CFA Consumer Federation of America
1620 I Street, N.W., Suite 200 * Washington, DC 20006

January 31, 2019

Mr. Alfred J. Pollard

General Counsel

Federal Housing Finance Agency

400 7th St SW 7th floor

Washington, DC 20219

Re: RIN 2590—AA82

Notice of Proposed Rule Making, Federal Home Loan Bank Housing Goals

Dear Mr. Pollard:

On behalf of the members of the Consumer Federation of America, I am pleased to offer these comments on the above-referenced Notice of Proposed Rulemaking. Consumer Federation of America (CFA) is a nonprofit association of some 250 national, state, and local pro-consumer organizations created in 1968 to represent the consumer interest through research, advocacy, and education.

The Federal Home Loan Banks (FHLBs) are the oldest part of the nation's broad support for the housing economy. Structured as cooperatives owned by primary market lenders, the Banks were created to provide liquidity for home lending at a time when national mortgage lending standards, broad liquidity across the country, and the use of securitization to attract capital for housing did not yet exist. Through their tools of advances the Banks made capital available to member lenders at a time when few alternatives existed. As the housing finance system has developed since the Banks' founding in 1932, their role has continued to evolve. CFA has published a comprehensive review of the Banks' history and function, which informs out comments on this proposed rule.1

As the proposed rule notes, the role of the Banks' Acquired Member Assets (AMA) program is small compared to its basic business of advances and to the role played by Fannie Mae, Freddie Mac and Ginnie Mae. These latter sources of liquidity have, over the years since the Banks' founding, grown to provide the largest share of capital for home lending, both for rental and homeownership. They operate nationally and serve mortgage lenders of all types and sizes, a broader constituency than the Banks' membership. Nevertheless, the Banks remain an important source of capital in the housing system. Moreover, the Banks enjoy many of the same benefits through their congressional charters as Fannie Mae and Freddie Mac. Although the AMA programs remain small in comparison to the financial support provided by the other GSEs, they nevertheless are an important part of the Banks' mission and should be subject to similar requirements to serve the broadest possible range of consumers as the other GSEs. Consequently, we strongly support continued monitoring of and attention to how the Banks' AMA programs are utilized, and how well they provide liquidity for the broadest possible range of borrowers, especially low and moderate income (LMI) borrowers and communities. In this regard, we strongly urge that the FHFA provide more regular, granular analyses and public use data of Bank performance under the goals and provide opportunities for public review and comment on performance in each Bank district.

Counting Changes

The rule proposes to simplify the existing regulatory requirements to serve LMI borrowers and communities in several important ways. It would replace a retrospective analysis comparing market activity in serving these groups with a prospective number. It would eliminate specific goals for very low and low-income borrowers and low income/minority areas and replace them with a single goal including these groups. It would combine purchase money and refinance loans in the single goal. It would set the prospective goal at 20 percent of AMA purchases. It also would eliminate the current total UPB acquisition threshold for applying the housing goals test.

The proposed rule makes a strong argument for these changes, citing the structure of the Banks, their relatively small role in mortgage finance liquidity, and the value of certainty in meeting a prospective goal and simplifying the counting of loans from the different targeted communities given the relatively small AMA volumes when compared with the other GSEs. However, we are concerned that the rule's own analysis suggests that this goal would be a significant reduction in effort by at least six of the Banks, based on past AMA activity, and match past levels for two others. Indeed, four of the banks exceeded this proposed goal by 10 percentage points, or 50 percent. The rule notes that the Banks with the lowest percentages are relatively new AMA participants and credits this as the main likely reason for their lagging performance.

Given these facts, we strongly recommend that the final rule create a higher prospective goal. Based on the analysis presented in the proposed rule, a significant number of the Banks should be able to reach a goal of 30 percent; a goal between 25 and 30 percent would be within reach or

---

1 The Federal Home Loan Bank System: A Chronological Review and Discussion of Key Issues https://consumerfed.org/reports/federal-home-loan-bank-system-chronological-review-discussion-key-issues/

already exceeded by a majority of the Banks. Alternatively, the FHFA should consider setting separate goals levels for each Bank based on their demographic and mortgage market characteristics. At the least, it would be more consistent with the statute's direction and the model of regulation applied to Fannie Mae and Freddie Mac's housing goals to base the goal on a reasonable analysis of market conditions and trends in the different districts and across the system. The rule contemplates a means for any Bank to submit an individual plan to accommodate its circumstances; we urge consideration of extending this more customized approach more broadly. Such an approach also would permit more attention to rural housing needs in districts where this is a priority need by establishing a rural goal for Banks where this is appropriate. Failing this customized approach, the prospective goal should be significantly higher than the 20 percent in the proposed rule.

The rule also should include a review and analysis of Bank performance under the proposed goal with particular attention to changes, if any, over time in the mix of mortgages that qualify for the goal. The proposed consolidation of all current subgoals opens the possibility of future performance skewing away from very low income purchasers, who are the hardest to serve in today's market. The FHFA should closely monitor performance under a final rule that reflects these changes and be prepared to propose a return to a more granular rule if such a drift occurs.

We strongly support the elimination of the UPB threshold for applying the housing goals test. The proposed rule suggests that most of the banks may have managed their AMA programs to stay below the threshold and therefore avoid the housing goals test. We do not believe there is a valid argument for maintaining the threshold and strongly support the proposed rule's approach on this.

