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FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1267, 1269, and 1270

RIN 2590-AA40

Removal of References to Credit Ratings in Certain Regulations Governing the Federal Home Loan Banks

AGENCIES: Federal Housing Finance Agency.

ACTION: Final Rule.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires Federal agencies to review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings issued by credit rating organizations registered with the Securities and Exchange Commission (SEC) as nationally recognized statistical rating organizations (NRSROs), and to remove such references or requirements. To implement this provision, the Federal Housing Finance Agency (FHFA) proposed on May 23, 2013, to amend certain of its rules and remove a number of references and requirements in certain safety and soundness regulations affecting the Federal Home Loan Banks (Banks). To replace the provisions that referenced NRSRO ratings, FHFA proposed to add requirements that the Banks apply internal analytic standards and criteria to determine the credit quality of a security or obligation, subject to FHFA oversight and review through the examination and supervisory process. FHFA also proposed to delete certain provisions from its

regulations that contained references to NRSRO credit ratings because they appeared duplicative of other requirements or because they applied only to Banks that had not converted to the capital structure required by the Gramm-Leach-Bliley Act (GLB Act) and no longer applied to any Bank. After considering the comments received on its notice of proposed rulemaking (Proposed Rule), FHFA has determined to adopt as final these proposed rule amendments without change.

DATES: The rule is effective [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background

A. Dodd-Frank Act Provisions

Section 939A of the Dodd-Frank Act requires federal agencies to: (i) review regulations that require the use of an assessment of the creditworthiness of a security or money market instrument; and (ii) to the extent those regulations contain any references

to, or requirements regarding credit ratings, remove such references or requirements. See section 939A, Public Law No. 111-203, 124 Stat. 1887 (July 21, 2010). In place of such credit-rating based requirements, agencies are instructed to substitute appropriate standards for determining creditworthiness. The new law further provides that, to the extent feasible, an agency should adopt a uniform standard of creditworthiness for use in its regulations, taking into account the entities regulated by it and the purposes for which such regulated entities would rely on the creditworthiness standard.

B. The Bank System

The twelve Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act (Bank Act).[1] The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[2] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential credit through its member institutions.[3] Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock.[4]

As government-sponsored enterprises, the Banks are granted certain privileges under federal law. In light of those privileges, the Banks typically can borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity lower than

[1] See 12 U.S.C. 1423, 1432(a).
[2] See 12 U.S.C. 1426(a)(4), 1430(a), 1430b.
[3] See 12 U.S.C. 1427.
[4] See 12 U.S.C. 1424; 12 CFR part 1263.

most other entities. The Banks pass along a portion of their funding advantage to their members – and ultimately to consumers – by providing advances and other financial services at rates that would not otherwise be available to their members. Consolidated obligations (COs), consisting of bonds and discount notes, are the principal funding source for the Banks. The Bank System's Office of Finance (OF) issues all COs on behalf of the twelve Banks. Although each Bank is primarily liable for the portion of COs corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal and interest on all COs.[5]

C. Considerations of Differences between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[6] The Director also may consider any other differences that are deemed appropriate.

The amendments adopted in this rulemaking apply exclusively to the Banks. FHFA considered the differences between the Banks and the Enterprises as required by section 1313(f) of the Safety and Soundness Act in developing this final rule. As part of its proposed rulemaking, FHFA also specifically requested comments from the public about whether differences related to these factors should result in any revisions to the

[5] See 12 U.S.C. 1431(c); 12 CFR 1270.10.
[6] See 12 U.S.C. 4513 (as amended by section 1201 Pub. L. 110-289, 122 Stat. 2782-83).

proposal, but received no specific comments in response to that request.[7]

II. Final Amendments to Parts 1267, 1269, and 1270 of the FHFA Regulations

A. Proposed Rule

On May 23, 2013, FHFA published in the Federal Register proposed amendments to rules governing Bank investments, standby letters of credit, and liabilities that would remove specific references to NRSRO ratings from these rules and provide alternative credit requirements for the Banks to apply.[8] These rules are found respectively in parts 1267, 1269, and 1270 of the FHFA regulations.

