Mortgage Guaranty Inaurance Corporation

MGIC

January 16, 2024

The Honorable Martin Gruenberg
Chair
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

The Honorable Michael Barr
Vice Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave. NW
Washington, D.C. 20551

The Honorable Michael Hsu
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, D.C. 20219

Dear Chair Gruenberg, Vice Chair Barr, and Acting Comptroller Hsu:

We appreciate this opportunity to comment on the proposed bank capital rule[1], known as the "Basel III End Game", and recognize the countless hours of work the banking Agencies[2] have put in to preparing this important proposal. We further acknowledge the challenge the banking Agencies face in adapting the international standards[3] to the unique aspects of U.S. markets and the domestic banking system.

These comments are submitted on behalf of Mortgage Guaranty Insurance Corporation ("MGIC"), a leading national private mortgage insurance ("MI") company. MGIC is also a signatory to the comment letter submitted by our industry trade association, U.S. Mortgage Insurers ("USMI"), and you will find our comments consistent with the input provided by USMI. Through USMI, we have also signed on to comment letters submitted by the Housing Policy Council ("HPC"), the National Housing Conference ("NHC") and the Housing Trades Joint Letter and we endorse the comments submitted by the Reinsurers Association of America ("RAA") of which we are a member.

MGIC is one of six (6) monoline companies that write private MI in the U.S. We insure loans nationwide and in Puerto Rico and Guam for all types of mortgage lenders that, notably, include more than 1,400 banks active in single-family residential mortgage lending. MI enables borrowers to qualify for

[1] Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity, Proposed Rule, Federal Reserve; Sept. 18, 2023; 88 FR 64028, 12 CFR Parts 208, 217, 225, 238, 252, RIN 1557–AE78, pp 64028-64343.
[2] Collectively, the Federal Reserve, Federal Deposit Insurance Corporation, ("FDIC") and Office of the Comptroller of the Currency ("OCC").
[3] The Basel Framework, Bank for International Settlements ("BIS"), Basel Committee on Banking Supervision ("BCBS"), https://www.bis.org/basel_framework/index.htm.

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mortgages with down payments as low as 3% while protecting mortgage investors and taxpayers against the higher risk of default associated with low down payment loans. Since the industry's inception in 1957, MI has helped more than 38 million households purchase a home or refinance[4] and is widely regarded by community stakeholders, housing advocacy organizations and mortgage lenders and investors as a critical tool in addressing affordable homeownership challenges.

Private MI is backed by private capital, and in its 67 years no industry participant has ever received government or taxpayer support. Most of the loans we insure are purchased by Fannie Mae or Freddie Mac, the government-sponsored enterprises (the "GSEs"), though MI is also purchased regularly by banks and credit unions to protect against credit losses on mortgages retained in portfolio.

Our recommendation is that the banking Agencies revise the proposed expanded risk-based approach applicable to single-family residential mortgage loans as follows:

- Reduce capital requirements for loans with loan-to-value ("LTV") ratios of 80% and below to be generally consistent with those applicable to the GSEs; and
- Apply the standardized approach treatment to LTVs exceeding 90%. This would restore credit for MI in determining the applicable risk weight, which would result in an MI-insured loan being "prudently underwritten" provided the resulting LTV is less than 90%.[5]

In support of this recommendation, we segment our comments into four (4) sections:

I. The proposed capital rule doesn't consider post-crisis reforms that have reshaped single-family mortgage lending practices and the profile of mortgage credit risk.

II. The proposed capital requirements for mortgages should generally align with those applied to the GSEs, the foundation of U.S. residential mortgage finance.

III. The monoline MI model has proven durable and reliable over 67 years and the Agencies should restore credit for MI in the expanded risk-based approach.

IV. The proposed rule will adversely impact access to affordable home loans and undercut nationwide efforts to advance equitable homeownership initiatives.

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[4] U.S. Mortgage Insurers website, https://www.usmi.org.

[5] The Supervisory LTV Limits for a mortgage secured by an owner-occupied 1- to 4-family property dictate that "for any such loan with a loan-to-value ratio that equals or exceeds 90 percent at origination, an institution should require appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral." Real Estate Lending Standards, Federal Deposit Insurance Corporation, November 26, 2021; 86 FR 59279, 12 CFR 365, RIN 3064-AF72.

I. The proposed capital rule doesn't consider post-crisis reforms that have reshaped single-family mortgage lending practices and the profile of mortgage credit risk.

As the history of the Great Financial Crisis ("GFC") is written, there is widespread recognition that lax mortgage lending standards contributed heavily to foreclosures and economic distress globally. In response, there was a shift toward more stringent lending practices and, importantly, a cavalcade of legislative reforms that placed the focus on ensuring borrower success and increasing system-wide accountability for performance results. Loan officer licensing and compensation regulations were imposed and firewalls were established to ensure appraisal independence. Wall Street, which created many of the mortgage products that fueled the subprime and Alt-A boom, is widely recognized as a key contributor to the nation's foreclosure crisis, and regulation accordingly targeted reforms in the private-label securitization ("PLS") market for single-family residential mortgages.

Most notable among these reforms was the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank"). Dodd-Frank not only spawned the Qualified Mortgage ("QM")/Ability-to-Repay Rule, which established underwriting requirements to determine a borrower's ability to meet their monthly mortgage payment obligation, but also required PLS issuers to retain a minimum of 5% risk exposure in the ultimate performance of the underlying pool of loans (the "Risk Retention Rule").