We are concerned with the combination of purchase money and refinance loans in the single goal. While this could encourage greater use of the AMA for qualified refinances by member lenders, it could lead in some markets to a serious underrepresentation of purchase money mortgages. Experience with the Fannie Mae and Freddie Mac GSE goals has moved their regulatory framework in the opposite direction. This was driven by data analysis showing that the different market conditions that drive refinancing waves and purchase money originations could distort the goals' ultimate purposes and mask differential levels of service to buyers and refinancers. Home buyers today face significant hurdles, including a lack of affordable supply, tight credit parameters, and stagnating wages while house prices continue to rise. 2 The proposed rule does not provide any analysis of the past or trending distribution of purchase money vs refinance loans in AMA acquisitions. The combination of refi and PMM is likely to have less

---

2"With rising home prices, rising interest rates, and tight lending standards, the path to homeownership has become more challenging, especially for low-to-median-income borrowers and potential first-time homebuyers." *Barriers to Accessing Homeownership Down Payment, Credit, and Affordability,* Housing Finance Policy Center, Urban Institute, September 2018
https://www.urban.org/sites/default/files/publication/99028/barriers_to_accessing_homeownership_2018_4.pdf
"New construction, home sales, and housing prices ticked up modestly in 2017, but a slowdown in the multifamily sector and the rising costs of residential construction are preventing a stronger upturn in housing markets. Intense competition for the historically low supply of existing homes on the market has pushed up home prices in most metros, raising further concerns about affordability." *State of the Nation's Housing 2018,* Joint Center for Housing Studies, Harvard University, 2018 http://www.jchs.harvard.edu/state-nations-housing-2018

impact in the current and immediate past rate environments with refinances at very low levels, historically. But this is always not likely to be the case . We strongly urge close monitoring of the mix of AMA qualifying assets if the rule is adopted as proposed to determine whether combining refis and PMMs leads to an increase in the former at the expense of the latter as a means of meeting the goal.

The proposed rule would limit to 25 percent the share of goals-eligible loans in LMI tracts made to borrowers with incomes above the 80 percent AMI threshold. We strongly support this limitation. It can be argued that community revitalization of historically underserved areas requires support for a mix of incomes. But the purpose of the goals should be primarily to support lending to LMI borrowers. This limit balances the two objectives and we support it.

Smaller members

The proposed rule would establish a requirement that at least 50 percent of AMA "users" be smaller members, defined as those meeting the system's definition of "community financial institution," or those with assets below $1.173 billion. The proposed rule's analysis suggests that this 50 percent threshold could be significantly higher, based on historic participation rates. We support the proposed rule's stated intention to encourage the Banks to market the AMA program to smaller institutions, and the data provided in the proposed rule suggest that this would not represent a hardship for nine of the 11 banks. We strongly urge FHFA to consider increasing this threshold to more closely mirror actual system performance as noted in the proposed rule.

Other issues

The proposed rule would change the current rule by permitting loans guaranteed by the FHA, VA or RHS to be included in the housing goals calculation. This is not permitted in the GSE housing goals. Given the different nature of the Banks' role in providing liquidity – especially the absence of a guarantee on the loans, since credit risk is generally retained by the AMA seller – this seems a reasonable change and we support it. We urge close monitoring of how this change affects the mix of AMA assets. Encouraging the use of government insured financing at the expense of conventional financing with risk retained by the originator could undermine the purpose of the AMA program and simply encourage the AMA to become a channel to Ginnie Mae securitization rather than an additional source of liquidity for homebuyers. The regulation should consider the goal of fostering primary market lending that offers the lowest cost loan with the best possible features to the maximum number of consumers. Creating a Ginnie Mae delivery channel that does not match or better other available Ginnie executions but that increases the member Bank's revenue and members' dividends without meeting this consumer-centric goal is not a desirable outcome for this rule.

The proposed rule would require that Banks only receive credit for assets for which they provided the liquidity at the time they were acquired in the FHLB system. Those in which two or more Banks shared the purchase would count proportionately, but where a financial interest is secured after the initial purchase it would not. We strongly support this provision.

The proposed rule would permit a Bank to submit a proposed housing goals plan with a different goal than the one proposed in the rule if it believes the level is unreasonable. This is a reasonable accommodation, but we strongly urge that any Bank choosing this option be required to publish the plan for public comment before it is adopted. Similarly, we strongly urge the inclusion of some form of public review and comment on individual Bank performance in achieving – or failing to achieve – the goal that is adopted in a final rule.

The proposed rule would permit chattel loans on manufactured housing to be included in AMA housing goals calculations. We support this change. Manufactured housing is a critical source of affordable housing, especially in rural areas, and chattel financing is, unfortunately, very common. This change is also consistent with FHFA's Underserved Markets regulation for Fannie Mae and Freddie Mac and could increase liquidity for such loans by AMA participants.

The proposed rule would permit both owner-occupied and investor owned properties to be eligible under the proposed goal, based on the income of the investor, rather than the property ownership type. If adopted in the final rule this demands close oversight and reporting. The rule should not encourage investor ownership through the AMA at the expense of owner-occupancy. The wake of the financial crisis has led to a significant expansion of investor owned rentals that has made homeownership by LMI households more difficult in too many markets. The AMA should not encourage this trend.

Thank you for the opportunity to comment on this proposed rule. Please do not hesitate to contact me if you have any questions about this letter by email at bzigas@consumerfed.org or by phone at 202 679 0169. CFA looks forward to continuing to work with you on this important subject.

Sincerely,

Barry Zigas, Director Housing Policy