In developing the proposed amendments, FHFA considered comments received on an earlier advance notice of proposed rulemaking (ANPR) that had solicited comments from the public on potential alternatives to the use of NRSRO credit ratings in its regulations applicable to the Banks, as well as in its regulations applicable to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).[9] FHFA also considered comments received on a notice of proposed rulemaking addressing Bank liabilities and COs, in which it solicited comments on implementing section 939A of the Dodd-Frank Act with regard to certain provisions addressed in that rulemaking.[10]

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[7] See Proposed Rule, Removal of References to Credit Ratings in Certain Regulations Governing the Federal Home Loan Banks, 78 FR 30784, 30786-87 (May 23, 2013) (hereinafter Proposed Rule).
[8] See Proposed Rule, 78 FR 30784 (proposing amendments to 12 CFR part 1267, part 1269, and part 1270).
[9] See Advance Notice of Proposed Rulemaking, Alternatives to Use of Credit Ratings in Regulations Governing the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, 76 FR 5292 (Jan. 31, 2011).
[10] See Proposed Rule, Federal Home Loan Bank Liabilities, 75 FR 68534, 68536-38 (Nov. 8, 2010) (Bank Liabilities Rule). FHFA ultimately decided to adopt the part 1270 Bank Liabilities Rule without amending those provisions that referenced credit ratings, but noted that it would propose changes to those provisions in a future rulemaking and stated that it would consider relevant comments made on the part 1270 rules as part of that rulemaking. See Final Rule: Federal Home Loan Bank Liabilities, 76 FR 18366, 18368 (Apr. 4, 2011) (adopting 12 CFR part 1270).

Finally, FHFA reviewed and considered actions taken by other regulators to implement this Dodd-Frank Act provision.[11]

To remove specific references to NRSRO ratings from the investment requirements in §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii), FHFA proposed to add a new defined term, "investment quality," to part 1267.[12] FHFA proposed to define "investment quality" as a determination made by a Bank based on documented analysis that there is adequate financial backing for any security or obligation so that full and timely payment of principal and interest is expected, and there is only minimal risk that such timely payment would not occur because of adverse changes in financial or economic conditions over the life of the instrument. Under the proposed amendments to §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii), a Bank would need to determine that a particular covered investment qualified as "investment quality" under the proposed definition rather than demonstrate that the instrument had a particular NRSRO credit rating at the time of purchase. The Bank determination would be subject to FHFA oversight and review through the examination and supervisory process.

In explaining this approach, FHFA stated that the proposed definition would allow Banks to build upon their current internal credit risk assessment and management practices and provide flexibility to consider differences in credit quality of different investments – considerations that were supported by many commenters to the ANPR.

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[11] See Proposed Rule, 78 FR at 30785-86.

[12] See id. at 30787-88 (discussing amendments to 12 CFR 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii)). The first investment provision at issue prohibits the Banks from investing in any debt instrument that is rated below investment grade by an NRSRO at the time the investment is made. The second provision establishes an exception to a general prohibition on a Bank's investment in mortgages or other whole loans, if the investment involves marketable direct obligations of state, local, or tribal government units or agencies having at least the second highest credit rating from an NRSRO, and the purchase would generate customized terms, necessary liquidity, or favorable pricing for the issuer's funding of housing or community lending. Id.

FHFA also emphasized that under the proposed definition, a Bank had to document its analysis as to the credit quality determination so FHFA could review these decisions as part of its supervisory and examination process and thereby could help ensure consistency and rigor in the analysis across all Banks.

