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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1277

RIN 2590-AB41

Unsecured Credit Limits for Federal Home Loan Banks

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is issuing this rule to amend its regulation on Federal Home Loan Bank (Bank) capital requirements to modify limits on Bank extensions of unsecured credit in their on- and off-balance sheet and derivative transactions. Currently, overnight federal funds are excluded from the more restrictive "general limit" on unsecured credit to a single counterparty and are limited by the higher "overall limit." The final rule adds interest-bearing deposit accounts (IBDAs) and other authorized overnight investments to that exclusion, which may provide greater flexibility and improved cost to yield than overnight federal funds.

DATES: The rule is effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background

A. The Federal Home Loan Banks and Limits on Unsecured Extensions of Credit

The eleven Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act (Bank Act).[1] Each Bank is a cooperative managed by its own board of directors.[2] Only members of a Bank may purchase the capital stock of a Bank and only members or certain eligible non-member housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[3]

The Banks are subject to FHFA's Bank capital regulation, located at 12 CFR part 1277, which sets requirements regarding Bank minimum capital, Bank capital stock, and Bank capital plans. Subpart B of the regulation, which governs Bank capital requirements, includes at 12 CFR 1277.7 provisions establishing limits on extensions of unsecured credit in which the Banks engage when managing their liquidity portfolios. Existing § 1277.7(a) establishes for the Banks two limits on unsecured extensions of credit to a single counterparty, referred to in the regulation as the "general limit"[4] and the "overall limit."[5] The functional difference between the two limits is that the more

[1] *See* 12 U.S.C. 1423 and 1432(a). The eleven Banks are located in: Atlanta, Boston, Chicago, Cincinnati, Dallas, Des Moines, Indianapolis, New York, Pittsburgh, San Francisco, and Topeka.
[2] *See* 12 U.S.C. 1427.
[3] *See* 12 U.S.C. 1426(a)(4) and (c)(5), 1430(a), and 1430b.
[4] *See* 12 CFR 1277.7(a)(1).
[5] *See* 12 CFR 1277.7(a)(2).

restrictive general limit excludes sales of federal funds with a maturity of one day or less and the sales of federal funds subject to a continuing contract[6] (collectively, overnight Fed Funds) from its measurement of extensions of unsecured credit, while the higher overall limit includes overnight Fed Funds.

B. Developments in Overnight Lending

One of the Banks' primary functions is to provide advances to their members. Thus, each Bank must have a large store of liquidity to meet its own needs and demands for advances from its members, even during periods of financial market disruption. Each Bank holds asset-side liquidity, or liquidity assets, on its balance sheet to supplement its liability-side liquidity, sourced from debt issued in the capital markets. These liquidity holdings include money market instruments, certain U.S. Treasury securities, and unencumbered cash. FHFA has provided guidance to the Banks on maintaining sufficient asset-side liquidity to continue regular business during capital market disruptions in FHFA Advisory Bulletin (AB) 2018-07.[7] This guidance states FHFA's expectation that asset-side liquidity holdings be readily convertible to cash with little or no loss in their par value.

Money market instruments, including overnight Fed Funds, reverse repurchase agreements (reverse repos),[8] and IBDA deposits, typically comprise the largest segment

[6] "The fed funds market is an unsecured, mostly overnight, over-the counter funding market among banks and government-sponsored enterprises." *See* Board of Governors of the Federal Reserve System FEDS Notes (July 11, 2024), *available at* https://www.federalreserve.gov/econres/notes/feds-notes/the-recent-evolution-of-the-federal-funds-market-and-its-dynamics-during-reductions-of-fr-balance-sheet-20240711.html. By regulation FHFA has defined "sales of federal funds subject to a continuing contract" as "an overnight federal funds loan that is automatically renewed each day unless terminated by either the lender or the borrower." 12 CFR 1277.1.

[7] *Available at*: https://www.fhfa.gov/sites/default/files/2023-06/AB-2018-07-FHLB-Liquidity-Guidance.pdf.

