

with the Securities and Exchange Commission (SEC) under the provisions of section 12(g) of the Exchange Act, 15 U.S.C. 78l(g). That section permits companies not covered by the Exchange Act and its requirements for periodic disclosures to submit voluntarily to SEC rules. Voluntary registration triggers the attendant rules and regulations of the SEC, including SEC enforcement authorities. Once a company volunteers, it must remain under the strictures of the law, unless permitted to remove itself by the SEC. OFHEO is proposing this regulation, in part, to facilitate the process of voluntary registration by the Enterprises under the Exchange Act.

OFHEO has a broad statutory mandate to adopt regulations, rules, and guidances deemed to be appropriate to assuring the safety and soundness of the Enterprises including appropriate disclosures that aid in promoting market discipline. OFHEO is empowered fully to mandate financial and securities disclosure and to take related actions to implement such regulatory requirements through filings and submissions, examination and oversight of disclosures. OFHEO anticipates no duplication of regulation as it administers its broad safety and soundness obligations.

### III. Section-by-Section Analysis

#### *Section 1730.1 Purpose*

This part would require the Enterprises to prepare and submit financial and other disclosures as specified by OFHEO. The required disclosures are intended to complement the supervisory efforts of OFHEO to ensure the capital strength of the Enterprises and to promote safe and sound operations within each Enterprise and the mortgage-finance system.

This section also would note that this regulation does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules and regulations.

#### *Section 1730.2 Definitions*

This section would set forth definitions relevant to the proposed regulation.

#### *Section 1730.3 Periodic Disclosures*

This section would require each Enterprise to prepare disclosures relating to its financial condition, results of operation, business developments and management expectations that include supporting

financial information and certification thereof.

An Enterprise would satisfy the proposed requirement for periodic disclosures required in the section if:

1. In the case of an Enterprise having a class of securities registered pursuant to section 12 of the Exchange Act, the Enterprise prepares an annual report, quarterly report, and current reports, and such other materials that may be required under the rules and regulations of the Commission, including interpretations by the Commission and its staff and rules governing audited financial statements;

2. The Enterprise files with the Commission all reports, statements and forms required pursuant to section 14(a) and (c) of the Exchange Act and by rules and regulations adopted by the Commission under that section; and

3. The officers and members of the board of directors of the Enterprise file with the Commission all reports and forms relating to the common stock of the Enterprises required pursuant to section 16 of the Exchange Act and by rules and regulations adopted by the Commission under that section.

#### *Section 1730.4 Submission of Disclosures*

This section would require that, unless otherwise directed by OFHEO, the Enterprises must provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC under § 1730.3.

### **Regulatory Impact**

#### *Executive Order 12866, Regulatory Planning and Review*

The proposed regulation would not result in an annual effect on the economy of \$100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. The proposed regulation, however, has been submitted to the Office of Management and Budget (OMB) for review under other provisions of Executive Order 12866 as a significant regulatory action.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant

economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the proposed regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

#### *Executive Order 13132, Federalism*

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal government and the States, or on the distribution of power and responsibilities among various levels of government. The Enterprises are federally chartered corporations supervised by OFHEO. The proposed regulation sets forth minimum disclosure standards with which the Enterprises must comply for Federal supervisory purposes and address the safety and soundness authorities of the agency. The proposed regulation does not affect in any manner the powers and authorities of any State with respect to the Enterprises or alter the distribution of power and responsibilities between State and Federal levels of government. Therefore, OFHEO has determined that the proposed regulation has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

### **List of Subjects in 12 CFR Part 1730**

Government-sponsored enterprises, Financial disclosure, Reporting and recordkeeping requirements, Records.

Accordingly, for the reasons stated in the preamble, OFHEO proposes to add part 1730 to subchapter C of 12 CFR chapter XVII to read as follows: