August 28th, 2014

The Federal Housing Finance Agency

Constitution Center

400, 7th Street SW

Washington DC, 20014

Attn: Mortgage Insurance Eligibility Project

RE: Draft Private Mortgage Insurer Eligibility Requirements

Dear Director Watt,

Hudson Bay Capital respectfully offers its response to the request for comments to the Draft Private Mortgage Insurer Eligibility Requirements (Draft PMIERs) published by the Federal Housing Finance Agency (FHFA) on July 10, 2014. We value FHFA’s willingness to seek input and provide clarity to the approval process for Private Mortgage Insurers (MIs). MIs play an important role in providing private capital and protecting taxpayers under the current conservatorship arrangement.

Our response to the request for comments is limited to what we believe are the most important issues – the Financial Requirements of the Draft PMIERs. We will address the expected incompatibility of the Draft PMIERs with housing policy goals and specifically will address Questions 21 (dealing with frequency of updating the grids), 31 (dealing with the proposed treatment of premium income in Available Assets), 40 (dealing with the impact of high LTV borrowers) and 41 (dealing with impact of low credit score borrowers).

We fully appreciate that a direct result of the financial crisis was a steep rise in defaults and foreclosures of single-family mortgages, including those owned or guaranteed by Fannie Mae and Freddie Mac (GSEs). Lenders, MIs and the GSEs suffered significant losses as a result of these defaults and foreclosures. Therefore it is understandable that the financial requirements contained in the Draft PMIERs are intended to mitigate future GSE losses and to ensure that MIs maintain sufficient financial strength to withstand a stress macroeconomic scenario.

We fully support the FHFA’s stated goal that the Draft PMIERs "seek to ensure that Approved Insurers have adequate liquidity and claims-paying capacity during periods of economic stress." However, we believe that the Draft PMIERs go far beyond requiring “adequate liquidity and claims-paying capacity” and, as a result, are at odds with the housing policy goals that many in the public- and private-sector believe are critical to ensuring that a safe, affordable and sustainable housing market exists. If the Draft PMIERs were implemented in the form released for public input, we believe they would:

* restrict access to credit and/or increase the cost of homeownership for creditworthy borrowers, especially those from non-traditional and diverse backgrounds likely to supply much of the future demand for housing;
* increase taxpayer risk as MIs lose market share to to the FHA or to less regulated, or non-regulated, credit enhancements; and
* discourage private capital from investing in housing finance due to the mismatch between risk and return on the capital that would be required.

We believe these results will occur because the Draft PMIERs require MIs to hold unnecessarily excessive “Available Assets” (as defined in the Draft PMIERs), which may drive up the price of mortgage insurance or reduce its availability in certain markets. A possible solution to these negative results would be to include, as Available Assets, a certain percentage of future contractual premiums on all policies, not just the policies written in 2008 and prior, as currently contemplated by the draft PMIERs.

Some portion of the substantial value of monthly contractual insurance premiums should be recognized as an Available Asset of an MI. This is a major asset of a monoline insurer, albeit off balance sheet, and is available to build cash capital and pay cash claims as they appear over time.

To protect the GSEs from an instance of statutory insolvency (which they have indicated is a concern), the allowance of future premiums as an Available Asset could be limited to those MIs with a minimum level of statutory capital (as determined by the FHFA). To further protect the GSEs, the allowance of future premiums as an Available Asset could be limited to the lesser of 3 years of renewal premiums or 1/3 of the Minimum Required Assets of an MI.

It is appropriate to consider a percentage of all future premiums regardless of policy year, just as the Draft PMIERs consider all future off balance sheet liabilities from future policy claims. And while we acknowledge that state regulators do not routinely consider future premiums in the normal course of regulating MIs, they do in fact consider it in periods of economic stress as they transition from a pure regulatory philosophy to more of a supervisory philosophy, similar to what the Federal Reserve did with banks during the financial crisis.

In addition to the Draft PMIERs requiring MIs to hold unnecessarily excessive assets, they would allow changes to the grid-based asset requirements with seemingly little warning or discussion. This inserts unnecessary uncertainty into the forward business operations and capital plans for MIs and makes a private capital investment decision more difficult to assess. We recommend that a predictable and transparent methodology be defined to allow changes to the grid-based capital requirements, and that this process include input of stakeholders, including the MIs. This methodology could consider among other items home price appreciation or depreciation that has occurred relative to the initial stress environment contemplated in the original grids.

We believe our proposed changes will:

* continue to provide the GSEs the necessary liquidity and protection from the potential statutory insolvency that they seek;
* continue to attract private capital to take first loss positions ahead of the taxpayer; and
* help ensure access to credit at an affordable cost.

Hudson Bay Capital appreciates FHFA’s work to develop the Draft PMIERs. We commend your effort to improve the counterparty requirements for MIs; however, we strongly urge that FHFA restructure the Draft PMIERs to allow for the proposals we discussed above.

Should you have questions or wish to discuss any aspect of this comment further please contact Roy Astrachan (Partner), at (646) 825-2172 or rastrachan@hudsonbaycapital.com

Thank you for the consideration of our comments.

Sincerely,

Roy Astrachan

Partner

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