[8] Reverse repos are overnight or term lending to other financial institutions secured by securities collateral.

of Bank liquidity holdings to optimize adherence to the guidance set forth in AB 2018-07. These overnight money market instruments have no price risk (they are par instruments that do not fluctuate in value due to interest rate changes), but they do have small, varying amounts of credit and operational risk.

Historically, Bank money market holdings consisted of overnight Fed Funds and reverse repos. Starting in 2014, new liquidity risk management requirements imposed by members' prudential regulators made it advantageous for certain insured depositories to offer IBDAs to the Banks. IBDA deposits are non-maturity deposits (that is, deposits that the depositor is free to withdraw at any time since there is no defined contractual maturity date) that a Bank may access whenever Fedwire fund transfer capabilities are open.[9] In contrast, overnight Fed Funds and reverse repos are returned to a Bank from the counterparty the next trading or banking day and often require a trade commitment early in the day. Among eligible money market instrument alternatives, IBDAs provide the most intra-day liquidity flexibility for a Bank, as protocols can be established for the counterparty to return IBDA deposits to the Bank early each business day and a Bank can wait until the close of business to commit to redepositing the funds. This provides the Bank flexibility to meet unexpected, late-day member advance demand. For these reasons, IBDAs have become a preferred money market instrument to manage Bank liquidity.

Under the existing Bank capital regulation, IBDA deposits are subject to the general limit on unsecured extensions of credit to a single counterparty rather than the

[9] The Federal Reserve System facilitates financial institutions' exchange of funds between various accounts, including from a Bank's IBDA account to its account at its local Federal Reserve Bank. These services are generally available each business day.

larger overall limit that includes overnight Fed Funds. This restricts the amount of liquidity the Banks can manage using IBDAs.

From a risk-management perspective, IBDAs are a well-established money market instrument among the Banks and have a similar risk profile to overnight Fed Funds. IBDAs and overnight Fed Funds are both overnight unsecured investments returned daily and the amount of exposure a Bank can have to any one counterparty in either investment type depends on the same Bank-developed internal credit rating methodology for unsecured counterparties. For these reasons and considering the importance of IBDAs to Bank liquidity management, subjecting IBDA deposits to the general limit rather than restricting them only through the higher overall limit offers no offsetting safety and soundness benefit. FHFA expects that revising the Bank capital regulation to move IBDA deposits from the more restrictive general limit to the less restrictive overall limit will provide the Banks with greater flexibility to manage their liquidity.

In November 2023, FHFA released its FHLBank System at 100: Focusing on the Future report (System at 100 Report), culminating FHFA's comprehensive review of the Bank System.[10] In the report, FHFA identified the Banks' ability to meet short-term liquidity needs as an area that would benefit from modernization.[11] This final rule is part of FHFA's efforts toward this end.

[10] The System at 100 Report is *available at*: https://www.fhfa.gov/sites/default/files/2024-12/FHLBank-System-at-100-Report.pdf.
[11] System at 100 Report at 32-33.

C. Overview of the Proposed Rule

On October 3, 2024, FHFA issued a proposed rule that would have revised part 1277 of its regulations to exclude from the general limit on extensions of unsecured credit to a single counterparty set forth in § 1277.7(a)(1) investments with a maturity of one day or less where the principal is returned to the Bank each day.[12] These would include overnight Fed Funds and deposits in banks or trust companies (such as IBDAs) as defined in § 1267.1, but would exclude demand accounts in Federal Reserve Banks, as well as other similar investments that may be approved by FHFA in accordance with § 1211.3 of its procedures regulation. FHFA proposed to add to § 1277.1 a new defined term, "authorized overnight investments," to describe these investment options. For a Bank's IBDA deposit to be considered an authorized overnight investment under the proposed rule, the Bank would be required to establish a process where the counterparty would return its IBDA deposit daily, which is analogous to movement of overnight Fed Funds trades. FHFA further proposed including in the new definition of "authorized overnight investments" language allowing FHFA to expand without a rulemaking the types of overnight investments excluded from the general limit, and therefore subject only to the higher overall limit, to respond to changes in financial products and market conditions.

