



FEDERAL HOME LOAN BANK OF INDIANAPOLIS

*Building Partnerships. Serving Communities.*

July 12, 2010

*via Federal eRulemaking Portal and electronic  
mail to: RegComments@fhfa.gov*

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

**Re: Comments on Notice of Proposed Rulemaking on Federal Home Loan Bank Housing Goals (RIN 2590-AA16)**

Dear Mr. Pollard:

The Federal Home Loan Bank of Indianapolis (“Bank”) appreciates the opportunity to comment on the Federal Housing Finance Agency (“FHFA”) notice of proposed rulemaking on Federal Home Loan Bank (“FHLBank”) Housing Goals (“Proposed Rule”). We respectfully submit the following comments for your consideration.

## **I. FHLBank Programs Differ From Enterprises**

The FHLBanks have a unique acquired member assets (AMA) structure, as required by the FHFA regulations<sup>1</sup>. The AMA regulation 12 CFR §955.3 requires a credit risk-sharing component resulting in the participating financial institution (PFI) having “skin in the game,” requiring credit enhancements on all mortgage pools to “...a credit quality that is equivalent to that of an instrument having at least the fourth highest credit rating from an NRSRO, or such higher credit rating as the Bank may require.” To achieve the required rating each FHLBank must use a model from a nationally recognized statistical rating organization (NRSRO), as approved by FHFA, on all mortgage pools acquired. This NRSRO model results in substantially increased credit enhancement as a result of high loan-to-values (LTVs) and lower FICO scores on loans, which is typical of affordable housing loans. The existing model provides minimal benefit for private mortgage insurance for low down payment mortgage loans and as a result increases the required credit enhancement in compliance with AMA regulations.

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 (collectively the “Enterprises”) whose regulatory requirements and business

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<sup>1</sup> 12 CFR §955

models do not require credit risk-sharing, credit enhancement structures with their selling institutions, or implied credit ratings of an NRSRO. FHLBanks with AMA programs have no way to incent PFIs to participate except through 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 lender risk account (LRA). If the PFI perceives that qualifying loans may have a higher risk of default they may choose to sell the underlying loan to other market participants such as the Enterprises. The FHLBanks' are extremely limited within the credit enhancement 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 LRA, which represents the lenders funds at risk. Thus, it is appropriate to adjust both how the minimum threshold is established and the way the housing goals are quantified as compared to the Enterprises.

## **II. Comments on Specific Sections of the Proposed Rule**

### Proposed §1281.1 *Definition of Mortgage Purchase*

The Proposed Rule defines “mortgage purchase” as “a transaction in which a Bank bought or otherwise acquired a mortgage.” The phrase “otherwise acquired a mortgage” is overly broad for the purpose of housing goals related to AMA, and could be read to include other Bank transactions, e.g., the Bank acquiring a mortgage as a result of exercising its statutory or contractual rights. The final rule should clarify and limit this definition to AMA purchases only.

### Proposed §1281.11(a) *Volume Threshold*

Section 1281.11(a) of 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.” The Bank appreciates the concept of establishing a volume threshold. However, as the sole determinant for housing goal compliance, such a threshold may encourage subsequent FHLBank purchase behavior that is equally arbitrary, resulting in FHLBanks manipulatively staying below the threshold in an effort to avoid being subjected to the housing goals. This purposeful conduct is not beneficial to the FHLBank members or potential homeowners, and is ultimately contrary to the FHLBanks’ mission. The intended purpose of the housing goals is to encourage FHLBanks with AMA programs to be accountable to their housing mission.

The final rule should provide additional flexibility in establishing the trigger point for housing goal compliance based on qualitative factors that illustrate an FHLBank’s commitment to fulfilling its housing mission. A reasonable and fair way to encourage such commitment is to apply qualitative measures that provide a higher minimum threshold for any FHLBank that succeeds in serving its housing mission. As such, we request the minimum volume threshold be raised to \$5.0 billion for those FHLBanks that meet certain other qualitative measures to promote housing for low- and moderate-income families, such as utilizing Affordable Housing Program (“AHP”) funds to make loans more affordable. However, please note that this could not include the Bank’s AHP refinancing authority, which specifically exempts AMA purchases by regulation.

Additionally, as currently drafted, the Proposed Rule would, in some cases, effectively require an FHLBank to comply with the housing goals even if that FHLBank does not exceed the volume threshold. For example, 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. Due to the regulatory limitations on the structure of the FHLBanks' AMA programs, the FHLBanks do not have as much flexibility as the Enterprises to feasibly achieve these housing goals within a one-year time frame. As such, the final rule should provide that in the event an FHLBank exceeds the volume threshold in a calendar year, that FHLBank will be subject to the housing goals over a specified period of time, e.g., a three-year period, or alternatively the subsequent calendar year. If an FHLBank exceeds the volume threshold in one year and is then required to comply with the housing goals the subsequent year (or over the next few years depending on the FHFA's specified timeframe), the FHLBank would have more time to ensure that it complies with the housing goals and generate the required volume as opposed to being required to comply retroactively.

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

Section 1281.11(b) of the Proposed Rule states that "...a Bank shall be in compliance with a housing goal if its performance under the housing goal meets or exceeds the share of the market that qualifies for the housing goal." 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 proposed methodology 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 they are compensated and who they are employed by 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. Loans acquired under AMA programs are purchased from member financial institutions that are regulated depositories. All originators in the FHLBank's district would include mortgage bankers and brokers who are not regulated, include commission-based non-employees, utilizing wholesale originations from a variety of sources including third-party originators and out-of-district non-member financial institutions. 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. MPP 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 products. All other originators either

sell low- and moderate-income loans to investors with specific products to serve their needs or they may decide to hold these loans in portfolio which may or may not meet secondary market standards.

The final rule should be modified to provide that market share determinations will compare the FHLBank purchases with all similar originations of conventional, prime, fixed rate products intended for sale in the secondary market, originated by member financial institutions located in the FHLBank's district. This is a true peer group comparison that would produce a market share analysis with more meaningful and comparative results.

Proposed §1281.12 General Counting Requirements

A large percentage of PFIs are Community Financial Institutions (CFIs) that are not HMDA (Home Mortgage Disclosure Act of 1975)<sup>2</sup> 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. They should also be excluded from the volume threshold calculation.

In addition, the Bank addresses the need for affordable housing through AHP as required by 12 CFR §1291.2(a)<sup>3</sup>. In fact, the profitability of the FHLBanks' AMA programs help increase the FHLBanks' annual net earnings, thus providing more funds to AHP. The FHFA should afford some credit or consideration to the FHLBanks' AHP contributions funding homeownership projects or set-aside initiatives in calculating the FHLBank's performance under the single family housing goals.

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We thank you for this opportunity and for your consideration of our comments on this Proposed Rule. If you have any questions or need clarification with respect to these comments, please contact the undersigned.

Sincerely,

FEDERAL HOME LOAN BANK OF INDIANAPOLIS



Gregory L. Teare  
Senior Vice President-Chief Banking Officer

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<sup>2</sup> 12 U.S.C. 2801, *et seq.*, as amended

<sup>3</sup> Each Bank shall contribute annually to its Program the greater of:

(1) 10 percent of the Bank's net earnings for the previous year; or

(2) That Bank's pro rata share of an aggregate of \$100 million to be contributed in total by the Banks, such proration being made on the basis of the net earnings of the Banks for the previous year, except that the required annual AHP contribution for a Bank shall not exceed its net earnings in the previous year.