Financial industry regulations born in the aftermath of the GFC are regarded by observers of U.S. financial history as the most decisive and complete response to a financial crisis since The Great Depression. In the wake of The Great Depression, policymakers moved swiftly to reform financial industry regulation, including forming the Federal Deposit Insurance Corporation ("FDIC") through the Banking Act of 1933; establishing the Securities and Exchange Commission ("SEC") through the Securities Act of 1933; and creating a federal housing support and enablement infrastructure with the passage of the National Housing Act in 1934, resulting in the U.S. Department of Housing and Urban Development ("HUD") and the Federal Housing Administration ("FHA").

In parallel, the post-GFC response resulted in the establishment of the Consumer Finance Protection Bureau ("CFPB"), the National Mortgage Licensing System ("NMLS"), the Financial Stability Oversight Council ("FSOC"), and the Volker Rule, which restricts certain trading and investment activities by banks to prevent excessive risk-taking that could lead to financial instability. Through the Housing and Economic Recovery Act of 2008 ("HERA"), changes also were implemented that empowered the Federal Housing Finance Agency ("FHFA"), the GSEs' conservator, to develop risk-based capital requirements for the GSEs and which ultimately led to the establishment of the Enterprise Regulatory Capital Framework ("ERCF").

While the Risk Retention and the QM/Ability-to-Repay Rules have been highly impactful in improving the quality of mortgage originations in the post-crisis era, other reforms are worth noting. Changes to Regulation Z and the Truth in Lending Act ("TILA"), as well as Regulation X, implementing the Real

Estate Settlement Procedures Act ("RESPA"), provide transparency, lining up of interests, shared outcomes and consumer fairness and protection. Other meaningful reforms include, but are not limited to, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), the final rule establishing appraiser independence adopted in 2010 by the Federal Reserve Board (pursuant to Section 129E of TILA), the higher-priced mortgage loan ("HPML") rule adopted in 2013 by the FDIC and other regulators (pursuant to Section 129H of TILA), the loan originator compensation requirements adopted in 2013 by the CFPB (pursuant to Sections 129B and 129C of TILA), the Integrated Mortgage Disclosure Rule adopted in 2013 by the CFPB (pursuant to TILA and RESPA), and the rules for mortgage servicers adopted in 2013 by the CFPB, amending TILA and RESPA.

The impact of these reforms has been profound. From a securitization perspective, PLS, which surged from 18% market share in 2003 to a peak of 57% in 2006,[6] has composed less than 3% of total annual originations since the onset of the crisis. From a credit risk perspective, mortgage loans originated today are far less risky. According to the Urban Institute's Housing Credit Availability Index ("HCAI"), post-crisis levels of borrower credit risk remain low and product risk, generally defined as features that increase borrower payment shock or accelerate repayment, is virtually non-existent.[7] The collective impact of post-GFC reforms should be taken into full account when considering appropriate risk-based capital requirements.

II. The proposed capital requirements for mortgages should generally align with those applied to the GSEs, the foundation of U.S. residential mortgage finance.

The ERCF, adopted by FHFA in December 2020, endeavors to "increase the quantity and quality of regulatory capital to ensure that each Enterprise operates in a safe and sound manner."[8] HERA requires that the GSEs' risk-based capital framework ensures the GSEs maintain sufficient capital and reserves before, during and after a severe economic downturn, codifying in law the "going-concern" standard of GSE capital regulation.

The GSEs represent the single-largest concentration of residential mortgage credit risk exposure globally[9]; however, they use sequential credit risk transfer ("CRT") to disperse that exposure as part of their comprehensive approach to capital and credit risk management. ERCF establishes the risk-based capital impact of each of the GSEs' credit risk transfer methods, including MI. In its most recent Credit Risk Transfer Progress Report, FHFA notes that from 2013 through 2022 the GSEs transferred first-loss

[6] Housing Finance At-A-Glance Monthly Chartbook, Urban Institute, December 2023, pp 8.
[7] Housing Finance At-A-Glance Monthly Chartbook, Urban Institute, December 2023, pp 14-15.
[8] Enterprise Regulatory Capital Framework, Final Rule, Federal Housing Finance Agency, effective Feb. 16, 2021, 85 FR 82150, pp 82150-82258.
[9] As of Dec. 31, 2022, the GSEs' mortgage portfolios accounted for $7.52 trillion of the nation's $13.61 trillion in outstanding single-family residential mortgage debt. Sources include the FHFA Annual Report to Congress, revised Dec. 4, 2023; and the Mortgage Bankers Association's Mortgage Finance forecast, Oct. 15, 2023.

credit risk on $3 trillion in single-family loans to the MI sector, or about half of GSE loans on which risk was transferred in that timeframe.[10]

In constructing the GSEs' risk-based capital framework, FHFA took into consideration that the GSEs are solely focused on residential mortgage credit risk and do not benefit from broad diversification across asset classes with risks that may not be as acutely correlated. As such, ERCF incorporates counter-cyclical measures that effectively increase capital requirements as stress in home prices begins to surface. ERCF also borrows many concepts from domestic bank regulation, including key ratios, definitions of capital and the stress capital buffer. Under ERCF, the GSEs must maintain risk-based capital including total capital of not less than 8.0% of risk-weighted assets, Tier 1 capital of not less than 6.0% of risk-weighted assets, and Common Equity Tier 1 ("CET1") capital of not less than 4.5% of risk-weighted assets – ratios that align with minimum thresholds for domestic banks.