In addition to the new definition, FHFA proposed several revisions clarifying its expectations regarding how the Banks would calculate unsecured credit exposure and the limits thereon. FHFA proposed adding language to the introductory paragraph of § 1277.7(a)(1) clarifying that the measurement of unsecured credit exposure to a single

[12] 89 FR 80422 (October 3, 2024).

counterparty includes intra-day exposure and is not limited to exposure at the close of each business day.

In the Supplementary Information section of the proposed rule, FHFA explained that it would consider unsecured deposits in non-interest-bearing deposit accounts such as settlement, payroll, or other transaction accounts to be on-balance sheet transactions and therefore included in the limits on unsecured extensions of credit.[13] Further, FHFA proposed revising § 1277.7(a)(1)(i) to specify that, for purposes of the general limit calculation, a Bank's total capital would be calculated as the lesser of the daily total or the most recent month end total capital. Similarly, FHFA proposed revising § 1277.7(a)(1)(ii) to provide that the counterparty's total capital would be measured based on its most recent regulatory financial report filed with its appropriate regulator, as defined in 12 CFR 1263.1.

With respect to unsecured extensions of credit by a Bank to a group of affiliated counterparties, FHFA proposed to revise § 1277.7(b) to replace the references to Fed Funds with references to "authorized overnight investments." FHFA also proposed that, for purposes of the affiliated counterparty limits, a Bank's total capital must be calculated in the same manner as provided for the single counterparty limits under proposed § 1277.7(a)(1)(i). FHFA also proposed conforming revisions to § 1277.7(c).

FHFA proposed additional conforming changes, including removing from § 1277.7(d) the reference to "sales of federal funds subject to a continuing contract" and replacing it with a reference to "any automatic renewal of an authorized overnight

[13] 89 FR 80424 (October 3, 2024).

investment." FHFA also proposed deleting the definition of "sales of federal funds subject to a continuing contract" for obsolescence.

Regarding reporting requirements, FHFA proposed revising § 1277.7(e)(1) and (2) to replace the descriptions of the specific reporting requirements with new language referencing FHFA's Data Reporting Manual (DRM),[14] which sets forth detailed data reporting requirements for the Banks and which the Banks are required to report in accordance with § 1277.8. To avoid potential conflict with the DRM reporting requirements, FHFA proposed deleting the data reporting requirements in § 1277.7(e)(1) and (2), but retaining the limit violation self-reporting requirement of § 1277.7(e)(3), which is not currently covered in the DRM, and redesignating it as § 1277.7(e)(2). In coordination with the proposed revisions to the reporting requirements in § 1277.7(e), FHFA proposed revising § 1277.8 to clarify that the Banks' reporting on matters addressed by part 1277 under the DRM includes information related to secured and unsecured credit exposures and extensions of credit in excess of limits, in addition to capital information.

II. Discussion of Comments and Agency Response

The proposed rule provided a comment period of 60 days, which closed on December 2, 2024. FHFA received only one comment letter on the proposed rule, which was a joint letter from the eleven Banks and the Office of Finance (referred to collectively as the Bank System). The Bank System expressed general support for FHFA's proposal to treat IBDAs the same as overnight Fed Funds for purposes of the

[14] As defined in 12 CFR 1201.1, the "Data Reporting Manual or DRM" means a manual issued by FHFA and amended from time to time containing reporting requirements for the regulated entities. The DRM is one method through which FHFA implements its statutory authority under 12 U.S.C. 4514 to require regular and special reports from its regulated entities and communicates those requirements.

unsecured credit limit. However, the Bank System raised concerns about potential operational aspects of certain concepts in the proposed rule.

Capital measurement. The Bank System's letter expressed strong disagreement with FHFA's proposal in § 1277.7(a)(1)(i) that total capital be "calculated as the lesser of the daily total or the most recent month end . . . ." The Bank System explained that the Banks currently rely on a prior month-end capital calculation to determine transactional limits and do not have a readily available daily capital calculation subjected to the same level of reconciliation and scrutiny as a month-end capital calculation. The Bank System further explained that any daily capital calculations a Bank may currently use would be an estimate of capital that does not include the full range of general ledger impacts needed to accurately report accumulated income that would impact the total capital calculation. The Bank System also asserted that FHFA's reference to daily capital creates a new measurement standard that would require a costly systems enhancement to implement.

