



June 16, 2008

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

**Re: Proposed Affordable Housing Program Amendments.
RIN Number 3069-AB35. Docket Number 2008-09.**

Dear Sir or Madam:

The Mortgage Bankers Association (MBA)¹ appreciates the opportunity to comment on the Federal Housing Finance Board's (Finance Board) proposed amendments to its Affordable Housing Program (AHP) regulation (Proposal).² The Proposal would authorize the Federal Home Loan Banks (FHLBanks) to establish AHP homeownership set-aside programs for the purpose of refinancing or restructuring eligible households' nontraditional or subprime owner-occupied mortgage loans.

Background

The FHLBank Act requires each FHLBank to establish an AHP to subsidize its members' financing for low- or moderate-income borrowers, and the purchase, construction or rehabilitation of very low-income rental projects.³ The Finance Board's AHP regulation currently authorizes two types of AHP funding programs. Under the competitive application program, FHLBank members apply for AHP subsidies. Subsidy applications are evaluated according to specific eligibility and scoring criteria. Under the set-aside program, a FHLBank allocates a portion for direct subsidies for programs to promote homeownership. Homeownership set-aside grants can be used by FHLBank members to pay for down payment assistance, closing costs, homebuyer counseling costs, and for rehabilitation assistance for owner-occupied residences. A FHLBank may

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 370,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and 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 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

² 73 Fed. Reg. 74; 20552-20564 (Apr. 16, 2008).

³ 12 U.S.C. 1430.

allocate up to the greater of \$4.5 million or 35 percent of its annual AHP funds to homeownership set-aside programs provided that at least one-third of the set-aside allocation is targeted to first-time homebuyers.

Current distress in the owner-occupied housing market has made it difficult for many low- and moderate-income households to sustain homeownership, particularly those with homes financed with subprime adjustable-rate mortgages (ARMs) or nontraditional mortgage products. For these households, the interest rates on their subprime ARMs or the principal and interest payments on their nontraditional mortgages have increased substantially or will do so in the near future.

In response to these and other current disruptions in the housing finance system, the Finance Board is attempting to channel AHP funds toward an area of immediate and critical need. Specifically, the Proposal authorizes FHLBanks to provide AHP subsidies to their member financial institutions for the purpose of enabling borrowers with subprime or nontraditional loans to refinance or restructure those loans into an affordable, long-term fixed-rate mortgage. Only borrowers with a loan held by a FHLBank member would be eligible for assistance under the Proposal, and the proposed authority would expire on June 30, 2011.

MBA Position

MBA endorses the Finance Board's efforts to use existing government programs to assist borrowers facing financial difficulties as a result of current market conditions. MBA believes the Proposal also generally comports with the AHP's primary statutory purpose of subsidizing the interest rate on advances to members so they may in turn, offer affordable financing options for underserved markets.

MBA recognizes the multitude of factors contributing to the housing finance system's current malaise, and that it will likely take more than one initiative to remedy the situation. In evaluating loss mitigation and troubled borrower rescue programs, MBA looks to whether the initiatives further one or more of the following objectives: stabilizing the mortgage market, helping distressed borrowers and reducing the likelihood that today's market disruptions do not recur. MBA believes the Proposal is a positive response to these objectives and complements the many other public and private sector initiatives currently under way.

Although MBA endorses the Proposal as issued, we believe that minor modifications would improve its effectiveness in allocating funds to market segments with the greatest and most urgent need. We therefore request the Finance Board consider the following recommended enhancements.

Eligible Uses

MBA supports the Finance Board's methodology for establishing the Proposal's borrower eligibility criteria. For example, MBA agrees that AHP funds should be limited to refinance programs for loans on a borrower's primary residence. MBA also believes the Proposal's borrower asset and home equity criteria are rational, needs-based methods of precluding participation by borrowers who may have other resources available to them. However, MBA suggests that full documentation underwriting also should be required as a risk management measure.

In light of the fact that the impetus of the Proposal is a challenge faced by the entire housing finance system, MBA regrets the Finance Board's decision to limit the Proposal's assistance to borrowers of FHLBank members. MBA notes that a single foreclosure has a negative impact not only on the borrower, but also the community at large. Moreover, the Proposal, as written, could be perceived as penalizing eligible borrowers simply because of their lender's FHLBank membership status. Because the high rate of foreclosures is truly a nationwide concern, MBA suggests AHP assistance should be based on borrower need rather than lender. We therefore request the Proposal be modified so that AHP funds can be used to assist otherwise eligible borrowers regardless of whether the holder of the loan is a FHLBank member.

MBA also requests the Finance Board consider modifying the Proposal to give FHLBanks the flexibility to develop borrower assistance programs that respond to their districts' unique conditions. The Finance Board indicated the Proposal is based on a pilot program developed by the FHLBank of San Francisco.⁴ MBA commends the San Francisco FHLBank for its creativity and dedication to its mission. However, MBA also believes that other FHLBanks should be given a similar opportunity to design an assistance program that meets their districts' unique needs more effectively than the proposed plan.

Likewise, MBA believes AHP assistance should not be limited to borrowers with nontraditional or subprime loans. The current housing crisis is not solely the result of these products but has been precipitated by a confluence of market events such as declining property values and a slowing economy. Moreover, some MBA members have successfully helped borrowers in distress avoid foreclosure simply by providing enhanced financial counseling to them.

Given the vast array of initiatives that could assist borrowers facing temporary financial difficulties, MBA suggests the Finance Board consider revising the Proposal to institute a process for FHLBanks to submit their own AHP borrower assistance plans for Finance Board approval. For example, the Finance Board could issue regulations that set minimum program criteria and procedures for requesting Finance Board approval. If the

⁴ 73 Fed. Reg. 74; 20554; (Apr. 16, 2008).

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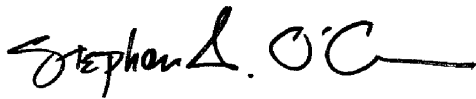
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Finance Board adopts this alternative approach, MBA further requests the approval process include expedited review procedures given the immediate and pressing need for borrower assistance. MBA believes that enabling each FHLBank to implement customized programs to address regional economic conditions more accurately directs the proper type of assistance to the intended recipients than a single, one-size-fits-all approach. We urge the Finance Board to consider this revision.

Conclusion

MBA commends the Finance Board's initiative to channel the affordable housing obligations of the FHLBank System directly toward assisting borrowers who are currently experiencing serious housing finance challenges. MBA believes the Proposal modifications discussed above will ensure AHP borrower assistance funds are distributed equitably, and will help protect against further deterioration in the housing and mortgage market. We appreciate the Finance Board's consideration of MBA's views. Please contact Michael Carrier, Senior Director of Secondary and Capital Markets to further engage MBA on these issues. Mr. Carrier can be reached by phone at 202-270-9134 or email at mcarrier@mortgagebankers.org.

Sincerely,

A handwritten signature in black ink that reads "Stephen A. O'Connor". The signature is written in a cursive, slightly slanted style.

Stephen A. O'Connor
Senior Vice President of Government Affairs