

IN THE SUPREME COURT OF THE UNITED STATES

No. 22A-____

FEDERAL HOUSING FINANCE AGENCY, ET AL. APPLICANTS

v.

NEW JERSEY CARPENTERS HEALTH FUND, ET AL.

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court, the Solicitor General -- on behalf of the Federal Housing Finance Agency, in its capacity as conservator of the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Mortgage Corporation -- respectfully requests a 30-day extension of time, to and including September 30, 2022, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case. The opinion of the court of appeals (App., infra, 1a-60a) is reported at 28 F.4th 357. The memorandum and order of the district court (App., infra, 61a-80a) is unreported but is available at 2019 WL 13150344. The court of appeals entered its judgment on March 14, 2022, and denied a petition for rehearing on June 2,

2022 (App., infra, 81a-82a). Unless extended, the time within which to file a petition for a writ of certiorari will expire on August 31, 2022. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. Congress created the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to support the Nation's home lending market. See Collins v. Yellen, 141 S. Ct. 1761, 1770-1771 (2021). In 2008, Congress created the Federal Housing Finance Agency (FHFA) to regulate those enterprises. See id. at 1771. FHFA later took the enterprises into conservatorship. See id. at 1772.

In this case, respondent New Jersey Carpenters' Health Fund filed a class-action lawsuit against the issuers and underwriters of certain mortgage-backed securities, claiming that the securities had been offered in violation of federal securities laws. App., infra, 7a-8a. In 2017, the district court certified a settlement class and set a deadline for class members to object to the settlement. Id. at 10a-12a. Freddie Mac -- which was a member of the class because it had purchased some of the securities at issue -- objected after the deadline passed, asserting that it had not received proper notice of the proposed settlement. Id. at 13a-16a. In addition, FHFA argued that 12 U.S.C. 4617(f) precluded the district court from including Freddie Mac within the settlement. App., infra, 14a; see 12 U.S.C. 4617(f) ("Except as provided in this section or at the request of the Director, no

court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or receiver.”).

The district court rejected Freddie Mac’s objection as untimely and rejected FHFA’s argument that Section 4617(f) precluded the court from including Freddie Mac within the settlement. App., infra, 61a-80a. The court of appeals modified the judgment and affirmed the judgment as modified. Id. at 1a-60a.

2. The Solicitor General has not yet determined whether to file a petition for a writ of certiorari in this case. The additional time sought in this application is needed to continue consultation within the government and to assess the legal and practical impact of the court of appeals’ ruling. Additional time is also needed, if a petition is authorized, to permit its preparation and printing.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

AUGUST 2022