




ADVISORY BULLETIN 2010-AB-01

April 06, 2010

*Federal Housing Finance Agency
Division of Federal Home Loan Bank Regulation*

To: Federal Home Loan Bank Chairs, Presidents, and
Directors of Internal Audit
Managing Director, Office of Finance

From: Stephen M. Cross 
Acting Senior Deputy Director and Chief Operating Officer
Federal Housing Finance Agency

Subject: Clarification of Advisory Bulletin 2008-AB-02: Application of Guidance on
Nontraditional and Subprime Residential Mortgage Loans to Specific FHLBank
Assets

Background

The federal banking agencies published *Interagency Guidance on Nontraditional Mortgage Product Risks* on October 4, 2006 and *Statement on Subprime Mortgage Lending* on July 10, 2007 (interagency guidance). On July 1, 2008, the Office of Supervision of the former Federal Housing Finance Board issued Advisory Bulletin 2008-AB-02, *Application of Guidance on Nontraditional and Subprime Residential Mortgage Loans to Specific FHLBank Assets*. That advisory bulletin provided guidance to the Federal Home Loan Banks (FHLBanks) about how to apply the interagency guidance to mortgages purchased under the Acquired Member Assets (AMA) programs, investments in private-label mortgage-backed securities (MBS), and collateral securing advances.

Advisory Bulletin 2008-AB-02 provides guidance on the eligibility of residential mortgages as collateral (either as whole loans or as part of private-label MBS), and limitations on the use of mortgages or mortgages underlying private-label MBS that do not conform to the interagency guidance as collateral for advances. The following questions and answers provide clarification of Advisory Bulletin 2008-AB-02.

Guidance

1. *Does Advisory Bulletin 2008-AB-02 establish that private-label MBS that were acquired by a member after July 10, 2007 may not be considered eligible collateral in calculating the amount of advances that can be made to a member if the underlying mortgages do not comply with all aspects of the interagency guidance?*

Yes. Advisory Bulletin 2008-AB-02 provides the same guidance for all mortgage loans serving as collateral for advances, both whole residential mortgages and loans underlying private-label MBS. We are, therefore, clarifying that private-label MBS that were either issued or acquired by a member after July 10, 2007 may be considered eligible collateral in calculating the amount of advances that can be made to a member only if the underlying mortgages comply with all aspects of the interagency guidance.

2. *Does Advisory Bulletin 2008-AB-02 establish that a member have enforceable representations and warranties that residential mortgage loans underlying private-label MBS comply with the interagency guidance for an FHLBank to accept private-label MBS that were issued or acquired by a member after July 10, 2007 as eligible collateral in calculating the amount of advances that can be made to the member?*

Yes. The guidance applies both to residential mortgage loans and private-label MBS issued or acquired after July 10, 2007. We acknowledge that such representations and warranties may not be available for private-label MBS issued before July 10, 2007. Subject to confirmation by the Federal Housing Finance Agency, an FHLBank may be able to determine that the underlying loans conform to the interagency guidance through analysis of the prospectus, servicing tapes, and other documented information sources.

3. *Are the provisions of Advisory Bulletin 2008-AB-02 applicable to re-securitizations?*

Generally, yes. Re-securitizations of private-label MBS are the restructuring of one or more private-label MBS into a new MBS. The issuance or acquisition date of the re-securitization should be used to determine compliance with Advisory Bulletin 2008-AB-02 and requirements regarding the underlying mortgages with the following exception.

The marketplace is changing, however, and there are re-securitized private-label MBS with a federal agency guaranty backed by the full faith and credit of the United States government. An FHLBank may seek to accept such MBS as eligible collateral by submitting a new business activity notice to the FHFA that describes the MBS structure and guaranty.

4. *Are the provisions of Advisory Bulletin 2008-AB-02 applicable to private-label MBS that were acquired through a merger or acquisition of another financial institution?*

Advisory Bulletin 2008-AB-02 did not contemplate the collateral eligibility of mortgage loans or private-label MBS that a member acquires through a merger or acquisition of another financial institution. Our expectations regarding assets acquired through merger or

acquisition will depend on the facts and circumstances of the specific transaction. Eligible collateral obtained by an FHLBank member from another member through merger or acquisition would generally continue to be eligible collateral, subject to consultation with the FHFA regarding the specific circumstances of the transaction.

5. *May an FHLBank work with a member if the clarifications in this bulletin cause a member to no longer have sufficient eligible collateral to support outstanding advances?*

Yes. If the clarifications in this bulletin cause a member to no longer have sufficient eligible collateral to support outstanding advances, the FHLBank should work with the member to develop an orderly transition of advance balances so that they are fully supported by collateral. The FHLBank should document the transition plan and make it available for review by Federal Housing Finance Agency examiners.

Related Guidance

Application of Guidance on Nontraditional and Subprime Residential Mortgage Loans to Specific FHLBank Assets, Federal Housing Finance Board Advisory Bulletin 2008-AB-02, July 1, 2008.

Nontraditional and Subprime Residential Mortgage Loans, Federal Housing Finance Board Advisory Bulletin 2007-AB-01, April 12, 2007.

Interagency Guidance on Nontraditional Mortgage Product Risks, Federal Register, Volume 71, Number 192, October 4, 2006, pp. 58609-58618.

Statement on Subprime Mortgage Lending, Federal Register, Volume 72, Number 131, July 10, 2007, pp. 37569-37575.

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