July 12, 2010

By e-mail to *RegComments@FHFA.gov*

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, D.C. 20552

Attention: Comments/RIN 2590-AA16

Re: Federal Home Loan Bank Housing Goals

Dear Mr. Pollard:

The Federal Home Loan Bank of Boston ("FHLBank") appreciates the opportunity to comment on the notice of proposed rulemaking on Federal Home Loan Bank Housing Goals ("Proposed Rule") published by the Federal Housing Finance Agency ("FHFA") in the *Federal Register* May 28, 2010. The FHLBank respectfully submits the following comments for your consideration.

In general terms, the proposed housing goals do not take into consideration the unique mission and required acquired member assets (AMA) structure of the FHLBanks. The AMA Regulations require a credit sharing component resulting in the participating financial institution (PFI) having "skin in the game" and require credit enhancements on all mortgage pools to a minimum fourth highest credit rating. This unique structure is designed to promote the safety and soundness of the AMA programs and substantially impacts the FHLBanks' ability to meet housing goals comparable to those structured for Freddie Mac and Fannie Mae that do not require credit sharing or credit enhancements. Our structure is incongruent with the proposed housing goals as our sellers are encouraged to minimize their credit enhancement levels to obtain the highest cash price. They are further motivated to sell the highest quality, most conservatively underwritten loans to preserve the first loss account which is released to the PFI over time if the loan pool performs without defaults and claims. AMA FHLBanks have no way to incent PFIs to participate except though pricing, paying a marginally higher price for a mortgage which qualifies for the housing goals. PFIs would have to evaluate the benefit of receiving a higher price on a qualifying loan versus the potential impact of a default and claim on their loan reserve account (LRA), if they perceive that qualifying loans may have a higher risk of default. The FHLBanks' are extremely limited with this structure to encourage PFIs to originate and sell mortgages that may require higher credit enhancements and may be perceived to increase the risk of defaults and claims against the first loss account. For these reasons we feel it is appropriate to adjust both how the minimum threshold is established and the way the goals are quantified.

<u>Proposed §1281.1 *Definition of Mortgage Purchase*</u>

The Proposed Rule defines "mortgage purchase" as "a transaction in which a Bank bought or otherwise acquired a mortgage." The FHLBank believes the phrase "otherwise acquired a mortgage" is overly broad for the purpose of housing goals related to AMA, and could be read to include the FHLBank's affordable housing program (AHP) and collateral received from member institutions as security for advances. The FHLBank requests that the FHFA clarify the proposed definition to state "Mortgage purchase means a transaction in which a Bank bought or otherwise acquired a mortgage pursuant to the Bank's authority under the FHFA's AMA regulations."

<u>Proposed §1281.11(a) *Volume Threshold*</u>

The establishment of a minimum threshold "compliance trigger point" without rational justification is arbitrary at any level of volume. We believe the establishment of a minimum threshold as the sole determinant for goal compliance may encourage subsequent FHLBank purchase behavior that is equally arbitrary. Consideration should be given to provide additional flexibility in establishing the trigger point for goal compliance based on qualitative factors that illustrate an FHLBank's commitment to fulfill its housing mission. AMA program qualitative factors would be more in the control of an AMA FHLBank and could prove to be effective in motivating an FHLBank to fulfill its housing mission if it is rewarded with a higher minimum annual threshold. We believe that the intended purpose of the housing goals is to encourage AMA FHLBanks to be accountable to their housing mission, not to set arbitrary minimum thresholds to determine who is held accountable. We think it is reasonable and a fair way to encourage commitment to the housing mission to apply qualitative measures that provide a higher minimum threshold for any FHLBank that achieves success in serving its housing mission. We request that the minimum volume threshold should be raised to $5.0 billion for those FHLBanks that meet certain other qualitative measures to promote housing for low and moderate income families, including: 1) participation in FHA and/or VA mortgage purchases, and/or 2) using Affordable Housing Program funds in conjunction with AMA purchases to make loans more affordable.

