

July 12, 2010

Mr. Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA16
Federal Housing Finance Agency, Fourth Floor
1700 G. Street NW
Washington DC 20552

Dear Mr. Pollard:

The National Community Reinvestment Coalition (NCRC) appreciates that the Federal Housing Finance Agency is proposing housing goals for the Federal Home Loan Banks and their Acquired Member Assets (AMA) programs. The proposed goals and volume thresholds are reasonable, but the proposed protections against abusive lending need to be strengthened.

NCRC is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. As such, our member organizations understand firsthand the importance of leveraging responsible lending for traditionally underserved communities.

The FHFA is proposing four goals – three for home purchase lending and one for refinance lending- that would require the FHLB Banks to match the percentage of loans issued by their member banks to low-income and very-low income borrowers and communities. We appreciate that the FHFA is conforming the definition of income to the CRA definitions. It is also reasonable to ask the FHLB Banks to at least match the percentage of loans that the primary market is making to low- and very-low income borrowers. The FHFA should consider a mechanism to encourage the FHLB Banks to exceed the percentage of loans the primary market is issuing to low- and very-low income borrowers. Perhaps, if the FHLB Bank is operating in a safe and sound manner, it could be granted a privilege such as the authority to issue more advances if it exceeds the primary market in its percent of business to targeted income groups.

NCRC asks that the FHFA considers adding a neighborhood goal for refinance lending in addition to its borrower goal. Since low-income and minority neighborhoods received a disproportionate amount of high-cost and exotic loans, facilitating refinance lending into more affordable rates for these communities via the FHLB Banks' AMA program is a desirable public policy goal.

The proposed volume threshold of \$2.5 billion before the housing goals apply is fair and should not be raised. If anything, the goal should be lowered since the FHFA calculates that \$2.5 billion is approximately 12,500 mortgages. It would be reasonable to ask the FHLB banks to ensure that lower income borrowers and communities were being served by their AMA programs if they were purchasing more than 6,000 loans, but at the very least, the proposed threshold asks them to be responsive to traditionally underserved communities if their AMA activities reach a level that is approximately the same as a large bank that has CRA obligations.

The FHFA is also correct to be proposing that mortgages with “unacceptable” terms must not count towards the FHLB housing goals but FHFA should strengthen its proposal of which terms and conditions constitute unacceptable mortgages.¹ FHFA, for example, proposes to prohibit mortgages from counting towards the goals if the mortgages violate the interagency guidance on nontraditional mortgages issued in 2006 or the interagency guidance on subprime mortgages issued in 2007. This guidance, however, lacked enforcement authority and was often unclear on prohibitions. For example, instead of prohibiting reduced documentation of income, the non-traditional guidance states that “clear policies should govern the use of reduced documentation.”² In addition, the non-traditional guidance states that “risk-layering features in loans to subprime borrowers may significantly increase risks for both the institution and the borrower.” The guidance does not prohibit risk-layering which often consisted of qualifying borrowers based on a low-teaser rate, not establishing escrows, disregarding careful repayment analysis, offering high loan-to-value loans, and including prepayment penalties. The result was unsustainable loans that trapped borrowers because they could not afford to pay the steep prepayment penalties. The interagency guidance was ineffective in stemming problematic lending and preventing the foreclosure crisis.

Instead of basing the definition of unacceptable loans on the flawed interagency guidance, the FHFA should use the Federal Reserve’s rule on Regulation Z and HOEPA issued in July of 2008. While still not strong enough, the Federal Reserve’s update to Regulation Z is more rigorous than the interagency guidance and is an actual regulation that the primary market must follow. Regulation Z requires a stronger ability-to-repay analysis than the interagency guidance; specifically the Federal Reserve rule requires the analysis to be based on the fully-indexed and amortizing rate or the maximum monthly payment within the first seven years of step-rate loans. Escrows are also required by the Federal Reserve rule instead of the interagency’s guidance

¹ NCRC had urged HUD repeatedly when HUD was developing housing goals rules over the years to strengthen prohibitions against abusive mortgages. Except for establishing sparse standards in 2000, HUD did not update these prohibitions.

² Interagency Guidance on Nontraditional Mortgage Product Risks, Federal Register, October 4, 2006, Vol. 71, No. 192, p. 58614

recommendation of a mere discussion with the consumer about the risks of not including escrows in subprime loans.³

NCRC appreciates the opportunity to comment on this important matter and urges the FHFA to strengthen its housing goals, include a neighborhood-based goal for refinance lending, and to bolster protections against abusive lending.

If you have any questions, please contact me or Josh Silver, Vice President of Research and Policy, on 202-464-2708.

Sincerely,



John Taylor
President and CEO

³ Statement on Subprime Lending, Federal Register, Vol. 72, No. 131, July 10, 2007, p. 37574