FHFA agrees that the proposed language could be read to create a daily capital measurement requirement, which was not FHFA's intent. FHFA is aware of only one Bank that currently calculates capital daily. Since the unsecured credit limits are intended to prevent undue concentration of credit, this intent could be undermined if a Bank that calculates total capital daily ignores that measurement in favor of a substantially higher, yet obsolete, reported monthly total capital amount. However, since ten of the Banks do not calculate capital daily, the final rule retains reference to the daily capital calculation but gives a Bank the option to rely on the most recent amount reported to FHFA, which would be monthly. This flexibility is intended to avoid potentially penalizing the sole

Bank that currently calculates daily by subjecting it to a standard not applicable to the other Banks.

Allowing a Bank to choose between its daily or monthly capital calculation effectively creates a "higher of" test where a Bank can choose to use the daily amount, if calculated and greater than the monthly amount, or the monthly amount if a daily capital calculation is not available. The option to use the greater of a daily or monthly capital calculation also could incentivize more Banks to calculate capital daily, which FHFA believes would be a more accurate approach to monitoring capital and associated risk.

FHFA does not believe this change would increase risk because it reflects the reality of the Banks' current operational postures, where ten of the Banks have calculated unsecured credit limits based on monthly data without significant issue.

By referencing the most recent amount reported to FHFA, FHFA is aligning the standard of measurement for unsecured credit exposure with the Banks' limit on mortgage-backed securities investments set forth in 12 CFR 1267.3(c)(1), which similarly requires total capital to be measured based on the most recent amount reported to FHFA. FHFA believes the language in the final rule reaches an appropriate compromise between addressing the Bank System's operational concerns, clarifying Agency expectations, unifying regulatory requirements, and tailoring the language to accommodate and potentially encourage the future adoption of daily capital measurement by more Banks.

Intra-day exposure. The proposed rule included language at § 1277.7(a)(1) intended to clarify FHFA's current position that unsecured credit exposure to a single counterparty includes intra-day exposure and is not limited to overnight exposure. The Bank System's comment letter asserted that FHFA's current rule requires the Banks to

comply with the unsecured credit limits at the close of each business day, regardless of their intra-day activity. The Bank System's position is not supported by the plain language of the current regulation at § 1277.7(a)(1), which states that "[a]ll unsecured extensions of credit by a Bank to a single counterparty . . ." are subject to the limits, not solely the exposure as measured at the close of the business day. This position is also not supported by FHFA's examination approach to this issue, which is predicated on the assumption that a counterparty is just as likely, if not more likely, to fail during the business day than overnight. FHFA recognizes the operational limitations on calculating intra-day unsecured credit exposure, especially to the extent impacted by counterparty activity outside of a Bank's control. For this reason, and as described in greater detail below, FHFA is expanding in the final rule the exceptions to unsecured credit limits to include the types of operations and custodial accounts that seem to be the focus of the Bank System's concern. Thus, FHFA declines to change its current approach to measuring intra-day exposure, as clarified by the proposed language adopted in the final rule.

Exceptions to unsecured credit limits. The Bank System's letter expressed concerns with FHFA's position stated in the Supplementary Information section of the proposed rule that deposits in non-interest-bearing accounts such as settlement or payroll accounts (referred to hereafter as operations accounts) are on-balance sheet transactions and should therefore be considered unsecured extensions of credit and subject to the unsecured credit limits. Specifically, the Bank System requested that FHFA carve out operations accounts from the definition of "authorized overnight investments" because the institutions that provide such accounts fulfill a processing agent role and deposits

within operations accounts are not extensions of credit to a counterparty within the context of the regulation's purpose, which is to limit unsecured investment transactions. Similarly, the Bank System requested that FHFA exclude from the definition of "authorized overnight investments" accounts with entities that serve as custodians for safekeeping of cash or securities or processing agents for otherwise secured transactions, such as sponsored or cleared repos (referred to hereafter as custodial accounts, and together with operations accounts, operations and custodial accounts). The Bank System's rationale for this request is that applying the unsecured credit limits to such accounts would significantly inhibit the Banks' ability to trade in various products where the cash and securities exchanges are held by a third-party custodian. Further, the Bank System asserted that amounts held in custodial accounts do not constitute borrowed funds, as the custodian or processing agent acts as an intermediary to complete an overnight or secured transaction.

