

# Proposed Rules

Federal Register

Vol. 77, No. 194

Friday, October 5, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1238

RIN 2590-AA47

#### Stress Testing of Regulated Entities

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice of proposed rulemaking; request for comment.

**SUMMARY:** This proposed rule would implement section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which requires certain financial companies with total consolidated assets of more than \$10 billion, and which are regulated by a primary federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions. The Federal Housing Finance Agency (FHFA) is the primary federal financial regulator of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (Banks) (Fannie Mae and Freddie Mac collectively, the Enterprises; the Enterprises and the Banks collectively, regulated entities). While each of the regulated entities currently has total consolidated assets of more than \$10 billion, FHFA proposes expressly to retain to the Director the discretion to require any regulated entity that falls below the \$10 billion threshold to conduct annually the stress test. FHFA's proposal reflects its supervisory judgment and is grounded in its regulatory and supervisory authority and obligation to ensure the safety and soundness of the regulated entities under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act) and the Federal Home Loan Bank Act, as

amended (12 U.S.C. 1421 through 1449) (Bank Act). In accordance with section 165(i)(2)(C) of the Dodd-Frank Act, FHFA has coordinated with the Federal Reserve Board of Governors (Board), and the Federal Insurance Office.

**DATES:** Comments on the proposed rule must be received on or before November 5, 2012.

**ADDRESSES:** You may submit your comments, identified by regulatory identification number (RIN) 2590-AA47, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by the agency. Please include "RIN 2590-AA47" in the subject line of the message.

- *Email:* Comments to Alfred M. Pollard, General Counsel, may be sent by email to [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov). Please include "RIN 2590-AA47" in the subject line of the message.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA47, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA47, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The package should be logged at the Guard's Desk, First Floor, on business days between 9 a.m. to 5 p.m.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

**FOR FURTHER INFORMATION CONTACT:** Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649-3140, [naaawaa.tagoe@fhfa.gov](mailto:naaawaa.tagoe@fhfa.gov); Fred Graham, Associate Director, Risk Modeling and Market Analysis, (202) 649-3500, [fred.graham@fhfa.gov](mailto:fred.graham@fhfa.gov); or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649-3054 (these are not toll-free numbers), [mark.laponsky@fhfa.gov](mailto:mark.laponsky@fhfa.gov). The telephone number for the Telecommunications

Device for the Hearing Impaired is (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Comments

FHFA invites comment on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments received will be posted without change on the FHFA Web site at <http://www.fhfa.gov>, and will include any personal information you provide, such as your name, address, and telephone number. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649-3804.

##### II. Background

###### *Establishment of FHFA*

FHFA is an independent agency of the Federal government and was established by the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-289, 122 Stat. 2654, to regulate and oversee the regulated entities.<sup>1</sup> HERA amended the Safety and Soundness Act and the Bank Act to enhance the authorities and responsibilities of the new agency. FHFA's regulatory mission is to ensure, among other things, that each of the regulated entities "operates in safe and sound manner" and that their "operations and activities \* \* \* foster liquid, efficient, competitive, and resilient national housing finance markets." (12 U.S.C. 4513(a)(1)(B)).

##### III. Analysis of Proposed Rule

The purpose of this proposed rule is to ensure stronger regulation of the regulated entities by providing FHFA with additional, forward-looking information that will help it to assess capital adequacy under various scenarios at the regulated entities. Section 165(i)(2)(A) of the Dodd-Frank Act states in part:

A nonbank financial company supervised by the Board of Governors and a bank holding company described in subsection (a)

<sup>1</sup> See Division A, titled the "Federal Housing Finance Regulatory Reform Act of 2008," Title I, section 1101 of HERA.

shall conduct semi-annual stress tests. *All other financial companies that have total consolidated assets of more than \$10,000,000,000 and are regulated by a primary Federal financial regulatory agency shall conduct annual stress tests \* \* \** (emphasis added.)

