



FACT SHEET: FINAL RULE ON RESOLUTION PLANNING FOR THE ENTERPRISES

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BACKGROUND

The Federal Housing Finance Agency (FHFA) is publishing a final rule that requires Fannie Mae and Freddie Mac (the Enterprises) to develop plans that would facilitate their rapid and orderly resolution in the event FHFA is appointed as their receiver pursuant to 12 U.S.C. 4617 of the Safety and Soundness Act. A resolution planning rule, which gives effect to Congress' intent in the Housing and Economic Recovery Act of 2008, is an important part of FHFA's ongoing effort to develop a robust prudential regulatory framework for the Enterprises, including capital, liquidity, and stress testing requirements, as well as enhanced supervision, which will be critical to FHFA's supervision of the Enterprises particularly when they exit conservatorship.

The final resolution planning rule is similar to resolution planning rules issued by the Federal Reserve Board and the Federal Deposit Insurance Corporation under the Dodd–Frank Wall Street Reform and Consumer Protection Act, which require many large financial institutions to draft resolution plans and submit them to regulators. As with these large financial institutions, resolution planning for the Enterprises is critical to safeguarding the financial system and mitigating systemic risk. In 2019, for example, the Department of Treasury highlighted in its Housing Reform Plan the importance of a credible resolution framework for the Enterprises in protecting taxpayers against bailouts, enhancing market discipline, and mitigating moral hazard and systemic risk. Similarly, in 2020, the Financial Stability Oversight Council endorsed living wills for the Enterprises as a means of enhancing the Enterprises' regulatory framework.

Throughout the rulemaking process, FHFA has been committed to transparency to improve the proposed rule through public comment. The proposed rule was made available to the public beginning December 21, 2020 and published in the Federal Register on January 8, 2021. The comment period ended on March 9, 2021, 60 days after publication in the Federal Register. FHFA received 14 comments on the proposed rule. Public input has provided FHFA with important information to help refine and finalize the rule. As a result, the final rule includes several changes to the proposed rule.

FINAL RULE

The final rule requires each Enterprise to develop a resolution plan for submission to FHFA that would assist FHFA in planning for the rapid and orderly resolution of an Enterprise if FHFA is appointed receiver for the Enterprise pursuant to 12 U.S.C. 4617. The development of resolution plans will be an iterative process. The final rule preserves key components contained in the proposed rule:

- **Identification of core business lines** – The rule establishes that the Enterprise resolution planning process would begin with identification of an Enterprise's "core business lines" (CBL) – those business lines of the Enterprise that plausibly would continue to operate in the limited-life regulated entity (LLRE). Identification of CBLs would include identification of associated operations, services, functions, and supports necessary for the CBL to be continued. Understanding CBLs will enable FHFA and the Enterprise to determine the operations of the LLRE, and what assets and liabilities must be transferred from the Enterprise to the LLRE in order to carry out those operations.
- **Timing of resolution plan and interim update submissions** – The rule addresses procedural requirements related to the frequency and timing for submission of initial and subsequent resolution plans to FHFA. The rule requires the Enterprises to submit their initial resolution plans two years after the effective date of the final rule and subsequent resolution plans to be submitted every two years thereafter.

- **Required and prohibited assumptions** – The rule provides a set of required and prohibited assumptions the resolution plans should reflect, which include:
 - o The assumption of severely adverse economic conditions;
 - o The prohibition of assuming the provision or continuation of extraordinary support by the United States government; and
 - o The reflection of statutory provisions that obligations and securities of the Enterprise issued pursuant to its charter are not guaranteed by the United States and do not constitute a debt or obligation of the United States.
- **Content of resolution plans** – The rule requires that resolution plans contain a strategic analysis and information sufficient to provide an understanding of an Enterprise’s CBLs and facilitating their continuation in a LLRE established by FHFA as receiver. Each Enterprise’s strategic plan would also be required to identify and describe potential material weaknesses or impediments to rapid and orderly resolution as conceived in its plan, and any actions or steps taken or proposes to take to address the identified weaknesses or impediments.
- **Confidentiality** – The rule sets out the requirement that the resolution plans include a public section and a confidential section. FHFA expects to work with the Enterprises when developing their initial public sections, to ensure that portions of resolution plans are made available to the public, while balancing the need for candor and to preserve confidentiality of some information.
- **FHFA review** – The rule explains the process for FHFA’s review of the resolution plan, including the determination that a plan is incomplete or substantial additional information is necessary, the identification of deficiencies or shortcomings, the provision of feedback, and resubmission to FHFA.

CHANGES TO THE PROPOSED RULE

In response to comments, FHFA made several changes to the proposed rule:

- The addition of a 12-month notification requirement if FHFA plans to alter the Enterprise resolution plan submission date;
- The reservation of FHFA’s authority to refine submission requirements; and
- The addition of a “shortcomings” category for supervisory concerns identified in Enterprise resolution plans that do not rise to the level of “deficiencies.”

KEY OBJECTIVES AND CONSIDERATIONS

The final rule reflects the following key objectives and considerations:

- The purpose of the rule is to require each Enterprise to develop a resolution plan to facilitate its rapid and orderly resolution under FHFA’s receivership authority in a manner that (1) minimizes disruption in the national housing finance markets by providing for the continued operation of the CBLs of the Enterprise in receivership by a newly constituted LLRE; (2) preserves the value of the Enterprise’s franchise and assets; (3) facilitates the division of assets and liabilities between the LLRE and the receivership estate; (4) ensures that investors in mortgage-backed securities guaranteed by the Enterprises and in Enterprise unsecured debt bear losses in accordance with the



priority of payments established in the Safety and Soundness Act, while minimizing unnecessary losses and costs to these investors; and (5) fosters market discipline by making clear that no extraordinary government support will be available to indemnify investors against losses or fund the resolution of an Enterprise.

- FHFA believes that the resolution plans should not assume extraordinary government support, whether under the Preferred Stock Purchase Agreements (PSPAs) or otherwise. Expectations of government support increase risk to the Enterprises' safety and soundness and the stability of the national housing finance markets by undermining market discipline and encouraging excessive risk taking. More practically, Treasury's commitment under the PSPAs is finite and cannot be replenished.

