.

(c) Each minimum capital report shall be submitted in writing and in such other format as may be required by the Director.

(d) In the event an Enterprise makes an adjustment to its financial statements for a quarter or a date for which the information was requested, which would cause an adjustment to a minimum capital report, the Enterprise shall file with the Director an amended minimum capital report not later than 3 business days after the date of such adjustment.

(e) Each minimum capital report or any amended minimum capital report shall contain a declaration by an officer authorized by the board of directors

erally not include any renegotiation to allow the borrower to take advantage of a decline in interest rate or other change in market conditions. As of November 1995, the OECD countries included the following countries: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States; and Saudi Arabia has concluded special lending arrangements with the IMF associated with the IMF's General Arrangements to Borrow.