Because of the unique nature of the GSEs as large repositories of U.S. mortgage credit, interest rate and basis risk, the risk-weighting structure of the framework is more discrete and granular than U.S. bank regulation, specifically pertaining to single-family residential mortgages. For example, the U.S. bank standardized approach prescribes two risk weights for single-family residential mortgages, one for "prudently underwritten" mortgages and one for mortgages not meeting the "prudently underwritten" definition set forth in the Agencies' Real Estate Lending Standards (the "Standards").[11] The Basel standard and the proposed rule's expanded risk-based capital approach identify six different risk weights based on LTV categories. ERCF, however, prescribes risk multipliers across 16 different risk factors and four mortgage segments which are applied to LTV-by-credit score tables that consider other factors, such as loan term, loan age and the amount of MI coverage in force.[12] The result is that ERCF produces dozens of potential risk weight permutations based on individual loan characteristics.

This structure results in substantially lower risk weights than the proposed bank capital rule's expanded risk-based approach for virtually all 30-year fixed-rate mortgages ("FRM") for primary residences at LTVs of 80% and below. At LTVs exceeding 80%, ERCF requires more capital in lower credit score categories but substantially less in higher credit score categories. When MI is applied to loans with LTVs exceeding 80%, the breakeven credit score – the score at which risk-based capital under ERCF and the proposed bank capital rule are generally equal – falls dramatically. The result is that, under the proposed bank capital rule, the large majority of MI-backed high-LTV loans being originated today would face capital requirements that are greater than requirements currently applicable to the GSEs' acquired loans (see Exhibit A).[13] Moreover, when MI is applicable on loans with LTVs exceeding 80%, the weighted-average risk-based capital requirement of a single-family residential loan portfolio

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[10] Credit Risk Transfer Progress Report Fourth Quarter 2022, FHFA, May 31, 2023, p 12.
[11] Real Estate Lending Standards, Federal Deposit Insurance Corporation, November 26, 2021; 86 FR 59279, 12 CFR 365, RIN 3064-AF72.
[12] Enterprise Regulatory Capital Framework, Final Rule, Federal Housing Finance Agency, effective Feb. 16, 2021, 85 FR 82150, pp 82216-82228.
[13] While ERCF provides risk-weighting for high-LTV loans before the application of MI, these risk weights are provided only as a basis for calculating the applicable risk weight once credit enhancement is applied. In the instance of MI, the percentage of coverage provided is a material factor in determining a loan's risk weight.

exhibiting a common mix of LTVs and credit scores is 74% higher under the proposed bank capital rule relative to ERCF (illustrated in Exhibit A).

In fact, Exhibit A illustrates that the weighted-average risk-based capital requirement under ERCF for loans with LTVs exceeding 90% with MI is right around 4.00% which is, coincidentally, the risk-based capital requirement under the standardized approach for over 90% LTV loans that are insured.

We believe the banking Agencies should consider ERCF in the determination of appropriate risk weights for single-family residential mortgage loan exposures. As noted in the introductory paragraphs of this letter, for lower-LTV loans, this would merit material downward adjustments in the risk weights proposed under the new expanded risk-based approach. For higher-LTVs, this would merit continuing the standardized approach for loans with LTVs exceeding 90%. The 100% risk weight would apply but would be reduced to 50% (or possibly less depending on the resulting LTV calculation) for loans with MI (or readily marketable collateral) in which the bank's exposure is reduced to less than 90% (i.e., a "prudently underwritten" loan as per the Standards.) The analysis in Exhibit A supports this two-pronged approach which would ensure greater consistency with the ERCF capital regimen.

III. The monoline MI model has proven durable and reliable over 67 years and the Agencies should restore credit for MI in the expanded risk-based approach.

The proposed rule ignores the time-tested benefit of MI and focuses on allowing readily marketable collateral to be used in the calculation of LTV for risk-based capital purposes. The banking Agencies' adverse view of MI is rooted in a narrative that surfaced in the 2013 bank capital rule's discussion of the definition of "eligible guarantor." In discussing financial guarantors and mortgage insurers, the rule notes "that guarantees issued by these types of entities can exhibit significant wrong-way risk and modifying the definition of eligible guarantor to accommodate these entities or entities that are not investment grade would be contrary to one of the key objectives of the capital framework, which is to mitigate interconnectedness and systemic vulnerabilities within the financial system."[14]

In the 2023 proposed bank capital rule the banking Agencies doubled down on this adverse sentiment, noting that "not recognizing private mortgage insurance would be consistent with the current capital rule's definition of eligible guarantor, which does not recognize an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or

[14] Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule; Interim Final Rule, published Sept. 10, 2013, 78 FR 55340, p 55422.

reinsurer) and also reflects the performance of private mortgage insurance during times of stress in the housing market."[15]

It is our position that the 10 years since the 2013 bank capital rule reflect well on MI and the performance of the industry during times of stress in the housing market. Today, all active mortgage insurers are investment grade (MGIC is rated "A-" by AM Best and Standard and Poor's, and "A3" by Moody's) and hold substantial capital in excess of their minimum required assets. The banking Agencies should take into account the unique features of the monoline MI model; the MI industry's track record over time; post-crisis enhancements to the industry's oversight, its uniform insurance contract, and its capital and risk management practices. The MI industry has paid more than $60 billion in claims[16] to Fannie Mae and Freddie Mac since the GSEs entered conservatorship in 2008 and have reduced the GSEs' severity of loss on high-LTV loans by 19-24% -- "a very substantial reduction," to quote the Urban Institute.[17] The proposed bank capital rule ascribes a value of zero to MI, and at no point in its 67-year existence has the value of MI ever been close to zero. In fact, a look back reveals MI companies performed well, paying 98% of all valid claims in the immediate aftermath of the Great Financial Crisis.[18] The impact of MI is significant and we believe a refreshed view of the industry's performance through the crisis, and enhancements incorporated thereafter, is warranted and validates the industry as a reliable counterparty for the nation's banks.