Additionally, the Proposed Rule states that "[t]he housing goals established in this section shall apply to a Bank for a calendar year only if the unpaid principal balance (UPB) of the Bank's purchases of AMA-approved mortgages in that year exceeds $2.5 billion." Proposed 12 C.F.R. §1281.11(a). The Proposed Rule as currently drafted would effectively require an FHLBank to comply with the housing goals even if that FHLBank does not exceed the volume threshold. An FHLBank may not know until the fourth quarter whether or not it will exceed the volume threshold and therefore be subject to the housing goals. The FHLBank requests that the FHFA revise the Proposed Rule to provide that in the event an FHLBank exceeds the volume threshold in a calendar year that FHLBank will be subject to the housing goals the next calendar year. If an FHLBank exceeded the volume threshold in one year and was then required to comply with the housing goals the subsequent year, the FHLBank would have an entire calendar year to ensure that it complies with the housing goals.

Proposed §1281.11(b) *Market-Based Housing Goals*

The comparison of an FHLBank's performance with total originations in that FHLBank's District should be adjusted to attain a more "apples to apples" market share comparison. The methodology proposed in the housing goals would not result in a fair or meaningful comparison because it does not take into consideration the differences in the type of originator, mortgage product or end investor, which can greatly impact the ability to serve low and moderate income borrowers.

- *Originator differences*- The type of originator, how originators are compensated and by whom they are employed, has historically impacted the level of underwriting flexibility and the loan documentation requirements which are important factors when serving low and moderate income housing needs. Generally, loans acquired under AMA programs are purchased from member financial institutions that are regulated depositories, engaging in retail loan originations using salaried employee loan officers located in branch offices of the PFI. Conversely, all originators in the District would include mortgage bankers and brokers who are not regulated, include commissioned-based non-employees, utilizing wholesale originations from a variety of sources including third party originators. These non-FHLBank member originators would be positioned and incented to offer greater lending flexibility than our member PFIs that sell mortgages to the FHLBank.
- *Product type differences*- Many loan types are engineered to serve the needs of low and moderate income borrowers. MPF is restricted to purchasing prime, fixed rate, fully amortizing mortgage loans. All loans originated in the FHLBank's district would include the typical Freddie Mac and Fannie Mae products: 30-Year Fixed-rate Mortgages, ARMS, ALT 97 Mortgages, Balloon/Reset Mortgages, High LTV Mortgages (greater than 95% to over 105%), Home Possible Mortgages and Initial Interest Mortgages. The universe of all originators in a given FHLBank District would be better positioned to offer a product specifically designed to meet low and moderate income borrower needs.
- *Investor/Secondary market differences*- The end-investor dictates the terms and conditions of loans originated for sale while the originator sets the terms and conditions of loans held in portfolio. PFIs must comply with AMA guidelines that meet standard secondary market terms and conditions for credit quality and documentation standards for prime, fixed rate product. Other originators, however, may either sell low and moderate income loans to investors via certain investment products to serve those investors' needs or originators may decide to hold the loans in their own portfolios (which may or may not meet secondary market standards).

We request that the market share housing goals compare the FHLBank purchases with all similar originations of conventional, prime, fixed rate product intended for sale in the secondary market, originated by member financial institutions located in the FHLBank's District. This is a true peer group type comparison that would produce a market share analysis with more meaningful results.

Proposed §1281.12 *General Counting Requirements*

A large percentage of PFIs are Community Financial Institutions (CFIs) that are not HMDA reporting institutions. We request that originations from CFIs should be excluded from both the FHLBank and total origination numbers in the calculation of the market-based housing goals and should also be excluded from the volume threshold calculation.

We appreciate the opportunity to provide comments on the proposed housing goals and trust that you will take our proposed amendments under careful consideration.

If you have any questions, please contact me at 617-292-9641.

Sincerely

Paul T Pouliot CMB
First Vice President