



MORTGAGE BANKERS ASSOCIATION

January 31, 2019

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General Counsel
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

RE: Federal Home Loan Bank Housing Goals Amendments [RIN: 2590-AA82]¹

Mr. Pollard:

The Mortgage Bankers Association (MBA)² thanks the Federal Housing Finance Agency (FHFA) for the opportunity to comment on the proposed rule to amend the existing Federal Home Loan Bank (FHLB) housing goals. These goals are operationalized through the FHLBs' Acquired Member Assets (AMA) programs—mortgage purchase programs that allow eligible financial institutions to sell loans directly to their respective FHLBs. MBA supports the proposed revisions to the FHLB housing goals, as these revisions target regulations that may have limited AMA purchases by the FHLBs in recent years, while also providing greater compliance certainty and simplicity for the FHLBs. MBA does recommend, however, that FHFA carefully monitor the impact of the proposed rule once implemented to ensure that it does not incentivize FHLBs to discontinue their AMA programs. MBA also recommends that goals meant to spur participation by smaller lenders be modified to recognize the role of credit unions as AMA participants.

The mission of the FHLBs is “to provide reliable liquidity to member institutions to support housing finance and community investment.”³ The main channel by which the

¹ 83 FR 55114, “Federal Home Loan Bank Housing Goals Amendments,” November 2, 2018. Available at: <https://www.federalregister.gov/documents/2018/11/02/2018-23890/federal-home-loan-bank-housing-goals-amendments>.

² The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

³ Council of Federal Home Loan Banks. Available at: <http://www.fhlbanks.com/fhlbanks--mission.html>.

FHLBs pursue this mission is through the use of advances, or secured loans largely collateralized by residential mortgages. However, the FHLBs also provide alternative secondary market executions for their members as a means of supporting reliable liquidity. The AMA programs, which include the Mortgage Purchase Program and the Mortgage Partnership Finance program, represent such an alternative execution. Through the AMA programs, the FHLBs either purchase and hold mortgage loans originated by their members or purchase these loans and subsequently sell them in the secondary market.

In general, both lenders and borrowers benefit from a varied and diverse set of secondary market executions. To the extent these executions can incentivize the origination of loans that support affordable and sustainable housing, they further an important public policy objective. The need for increased investment in affordable housing is particularly critical given the market conditions that have characterized recent years—limited housing supply, home price appreciation outpacing wage growth, and soaring origination and building costs.

Effective FHLB housing goals would therefore promote increased investment by member institutions in affordable housing, while not introducing any features that could jeopardize FHLB safety and soundness. It is through this lens that we evaluate the proposed revisions.

Elimination of the \$2.5 billion annual threshold to trigger the housing goals

Perhaps the most significant revision to the existing FHLB housing goals is the proposed elimination of the \$2.5 billion annual AMA threshold by which FHLBs become subject to the goals. As FHFA notes in the proposed rule, since the prior iteration of the FHLB housing goals took effect in 2011, there have been only three instances (covering two FHLBs) in which an FHLB exceeded the \$2.5 billion annual AMA threshold. To put this figure into perspective, seven years of monitoring the eleven (or twelve, prior to the merger of the FHLBs representing Des Moines and Seattle) FHLBs produced approximately 80 unique observations—and yet only three times did an FHLB exceed \$2.5 billion in AMA purchases.

These results would not by themselves prove that the FHLBs were responding to the incentives created by the housing goals. Anecdotal evidence further suggests, however, that a number of FHLBs maintained limits on their AMA programs so as to specifically avoid crossing the \$2.5 billion threshold and triggering the housing goals. If true, these actions would strongly suggest that the FHLBs could have sustained larger AMA programs, as well as greater purchases of affordable housing loans, had the \$2.5 billion threshold not been in place.

The proposed rule removes this artificial ceiling on AMA purchases by eliminating the \$2.5 billion threshold and simply subjecting all FHLBs to the housing goals, provided they operate AMA programs. Currently, ten of the eleven FHLBs do so. Without an incentive to keep overall purchases below a particular threshold, the FHLBs should be expected to either increase their total purchases (including affordable housing loans) or shift more of their total purchases towards affordable housing loans. Each of these outcomes would be a positive development.