Private MI: Well Regulated and Built to Withstand Economic Cycles.

Private MI runs on a monoline business model established for the sole purpose of absorbing 1- to 4-family single-family residential mortgage credit risk. Founded in 1957 by MGIC's predecessor, the MI industry has evolved through several economic and real estate cycles and today has more than $36 billion in capital, including $11 billion in excess capital.[19] The industry insures loans totaling approximately $1.6 trillion in unpaid principal balance ("UPB").[20]

The MI industry benefits from strong prudential regulatory oversight through state commissioners of insurance; capital and operational requirements imposed by the GSEs under the imprimatur of FHFA; and a unique loss reserving framework that has played a critical role in the MI industry's strong claims paying track record. To write MI in the U.S. a company must have a monoline structure and meet

[15] Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity, Proposed Rule, published Sept. 18, 2023, 88 FR 64028, p 64067.
[16] "Private MI: A Source of Strength and Resilience in the Housing Finance System," USMI, November 2023.
[17] "Private Mortgage Insurance Reduces the Severity of Losses for Those Holding Risk," Laurie Goodman and Jun Zhu, Urban Institute, July 26, 2019.
[18] Total of MI industry direct losses paid as a percentage of total approved claims based on MI company statutory flings, 2008 through 2016, as compiled by Mortgage Guaranty Insurance Corporation (MGIC).
[19] Aggregate capital in writing companies of all active mortgage insurers, based on 10-Q quarterly reports filed with the U.S. Securities and Exchange Commission ("SEC") for the period ended Sept. 30, 2023. Excess capital is the amount of capital held aggregately by mortgage insurers that exceeds the aggregate amount of minimum required assets to be held under the Private Mortgage Insurer Eligibility Requirements, https://singlefamily.fanniemae.com/mortgage-insurers.
[20] Aggregate insurance in force (IIF) of all active mortgage insurers, calculated based on 10-Q quarterly reports filed with the U.S. Securities and Exchange Commission ("SEC") for the period ended Sept. 30, 2023.

stringent regulatory requirements that recognize the unique and cyclical nature of single-family residential mortgage credit risk. MI industry participants are referred to as "monolines" and often are confused with monoline bond insurers. It is critical to note that the monoline MI industry is not the same as the monoline bond insurance industry that experienced catastrophic failure resulting from the Great Financial Crisis.[21]

The monoline MI model ensures that capital to pay claims is available when the economic cycle turns. A monoline MI is required to contribute 50% of earned premium to a contingency reserve. Such amounts cannot be withdrawn for a period of 10 years except as permitted by insurance regulations, for example, to pay claims. In addition to the contingency reserve, case-based reserves ("case reserves") and loss adjustment expense ("LAE") reserves are established when notices of delinquency on insured mortgage loans are received. Case reserves are established by estimating the number of loans in the delinquency inventory that will result in a claim payment, which is referred to as the claim rate ("incidence"), and further estimating the amount of the claim payment ("severity"), wherein incidence multiplied by severity equals expected loss. Adjustments to reserve estimates are typically reflected in the financial statements in the years in which the adjustments are made.

Another reserve – the incurred but not reported ("IBNR") reserve – is established for delinquencies estimated to have occurred prior to the close of an accounting period but that have not yet been reported to the insurer. Consistent with reserves for reported delinquencies, IBNR reserves are also established using estimated incidence and severity. LAE reserves are established for the estimated costs of settling claims and the general expenses of administering the claims settlement process. After loss reserves are established, an MI performs premium deficiency tests using an estimate of future premium, losses and LAE paid. Premium deficiency reserves are established, if necessary, when the present value of expected future losses and LAE paid exceeds the present value of expected future premium and established reserves and anticipated investment income.

In addition to these unique reserve requirements, monoline MIs are also subject to strict investment limitations designed to eliminate the type of wrong-way risk that hurt monoline bond insurers (e.g., investing in the very securities they insured), as well as concentration limits designed to ensure geographic risk dispersion. The National Association of Insurance Commissioners' ("NAIC") Mortgage Guaranty Insurance Model Act[22] prohibits investments in debt obligations secured by mortgages on residential real property. In August 2023, the NAIC adopted a new draft[23] Mortgage Guaranty Insurance Model Act that allows such investments but excludes them in the determination of an insurer's financial condition unless they are backed by the U.S. government. The current and revised Model Act also limit insurance in any one Standard Metropolitan Statistical Area ("SMSA") to no more