FHFA identified a non-exclusive list of factors that a Bank could consider in its credit analysis: internal or external credit risk assessments, including scenario analysis; security or asset-class related research; credit analysis of cash flow and debt service projections; credit spreads for like financial instruments; loss distributions, default rates, and other statistics; relevant market data, for example, bid-ask spreads, most recent sales price, and historical price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the investment; local and regional economic conditions; legal or other contractual implications to credit and repayment risk; underwriting, performance measures and triggers; and other financial instrument covenants and considerations. FHFA also noted that although mandating use or reliance on NRSRO credit ratings in the investment regulation would be inconsistent with the Dodd-Frank Act provisions, the proposed definition of "investment quality" would not prevent a Bank from using NRSRO ratings or other third party analytics in its credit determination so long as the Bank did not rely principally on such rating or third party analysis. FHFA underscored that a Bank's determination of credit quality needed to be driven primarily by the Bank's own internal analysis based on market and financial data, and other relevant factors including the size and complexity of the financial instrument and the Bank's own risk appetite and risk assessment framework.

Under the proposed standard, a Bank would have to make its determination

concerning the credit quality of a particular instrument prior to entering into a transaction, and if the Bank determined that the instrument did not meet the proposed definition of "investment quality," it could not purchase the instrument. FHFA also noted its expectation that as part of a Bank's risk management and monitoring process, a Bank needed to update periodically its "investment quality" analysis and to consider whether the instrument continued to meet safety, soundness, and business objectives. FHFA stated that the Banks would be expected to develop appropriate strategies to respond to a decline in the credit quality of its investments, consistent with then-current market and financial conditions and considerations, even though the investment regulations, as FHFA proposed to amend them, did not require a Bank to sell a debt instrument if subsequent analysis indicated the instrument became less than "investment quality" after the initial purchase.[13]

FHFA proposed a somewhat different approach for the amendments to § 1269.2(c)(2) of FHFA regulations, a provision addressing certain collateral requirements for standby letters of credit issued or confirmed by a Bank on behalf of a member.[14] In this case, FHFA proposed to eliminate the reference to an NRSRO investment grade rating by replacing it with a requirement that the collateral at issue needed to have a readily ascertainable value, could be reliably discounted to account for

[13] Current investment regulations, while prohibiting a Bank from buying debt instruments that are rated less than investment grade by an NRSRO at the time of purchase, do not require a Bank to sell any such instruments if they are downgraded to below investment grade after acquisition. Thus, not requiring a Bank to sell an instrument that became less than investment quality after purchase is consistent with long-standing regulations. See id. at 30788.

[14] See id. at 30788 (discussing amendments to 12 CFR 1269.2(c)(2)). Specifically, the current provision states that a standby letter of credit issued or confirmed by a Bank on behalf of a member to assist the member in facilitating residential housing finance or community lending may be collateralized by obligations of a state or local government unit or agency, if the obligation is rated investment grade by an NRSRO. Id.

liquidation and other risks, and could be liquidated in due course. FHFA proposed this approach because it believed that it would have been unrealistic and unnecessarily onerous for a Bank to perform the same type of in-depth credit analysis, as discussed for the investment provisions, for a security that will be accepted as collateral. Instead, FHFA proposed a standard that was more appropriate for collateral and similar to one already applied in other FHFA collateral regulations.[15] FHFA also noted that the proposed standard was consistent with the original intent of the investment grade requirement in the standby letter of credit regulation, given that the rating was meant to serve as a proxy for securities that had "an established secondary market . . . [so that] they can be easily valued and, if necessary, liquidated by a [Bank]."[16]

FHFA explained that the proposed amendments to § 1269.2(c)(2) would require a Bank to incorporate criteria into its collateral policies to assure that the collateral covered by the rule would meet the proposed criteria. FHFA emphasized that a Bank needed to meet other general requirements applicable to collateral, including having policies and procedures in place to ensure that the Bank accurately valued the collateral and applied realistic haircuts given the market for the instrument and existing economic conditions.