FHFA notes that the proposed rule did not include reference to operations accounts or custodial accounts in the definition of "authorized overnight investments." Carving out such accounts from the definition would only affect designation of the unsecured credit limit that would apply to deposit exposure – the general limit or overall limit. However, based on the Bank System's rationale, FHFA interprets its comment to request the exclusion of deposits in operations and custodial accounts from the scope of unsecured credit exposure for purposes of calculating compliance with the applicable limit.

It remains FHFA's position that deposits in operations and custodial accounts are on-balance sheet transactions and would be appropriately classified as unsecured

extensions of credit under § 1277.7(f)(1)(i). However, the overall focus of the unsecured credit limits is on preventing undue concentrations of credit that often arise most meaningfully in unsecured investment transactions. For this reason, the final rule adds to the exceptions to unsecured credit limits a new paragraph § 1277.7(g)(5) excluding deposits in operations and custodial accounts from the limits. FHFA intends for this new exception to add clarity to the treatment of operations and custodial accounts, ideally enhancing the consistency of systems and controls across the Banks related to measuring compliance with the unsecured credit limits. However, amounts in such accounts, especially when added to or intermingled with amounts subject to the unsecured credit limits, could create undue concentrations of risk with certain counterparties. It is therefore FHFA's expectation that, despite the new exception, the Banks will maintain or adopt, as necessary, appropriate risk management structures to ensure the related risk exposure remains within appropriate tolerances.

The new exception reserves to FHFA the authority to include deposits in operations and custodial accounts in the calculation of unsecured credit exposure to the extent FHFA determines such amounts, when combined with amounts treated as unsecured extensions of credit by the regulation, represent a concentration of credit that presents an unacceptable risk to a Bank's safety and soundness. FHFA has chosen to retain this discretionary authority for two reasons. The first reason is to protect against a future scenario where the new exception inadvertently creates problematic risk exposure as counterparties and financial products evolve. The second reason is to make clear that FHFA is not surrendering its oversight authority on any aspect of the Banks' management of credit concentration risk. As the safety and soundness regulator of the

Banks, FHFA would retain this authority regardless, but has elected to state the provision explicitly for the sake of clarity if exigent circumstances demand prompt Agency action.

Changes to the definition of "authorized overnight investments." In the Supplementary Information section of the proposed rule, FHFA requested comment on whether future changes to the proposed definition of "authorized overnight investments" should be authorized by FHFA through the regulatory approval process, or whether any such changes should be subject to notice and comment rulemaking. The Bank System commented that the definition should be changed only through the rulemaking process to ensure clarity and transparency. While FHFA acknowledges the public benefit of engaging in the rulemaking process when codifying new or revised defined terms that could impact the Banks' business activities, this benefit must be weighed against the potential cost of delay in implementing important updates to address emerging risks in a rapidly evolving financial services industry.

While FHFA has no current plans to regularly change or update the definition of "authorized overnight investments" and commits to engaging in the rulemaking process to the extent practicable, its administrative approach to interpreting and applying the definition may be guided by economic or market conditions that demand a more rapid response than the notice and comment rulemaking process allows. When such cases arise, FHFA will work with the Banks to ensure they are properly notified and have adequate time to implement systems updates as necessary.

Timing and threshold of violation reports. In the Supplementary Information section of the proposed rule, FHFA requested comment on whether the use of the term "promptly" in current § 1277.7(e)(3) was too ambiguous to describe the period in which a

Bank must report to FHFA any extension of unsecured credit that exceeds the limits set forth in § 1277.7. FHFA then suggested a possible alternative timeframe of two business days. On this issue, the Bank System commented that the use of the word "promptly" recognizes that management of the Banks should perform a reasonable investigation and report issues to FHFA in a commercially reasonable timeframe. The Bank System also proposed the use of five business days from the time the respective Bank's management confirms a "*bona fide"* breach of the unsecured credit limits. FHFA agrees with the Bank System that "promptly" is sufficient to convey the expectation that unsecured credit limit breaches be reported in a commercially reasonable timeframe. FHFA disagrees, however, with limiting reporting to confirmed "*bona fide*" breaches, the complete investigation of which could take several business days. For this reason, FHFA has opted to include in the final rule new language in § 1277.7(e)(2) clarifying the Agency's expectation that all "suspected or known" breaches are to be promptly reported to FHFA, "regardless of investigation or confirmation status."