[21] The Rise and Fall of the Monoline/Bond Insurers: Icarus if the 21st Century, D. Dulani Jayasuriya, National University of Singapore, July 2016.
[22] Mortgage Guaranty Insurance Model Act, NAIC, Summer 2023, https://content.naic.org/sites/default/files/model-law-630.pdf, Section 9.
[23] Ibid, Section 9.

than 20% of an insurer's total insurance in force, and they both prohibit insuring a single risk exceeding 10% of an insurer's aggregate capital (including surplus and contingency reserve).[24]

From a capital perspective, statutory limits on outstanding total liability dictate that an insurer may not have a total liability outstanding, net of reinsurance, exceeding 25 times its capital, surplus and contingency reserve (a 25-to-1 risk-to-capital ratio). In some states the limit is expressed as a minimum policyholders' requirement that is roughly equivalent to the 25:1 standard. In the event that an insurer has a risk-to-capital ratio exceeding 25:1, it must cease writing business and go into "run-off" status in which it continues to pay claims and meet policyholder obligations.[25] In advance of a company exceeding the statutory 25:1 risk-to-capital limitation (4% minimum capital), state insurance regulators historically step in much earlier, resulting in companies entering run-off at lower risk-to-capital ratios. Today, monoline MI insurers typically operate at risk-to-capital ratios of less than 10-to-1 (greater than 10% capital). Moreover, to remain eligible to insure loans purchased by the GSEs, an insurer must not exceed a risk-to-capital ratio of 17.9-to-1 (5.6% minimum capital).[26]

MI companies annually provide their regulators an Own Risk and Solvency Assessment ("ORSA")[27] consistent with the NAIC Model Act. A key component of the annual ORSA report is performing stress testing to evidence that the company can meet policyholder obligations in the event of a catastrophic loss event (such as a Great Financial Crisis replay.) Since ORSA does not prescribe a stress testing methodology, companies may provide results of their own internal stress tests, which can include the Federal Reserve's Comprehensive Capital Analysis and Review ("CCAR") stress test used by large banks to evaluate capital adequacy, and/or other independent third-party analyses.

We believe the statutory regulatory framework for monoline MIs is comprehensive and cycle-tested. It addresses capital requirements, establishes rigorous reserve requirements and imposes strict limitations on investments. Additionally, state regulations also impose limitations and requirements on capital distributions from the monoline (e.g., dividends), changes of corporate control, changes of senior management and the board of directors, claims practices and the administration thereof and transactions with affiliates.

Monoline MIs must also obtain approval of premium rates and policy forms in most jurisdictions. And they are subject to compliance with licensing requirements, confidentiality of personally identifiable information ("PII"), and requirements relating to how they address complaints from insured parties and the public.

[24] Ibid, Section 7.
[25] Some states have provisions that allow for a temporary waiver of the cessation requirement to permit the insurer to continue to write new business based on the insurance commissioner's assessment of the insurer's financial condition.
[26] Private Mortgage Insurer Eligibility Requirements, September 2018, https://singlefamily.fanniemae.com/media/6151/display, Exhibit A, p 47.
[27] Own Risk and Solvency Assessment, NAIC website, https://content.naic.org/cipr-topics/own-risk-and-solvency-assessment-orsa.

GSEs Provide an Important Framework for Additional MI Oversight and Standardization.

The GSEs' Private Mortgage Insurer Eligibility Requirements ("PMIERs") framework for evaluation, oversight and approval of MI companies was initially implemented in 2015. PMIERs consists of operational and capital requirements for mortgage insurers to be approved to insure loans acquired by the GSEs. Revised in 2018 and again in 2020, PMIERs addresses lessons learned from the housing downturn and provides greater confidence to market participants and policymakers. Since its implementation, PMIERs has more than doubled the amount of capital each mortgage insurer is required to hold.

PMIERs effectively imposes a loan-level risk-based capital regimen on mortgage insurers, including the minimum risk-based capital requirement noted earlier that it must maintain above and beyond a $400 million capital buffer. Exhibit A of PMIERs[28] incorporates a series of tables that specify a loan's required capital by myriad factors – vintage, LTV ratio, credit score, etc. – with multipliers for additional risk factors, such as debt-to-income ("DTI") ratio, documentation, cash-out refinance, investment property, amortization and term, and duration of coverage. Additional capital is required to be held against delinquent loans, increasing as the number of missed payments increases.

In the post-crisis era, influenced by PMIERs and the GSEs' own credit risk transfer practices, MI companies now incorporate CRT as a core component of their respective risk and capital management practices and have cultivated pathways through the reinsurance and debt markets for the sequential transfer of risk to other rated counterparties. Since 2015, MI companies have transferred roughly $74 billion in risk on $3.4 trillion in mortgages, reducing their exposure to losses while diversifying their capital.[29]

Another aspect of post-crisis GSE oversight is the advent of an industry-standard insurance contract first introduced in October 2014 and revised and updated in March 2020. The current MI insurance contract (referred to as the "Master Policy") contains a standard set of provisions developed in accordance with FHFA requirements, including provisions incorporating Rescission Relief Principles (the "Principles") that align with the GSEs' representation and warranty framework. [30] Under the Principles, all loans qualify for rescission relief from origination defects, including borrower fraud and eligibility defects, once they have seasoned 60 months. Loans that meet clearly stated loan performance benchmarks may achieve this level of rescission relief earlier – after 36 months. This same level of relief is available after 12 months' timely payments on all loans in which the insurer has based its insuring decision on the review of a complete origination package; and relief may be immediate if the insurer

[28] Private Mortgage Insurer Eligibility Requirements, September 2018, https://singlefamily.fanniemae.com/media/6151/display, Exhibit A, pp 49-52.
[29] Ibid.
[30] The Rescission Relief Principles, amended and restated in 2018 and incorporated into the Master Policy in March 2020. Under the Principles, loans that have not experienced more than two (2) payments not more than thirty (30) days late, or one (1) payment not more than sixty (60) days late, are granted rescission relief from origination defects, including borrower fraud and misrepresentation and valuation defects, after 36 monthly payments.

has further reviewed the closing package. Terms, conditions, and requirements for these rescission relief thresholds are unambiguous.