The annual stress test requirement contained in section 165(i)(2) of the Dodd-Frank Act applies to large financial companies that meet the total consolidated assets threshold, and that are regulated by a primary federal financial regulator. Each of FHFA's regulated entities currently has total consolidated assets of more than \$10 billion and is currently subject to the annual stress test requirement. FHFA proposes expressly to retain to the Director the discretion to require any regulated entity to conduct the stress test annually if its total consolidated assets fall below \$10 billion in a particular year. FHFA's proposal reflects its preliminary supervisory judgment that under some unforeseen circumstances prudential supervision of a regulated entity that has dropped below the \$10 billion total consolidated asset threshold of the Dodd-Frank Act, may be enhanced by application of the stress-test regime.

#### *A. Authority and Purpose—Proposed § 1238.1*

Section 1238.1 of the proposed rule describes the authority and purpose of this rulemaking. As the primary federal financial regulator of the regulated entities, FHFA issues this proposed rule to implement the Dodd-Frank Act's annual stress test requirement for Fannie Mae, Freddie Mac, and each of the Federal Home Loan Banks.

Section 165(i)(2)(C) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)(C)) requires FHFA, as a primary federal financial regulatory agency, in coordination with the Board and the Federal Insurance Office, to issue consistent and comparable regulations for annual stress testing. This requirement extends, expressly, to: (i) The definition of "stress test"; (ii) the establishment of methodologies for the conduct of stress tests (which must provide for at least three different sets of conditions, including baseline, adverse, and severely adverse); (iii) establishing the form and content of the report that the regulated entities are required to submit to FHFA and to the Board; and (iv) requiring the regulated entities to publish a summary of the results of the annual stress tests. FHFA has consulted with the Board and the Federal Insurance Office in developing these proposed regulations.

FHFA's authority to exercise its discretion to apply the proposed stress test requirements to any regulated entity that falls below the \$10 billion threshold of the Dodd-Frank Act rests in its general supervisory authorities conferred by the Safety and Soundness Act and the Bank Act.<sup>2</sup> FHFA intends that the company-run stress test regulations will be codified at 12 CFR part 1238, and expects that the stress test requirements will apply annually to each of the regulated entities that has total consolidated assets of at least \$10 billion.

If a regulated entity is designated by the Financial Stability Oversight Council for supervision by the Board in accordance with section 113 of the Dodd-Frank Act, it would also become subject to supervisory stress tests overseen by the Board. The regulated entity would also become subject to enhanced prudential standards, and early remediation requirements, as required by sections 165 and 166 of the Dodd-Frank Act. However, some of these enhanced prudential standards and early remediation requirements may need to be tailored, by regulation or order, to address the newly covered entity's business model, capital requirements, liquidity needs, concentration risks, and other considerations.

#### *B. Definitions—Proposed § 1238.2*

Section 1238.2 of the proposed rule defines a number of terms used in section 165(i)(2) of the Dodd-Frank Act, including a definition of the statutory term "stress test," as required by section 165(i)(2)(C)(i). In coordination with the Board, FHFA proposes to define "stress test" to mean "a process to assess the potential impact on the consolidated earnings and capital of a regulated entity, of different economic and financial conditions over a set planning horizon ("scenarios"), taking into account the current condition of the regulated entity and the regulated entity's risks, exposures, strategies and activities." FHFA specifically requests public comments on this definition of "stress test." This proposed rule also defines the following additional terms: "planning horizon," "scenarios," and a number of other terms.

#### *C. Annual Stress Test—Proposed § 1238.3*

Section 165(i)(2) of the Dodd-Frank Act directs each financial company with total consolidated assets of more than \$10 billion, and that is regulated by a primary federal financial regulatory

agency, to complete an annual stress test. The proposed rule would require a regulated entity to use its data as of September 30 of that calendar year, except for data related to the regulated entity's trading and counterparty exposures for which FHFA will communicate the required as of date in the fourth quarter of each year. The annual stress test would require the regulated entities to assess the potential impact of different scenarios on their consolidated earnings and capital, and other related factors, over a nine-quarter forward-looking planning horizon taking into account all relevant exposures and activities.

Section 1238.3(b) also provides that, in conducting the annual stress test, the regulated entities must use scenarios that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. FHFA will define scenarios for the regulated entities, bearing in mind the key risk exposures at each regulated entity.