One potential unintended consequence of the proposed rule, however, would occur if the FHLBs' incentives to avoid the housing goals were strong enough to cause them (or a subset of them) to discontinue their AMA programs. Because the AMA programs are voluntary, there is no FHFA mandate that the FHLBs purchase loans from their members. As such, it is possible that whereas the existing rule serves to cap many FHLBs at \$2.5 billion in AMA purchases, the proposed rule could cap many FHLBs at \$0 in AMA purchases. While we do not view this as a likely outcome, it is critical that FHFA monitor the initial implementation of the revisions to ensure that they are not having this unintended effect. If the revisions have caused a reduction in AMA offerings, FHFA should swiftly revisit this rulemaking.

Introduction of a prospective housing goal

Another important revision to the existing rule is the proposed use of a prospective housing goal rather than the retrospective goals determined through Home Mortgage Disclosure Act data. As FHFA notes in the proposed rule, FHLBs may experience difficulty in assessing their performance and adjusting their activities accordingly if target levels for affordable housing loan purchases are not known in advance. A prospective target improves regulatory clarity and allows for better planning on the part of the FHLBs. As such, MBA is supportive of this revision.

Consolidation of the existing housing goals into a single housing goal

The four separate housing goals contained in the existing rule—three purchase goals and one refinance goal—would be replaced with a single, consolidated goal under the proposed rule. Given the relatively small volumes associated with the AMA programs to date, there is little value in further segregating these mortgage purchases into more granular categories, as is currently required under the housing goals. Instead, a single, consolidated goal can adequately capture the contribution of the AMA purchases to affordable housing, while also reducing the compliance burden for the FHLBs.

The proposed rule envisions and accounts for the greatest potential danger in this approach—the possibility that AMA purchases would be concentrated among higher-income households in low-income areas. While such lending can be positive for the continued growth and development of low-income areas, allowing it to constitute the

majority of an FHLB's affordable loan purchases would dilute the effectiveness of the housing goal. The 25 percent cap on qualifying loans to borrowers above 80 percent of area median income is therefore an important design feature of the single, consolidated housing goal.

The overall target level of the housing goal, which is set in the proposed rule at 20 percent of AMA purchases, reflects FHFA's desire to put in place a goal that would induce meaningful investment in affordable loans while remaining achievable for the FHLBs. Based on the historical AMA data, it appears that the 20 percent target strikes an appropriate balance between rigor and feasibility. As discussed earlier, though, if any FHLBs begin to discontinue their AMA programs as a result of the revisions to the housing goals, FHFA should be prepared to amend this target or work with individual FHLBs on alternative goals.

Eligibility of government-guaranteed or -insured mortgages

The proposed rule would also allow AMA purchases of mortgages guaranteed or insured by the Federal Housing Administration (FHA), Veterans Administration (VA), and Rural Housing Service (RHS) to be eligible for purposes of satisfying the housing goal. FHFA correctly notes that these federal programs "provide mortgage options that can help lower-income borrowers and borrowers in low-income areas achieve homeownership."⁴ Because these programs are specifically targeted to first-time homebuyers and borrowers who are historically underserved, they represent the types of loans for which the FHLBs should be encouraged to provide enhanced liquidity.

While the vast majority of FHA, VA, and RHS loans are sold into the secondary market through the deep, liquid Ginnie Mae market, there remain reasons to incentivize FHLB purchases of these loans, as well. For example, some FHLB members may not be Ginnie Mae issuers and prefer to sell their FHA, VA, or RHS loans to their FHLB rather than to a private aggregator. Similarly, there is little concern regarding the fact that many conventional loans currently eligible to count towards the FHLB housing goals are also eligible to be sold into the secondary market through Fannie Mae or Freddie Mac. If conventional loans benefit from multiple executions (Fannie Mae, Freddie Mac, or the FHLBs), there is little reason why FHA, VA, or RHS loans should not also benefit from multiple executions (direct Ginnie Mae issuance, private aggregators, or the FHLBs).