The RAA letter we've endorsed (through our membership) proposes clarifying language regarding a bank's ability to transfer credit risk to prudentially regulated, well-capitalized insurance and reinsurance companies and receive significant capital relief as a result. The vehicle for this change would be to modify the bank capital rule's eligible guarantor language to permit insurers and reinsurers meeting certain requirements to be eligible guarantors. We ask that the banking Agencies, in considering RAA's comments, unambiguously include monoline MI companies and their affiliates as eligible guarantors and ensure a level playing field with other property and casualty insurers and reinsurers potentially included as eligible guarantors.

IV. The proposed rule will adversely impact access to affordable home loans and undercut nationwide efforts to advance equitable homeownership initiatives.

The nation is facing an unprecedented housing affordability crunch due to the confluence of high interest rates and high home prices. There are no signs the underlying lack of housing supply will abate anytime soon. For younger households aspiring to the wealth creation through homeownership that launched Baby Boomers, this lack of housing affordability is emerging as a generationally defining issue. Given the sizeable footprint large banks play in the single-family residential mortgage market, the proposed higher capital requirements can be expected to result in even higher borrowing costs, further hampering affordability.

The monthly principal and interest ("P&I") payment required to purchase a median-priced home today is 118% higher than in 2020.[31] Additionally, the down payment required to buy a median-priced home with a 95% LTV loan today is $4,795 higher, or 32% more, than in 2020.[32] The current lack of affordability is historic and the proposed rule will likely worsen the situation as higher capital requirements (through risk weights and operational risk adjustments) on portfolio mortgages, mortgage servicing rights and warehouse lines lead to increased cost and potentially reduced liquidity.

Traditionally underserved populations will be harmed the most by rising borrowing costs and – if banks recoil from portfolio lending due to the higher capital requirements – a reduction in low down payment mortgage options. Capital requirements will be materially higher on loans with LTVs exceeding 90%. Access to low down payment loans is critical to meeting the needs of lower-income households and advancing equitable homeownership solutions. Today, for a family earning 80% of the median household income to buy a home they can comfortably afford with a 95% LTV mortgage, they

[31] MGIC analysis of affordability applying a 95% LTV loan, instead of an 80% LTV loan, using data provided as part of the National Association of Realtor's Housing Affordability Index (HAI) monthly release. Analysis is based on home price, interest rate and household median income data reported by NAR in its November release of the monthly HAI.
[32] Ibid

will need to be shopping for a home that is 62% of the median-priced home.[33] Simple math puts that target home price in the range of $245,000 – a price-point lacking options suitable for first-time homebuyers with limited savings in the vast majority of U.S. cities and towns.

Higher borrowing costs will set back nationwide efforts to close persistent homeownership[34] and wealth[35] gaps across race, ethnicity, and income strata. Recent enhancements to the Community Reinvestment Act ("CRA")[36] and promotion of the Special Purpose Credit Program ("SPCP") provision of the Equal Credit Opportunity Act ("ECOA")[37] will take the tenor of unfunded mandates if the proposed rule takes effect as is. Large banks routinely use portfolio loan solutions to meet community lending needs, enhancing both their CRA lending and investment results. The banking Agencies should reconsider the mixed message the proposed rule is sending to banks, their customers and their community partners and strive to harmonize the proposal with broader efforts to increase equitable homeownership.

A good start toward this harmonization would be to restore credit for MI in the determination of risk-based capital (as discussed in detail in Sections II and III of this letter). Currently, under the standardized approach to determining risk-based capital, loans with LTVs greater than 90% require MI to meet Supervisory LTV Limits which must be achieved to meet the "prudently underwritten" criteria under the Real Estate Lending Standards. Under the proposed bank capital rule, large banks could still buy MI to meet the Supervisory LTV Limits but they would not receive a reduction in required risk-based capital for doing so. Meanwhile, smaller banks would continue to get a lower risk weight when using MI to meet the Standards, creating an unlevel playing field.

Considering the nation's agenda to reduce homeownership and wealth gaps, affirming the risk-based capital benefit of MI makes sense on three fronts. First, the capital reduction enables banks to offer more affordable financing terms on high-LTV loans. Second, MI enables risk-averse banks to expand their product offerings to include prudently underwritten high-LTV loans and benefit from greater liquidity with insured loans than if those loans were uninsured. Third, MI represents the original form of single-family residential mortgage credit risk transfer (i.e., the "Original CRT"), enabling banks to diversify the capital supporting their portfolios and reducing systemic interconnectedness. This last

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[33] MGIC analysis of affordability applying a 95% LTV loan, instead of an 80% LTV loan, using data provided as part of NAR's HAI monthly release. Family median income, as reported by NAR, is multiplied by 80% to establish income for a family earning 80% of median income. A family can 'comfortably afford' a monthly principal and interest payment that is 25% of their gross monthly income.

