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November 26, 2021

Sandra Thompson  
Acting Director  
Federal Housing Finance Agency  
400 7<sup>th</sup> St. SW  
10<sup>th</sup> Floor  
Washington, DC 20219

RE: Amendments to the Enterprise Regulatory Capital Framework Rule – Prescribed Leverage Buffer Amount and Credit Risk Transfer; RIN 2590-AB17

Dear Acting Director Thompson,

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to comment on the proposed amendments to the Enterprise Regulatory Capital Framework Rule (ERCF). ICBA has been a strong supporter of the Federal Housing Finance Agency (FHFA) and a vocal advocate for establishing strong prudential capital requirements that protect taxpayers and strengthen the Government Sponsored Enterprises' (GSEs or Enterprises) ability to provide funding for mortgage loans in all markets throughout all economic cycles and especially during tremendously disruptive events like the COVID-19 pandemic. In previous comment letters, ICBA stated that establishing a rigorous capital framework is a necessary precursor to the development of capital restoration plans by the GSEs and building sufficient capital to carry out their mission. These milestones will hopefully result in the GSEs' eventual release from conservatorship.

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<sup>1</sup> The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ nearly 750,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than \$5 trillion in assets, nearly \$4 trillion in deposits, and more than \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).

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ICBA was broadly supportive of the ECRF released in 2020, as it established a robust capital framework that sensibly considered levels of risk and leverage exposure of the GSEs – reflecting their size, complexity, and the critical roles they play in supporting the housing finance system. However, we also conveyed several concerns about how the capital levels are calculated, several of which we are glad to see addressed in these proposed amendments. ICBA is therefore supportive of the planned changes, particularly the modifications to the prescribed leverage buffer amounts (PLBAs) and the changes to the treatment of credit risk transfers (CRTs). These targeted but meaningful changes provide flexibility to the GSEs as they manage risk and rebuild robust levels of capital, all while continuing to provide access to affordable mortgage credit.

## **Background**

The 2020 ECRF became effective in February 2021 and set a standard for Enterprise risk-based capital and leverage requirements that ensures the GSEs will be able to fulfill their statutory mission while operating in a safe and sound manner. The ECRF set sizable risk-based requirements that supplemented the statutorily defined requirements by including a risk weight floor, capital requirements for CRT exposures, capital buffers, and additional capital to offset operational and market risk. Additionally, the ECRF set a minimum leverage ratio requirement of 2.5 percent of an Enterprise’s adjusted total assets, with a PLBA equaling 1.5 percent of adjusted total assets.

FHFA released this proposed rule in part because it is concerned that the ECRF discourages Enterprise risk transfer, particularly in the CRT space. This concern is exacerbated by the fact that the Enterprises remain critically undercapitalized, which puts taxpayers at risk in the event of an economic downturn and a need to take a draw from Treasury.

To mitigate this concern, the proposed amendments would: (1) replace the fixed PLBA equal to 1.5 percent of an Enterprise’s adjusted total assets with a dynamic PLBA equal to 50 percent of the Enterprise’s stability capital buffer; (2) replace the prudential floor of 10 percent on the risk weight assigned to any retained CRT exposure with a prudential floor of 5 percent on the risk weight assigned to any retained CRT exposure; and (3) remove the requirement that an

Enterprise must apply an overall effectiveness adjustment to its retained CRT exposures in accordance with the ERCF's securitization framework.

## ICBA Comments

In a 2020 comment letter, ICBA recognized that one of the encouraging aspects of housing finance reform efforts over the past decade was the development and implementation of the CRT market for GSE credit risk.<sup>2</sup> These transactions allow the GSEs to shift substantial amounts of credit risk on new originations to credit investors and are a valuable tool for managing credit exposure. These transactions are also currently structured to carry very little counterparty risk. Despite some adjustments prior to the final ECRF, their treatment still discounts their value, resulting in a disincentive for the GSEs to use them to manage credit risk. We agree that the proposed changes will significantly increase capital savings from transferring risk through CRTs by lowering the risk retention floor. This is certainly a positive step forward in creating more incentives to transfer risk away from taxpayers and to the private capital market.

In the past, we cautioned FHFA that CRTs should be used judiciously and only in ways that make economic sense for the GSEs. While we support the changes as proposed, we continue to urge FHFA not to allow the GSEs to overly rely on CRTs to mitigate risk. They are an important tool, no doubt, but we emphasize that they are one tool among many to ensure safety and soundness in all economic climates. We continue to believe that allowing the GSEs to build strong capital levels is the best way to protect the taxpayers going forward.

The other component of the proposed rule modifies the PLBA, essentially making the risk-based capital metrics more likely to be the binding constraint versus the non-risk-based capital floors. ICBA agrees that, generally speaking, capital levels should be set to correlate with risk exposure. We therefore support this proposed change and view it as a net positive.

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<sup>2</sup> [https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/20-08-31\\_gse\\_capital\\_ltr.pdf?sfvrsn=2e692217\\_2](https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/20-08-31_gse_capital_ltr.pdf?sfvrsn=2e692217_2)

ICBA commends FHFA for proposing these changes and believes they represent a positive step forward in properly calibrating the capital treatment for CRTs and setting robust risk-based capital levels for the GSEs. We appreciate the opportunity to comment on the proposed rule and look forward to working with FHFA on these issues going forward.

If you have any questions regarding the content of this letter, please contact the undersigned at [tim.roy@icba.org](mailto:tim.roy@icba.org).

Sincerely,

Tim Roy  
Director – Housing Finance Policy

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