FHFA also proposed to replace current provisions in §§ 1270.5(b) and (c) of its regulations that require Banks collectively to maintain the highest NRSRO rating for COs and each Bank individually to maintain a rating of at least the second highest from an NRSRO, with a general requirement that the Banks individually and collectively operate in such manner and take any actions necessary to ensure that COs maintain the highest

[15] See 12 CFR 1266.7(a)(4).
[16] See Proposed Rule, 78 FR at 30788 (citing Proposed Rule, Federal Home Loan Bank Standby Letters of Credit, 63 FR 25726, 25729 (May 8, 1998)).

level of acceptance by financial markets and are generally perceived by investors as presenting a very low level of credit risk.[17] FHFA believed that the new proposed provision captured the intent of the current rules and helped protect holders of COs while upholding the intent of the Dodd-Frank Act.[18] FHFA stated, however, that nothing in the language as proposed prohibited the Banks collectively from seeking NRSRO ratings for COs or an individual Bank from maintaining an individual NRSRO rating if such ratings were found desirable or helpful for either business or other reasons.

FHFA also proposed to delete certain provisions from its regulations that contained references to NRSRO credit ratings, either because they appear duplicative of other requirements[19] or because they apply only to Banks that have not converted to the capital structure required by the GLB Act[20] and no longer apply to any Bank because all Banks have now converted to the GLB Act capital stock structure.[21] FHFA also stated that it intended to undertake separate rulemakings to remove references to and requirements based on NRSRO credit ratings in the acquired member asset (AMA) programs regulations as well as to revise and remove NRSRO rating related references and requirements in the Bank capital and related rules.[22] Finally, FHFA noted that it did not intend to amend part 1273 of its regulations to remove references to NRSROs found

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[17] See Proposed Rule, 78 FR at 30789 (discussing amendments to12 CFR 1270.5(b) and (c)).
[18] In comments to the ANPR, the Banks stated that because the individual Bank rating requirement in § 1270.5(c) did not involve the rating of a security or a money market instrument, it was outside the scope of section 939A of the Dodd-Frank Act. In proposing to amend this provision, however, FHFA disagreed with this statement and noted that FHFA believed that requiring the Banks to maintain a specific credit rating from an NRSRO would have violated of the spirit of the Dodd-Frank provision by requiring the Banks to rely on NRSROs to review and essentially opine on Bank actions. See id.
[19] See id. at 30788-89 (discussing removal of 12 CFR 1270.4(b)(6)).
[20] Pub. L. 106-102, 133 Stat. 1338 (1999).
[21] See Proposed Rule, 78 FR at 30788, 30789 (discussing removal of 12 CFR 1267.5 and 12 CFR 1270.5(a) respectively).
[22] See id. at 30786 (discussing 12 CFR part 955 (AMA rules) and 12 CFR part 932 (Bank capital and related rules)).

in § 1273.6(d) of its rules, given that the provision was outside the scope of the requirements in section 939A of the Dodd-Frank Act and need not be changed.[23]

B. Comments on the Proposed Rule

FHFA received three comments in response to the Proposed Rule. One comment letter was from a private citizen, one was a joint letter from eight of the twelve Banks, and one was from a public interest group that focuses on financial market issues. The first two letters were generally supportive of the Proposed Rule. The letter from the public interest group argued that the rule amendments should incorporate specific criteria that a Bank must apply in reaching a credit determination rather than allowing each Bank so much flexibility to develop its own analytic approach.