[34] Quarterly Residential Vacancies and Homeownership, Third Quarter 2023, U.S. Census Bureau, Oct. 31, 2023, https://www.census.gov/housing/hvs/current/index.html.

[35] Greater Wealth, Greater Uncertainty: Changes in Racial Inequality in the Survey of Consumer Finances, Board of Governors of the Federal Reserve System, Oct. 18, 2023, https://www.federalreserve.gov/econres/notes/feds-notes/greater-wealth-greater-uncertainty-changes-in-racial-inequality-in-the-survey-of-consumer-finances-20231018.html.

[36] Community Reinvestment Act Final Rule, October 24, 2023; Federal Reserve System, 12 CFR Part 228, Regulation BB, Docket No. R-1769, RIN 7100-AG29.

[37] Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B, February 22, 2022; Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Department of Housing and Urban Development, Department of Justice, and Federal Housing Finance Agency.

point should not be understated – MI takes risk out of the banking system and into a well-capitalized monoline industry built around prudential regulatory principles specifically designed to withstand cyclical mortgage and housing risks (see Section III).

MI is widely regarded by lenders, trade associations and consumer and housing advocacy organizations as a vital component of national efforts to increase access to affordable homeownership. The proposed rule would discourage large banks from using this critical tool as a risk-transfer utility and alternative source of capital in their equitable homeownership and community lending strategies.

In closing, we appreciate this opportunity to comment on the proposed bank capital rule and look forward to continued engagement toward the goal of establishing regulation that appropriately balances sound prudential oversight with the need to facilitate access to prudent and affordable home loan solutions while achieving consistency with other capital regimens prevailing in the U.S. single-family residential mortgage finance market.

Sincerely,

Timothy J. Mattke
Chief Executive Officer

Exhibit A

The tables on the following pages estimate the risk-based capital requirements for loans under the proposed bank capital rule and the ERCF for a traditional home purchase mortgage (see "Assumptions" below).

Assumptions:

- 1-unit single-family residential property
- Primary residence, owner-occupied
- 30-year fixed-rate mortgage ("FRM") fully amortizing
- Not interest only ("IO")
- Traditional detached home
- Fee simple transaction
- Full documentation
- Retail origination
- First lien with no subordination
- Loan age less than 24 months
- 25% to 40% debt-to-income ("DTI") ratio
- W2-reported income (not self-employed)
- When MI is applicable on loans with loan-to-value ratios of greater than 80%, the following applies:
  - MI Coverage Percentage – 35% for 97% LTV loans, 30% for 95% LTV loans, 25% for 90% LTV loans, and 12% for 85% LTV loans (known as "Guide-level Coverage")
  - Subject to termination under the Homeowners Protection Act of 1998 ("HPA")
  - Under ERCF, credit enhancement multipliers as per Table 8 to Paragraph (e)(2)(iii)(E), p 8224 of the Enterprise Regulatory Capital Framework, Final Rule, 12 CFR Part 1750, Dec. 17, 2020.
  - Mortgage insurer assumed to be "High Mortgage Concentration Risk and Approved Insurer" with a Counterparty Rating of 2 under Table 12 to Paragraph (e)(3)(iii), p 82228 of the Enterprise Regulatory Capital Framework, Final Rule, 12 CFR Part 1750, Dec. 17, 2020 (a 5.9% haircut for 30-year mortgages).

The first series of tables applies the assumptions above to reflect the risk-based capital requirement for loans at certain LTVs and with certain credit scores. Please note that the risk-based capital requirement for loans under the proposed bank capital rule reflects only the proposed base risk weights and does not include any adjustments for the proposed and additional operational risk capital requirement. Also, please note that the GSEs require eligible credit enhancement, such as primary MI, for loans with LTVs exceeding 80%, therefore the "no-MI" risk-based capital requirements listed are merely a basis for calculating the risk-based capital required once MI is applied.

The first series of tables illustrates the greater granularity of the ERCF risk-based capital requirements versus the NPR requirements based on loan-level attributes. Notably, in higher-risk loan "buckets"

featuring lower credit scores at higher LTVs, the ERCF requirements are higher; and in lower-risk buckets featuring higher credit scores at lower LTVs, the ERCF requirements are lower.

ERCF Risk-Based Capital (no MI)

	795	775	755	735	715	695	675	655	635
97%	4.0%	5.2%	6.4%	7.7%	8.8%	10.0%	11.3%	12.7%	14.2%
95%	3.4%	4.5%	5.5%	6.7%	7.5%	8.7%	9.5%	10.6%	12.1%
90%	2.6%	3.4%	4.3%	5.3%	6.0%	7.0%	7.8%	8.9%	10.2%
85%	2.0%	2.6%	3.2%	4.0%	4.6%	5.4%	6.2%	7.1%	8.2%
80%	1.7%	2.2%	2.6%	3.3%	3.8%	4.4%	5.0%	5.8%	6.7%
70%	0.8%	1.0%	1.3%	2.2%	1.8%	2.1%	2.3%	2.7%	3.1%
60%	0.6%	0.7%	0.9%	1.0%	1.2%	1.4%	1.6%	1.8%	2.2%
50%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	1.0%	1.1%

ERCF Risk-Based Capital (with MI)