#### *D. Methodologies and Practices—Proposed § 1238.4*

Section 1238.4 provides that, in conducting a stress test, each regulated entity is required to calculate how certain financial values and ratios are affected during each of the nine quarters of the stress test planning horizon, for each scenario. The financial values and ratios to be considered include: (1) Potential losses, pre-provision net revenues, allowance for loan losses, and future pro forma capital positions over the planning horizon; (2) capital levels and capital ratios, including regulatory and any other capital ratios, specified by FHFA; and (3) Market Value of Equity.

Section 1238.4(c) provides that, if FHFA determines that the stress test methodologies and practices of a regulated entity are deficient, it can require the regulated entity to use additional analytical techniques and exercises to fulfill the stress test requirement. The proposed rule provides that FHFA will issue guidance annually to describe the scenarios and methodologies to be used in conducting the annual stress test.

Section 1238.4(d)(1) requires each regulated entity to establish and maintain a system of controls, oversight, and documentation to ensure that the stress testing process is effective to meet the requirements of part 1238. Section 1238.4(d)(2) of the proposed rule would require each regulated entity's board of directors and senior management to approve, and annually review, such controls, oversight, and documentation,

<sup>2</sup> 12 U.S.C. 4513, 4526, 4612, and 1426.

including policies and procedures, to ensure compliance with this part.

*E. Required Report to FHFA and the Board of Stress Test Results and Related Information—Proposed § 1238.5*

Section 1238.5 would require each regulated entity, on or before January 5 of each year, to report the results of the stress test to FHFA and to the Board. This section provides that each regulated entity must file a report in the manner and form established by FHFA. FHFA expects to issue an order at the time the final stress test regulation is published that will contain the specific contents of the annual report. Section 1238.5 of the proposed rule also specifies the confidentiality requirements that govern the release of information contained in the annual report and other information required to be submitted that is related to the annual report. FHFA currently is considering that the annual report should include at least the following elements, on which comment is solicited:

*Qualitative disclosures—*

- A description of scenarios used and risks covered;
- A description of data, methods and key assumptions used, and internal capital goals and targets; and
- A discussion of changes in the results from one reporting period to the next that clearly identifies primary drivers of the changes.

*Quantitative disclosures—for each quarter of the planning horizon—*

- Income statement (reflecting a comparable level of detail to SEC filings);
- Balance sheet (reflecting a comparable level of detail to SEC filings);
- Capital roll-forward (*i.e.*, For each quarter of the planning horizon, the amount of capital at the start of the quarter, changes to capital during the quarter, and the amount of capital at the end of the quarter);
- Credit summary reflecting—Charge-offs, foreclosed property expenses, credit losses, payments from private mortgage insurers (disaggregated by private mortgage insurer), Credit-related expenses, defaults, REO acquisitions, number of seriously delinquent loans, aggregate unpaid principal balance of seriously delinquent loans, seriously delinquent rate, loan modifications, and ending loan loss reserve balance;
- Market Value of Equity (as estimated by the regulated entity using observed market prices, market price estimates and model-based estimates, as appropriate).

*For the baseline scenario—*

- The sensitivity of the book value of capital and market value of equity to parallel interest rate shocks (*e.g.*, plus and minus 50 basis points and 100 basis points) at the “as of” date of the stress test;

- The sensitivity of the book value of capital and market value of equity to other factors at the “as of” date of the stress test.

*F. Post-Assessment Actions by Regulated Entities—Proposed § 1238.6*

Section 1238.6 would require that each regulated entity take the results of the annual stress test into account in making any changes, as appropriate, to its capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. If a regulated entity is under FHFA conservatorship, any post-assessment actions would require FHFA’s prior approval.

*G. Publication of Results by Regulated Entities—Proposed § 1238.7*

The proposed rule would require, at § 1238.7, that each regulated entity publish annually, a summary of the results of its company-run stress test within 90 days of submitting its stress test report to FHFA and to the Board. The section also identifies the minimum elements of the public disclosure.

*H. Additional Implementing Action—Proposed § 1238.8*

Section 1238.8 provides that the Director may require a regulated entity with total consolidated assets below \$10 billion to conduct stress testing under this part; and, from time to time, issue such guidance and orders as may be necessary to facilitate implementation of this part.

