FEDERAL HOME LOAN BANK
OF CINCINNATI

June 13, 2008

Federal Housing Finance Board
1625 Eye Street, NW
Washington, DC 20006

Attention: Public Comments
Federal Housing Finance Board Proposed Rule: Affordable Housing Program Amendments
RIN Number 3069-AB35
Docket Number 2008-09

On behalf of the Federal Home Loan Bank of Cincinnati ("the Cincinnati Bank" or "the Bank") submits the following as our formal comments on the proposed Affordable Housing Program ("AHP") Amendments (12 CFR Part 951), promulgated by the Federal Housing Finance Board ("the Finance Board") and published in the Federal Register on April 16, 2008.

The Bank thanks the Finance Board for an opportunity to comment on new authority to establish AHP homeownership set-aside programs for the purpose of refinancing or restructuring eligible households' nontraditional or subprime owner-occupied mortgage loans. We agree with the Finance Board that the current extraordinary housing finance environment warrants action to temporarily expand our traditional affordable housing lending programs. We will briefly summarize our actions to date and comment on specific modifications to the proposed regulation that would augment our efforts in meeting the needs of stressed homeowners and communities in the Fifth FHLBank District of Kentucky, Ohio and Tennessee.

The Cincinnati Bank has taken several actions to address the level of foreclosures in the Fifth District. In June 2007, our Board approved a set aside of $250 million in Community Investment Program funds, providing Advances at our cost of funds to members for use in refinancing at-risk homeowners. In February 2008, our Board instituted a voluntary program, Preserving the American Dream, to provide $2.5 million for foreclosure counseling and mitigation. The Board, after consultation with our Housing Advisory Council, also approved revised scoring for the second round of AHP, application deadline August 29, to target funds to high foreclosure areas and members returning foreclosed, abandoned homes to occupancy. Lastly, the Cincinnati Bank has submitted an AHP waiver request to the Finance Board, to allow AHP funds to be used to help refinance at-risk homeowners.

The following comments offer suggestions to the Finance Board's proposed AHP Amendments in the areas of homeowner eligibility and structured use of AHP funds. We agree that it is appropriate for the Finance Board to allow, at least temporarily, the use of AHP funds to provide subsidies for refinancing or restructuring existing owner-occupied mortgage loans. The purpose of the AHP is to make housing affordable and to make affordable housing more available. While AHP has traditionally been used to acquire, construct, or rehabilitate housing, it seems appropriate that AHP would be used also to preserve the affordability of housing. Using AHP subsidy to refinance or restructure mortgages for LTM households would seem to be consistent with the stated purposes.

Homeowner Eligibility

We suggest the following eligibility standards for homeowners to qualify for use of AHP subsidy in their efforts to refinance or restructure a mortgage.

- Homeowner households should meet existing AHP income guidelines, earning at or below 80 percent of area median income.

- Households should be allowed to hold any type of mortgage – conventional, subprime or nontraditional and the mortgages should not be limited only to those taken for the original purchase of the home.

- Eligible mortgages should not be limited only to those taken out before July 10, 2007.

- The Fifth District – including the urban areas of Cleveland, Akron and Toledo, Ohio, to the north, and Memphis, Tennessee, to the south – have experienced high unemployment rates and loss of industry in combination with high foreclosure rates. A crisis that may have been fueled, in part, by failure of non-traditional or subprime mortgages is currently affecting entire neighborhoods with homes financed through conventional mortgages as well as unconventional mortgage types. The circumstances of the housing industry in the Fifth District are not the same as the circumstances in the highest foreclosure areas of California, Nevada, and Florida. Those areas have seen explosive appreciation of home values and increased use of non-traditional and subprime mortgages, followed by dramatic declines in home values and foreclosures – the classic "bubble" bursting. However, many of the foreclosures in our area are related more to loss of jobs, declining populations, and a general state of economic distress. The foreclosure crisis is no less real and the homeowners are in no less need of assistance, it is just not the same as the crises in other areas of the country.

- Mortgages originated by non-FHLBank member institutions should be eligible for AHP subsidy. Our experience in the Fifth District is that many stressed homeowners did not originate mortgages with Cincinnati Bank members. Cincinnati Bank members can however, be part of a solution to avoid foreclosure.

- Eligible mortgages should be at or below the Federal Home Loan Mortgage Corporation maximum loan limit of $417,000, as established prior to the Economic Stimulus package increase on February 13, 2008.

- Homeowners should be eligible for AHP subsidy regardless of the reason for existing or potential delinquency including but not limited to reset of an adjustable rate mortgage, job loss, divorce, or medical expenses.

- Eligible homeowners should demonstrate ability to pay the new mortgage with a total housing cost ratio at 45 percent or less of total household income.

- We oppose a "wealth test" for eligibility because we believe that for many households in this situation, net worth cannot be determined or it is irrelevant. However, we do support an "equity test" that would cap homeowner equity at a certain percentage.

Structured Use of AHP Funds

In general, we support giving our members broad flexibility in the use of AHP subsidy to refinance or restructure the mortgages of distressed homeowners in their communities.

- We oppose any obligation on a member to match the AHP subsidy, waive fees or provide other financial assistance to the homeowner when refinancing or restructuring a non-affiliated loan. We believe that such requirements would discourage member institutions from participating in a program that, inherently, carries more risk than conventional, first mortgage originations.