	795	775	755	735	715	695	675	655	635
97%	1.4%	2.6%	3.8%	5.1%	6.2%	7.4%	8.7%	10.1%	11.6%
95%	1.2%	2.2%	3.3%	4.5%	5.3%	6.5%	7.3%	8.4%	9.8%
90%	0.8%	1.6%	2.4%	3.4%	4.1%	5.2%	6.0%	7.0%	8.3%
85%	1.1%	1.7%	2.3%	3.1%	3.7%	4.5%	5.3%	6.2%	7.3%
80%	1.7%	2.2%	2.6%	3.3%	3.8%	4.4%	5.0%	5.8%	6.7%
70%	0.8%	1.0%	1.3%	2.2%	1.8%	2.1%	2.3%	2.7%	3.1%
60%	0.6%	0.7%	0.9%	1.0%	1.2%	1.4%	1.6%	1.8%	2.2%
50%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	1.0%	1.1%

NPR Risk-Based Capital*

	795	775	755	735	715	695	675	655	635
97%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%
95%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%	5.6%
90%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%
85%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%
80%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
70%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
60%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%	3.6%
50%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%

** Base risk weights only; excludes adjustments for operational risk*

The series of tables on the next page illustrate where NPR capital requirements are lower (green-shaded) and where they are higher (red-shaded) than the ERCF requirements. Additionally, using the mix of LTVs and credit scores from the GSEs’ 2023 purchase loans to create a hypothetical pool of

loans, we illustrate the risk-based capital and base risk-weight differences between ERCF and the proposed bank capital rule.

For the pool, which has an average LTV of 79.9% and an average credit score of 750, the proposed bank capital rule requires more risk-based capital at every LTV and 74% more risk-based capital overall. Notably, the ERCF average risk weight for loans with LTVs exceeding 90% that are insured is ~50%, which is the same standard currently applied to high-LTV loans that are insured under the standardized approach.

NPR vs ERCF (no MI) Risk-Based Capital

	795	775	755	735	715	695	675	655	635
97%	1.6%	0.4%	-0.8%	-2.1%	-3.2%	-4.4%	-5.7%	-7.1%	-8.6%
95%	2.2%	1.1%	0.1%	-1.1%	-1.9%	-3.1%	-3.9%	-5.0%	-6.5%
90%	2.2%	1.4%	0.5%	-0.5%	-1.2%	-2.2%	-3.0%	-4.1%	-5.4%
85%	2.8%	2.2%	1.6%	0.8%	0.2%	-0.6%	-1.4%	-2.3%	-3.4%
80%	2.3%	1.8%	1.4%	0.7%	0.2%	-0.4%	-1.0%	-1.8%	-2.7%
70%	3.2%	3.0%	2.7%	1.8%	2.2%	1.9%	1.7%	1.3%	0.9%
60%	3.0%	2.9%	2.7%	2.6%	2.4%	2.2%	2.0%	1.8%	1.4%
50%	3.0%	2.9%	2.8%	2.7%	2.6%	2.5%	2.4%	2.2%	2.1%

NPR vs ERCF (with MI) Risk-Based Capital

	795	775	755	735	715	695	675	655	635
97%	4.2%	3.0%	1.8%	0.5%	-0.6%	-1.8%	-3.1%	-4.5%	-6.0%
95%	4.4%	3.4%	2.3%	1.1%	0.3%	-0.9%	-1.7%	-2.8%	-4.2%
90%	4.0%	3.2%	2.4%	1.4%	0.7%	-0.4%	-1.2%	-2.2%	-3.5%
85%	3.7%	3.1%	2.5%	1.7%	1.1%	0.3%	-0.5%	-1.4%	-2.5%
80%	2.3%	1.8%	1.4%	0.7%	0.2%	-0.4%	-1.0%	-1.8%	-2.7%
70%	3.2%	3.0%	2.7%	1.8%	2.2%	1.9%	1.7%	1.3%	0.9%
60%	3.0%	2.9%	2.7%	2.6%	2.4%	2.2%	2.0%	1.8%	1.4%
50%	3.0%	2.9%	2.8%	2.7%	2.6%	2.5%	2.4%	2.2%	2.1%

ERCF Lower   **NPR Lower**

Pool Comparison: NPR vs ERCF Risk Weights Across LTVs*

	ERCF**	NPR	NPR Diff vs ERCF
97%	51.4%	70.0%	36%
95%	44.5%	70.0%	57%
90%	33.9%	60.0%	77%
85%	32.3%	60.0%	86%
80%	35.9%	50.0%	39%
70%	18.3%	50.0%	173%
60%	11.7%	45.0%	284%
50%	5.6%	40.0%	620%
Total	**31.5%**	**54.9%**	**74%**

Pool Comparison: NPR vs ERCF Risk-Based Capital Across LTVs*

	ERCF**	NPR	NPR Diff vs ERCF
97%	4.1%	5.6%	36%
95%	3.6%	5.6%	57%
90%	2.7%	4.8%	77%
85%	2.6%	4.8%	86%
80%	2.9%	4.0%	39%
70%	1.5%	4.0%	173%
60%	0.9%	3.6%	284%
50%	0.4%	3.2%	620%
Total	**2.5%**	**4.4%**	**74%**

** LTV and FICO proportions based on 2023 GSE purchase mix*
*** Standard MI coverage assumed on loans with LTVs exceeding 80%*

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