Since this final rule explicitly carves out amounts held in operations and custodial accounts from the scope of extensions of unsecured credit, FHFA expects that amounts subject to the limits will represent a more significant potential concentration of credit risk to the Banks from a supervisory perspective. Therefore, time is of the essence when reporting violations, especially during periods of economic stress or turmoil in the financial sector. For this reason, FHFA is making clear to the Banks that suspected extensions of unsecured credit exceeding the limits are to be reported to FHFA as soon as possible, regardless of whether the violation has been investigated and confirmed by Bank management. FHFA would prefer to receive false positive limit violation reports

than to learn several business days after a violation has occurred that it was identified, investigated, and confirmed to be a "*bona fide*" violation by the Bank in question. In a rapidly deteriorating counterparty credit environment where timely information sharing between the Banks and FHFA is critical, such delay could have significant safety and soundness implications. The final rule includes reporting requirements for Bank extensions of credit in excess of limits. FHFA expects a Bank to provide the most complete information available when reporting a suspected violation, but recognizes that a Bank may need to submit a supplementary report after the details of the violation have been confirmed.

The process for notifying FHFA of a violation. In the Supplementary Information section of the proposed rule, FHFA requested comment on whether the reporting requirement in § 1277.7(e)(3) should explicitly address how to notify FHFA in situations where the Bank may not identify a violation until well after the event occurred. The Bank System's comment letter responded to this request by stating that any timeframe should be measured from the date the Bank obtains actual notice or knowledge of the violation. FHFA agrees with the Bank System that reporting on a violation would be impossible if a Bank did not have actual notice or knowledge of the violation. The request for comment in the proposed rule, however, was focused on whether the Banks would benefit from additional clarity on the appropriate form of communication for a report of violation. FHFA has chosen not to further elaborate on this issue in this final rule, instead deferring to the requirement that limit violations be reported in accordance with § 1277.8.

Eliminating Office of Finance monitoring of the Banks' unsecured credit exposure. The Bank System's comment letter requested that FHFA eliminate the

requirement in 12 CFR 1273.6(f) that the Banks' Office of Finance monitor the Banks' credit exposure. The proposed rule did not contemplate amending part 1273. Thus, while the request is conceptually related to unsecured credit limits, FHFA considers it to be beyond the scope of this rulemaking.

III. Summary of Changes in the Final Rule

A. Section 1277.7, Definitions.

FHFA has revised the definition of "authorized overnight investments" to clarify that the applicable maturity of eligible investments is "one business day." Similarly, the period in which the principal of an eligible investment must be returned to the Bank has been revised to "each business day." These revisions are intended to clarify that authorized overnight investments may be made over the weekend or a holiday.

B. Section 1277.7(a)(1), General limits.

FHFA has moved the parenthetical clause "(excluding authorized overnight investments)" to before "including intra-day exposure" to clarify that the exclusion modifies the description of the extensions of credit subject to the limit and not only credit extended intra-day.

In paragraph § 1277.74(a)(1)(i), FHFA has revised the language to clarify that the Bank's total capital for purposes of calculating the limit is to be based on "the most recent amount reported to FHFA or the most recent daily amount calculated by the Bank, if available[.]" As described in further detail above, this change addresses the Banks' comment that the proposed language could be interpreted to create a daily calculation requirement while accommodating Banks that measure their capital daily.

FHFA has revised § 1277.7(a)(2) by adding "including intra-day exposure" following "[a]ll unsecured extensions of credit by a Bank to a single counterparty," to clarify its expectation that the unsecured credit limits are to be maintained at all times and not only based on exposure calculated at the end of the business day. As the final rule excludes amounts held in operations and custodial accounts from the unsecured credit limits, FHFA anticipates that the Banks will be able to operate effectively within the limits on an intra-day basis.