In generally supporting the proposed rule amendments, the first commenter noted that the list of factors cited by FHFA that a Bank may consider in assessing credit-worthiness for purposes of §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii) was fairly complete and would allow the Banks "to provide a robust and auditable level of assessment." The commenter noted, however, that it would be preferable for a Bank to rely on "hard" factors such as credit spreads, default statistics, legal and contractual considerations, market data, and other relevant asset-specific factors, rather than factors such as external credit risk assessments and security or asset-class related research. Similarly, the Banks generally agreed with the FHFA's proposed approach.[24] The Banks suggested, however,

[23] See id. at 30786 (discussing 12 CFR 1273.6(d)). Section 1273.6(d) assigns to OF the responsibility to manage the Bank System's relationship with NRSROs, if NRSRO ratings are considered necessary or desirable in connection with the issuance and sale of COs. FHFA noted that it had stated in the ANPR that this provision appeared to be outside the scope of section 939A of the Dodd-Frank Act and that no commenters on the ANPR disagreed with this statement. Id. Similarly, no commenters on the proposed rule specifically addressed FHFA's stated intent not to amend § 1273.6(d).

[24] The Banks, in the joint comment letter, also specifically agreed that 12 CFR 1270.4(b)(6) could be removed as proposed. The joint comment letter did not specifically address the other provisions that FHFA

that FHFA adopt the approach taken by the Office of the Comptroller of the Currency (OCC) in its final guidance for its Section 939A rule amendments and confirm that the rules would not require the Banks to conduct specific credit analysis under the "investment quality" criteria for United States government and agency obligations (including mortgage-backed securities).[25]

The remaining comment letter noted that FHFA, in discussing the proposed rule changes, identified a number of appropriate factors that a Bank could consider in its credit assessment, but argued that the factors should be included in the rule text and that a Bank should be required to consider all the listed factors in its analysis. The commenter also argued that it would be inconsistent with the Dodd-Frank Act provisions to allow a Bank to rely on NRSRO credit ratings to even a limited degree, and that the Banks should be required to justify a credit decision based on a standard without regard to credit ratings. Thus, the commenter urged that the Banks be required to document the extent to which any NRSRO credit ratings were considered in a particular decision.

C. Final Rule

FHFA has considered the comments received on the proposed rule. As discussed above, the specific comments received mainly addressed the proposed rule changes to §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii). FHFA generally agrees with the one comment

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proposed to delete. Nor did the other two comment letters specifically address any of the regulations that FHFA proposed to delete.

[25] The OCC guidance states in relevant part that:

Under OCC rules, Treasury and agency obligations do not require individual credit analysis, but bank management should consider how those securities fit into the overall purpose, plans, and risk and concentration limitations of the investment policies established by the board of directors.

Guidance on Due Diligence Requirements in Determining Whether Securities Are Eligible Investments, 77 FR 35259, 35260 (June 13, 2012).

that the Banks should primarily rely on "hard," asset-specific data in reaching a credit determination. In reviewing Bank determinations, FHFA will look at the required documentation to ascertain whether a Bank's decision is adequately supported by such information and will consider whether Banks are basing determinations on information sources that are independent of a specific issuer or counterparty and not relying on recommendations or other sources that may be biased. The point of the rule change is for the Banks to undertake their own, rigorous analysis prior to making an investment decision and not to defer to the analysis or opinions of third parties that may have conflicts or interests that do not align with those of a Bank.

However, FHFA does not agree with another commenter's suggestion that it prohibit the Banks from using NRSRO ratings or other third party information in their analysis. This information can be useful to a Bank and should be allowed as long as it is not the sole or principal factor underlying a decision. FHFA also does not believe that the proposed rule language needs to be changed to require the Banks to justify a particular decision without regard to NRSRO ratings as the commenter suggested. The proposed definition of "investment quality" specifically requires that a Bank's decision be based on "documented analysis," and FHFA intends to review this documentation as part of its ongoing supervisory and examination activities. To be complete, documentation would need to demonstrate how a Bank reached a particular determination and be supportive of the final decision. Thus, failure to maintain sufficient documentation indicating that the Bank's decision was primarily based on information and analysis other than NRSRO ratings would be inconsistent with the rule.

