

Federal Housing Enterprise Oversight

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fraction of the loans at the start of the Stress Test (by number or by balance, depending on how Prepayment and Default rates are measured) in the loan group; see e.g., section 3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions, of this Appendix.

Prepayment: the prepayment in full of a loan before its contractual maturity date

Prepayment Interest Shortfall: as defined in section 3.6.3.1, Timing Conventions, of this Appendix.

R

Risk-Based Capital (RBC) Report: The form in which Enterprise data is to be submitted for purposes of calculating the risk-based capital requirement, as described in section 3.1, Data, of this Appendix.

Relative Spread: as defined in section 3.6.3.4.3.1, Single Family Default and Prepayment Explanatory Variables, of this Appendix.

Retained Loans: as described in section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

S

Scheduled Principal: the amount of principal reduction that occurs in a given month according to the Amortization Schedule of a mortgage loan; see section 3.6.3.3, Mortgage Amortization Schedule, of this Appendix.

Servicing Fee: portion of mortgage interest payment retained by servicer.

Sold Loans: as described in section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

Spread Accounts: a form of Credit Enhancement; section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix.

Stress Period: the 10-year period covered by the Stress Test simulation.

Stress Test: the calculation, which applies specified economic assumptions to Enterprise portfolios, described in this Appendix.

Strike Rate: the interest rate above/below which interest is received for caps/floors.

Subordination Agreements: a form of Credit Enhancement in which the cash flows allocable to a portion of a mortgage pool are used to cover losses on loans allocable to another portion of the mortgage pool; see section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix.

T

Time Zero: used to designate the conditions in effect at the start of the Stress Test, as defined in section 3.6.3.1, Timing Conventions, of this Appendix.

U

Unpaid Principal Balance (UPB): the Unpaid Principal Balance of a loan or loan group based solely on its Amortization Schedule,

without giving effect to any missed or otherwise unscheduled payments.

W

Whole Loan: a mortgage loan.

[66 FR 47806, Sept. 13, 2001, as amended at 67 FR 11861, Mar. 15, 2002; 67 FR 66535, Nov. 1, 2002; 68 FR 7312, Feb. 13, 2003]

APPENDIX B TO SUBPART B OF PART 1750
[RESERVED]

PART 1770—EXECUTIVE COMPENSATION

Sec.

1770.1 Authority and scope.

1770.2 Purpose.

1770.3 Definitions.

1770.4 Submission requirements.

1770.5 Compliance.

AUTHORITY: 12 U.S.C. 1452(h)(2), 1723a(d)(3)(B), 4501(6), 4502(3), 4502(7), 4513, 4514, 4517, 4518(a), 4631, 4632, 4636, 4641.

SOURCE: 66 FR 47554, Sept. 12, 2001, unless otherwise noted.

§ 1770.1 Authority and scope.

(a) *Authority*. Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, entitled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (“the Act”) (12 U.S.C. 4501 *et seq.*), established the Office of Federal Housing Enterprise Oversight (“OFHEO”) as an independent office within the Department of Housing and Urban Development. In general, OFHEO is the safety and soundness regulator of two housing-related government sponsored enterprises: the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”) (collectively, “the Enterprises”). The supervisory responsibilities of the Director of OFHEO (the “Director”) include oversight of compensation provided by the Enterprises to their executive officers.

(b) *Scope*. The procedures set forth in this part apply to OFHEO’s oversight of executive compensation under the following two statutory mandates:

(1) *Prohibition of excessive compensation*. The Act requires the Director to prohibit an Enterprise from providing compensation to any executive officer that is not reasonable and comparable

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with that paid by other similar businesses to executives doing similar work, *i.e.*, having similar duties and responsibilities. Businesses used for comparison purposes include publicly held financial institutions or major financial services companies. (12 U.S.C. 4518(a)). To effectuate this compensation oversight responsibility, the Act provides that the Director has full authority to take such actions as the Director determines are necessary. (12 U.S.C. 4513(8)). However, the Director may not prescribe or set a specific level or range of compensation for executive officers of the Enterprises. (12 U.S.C. 4518(b)).

(2) *Prior approval of termination benefits.* The Enterprises' enabling statutes ("charter acts") similarly provide that an Enterprise may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of an executive officer unless the agreement or contract is approved in advance by the Director. The Director may only approve termination benefits that are comparable to benefits provided by other public or private entities involved in financial services and housing interests to executives with comparable duties and responsibilities. Agreements or contracts that provide for termination payments to executives that were entered into before October 28, 1992 are not retroactively subject to approval or disapproval by the Director. However, a renegotiation, amendment or change to such an agreement or contract entered into on or before October 28, 1992 shall be considered as entering into an agreement or contract that is subject to approval by the Director. (Section 309(d)(3)(B); 12 U.S.C. 1723a(d)(3)(B) of Fannie Mae's Charter Act; Section 303(h)(2); 12 U.S.C. 1452(h)(2) of Freddie Mac's Corporation Act)

§ 1770.2 Purpose.

In exercising responsibilities related to executive compensation, the Director has established a structured process for the submission of relevant information by each Enterprise. This part codifies those procedures and clarifies the terms used therein in

12 CFR Ch. XVII (1-1-04 Edition)

order to facilitate and enhance the efficiency of OFHEO's oversight.

§ 1770.3 Definitions.

The following definitions apply to the terms used in this part:

(a) *The Act* is Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993), 12 U.S.C. 4501 *et seq.*, separately entitled the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992."

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

(c) *Charter acts* mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

(d) *Compensation* means any payment of money or the provision of any other thing of current or potential value in connection with employment. Compensation includes all direct and indirect payments of benefits, both cash and non-cash, granted to or for the benefit of any executive officer, including, but not limited to, payments and benefits derived from an employment contract compensation or benefit agreement, fee arrangement, perquisite, stock option plan, post employment benefit or other compensatory arrangement.

(e) *Director* means the Director of OFHEO or his or her designee.

(f) *Enterprise* means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and, except as provided by the Director, any affiliate thereof.

(g)(1) *Executive officer* means, with respect to an Enterprise:

(i) The chairman of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairman, any executive vice president, and any individual who performs functions similar to such positions whether or not the individual has an official title; and