Introduction of a small member participation housing goal

The establishment of a small member participation goal, by which at least 50 percent of AMA users at each FHLB be institutions with assets of less than \$1.173 billion, is

⁴ 83 FR 55125.

justified by FHFA in two ways. First, the goal is designed to encourage FHLBs to place a greater focus on small members, noting that “It is reasonable to require the [FHLBs] to deploy their federally supported funding-cost advantage for the benefit of small members that might otherwise have difficulty accessing national capital markets, rather than primarily to augment the financial results of large members that have no such difficulty.”⁵ Second, the goal reflects the conclusion reached by FHFA in the proposed rule that smaller institutions may be more likely to originate loans to lower-income households.

In considering the merits of a small member participation goal, the former of these justifications is far more persuasive. The FHLBs serve as an important outlet to the secondary market for many small lenders across the country, and connecting these institutions to broader sources of capital for mortgage lending is a core public policy function of the FHLBs. In the proposed rule, FHFA acknowledges that the small member participation goal is directly tied to the statutory basis for the AMA programs in this regard.

It is less clear that the relative propensity of small lenders to originate loans to lower-income households should factor into this goal. The other housing goal (the 20 percent target for affordable loan purchases) ensures that FHLBs concentrate a sufficient portion of their AMA programs toward lower-income households. Whether the loans that qualify toward this goal are originated by large or small institutions does not seem particularly relevant to this public policy objective.

Further, it appears that the intent of this goal is to incentivize AMA participation by institutions below a particular asset size. The proposed rule, however, defines a “community financial institution” (CFI) through a cross-reference to the existing definition in 12 CFR Part 1263.1, which includes not only an asset threshold, but also a requirement that the institution maintain deposits that are “insured under the Federal Deposit Insurance Act.”⁶ As such, credit unions do not meet this definition and therefore would not qualify toward the small member participation goal. MBA recommends that FHFA adjust the proposed rule to reference the existing definition of a “CFI asset cap” rather than the definition of a “CFI,” while also clarifying that an institution need not qualify as a “CFI” in order to qualify for the purposes of the small member participation goal.

Given the importance of ensuring that small lenders have equal access to the secondary market relative to their larger counterparts, MBA supports the establishment of a small member participation goal. We recommend, however, that FHFA consider any adjustments to this goal solely in light of the FHLBs’ responsibility to ensure a

⁵ 83 FR 55123.

⁶ 12 CFR Part 1263.1

competitive balance and a level playing field. Affordability objectives should be pursued through the affordable housing goal—not the small member participation goal. Further, the goal should be modified to allow qualifying credit unions to count toward the measurement of small member participation.

Allowance for alternative housing goals proposed by FHLBs

A potential problem with the use of a uniform housing goal for the eleven FHLBs stems from the important differences across the eleven districts of the country represented by the FHLBs. Variation in demographics and economic and market conditions may make achieving the housing goal more difficult for some FHLBs than others in certain years. As such, the allowance for FHLBs to propose alternative housing goals is both rational and necessary. Whereas it is reasonable to impose uniform housing goals on Fannie Mae and Freddie Mac, which each operate nationwide, there may be reasons for differing standards or requirements across the eleven FHLB districts. FHFA should, however, require that any successful applications for alternative housing goals be informed by thorough data analysis and compelling evidence.

Establishment of a three-year phase-in for enforcement of the housing goals

The inclusion of a three-year phase-in for housing goal enforcement is also appropriate. While most FHLBs would already meet the requirements put in place by the proposed rule, this implementation period would allow for any necessary planning to ensure continued compliance. More broadly, well-defined and reasonable implementation periods for new requirements on business activities represent a form of good governance. MBA therefore supports this component of the proposed rule.

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Thank you in advance for your consideration of these comments. Should you have questions or wish to discuss further, please contact Dan Fichtler, Director of Housing Finance Policy, at (202) 557-2780 and dfichtler@mba.org.

Sincerely,



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