FHFA also does not intend to alter the proposed rule to incorporate into the definition of "investment quality" specific factors that a Bank must consider in reaching a determination. Instead, FHFA believes that its proposed approach provides the Banks needed flexibility to adjust their analysis to changing conditions and specific investments and to build on internal processes and procedures that are already in place. Moreover, it will allow the Banks' procedures and approaches to evolve over time in response to changes in thinking on "best practices" for credit risk management. FHFA will, however, provide more specific guidance on the Banks' credit analysis, including specific recommendations as to factors that need to be considered, if it finds that the Banks' practices are not rigorous or are otherwise deemed faulty.

In response to the request for clarification with respect to the application of the rule to United States government and agency obligations, FHFA agrees that instruments backed by the full faith and credit of the United States government can be deemed to meet the "investment quality" standard without specific analysis by a Bank. A Bank would still need to consider how such investment would conform to other investment and risk management policies of the Bank.

With regard to obligations, including agency obligations, that are not backed or guaranteed explicitly by the United States, however, FHFA believes that a Bank should make a specific credit determination as to "investment quality." Such agency obligations include those issued by Fannie Mae, Freddie Mac, and Federal Farm Credit Banks, among others. These obligations carry no explicit federal government guarantee, and while the probability of default generally is considered to be low, it is not the same as a zero probability of default. Banks should not rely on the assumption of implicit

government support but instead should look to the financial strength of an individual entity and its ability to meet its obligations. In making such a determination, a Bank could consider any explicit agreements that provide for federal support or other explicit guarantees that a particular counterparty or instrument may carry.[26]

With the exception of the Banks' comments on the effective date for the final rule amendments, which are addressed below, the comments were either generally supportive or did not specifically address the other amendments in the Proposed Rule. As a consequence, for the reasons discussed above and in the Supplementary Information section of the Proposed Rule, FHFA is adopting the amendments to parts 1267, 1269, and 1270 of its regulations as proposed.

D. Effective Date of the Rule

Finally, in notice of proposed rulemaking, FHFA noted that it would consider a delayed implementation date for any final rule amendments, and specifically requested comments on what time frame would be necessary for the Banks to implement these amendments.[27] The Banks, in their joint comment letter, were the only commenters to address this issue, and requested a six-month phase-in period. In support of this request, the Banks noted that they needed to make changes to risk management, financial management, and credit policies and procedures, including obtaining necessary approvals from their boards of directors, and also would need sufficient time to conduct staff training, observe the effects of the new policies and procedures, and make further

[26] For example, it would be appropriate for a Bank to consider the Senior Preferred Stock Purchase Agreements (PSPAs) between the Enterprises and the United States Department of the Treasury, which were entered into at the time the Enterprises entered conservatorship, and the capital support provided under those agreements.

[27] Proposed Rule, 78 FR at 30789-30790.

adjustments to the policies and procedures, as necessary. FHFA accepts as reasonable the Bank's request for a six-month period to prepare for implementation of the rule changes, and therefore has determined that the final rule amendments will become effective on [INSERT DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

III. Paperwork Reduction Act

The rule amendments do not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

IV. Regulatory Flexibility Act

The rule amendments apply only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore in accordance with section 605(b) of the RFA, FHFA certifies that this final rule will not have significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 1267 and 1269

Community development, Credit, Federal home loan bank, Housing, Reporting and recordkeeping requirements.

12 CFR Part 1270

Accounting, Federal home loan banks, Government securities.

Accordingly, for reasons stated in the Supplementary Information and under authority in 12 U.S.C. 4511, 4513, and 4526, FHFA is amending chapter XII of title 12 of

the Code of Federal Regulations as follows:

PART 1267 – FEDERAL HOME LOAN BANK INVESTMENTS

1. The authority citation for part 1267 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 1436, 4511, 4513, 4526.

2. Amend § 1267.1 by removing the definitions for “Investment grade” and “NRSRO” and adding in correct alphabetical order a definition for “Investment quality” to read as follows:

§ 1267.1 Definitions.