C. Section 1277.7(e)(2), Reporting requirements; Extensions of credit in excess of limits.

FHFA has added a provision to this section clarifying that a Bank shall report promptly to FHFA any "suspected or known" extension of unsecured credit that exceeds an applicable limit "regardless of investigation or confirmation status[.]" As described above, this language is intended to convey FHFA's expectation that a Bank not delay violation reports to FHFA until a violation is investigated and confirmed, but rather that it report promptly following actual notice or knowledge that a violation has or appears to have occurred.

D. Section 1277.7(g)(5), Exceptions to unsecured credit limits.

As described in detail above, FHFA has added a new paragraph § 1277.7(g)(5) that excepts from the unsecured credit limits amounts associated with operations and custodial accounts.

IV. Regulatory Analyses

A. Considerations of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act requires the Director of FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises (Fannie Mae and Freddie Mac) as they relate to: the Banks' cooperative ownership structure; the mission of providing liquidity to members; the affordable housing and community development mission; their capital structure; and their joint and several liability.[15] The Director also may consider any other differences that are deemed appropriate. In preparing this final rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors and determined that the rule is appropriate.

B. Paperwork Reduction Act

The final rule does not contain any changes to information collection requirements that require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act.[16] Therefore, FHFA has not submitted any information to OMB for review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act[17] (RFA) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities.[18] FHFA has considered the impact of this final rule

[15] *See* 12 U.S.C. 4513.
[16] 44 U.S.C. 3501 *et seq.*
[17] 5 U.S.C. 601 *et seq*.
[18] 5 U.S.C. 605(b).

under the RFA. FHFA certifies that the final rule would not have a significant economic impact on a substantial number of small entities because the rule applies only to the Banks, which are not small entities for purposes of the RFA.

D. Congressional Review Act

In accordance with the Congressional Review Act,[19] FHFA has determined that this final rule is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects for 12 CFR Part 1277

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

Accordingly, for reasons stated in the Preamble, and under the authority of 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, 4612, FHFA amends subchapter D of chapter XII of title 12 of the Code of Federal Regulations as follows:

PART 1277—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS, CAPITAL STOCK AND CAPITAL PLANS

1. The authority citation for part 1277 continues to read as follows:

Authority: 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, and 4612.

2. Amend § 1277.1 by removing the definition of "Sales of federal funds subject to a continuing contract" and adding the definition of "Authorized overnight investments" in alphabetical order to read as follows:

[19] 5 U.S.C. 801 et seq.

§ 1277.1 Definitions.

* * * * *

Authorized overnight investments means an investment with a maturity of one business day or less where the principal is returned to the Bank or custodian each business day, including sales of federal funds (known as Federal funds sold), deposits in banks or trust companies as defined in § 1267.1 of this chapter but excluding demand accounts in Federal Reserve Banks, and other similar investments approved by FHFA in accordance with § 1211.3 of this chapter.

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3. Amend § 1277.7 by:

a. Revising paragraphs (a)(1) and (2), and (b), (c), (d), and (e); and

b. Adding new paragraph (g)(5).

The revisions and additions read as follows:

§ 1277.7 Limits on unsecured extensions of credit; reporting requirements.

(a) * * *

(1) *General limits*. All unsecured extensions of credit by a Bank to a single counterparty that arise from the Bank's on- and off-balance sheet and derivative transactions (but excluding authorized overnight investments), including intra-day exposure, shall not exceed the product of the maximum capital exposure limit applicable to such counterparty, as determined in accordance with the following Table 1 to this section, multiplied by the lesser of:

(i) The Bank's total capital using the most recent amount reported to FHFA or the most recent daily amount calculated by the Bank, if available; or

(ii) The counterparty's Tier 1 capital, or if Tier 1 capital is not available, total capital (in each case as defined by the counterparty's appropriate regulator, as defined in § 1263.1 of this chapter) or some similar comparable measure identified by the Bank based on the counterparty's most recent regulatory financial report filed with its appropriate regulator.