- We oppose targeting specific neighborhoods with AHP subsidy. Foreclosures are occurring throughout our District and assistance should be available to all eligible homeowners.

- We support an AHP subsidy cap per household of $25,000.

- We support the use of AHP subsidy to pay a variety of costs associated with refinancing or restructuring a mortgage, including property taxes and insurance payments previously paid by the lender on behalf of the household; accrued interest on the loan; missed payments of principal and interest; and reasonable closing costs as documented on a HUD-1 Settlement Statement.

- We support use of AHP subsidy to help the homeowner qualify for other government-sponsored refinancing programs, including FHA Secure or other local or state programs.

- We support allowing the member to set the interest rate at a level reasonable and customary for that region. We also believe refinancing into an ARM should be allowed, if the loan is affordable based on underwriting the loan at its fully indexed rate, and the household's total housing cost ratio would not exceed 45 percent at the fully-indexed interest rate.

- Determination of maximum total financial assets should not include a household's tax-deferred retirement and education savings. The household would be required to pay significant tax penalties if these investments were unwound.

- The new refinancing/restructuring program should not be subject to the current limit of allocating one-third of AHP subsidies to grants supporting first-time homebuyers. We also recommend that FHLBanks be allowed to allocate additional funds that have been recaptured or deobligated from previous rounds of AHP subsidies, keeping in mind that this is a temporary program to address an immediate need as quickly and effectively as possible. We do not support any change that would require a member to repay any part of AHP subsidy in the event of foreclosure (or deed in lieu of foreclosure) after a restructuring or refinancing under the new regulation. The regulation will apparently have requirements related to the reasonableness of the new mortgage and the homeowner's assets and equity, but there can be no guarantee that the homeowner will fulfill their mortgage obligations. If they do not, it should not become a penalty to the member who provided the new mortgage. The current retention language eliminates any requirement for repayment of the AHP subsidy in the event of foreclosure and that provision should remain. However, we do encourage the Finance Board to review the current retention requirements for owner-occupied projects. According to the current language, an owner can refinance without repaying any of the AHP subsidy received, so long as the retention language stays on the property. This means that a homebuyer can receive an AHP grant at closing, can refinance and take out cash at any time thereafter, and not have to repay any of the AHP subsidy if the retention language remains. Under both our competitive AHP and our set-aside programs, we do not allow a homebuyer to receive cash at closing and we would not under the proposed regulation. However, we cannot prevent them from taking the cash out later. While the proposed rule has requirements about the homeowner's assets and equity to be eligible for an AHP-assisted refinancing, there is still nothing that would prevent the homeowner from "cashing out" the AHP subsidy through a subsequent refinancing. If *pro-rata* repayment from net gain is required upon a sale, then *pro-rata* repayment from any cash out should be required from a refinancing.

- A final rule should include a provision allowing a FHLBank to apply to the Finance Board for prior approval to establish an AHP refinancing program not covered by a final rule. The reasons for and causes of the foreclosure crisis vary across the country and change with the dynamics of a given region over time.

  In general, the final rule should be flexible and allow FHLBanks to design programs to use AHP subsidy to restructure or refinance mortgages to avoid foreclosure based on the circumstances in their areas. The regulations should be structured to encourage members to restructure or refinance mortgages they hold or to refinance mortgages held by others. In neither case should members bear any greater risk or cost than if they were restructuring or refinancing without any AHP assistance.

We are pleased that the Finance Board has responded to the significant foreclosure crisis and that the Board has approved the solution presented by the FHLBank of San Francisco. However, the experiences of homeowners facing foreclosure in the San Francisco district are not necessarily typical of homeowners facing foreclosure in all other areas. The rapid appreciation then collapse of home values, the prevalence of non-traditional and subprime mortgages, including interest-only loans, option ARMs, and other "exotic" products, is not characteristic of most of the country. It is certainly not characteristic of Ohio, Kentucky, and Tennessee. While parts of our district have suffered from predatory and subprime lending, generally those loans did not come from our members. The declines in home values in many of our areas are not related to previously inflated home values, but reflect the continuing economic downturn and significant job losses and population declines in many of our major urban areas. Many of the foreclosures we see are not related to the structure of the mortgages, but reflect the fundamental economy of the area. However, these homeowners need help also.

Limiting the program only to member's loans, and limiting the program only to subprime and non-traditional loans, effectively precludes the implementation of an AHP-assisted refinancing program in our district. We request that the regulation be more flexible to allow refinancing for homeowners regardless of who holds their current mortgages, allow more than just subprime or non-traditional mortgages to be refinanced, and not be proscriptive about the household's wealth or equity or other eligibility requirements. Doing so would allow our members to participate in improving their neighborhoods and communities even if they did not originate subprime or nontraditional mortgages.

On behalf of the Cincinnati Bank, I again thank you for the opportunity to comment on modifications to the proposed AHP Amendments. We strongly believe that the AHP model is a successful delivery system for targeted affordable housing. We are confident that with the modifications suggested herein, the Cincinnati Bank could offer meaningful assistance to at-risk homeowners to mitigate foreclosures in our service area.

Sincerely,

Andrew S. Howell
Executive Vice President and Chief Operating Officer
FHLBank Cincinnati