* * * * *

Investment quality means a determination made by the Bank with respect to a security or obligation that, based on documented analysis, including consideration of the sources for repayment on the security or obligation:

(1) There is adequate financial backing so that full and timely payment of principal and interest on such security or obligation is expected; and

(2) There is minimal risk that the timely payment of principal or interest would not occur because of adverse changes in economic and financial conditions during the projected life of the security or obligation.

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3. Amend § 1267.3 by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 1267.3 Prohibited investments and prudential rules.

(a) * * *

(3) Debt instruments that are not investment quality, except:

(i) Investments described in § 1265.3(e) of this chapter; and

(ii) Debt instruments that a Bank determined became less than investment quality because of developments or events that occurred after acquisition of the instrument by the Bank;

(4) Whole mortgages or other whole loans, or interests in mortgages or loans, except:

(i) Acquired member assets;

(ii) Investments described in § 1265.3(e) of this chapter;

(iii) Marketable direct obligations of state, local, or Tribal government units or agencies, that are investment quality, where the purchase of such obligations by the Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community lending;

(iv) Mortgage-backed securities, or asset-backed securities collateralized by manufactured housing loans or home equity loans, that meet the definition of the term "securities" under 15 U.S.C. 77b(a)(1) and are not otherwise prohibited under paragraphs (a)(5) through (a)(7) of this section; and

(v) Loans held or acquired pursuant to section 12(b) of the Bank Act (12 U.S.C. 1432(b)).

* * * * *

§ 1267.5 [Removed]

4. Remove § 1267.5.

PART 1269 – STANDBY LETTERS OF CREDIT

5. The authority citation for part 1269 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 4511, 4513, 4526.

§ 1269.1 [Amended]

6. Amend § 1269.1 by removing the definitions for "Investment grade" and "NRSRO."

7. Amend § 1269.2 by revising paragraph (c)(2) to read as follows:

§ 1269.2 Standby letters of credit on behalf of members.

* * * * *

(c) * * *

(2) A standby letter of credit issued or confirmed on behalf of a member for a purpose described in paragraphs (a)(1) or (a)(2) of this section may, in addition to the collateral described in paragraph (c)(1) of this section, be secured by obligations of state or local government units or agencies, where such obligations have a readily ascertainable value, can be reliably discounted to account for liquidation and other risks, and can be liquidated in due course.

PART 1270 – LIABILITIES

8. The authority citation for part 1270 continues to read as follows:

Authority: 12 U.S.C. 1431, 1432, 1435, 4511, 4512, 4513, 4526.

§ 1270.1 Definitions.

9. Amend § 1270.1 by removing the definition of "NRSRO."

10. Amend § 1270.4 by revising paragraph (b) to read as follows:

§ 1270.4 Issuance of consolidated obligations.

* * * * *

(b) Negative pledge requirement. Each Bank shall at all times maintain assets described in paragraphs (b)(1) through (b)(5) of this section free from any lien or pledge,

in an amount at least equal to a pro rata share of the total amount of currently outstanding consolidated obligations and equal to such Bank's participation in all such consolidated obligations outstanding, provided that any assets that are subject to a lien or pledge for the benefit of the holders of any issue of consolidated obligations shall be treated as if they were assets free from any lien or pledge for purposes of compliance with this paragraph (b). Eligible assets are:

(1) Cash;

(2) Obligations of or fully guaranteed by the United States;

(3) Secured advances;

(4) Mortgages as to which one or more Banks have any guaranty or insurance, or commitment therefor, by the United States or any agency thereof; and

(5) Investments described in section 16(a) of the Bank Act (12 U.S.C. 1436(a)).

11. Revise § 1270.5 to read as follows:

§ 1270.5 Bank operations.

The Banks, individually and collectively, shall operate in such manner and take any actions necessary, including without limitation reducing leverage, to ensure that consolidated obligations maintain a high level of acceptance by financial markets and are generally perceived by investors as presenting a low level of credit risk.

Dated: October 31, 2013.

Edward J. DeMarco,
Acting Director, Federal Housing Finance Agency.

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