

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 932, 955

[No. 2003–10]

RIN 3069–AB18

Federal Home Loan Bank Acquired Member Assets

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its Acquired Member Assets (AMA) regulation, which authorizes the Federal Home Loan Banks (Banks) to acquire certain whole loans from their members. The changes proposed would place greater responsibility with each Bank to design and manage its AMA program, subject to ongoing supervisory review by the Finance Board. The proposed regulation would maintain the core provisions relating to safety and soundness, but would be less prescriptive and simpler than the current rule. The proposed rule also would codify the authority of a Bank to acquire as AMA assets instruments that are created by Bank members or housing associates in cooperation with a Bank and that represent an interest in loans that individually could qualify as AMA.

DATES: Comments on this proposed rule must be received in writing on or before September 2, 2003.

ADDRESSES: Send comments by electronic mail to comments@fhfb.gov, by facsimile to (202) 408–2580, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, Attn: Public Comments. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Scott Smith, Associate Director, smiths@fhfb.gov or (202) 408–2991; Christina Muradian, Senior Financial Analyst, muradianc@fhfb.gov or (202) 408–2584, Office of Supervision; Sharon Like, Senior Attorney Advisor,

likes@fhfb.gov or (202) 408–2930; Thomas Hearn, Senior Attorney Advisor, hearnt@fhfb.gov or (202) 408–2976; or Thomas Joseph, Senior Attorney Advisor, josephth@fhfb.gov or (202) 408–2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is an important first step in the Finance Board's effort to shift the focus of its regulations from a prescriptive approach to an approach that places greater responsibility on the Banks and relies more on supervisory review. The Finance Board believes that an increased focus on the process of supervisory review will enhance the safety and soundness of the Bank System.

On May 3, 2000, the Finance Board published a proposed rule to authorize the Banks to acquire certain whole loans. See proposed rule, Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances, 65 FR 25676 (May 3, 2000) (hereinafter the "Proposed AMA Rule"). The Finance Board subsequently adopted a final AMA regulation, which became effective on July 17, 2000. See final rule, Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investment and Advances, 65 FR 43969 (July 17, 2000) (hereinafter the "current rule" or "final AMA rule"). The current rule authorizes the Banks to acquire certain loans (principally conforming residential mortgage loans) from their members and housing associates as a means of advancing their housing finance mission, and prescribes in some detail the manner in which the Banks may do so.

Since implementation of the current rule, the Finance Board has recognized that an alternative approach, one that places greater responsibility on the Banks, would likely prove to be more effective and efficient in regulating the Banks' mortgage purchase programs. In addition, the Finance Board, now with several years experience in overseeing these programs, has identified a number of opportunities to clarify and simplify the current rule.

Specifically, the current rule includes prescriptive provisions concerning the risk-sharing structure that may not be

necessary for safety and soundness purposes. Such provisions include the requirement that the rating methodology be verified in writing by a Nationally Recognized Statistical Rating Organization (NRSRO), even though the methodology remains subject to Finance Board approval, and that there must be certain restrictions on the credit enhancement structure, even though the member must bear the economic cost regardless of structure. Also, the current rule includes terms that have proven to be unclear and difficult to define, such as "expected losses" and "valid business purpose." Further, the current rule does not specifically incorporate language to authorize the Banks to acquire as AMA certain instruments that are created by Bank members or housing associates in cooperation with a Bank and that represent an interest in AMA-eligible loans. See final AMA rule, 65 FR at 43974–78. Finally, the practice of collecting AMA data has evolved from the reporting requirements set forth in the current rule, such that some data elements have been found to be either unnecessary or readily available from other sources, while others must be collected going forward to comply with revised modeling requirements and regulatory standards.

Although some opportunities to improve the current rule exist, the current rule does contain a number of appropriate and necessary safety and soundness provisions. These provisions would be maintained or strengthened in the proposed rule, and include the requirements that all AMA must be at least investment grade when acquired, and that only highly rated insurers may provide some portion of the credit enhancement.

The Finance Board invites anyone with an interest in this proposed rule to submit written comments to the Finance Board during the comment period.

II. Analysis of Proposed Rule

The proposed rule would revise the current rule as described in the following sections.

A. Definitions—Section 955.1

The proposed rule would add four new defined terms, and would delete two of the existing definitions. Changes to individual definitions in the proposed rule are discussed in later sections of this **SUPPLEMENTARY**