



## Regulatory Interpretation 2022-RI-01

**Subject:** Timing of Enterprise Filing of Capital Report under the Enterprise Regulatory Capital Framework regulation, 12 CFR part 1240 (Capital Rule).

**Issue:** When must an Enterprise file its initial quarterly capital report with FHFA under 12 CFR 1240.1(f)(2) of the Capital Rule?

**Conclusion:** Under the Capital Rule, the Enterprises are not “subject to” a capital reporting requirement prior to the compliance date of January 1, 2022. Instead, the Capital Rule subjects the Enterprises to a capital reporting requirement upon the compliance date of January 1, 2022. 12 CFR 1240.4(a) and (b). On January 1, 2022, the Enterprises became “subject to” the quarterly capital reporting requirements. Each Enterprise must file its initial capital report with FHFA no later than May 30, 2022, 60 days after the last day of the first calendar quarter for which it is “subject to” the reporting requirement, unless the Director specifies a different date as permitted by the Capital Rule.

### **Summary and Background:**

This Regulatory Interpretation (RI) addresses the deadline by which an Enterprise must file its initial quarterly capital report.

The Capital Rule establishes a January 1, 2022 “compliance date” for quarterly capital reports. 12 CFR 1240.4(b)(1). Prior to that compliance date, the Enterprises were not “subject to” a capital reporting requirement. 12 CFR 1240.4(a). Under the capital reporting requirements, each Enterprise must file a capital report “every calendar quarter” and must file the report “not later than 60 days after the last day of the calendar quarter or at such other time as the Director requires.” 12 CFR 1240.1(f)(1) and (2). For purposes of the initial capital report, the Capital Rule is silent as to which “calendar quarter” is intended, *i.e.*, the quarter immediately preceding the compliance date, or the quarter beginning with the compliance date. 12 CFR 1240.1(f)(2). However, the Enterprises were not “subject to” the reporting obligation until January 1, 2022. For that reason, the initial quarterly period for which an Enterprise is subject to report is the calendar quarter beginning January 1, 2022, with the initial report filed with FHFA not later than 60 days after the last day of the calendar quarter that begins January 1, 2022, *i.e.*, May 30, 2022.

***Analysis:***

The Capital Rule establishes Enterprise regulatory capital requirements. 12 CFR part 1240. The Capital Rule also establishes quarterly capital reporting requirements. 12 CFR 1240.1(f).

The Capital Rule became effective February 16, 2021. 85 FR 82150 (Dec. 17, 2020). It also established a series of compliance dates to coordinate implementation of the regulatory requirements and the Enterprises' exit from conservatorship. 12 CFR 1240.4 (transition provisions). Each compliance date specifies the date on which the Enterprise becomes subject to the regulatory requirement. *See* 12 CFR 1240.4(a).

§ 1240.4(a) *Compliance dates.* An Enterprise will not be subject to any requirement under this part until the compliance date for the requirement under this section.

The compliance date for quarterly capital reporting is January 1, 2022. *See* 12 CFR 1240.4(b)(1).

§ 1240.4(b) *Reporting requirements.* The compliance date will be January 1, 2022, for the reporting requirements under any of the following:

(1) Any requirement under § 1240.1(f);

...

Under the transition provisions, the Enterprises were not “subject to” any capital reporting requirement under § 1240.1(f) until January 1, 2022. Capital reporting under § 1240.1(f) is performed on a quarterly basis. *See* 12 CFR 1240.1(f)(1)(i).

§ 1240.1(f) *Reporting procedure and timing—(1) Capital Reports—(i) In general.* Each Enterprise shall file a capital report with FHFA every calendar quarter providing the information and data required by FHFA. ...

12 CFR 1240.1(f)(1)(i) (emphasis added). The capital report must be filed within 60 days following the end of the calendar quarter on which it is reporting. *See* 12 CFR 1240.1(f)(2).

§ 1240.1(f)(2) *Timing.* The Enterprise must submit the capital report not later than 60 days after the last day of the calendar quarter or at such other time as the Director requires.

12 CFR 1240.1(f)(2) (emphasis added). For purposes of determining when the initial capital report is to be filed with FHFA, the Capital Rule is silent as to which “calendar quarter” is intended, *i.e.*, the fourth quarter of 2021 or the first quarter of 2022. 12 CFR 1240.1(f)(2). However, because the Enterprises did not have a capital reporting obligation prior to January 1, 2022, the first calendar quarter for which a capital report must be filed is the calendar quarter beginning on the date the Enterprise became “subject to” the reporting requirement. That date is the compliance date of January 1, 2022. *See* 12 CFR 1240.4(a) and (b)(1) (compliance date of January 1, 2022); *see also* 85 FR at 82154, 82197 (“An Enterprise will not be subject to any requirement under the final rule until the compliance date for the requirement under the final

rule. ... Regardless of the date of the termination of the conservatorship of an Enterprise, the Enterprise will be required to report its regulatory capital, PCCBA, PLBA, standardized total risk-weighted assets, and adjusted total assets beginning January 1, 2022”) (emphasis added).

Therefore, FHFA interprets 12 CFR 1240.1(f)(2) to require each Enterprise to file its initial capital report to FHFA no later than May 30, 2022, *i.e.*, 60 days following the last day of the calendar quarter that began on January 1, 2022.

***Congressional Review Act:***

In accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*), FHFA has determined that this RI does not constitute a major rule, and no further submission actions will be taken, including to the Office of Information and Regulatory Affairs of the Office of Management and Budget. The RI addresses a procedural timing aspect of capital reporting and is not expected to have a qualifying effect.

***Effective Date:***

This RI shall become effective on February 3, 2022.

By: \_\_\_\_\_  
Clinton Jones  
General Counsel

This Regulatory Interpretation is issued pursuant to 12 CFR 1211.5 and is subject to modification or rescission by the Director of the Federal Housing Finance Agency.