**IV. Coordination With the Board and the Federal Insurance Office**

In accordance with section 165(i)(2)(C), FHFA has coordinated with both the Board and the Federal Insurance Office. The Board issued its notice of proposed rulemaking on January 5, 2012<sup>3</sup>; the Federal Deposit Insurance Corporation (FDIC) issued its notice of proposed rulemaking on January 23, 2012<sup>4</sup>; the Office of the Comptroller of the Currency (OCC) issued its notice of proposed rulemaking on January 24, 2012.<sup>5</sup> Although FHFA’s proposed rule is not identical to those

<sup>3</sup> See 77 FR 594, 625–633, “Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies.”

<sup>4</sup> 77 FR 3166, “Annual Stress Test.”

<sup>5</sup> 77 FR 3408, “Annual Stress Test.”

of the Board, the FDIC, and the OCC, it is consistent and comparable with them. FHFA sought and considered input from the Board and the Federal Insurance Office while drafting this proposed rule.

**V. Differences Between Banks and Enterprises**

Section 1313 of the Safety and Soundness Act requires the Director to consider the differences between the Banks and the Enterprises whenever promulgating regulations that affect the Banks. In developing this proposed rule, FHFA considered the differences between the Banks and the Enterprises, but also adhered to the statutory mandate that the regulation be “consistent and comparable” with the regulations of the other agencies. In implementing the regulation, FHFA will define scenarios for the regulated entities, bearing in mind the key risk exposures at each regulated entity.

**VI. Regulatory Impact**

*Paperwork Reduction Act*

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

*Regulatory Flexibility Act*

The proposed rule applies only to the regulated entities, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (*see* 5 U.S.C. 601(6)). Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), FHFA certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 12 CFR Part 1238**

Administrative practice and procedure, Capital, Federal Home Loan Banks, Government-sponsored enterprises, Reporting and recordkeeping requirements, Stress test.

For the reasons stated in the preamble, the Federal Housing Finance Agency proposes to add part 1238 to subchapter B, to Title 12, Chapter XII of the Code of Federal Regulations to read as follows:

**PART 1238—STRESS TESTING OF REGULATED ENTITIES**

Sec.

1238.1 Authority and purpose.

1238.2 Definitions.

1238.3 Annual stress test.

- 1238.4 Methodologies and practices.  
 1238.5 Required report to FHFA and the Board of stress test results and related information.  
 1238.6 Post-assessment actions by regulated entities.  
 1238.7 Publication of results by regulated entities.  
 1238.8 Additional implementing action.

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

**§ 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.* 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.

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 Federal Reserve Board of Governors (Board) 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:

*Board* means the Board of Governors of the Federal Reserve System.

*Director* means the Director of the Federal Housing Finance Agency.

*Enterprise* means the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). *Enterprises* means, collectively, Fannie Mae and Freddie Mac.

*Federal Home Loan Banks* or *Banks* mean the Federal Home Loan Banks established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432). Each of the Banks 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 entity* means Fannie Mae, Freddie Mac, or any one of the twelve Federal Home Loan Banks. *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, except for data related to the regulated entity's trading and counterparty exposures for which FHFA will communicate the required as of date in the fourth quarter of each year;

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

(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 Board, that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. In advance of these stress tests, FHFA will provide 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.

**§ 1238.4 Methodologies and practices.**

(a) *Potential impact.* In conducting a stress test under § 1238.3, each regulated entity shall calculate how

each of the following is impacted 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;

(2) Capital levels and capital ratios, including regulatory and any other capital ratios, specified by FHFA; and  
 (3) Market Value of Equity.

(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 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) Each regulated entity must establish and maintain 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; and

(2) The board of directors and senior management of each regulated entity shall approve and annually review their controls, oversight, and documentation, including policies and procedures to ensure compliance with this part.

**§ 1238.5 Required report to FHFA and the Board of stress test results and related information.**

(a) *Report required for stress tests.* On or before January 5 of each year, each regulated entity must report the results of the stress test required under § 1238.3 to FHFA, and to the Board, in accordance with paragraph (b) of this section;

(b) *Content of report for annual stress test.* Each regulated entity must file a report in the manner and form established by FHFA.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to FHFA, and to the Board, under this part shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)); FHFA's Freedom of Information Act regulation (12 CFR part 1202); and the Board's Rules Regarding Availability of Information (12 CFR part 261).

#### **§ 1238.6 Post-assessment actions by regulated entities.**

Each regulated entity shall take the results of the stress test conducted under § 1238.3 into account in making changes, as appropriate, to the regulated entity's capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. If a regulated entity is under FHFA conservatorship, any post-assessment actions shall require prior FHFA approval.

#### **§ 1238.7 Publication of results by regulated entities.**

(a) *Public disclosure of results required for stress tests of regulated entities.* Within 90 days after it submits a report for its required stress test under § 1238.3, a regulated entity shall disclose publicly a summary of the results of the stress test. The summary may be published on the regulated entity's Web site or in any other form that is reasonably accessible to the public;

(b) *Information to be disclosed in the summary.* The information disclosed by each regulated entity shall, at a minimum, include—

(1) A description of the types of risks being included in the stress test;

(2) For each regulated entity, a high-level description of scenarios provided by FHFA, including key variables (such as GDP, unemployment rate, housing prices, foreclosure rate, etc.);

(3) A general description of the methodologies employed to estimate losses, pre-provision net revenue, allowance for loan losses, and changes in capital positions over the planning horizon;

(4) A general description of the use of the required stress test as one element in a regulated entity's overall capital planning and capital adequacy assessment. If a regulated entity is under FHFA conservatorship, this description shall be coordinated with FHFA;

(5) Aggregate losses, pre-provision net revenue, allowance for loan losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by FHFA) over the planning horizon, under each scenario; and

(6) Such other data fields, in such form (e.g., aggregated), as the Director may require by order.

#### **§ 1238.8 Additional implementing action.**

The Director may, in circumstances considered appropriate, require any regulated entity not subject to this part to conduct stress testing hereunder; and from time to time, issue such guidance and orders as may be necessary to facilitate implementation of this part.

Dated: September 23, 2012.

**Edward J. DeMarco,**

*Acting Director, Federal Housing Finance Agency.*

[FR Doc. 2012-24637 Filed 10-4-12; 8:45 am]

**BILLING CODE 8070-01-P**

## **INTERNATIONAL TRADE COMMISSION**

### **19 CFR Part 210**

#### **Rules of General Application, Adjudication, and Enforcement**

**AGENCY:** International Trade Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States International Trade Commission ("Commission") proposes to amend its Rules of Practice and Procedure concerning adjudication and enforcement. The amendments are necessary to address concerns that have arisen about the scope of discovery in Commission proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) ("section 337"). The intended effect of the proposed amendments is to reduce expensive, inefficient, unjustified, or unnecessary discovery practices in agency proceedings while preserving the opportunity for fair and efficient discovery for all parties.

**DATES:** To be assured of consideration, written comments must be received by 5:15 p.m. on December 4, 2012.

**ADDRESSES:** You may submit comments, identified by docket number MISC-041, by any of the following methods:

—*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.  
—*Agency Web Site:* <http://www.usitc.gov>. Follow the instructions for submitting comments

on the Web site at <http://www.usitc.gov/secretary/edis.htm>.

—*Mail:* For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

—*Hand Delivery/Courier:* U.S.

International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, from the hours of 8:45 a.m. to 5:15 p.m.

*Instructions:* All submissions received must include the agency name and docket number (MISC-041), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. All comments received will be posted without change to <http://www.usitc.gov>, including any personal information provided. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Acting Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.usitc.gov> and/or the U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

**FOR FURTHER INFORMATION CONTACT:** Clark S. Cheney, telephone 202-205-2661, Office of the General Counsel, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The preamble below is designed to assist readers in understanding these proposed amendments to the Commission Rules. This preamble provides background information, a regulatory analysis of the proposed amendments, an explanation of the proposed amendments to Part 210, and a description of the proposed amendments to the rules. The Commission encourages members of the public to comment on whether the language of the proposed amendments is sufficiently clear for users to understand, in addition to any other comments they wish to make on the proposed amendments.

If the Commission decides to proceed with this rulemaking after reviewing the comments filed in response to this notice, the proposed rule revisions will be promulgated in accordance with