

## Federal Housing Finance Agency

## § 1238.2

(1) Will enhance the ability of the regulated entity to meet the risk-based capital level and the minimum capital level for the regulated entity;

(2) Will contribute to the long-term financial safety and soundness of the regulated entity;

(3) Is otherwise in the interest of the regulated entity; or

(4) Is otherwise in the public interest.

(c) This section is intended to supplement and shall not replace or affect any other restriction on capital distributions imposed by statute or regulation.

### § 1237.13 Payment of Securities Litigation Claims while in conservatorship.

(a) *Payment of Securities Litigation Claims while in conservatorship.* The Agency, as conservator, will not pay a Securities Litigation Claim against a regulated entity, except to the extent the Director determines is in the interest of the conservatorship.

(b) *Claims against limited-life regulated entities.* A limited-life regulated entity shall not assume, acquire, or succeed to any obligation that a regulated entity for which a receiver has been appointed may have to any shareholder of the regulated entity that arises as a result of the status of that person as a shareholder of the regulated entity, including any Securities Litigation Claim. No creditor of the regulated entity shall have a claim against a limited-life regulated entity unless the receiver has transferred that liability to the limited-life regulated entity. The charter of the regulated entity, or of the limited-life regulated entity, is not an asset against which any claim can be made by any creditor or shareholder of the regulated entity.

### § 1237.14 Golden parachute payments [Reserved]

## PART 1238—STRESS TESTING OF REGULATED ENTITIES

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AUTHORITY: 12 U.S.C. 1426; 4513; 4526; 4612; 5365(i).

SOURCE: 78 FR 59222, Sept. 26, 2013, unless otherwise noted.

### § 1238.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Housing Finance Agency (FHFA) under section 165(i) of Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111-203, 124 Stat. 1376, 1423-32 (2010), 12 U.S.C. 5365(i)), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4513, 4526, 4612), and the Federal Home Loan Bank Act, as amended (12 U.S.C. 1426).

(b) *Purpose.* (1) This part implements section 165(i)(2) of the Dodd-Frank Act, which requires all large financial companies that have total consolidated assets of more than \$10 billion, and are regulated by a primary federal financial regulatory agency, to conduct annual stress tests. To ensure the safety and soundness of the regulated entities, the Director reserves and retains the discretion to apply this part to any regulated entity with less than \$10 billion total consolidated assets in a particular year.

(2) This part establishes requirements that apply to each regulated entity's performance of annual stress tests. The purpose of the annual stress test is to provide the regulated entities, FHFA, and the FRB with additional, forward-looking information that will help them to assess capital adequacy at the regulated entities under various scenarios; to review the regulated entities' stress test results; and to increase public disclosure of the regulated entities' capital condition by requiring broad dissemination of the stress test scenarios and results.

### § 1238.2 Definitions.

For purposes of this part, the following definitions apply:

### § 1238.3

*Federal Home Loan Banks* mean the Federal Home Loan Banks established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432). Each Bank is a regulated entity.

*Federal Housing Finance Agency* or *FHFA* means the agency established by 12 U.S.C. 4511.

*Planning horizon* means the period of time over which the stress projections must extend. The planning horizon cannot be less than nine quarters.

*Regulated entities* means, collectively, Fannie Mae, Freddie Mac, and the twelve Federal Home Loan Banks.

*Scenarios* are sets of economic and financial conditions used in the regulated entities' stress tests, including baseline, adverse, and severely adverse.

*Stress test* is a process to assess the potential impact on a regulated entity of economic and financial conditions ("scenarios") on the consolidated earnings, losses, and capital of the regulated entity over a set planning horizon, taking into account the current condition of the regulated entity and the regulated entity's risks, exposures, strategies, and activities.

### § 1238.3 Annual stress test.

(a) *In general.* Each regulated entity:

(1) Shall complete an annual stress test of itself based on its data as of September 30 of that calendar year;

(2) The stress test shall be conducted in accordance with this section and the methodologies and practices described in §1238.4 and in any supplemental guidance or Order.

(b) *Scenarios provided by FHFA.* In conducting its annual stress tests under this section, each regulated entity must use scenarios provided by FHFA, which shall be generally consistent and comparable to those established by the FRB, that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. Not later than 15 days after the FRB publishes its scenarios, FHFA will issue to all regulated entities a description of the baseline, adverse, and severely adverse scenarios that each regulated entity shall use to conduct its annual stress tests under this part.

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### § 1238.4 Methodologies and practices.

(a) *Potential impact.* Except as noted in this subpart, in conducting a stress test under §1238.3, each regulated entity shall calculate how each of the following is affected during each quarter of the stress test planning horizon, for each scenario:

(1) Potential losses, pre-provision net revenues, allowance for loan losses, and future pro forma capital positions over the planning horizon; and

(2) Capital levels and capital ratios, including regulatory capital and net worth, each Bank's leverage and permanent capital ratios, and any other capital ratios, specified by FHFA.

(b) *Planning horizon.* Each regulated entity must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed.

(c) *Additional analytical techniques.* If FHFA determines that the stress test methodologies and practices of a regulated entity are deficient, FHFA may determine that additional or alternative analytical techniques and exercises are appropriate for a regulated entity to use in identifying, measuring, and monitoring risks to the financial soundness of the regulated entity, and require a regulated entity to implement such techniques and exercises in order to fulfill the requirements of this part. In addition, FHFA will issue guidance annually to describe the baseline, adverse, and severely adverse scenarios, and methodologies to be used in conducting the annual stress test.

(d) *Controls and oversight of stress testing processes.* (1) The appropriate senior management of each regulated entity must ensure that the regulated entity establishes and maintains a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the regulated entity are effective in meeting the requirements of this part. These policies and procedures must, at a minimum, describe the regulated entity's testing practices and methodologies, validation and use of stress test results, and processes for updating the regulated entity's stress testing practices consistent with relevant supervisory guidance;