(2) *Overall limits including authorized overnight investments*. All unsecured extensions of credit by a Bank to a single counterparty, including intra-day exposure, that arise from the Bank's on- and off-balance sheet and derivative transactions, including authorized overnight investments, shall not exceed twice the limit calculated pursuant to paragraph (a)(1) of this section.

* * * * *

(b) *Unsecured extensions of credit to affiliated counterparties*—(1) *In general*. The total amount of unsecured extensions of credit by a Bank to a group of affiliated counterparties that arise from the Bank's on- and off-balance sheet and derivative transactions, including authorized overnight investments, shall not exceed 30 percent of the Bank's total capital as calculated in accordance with paragraph (a)(1)(i) of this section.

(2) *Relation to individual limits*. The aggregate limits calculated under paragraph (b)(1) of this section shall apply in addition to the limits on extensions of unsecured credit to a single counterparty imposed by paragraph (a) of this section.

(c) *Special limits for certain GSEs*. Unsecured extensions of credit by a Bank that arise from the Bank's on- and off-balance sheet and derivative transactions, including from the purchase of any authorized overnight investments, with a GSE that is operating

with capital support or another form of direct financial assistance from the United States government that enables the GSE to repay those obligations, shall not exceed the Bank's total capital as calculated in accordance with paragraph (a)(1)(i) of this section.

(d) *Extensions of unsecured credit after reduced rating*. If a Bank revises its internal credit rating for any counterparty or obligation, it shall assign the counterparty or obligation to the appropriate FHFA Credit Rating category based on the revised rating. If the revised internal rating results in a lower FHFA Credit Rating category, then any subsequent extensions of unsecured credit shall comply with the maximum capital exposure limit applicable to that lower rating category, but a Bank need not unwind or liquidate any existing transaction or position that complied with the limits of this section at the time it was entered. For purposes of this paragraph (d), the renewal of an existing unsecured extension of credit, including any decision not to terminate any automatic renewal of an authorized overnight investment, shall be considered a subsequent extension of unsecured credit that can be undertaken only in accordance with the lower limit.

(e) *Reporting requirements*—(1) *Secured and unsecured extensions of credit*. Each Bank shall report to FHFA information concerning the Bank's secured and unsecured extensions of credit arising from on- and off-balance sheet and derivative transactions to any counterparty and group of affiliated counterparties, including information related to the Bank's total capital, the counterparty's total capital, and assigned FHFA Credit Rating category per Table 1 to § 1277.7 of this part, in accordance with instructions provided in the FHFA Data Reporting Manual as required in § 1277.8.

(2) *Extensions of credit in excess of limits*. A Bank shall report promptly to FHFA any suspected or known extension of unsecured credit, regardless of investigation or confirmation status, that exceeds any limit set forth in paragraph (a), (b), or (c) of this section. In making this report, a Bank shall provide the name of the counterparty or group of affiliated counterparties to which the excess unsecured credit has been extended, the dollar amount of the applicable limit which has been exceeded, the dollar amount by which the Bank's extension of unsecured credit exceeds such limit, the dates for which the Bank was not in compliance with the limit, and a brief explanation of the circumstances that caused the limit to be exceeded.

* * * * *

(g) *Exceptions to unsecured credit limits.* The following items are not subject to the limits of this section:

* * * * *

(5) Amounts associated with certain non-investment transactions, including unsecured deposits in non-interest-bearing deposit accounts such as settlement, payroll, or other transaction accounts, and custodial accounts for safekeeping of cash or securities or processing for otherwise secured transactions such as sponsored or cleared repos, except to the extent FHFA determines that the sum of the amounts described in this paragraph together with the amounts calculated pursuant to paragraphs (f)(1)(i) through (iii) of this section presents an unacceptable risk to a Bank's safety and soundness.

* * * * *

4. Revise § 1277.8 to read as follows:

§ 1277.8 Reporting requirements.

Each Bank shall report information related to capital, secured and unsecured credit exposures, extensions of credit in excess of limits, and other matters addressed by this part in accordance with instructions provided in the Data Reporting Manual issued by FHFA, as amended from time to time.

/s/ January 7, 2025

Sandra L. Thompson,
Director, Federal Housing Finance Agency.