CFA Consumer Federation of America

1620 Eye St., NW Suite 200 Washington, DC 20006

12 June 2018

Federal Housing Finance Agency
Office of Housing and Regulatory Policy
400 7th Street Southwest, 9th Floor
Washington, DC 20219

RE: RIN 2590-AA83 *Proposed Amendments to FHLB Affordable Housing Program*

Dear Sir/Madame:

Thank you for the opportunity to comment on FHFA's proposed amendments to the Federal Home Loan Banks' Affordable Housing Program, RIN 2590-AA83. The Consumer Federation of America is a nonprofit association of some 300 national, state and local pro-consumer organizations created in 1968 to represent the consumer interest through research, advocacy, and education. We appreciate FHFA's soliciting comments from interested groups like CFA in considering the important issues around the FHLB AHP program.

Since its adoption in 1989, the FHLB Affordable Housing Program (AHP) has provided an important source of subsidy to support affordable homeownership and rental housing production and preservation. It features a largely decentralized model, where each of the 11 FHLB's develops and executes a funding plan based on priorities within its market footprint, guided in part by the advice of consumer advisory boards. While the amounts awarded through AHP can be significant and meaningful, they generally represent a minority of the subsidy funds in rental housing development. They are indispensable to the success of many projects. But AHP funding alone does not provide sufficient support to enable sponsors to carry out new rental development or preservation. Given this role, FHFA should maximize the FHLBs' ability to support other, more significant sources of subsidy, like Low Income Housing Tax Credits without adding undue administrative burdens or requirements, especially when FHFA can have confidence that other regulatory entities such as state tax credit allocating agencies are executing effective oversight in the allocation and administration of these other more significant subsidy sources.

Consequently, we recommend that FHFA modify its proposal to require FHLB ongoing monitoring of compliance with other federal program requirements on a project by project basis. The proposed rule also would require FHLBs to fully vet the experience and track record of every sponsor prior to approving an award. Again, if another responsible agency already has such requirements in place, and the AHP funds are additive to the support they oversee, those agencies' judgment should suffice. LIHTC project sponsors already face a highly competitive process to obtain credits. Requiring another level of project/sponsor level scrutiny by the FHLBs that account for a significantly smaller portion of support would be burdensome to sponsors, as well as to the Banks. It would seem reasonable to require the FHLBs to receive updates from other allocating and administrating agencies when noncompliance occurs, and to require the Banks to factor any history of noncompliance in projects benefitting from past rewards in considering future sponsorship requests. Noncompliance in LIHTC projects historically has been low, given the significant potential recapture penalties that can be incurred. It also would seem reasonable to require that sponsors face a recapture of AHP funds in the event that allocating agencies' noncompliance determination triggers a tax benefit recapture event.

AHP also supports homeownership initiatives and the proposed rule would eliminate the current recapture requirement of such subsidies if a homeowner sells the home before a specified length of ownership. Subsidies that lower the initial cost of homeownership for individual consumers can be a significant contributor to household wealth, financial well being and community development objectives. They are a valuable, limited commodity. As such, we support the general principle that beneficiaries of such subsidies be subjected to limits on their ability to "flip" a property for sale to another purchaser. Some FHLBs have made the argument, as does FHFA, that in many cases the amount of subsidy for any individual owner is small relative to the purchase price and therefore the recapture requirement currently in place is disproportionate. This argument has some merit but does not justify the wholesale elimination of recapture requirements. FHFA should consider requiring recapture when the amount of assistance to an individual exceeds some *de minimus* amount. This could be left to the discretion of the FHLBs, but this would be a poor second choice to a requirement for all FHLBs to include recapture requirements when the assistance exceeds such a level. This amount could be adjusted using an inflator based on the FHFA home price index so it remains reasonable as home prices continue to escalate. We also hope that FHLBs would place as great an emphasis as possible on encouraging the use of AHP subsidies for homeownership in models where appreciation is limited by the program sponsor, and to give priority to approaches like shared equity and land trust models that are designed themselves to moderate house price inflation among properties that receive significant public support. This would multiply AHP funding benefits and help communities mitigate the negative effects of unchecked house price appreciation while still enabling consumers to build wealth through responsible homeownership.

A key feature of the proposed rule would replace the current point scoring method of ranking applications for AHP funds with an "outcomes based" approach based on both statutory and regulatory categories. In addition, the proposed rule would raise the minimum percentage of very low income and homeless consumers required to qualify for AHP support. This latter change could put the AHP at odds with other federal assistance sources that provide a greater portion of support for a project than the AHP funds, such as LIHTC allocation priorities. This could complicate sponsors' efforts to secure sufficient overall funding for projects where LIHTC provides one standard for approval and AHP establishes another. Relying on these other, more significant subsidy sources to drive project eligibility would promote consistency with well established targeting requirements. In some cases, such as Housing Trust Fund awards, those program requirements could establish significantly higher standards than proposed in this rule for the AHP. Deferring to those determinations would simplify sponsor compliance and FHLB review and ranking.

We are sympathetic with FHFA's objective in proposing the outcomes-based approach to organize AHP funding more clearly along national priorities. However, we urge FHFA to move cautiously so as not to unnecessarily impair Banks' ability to tailor their approaches, scoring and awards to priorities identified in their districts (which may vary considerably within districts) and developed in consultation with their consumer advisory boards. This is a difficult balancing act and we appreciate the proposed rule's attempt to grapple with this issue.

Thank you again for the opportunity to comment on this proposed rule.

Sincerely,

Director of Housing Policy