related to this petition by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0172. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The petition, PRM–170–7, is available in ADAMS under Accession No. ML18214A757.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Renu Suri, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0161, email: *Renu.Suri@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. The Petitioner

Mr. Christopher S. Pugsley, Esq. (the petitioner) submitted this petition on behalf of WRT, requesting that the NRC amend its regulations to re-categorize licensees performing water treatment services from a full-cost recovery category to a category with a fixed annual fee.

II. The Petition

The petitioner is requesting that the NRC revise parts 170 and 171 of title 10 of the *Code of Federal Regulations* (10 CFR) to re-categorize WRT as a licensee that does not require full-cost recovery for fees billed to it during the life of its license, address consistency issues between 10 CFR parts 170 and 171 for small entities, and extend the timeframe in which a request for a fee exemption must be submitted under § 170.11. The petitioner also requests that the rule change be actively considered in the NRC's fiscal year 2019 rulemaking for its fee regulations.

III. Discussion of the Petition

The petitioner requests that the NRC amend its regulations to re-categorize WRT as a licensee that does not require full-cost recovery for fees billed to it during the life of its license under 10 CFR part 170, address consistency issues between 10 CFR parts 170 and 171 for small entities, and consider this rule change during the FY 2019 revision of the fee rule. The petitioner assists small community water systems with compliance with the uranium drinking water standard: ''WRT's license operations are not intended to process source material for its commercial value thereby reducing the financial benefit to the licensee as compared to uranium recovery facilities that process ores primarily for their source material content.'' The petitioner suggests that the NRC should further ease the financial burden on community water systems so that they may comply with the uranium drinking water standard. The petitioner also notes NRC actions that seem to agree with his recommendation.

The petitioner also requests additional conforming and related changes. The petitioner asserts that the NRC should consider addressing consistency issues between 10 CFR parts 170 and 171 fees for uranium water treatment licensees that are recognized by the NRC as small entities. The petitioner also requested that the NRC consider amending language under § 170.11 to extend the time within which a licensee may appeal the assessment of fees and apply for a fee exemption. The petitioner notes that NRC could approve the petition as an alternative to revising the NRC's fee recovery requirements during the next revision of the annual fee rule.

IV. Conclusion

The NRC will examine the issues raised in PRM–170–7 to determine whether they should be considered in rulemaking.

Dated at Rockville, Maryland, this 29th day of October, 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2018–24002 Filed 11–1–18; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1281

RIN 2590–AA82

Federal Home Loan Bank Housing Goals Amendments

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Housing Finance Agency (FHFA) is proposing to amend the existing Federal Home Loan Bank Housing Goals regulation. FHFA proposes to replace the existing four separate retrospective housing goals with a single prospective mortgage purchase housing goal as well as establish a separate small member participation housing goal. The proposed rule would also allow the Banks to request FHFA approval of alternative target levels for the proposed goals. Finally, FHFA is proposing to eliminate the existing $2.5 billion volume threshold that triggers the application of housing goals for each Bank.

DATES: Written comments must be received on or before January 31, 2019.

ADDRESSES: You may submit your comments, identified by regulatory information number (RIN) 2590–AA82, by any of the following methods:

• *Agency website: www.fhfa.gov/open-for-comment-or-input.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/RIN 2590–AA82'' in the subject line of the submission.

• *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA82, Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW, Washington, DC 20219. The package should be delivered at the 7th Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

• *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA82, Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Manager, Housing & Community Investment, (202) 649–3157 or Ethan Handelman, Senior Policy Analyst, Office of Housing and Community Investment, (202) 649–3264. These are not toll-free numbers. The telephone number for the Hearing Impaired is (800) 877–8339. The mailing address for each contact is: Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will consider all comments before issuing the final rule. FHFA will post for public inspection all comments received by the deadline without change, including any personal information you provide, such as your name, address, email address, and telephone number. All comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule located on the FHFA website at *http://www.fhfa.gov.*

II. Background

A. The Federal Home Loan Bank System

The eleven Federal Home Loan Banks (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] 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.[3]

As government-sponsored enterprises, the Banks have certain privileges under federal law, which allow them to borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity that are narrower than those available to corporate borrowers generally. The Banks pass along their funding advantage to their members and housing associates—and ultimately to consumers—by providing advances[4] and other financial services at rates that would not otherwise be available to their members. Among those financial services are the Banks' Acquired Member Assets (AMA) programs, under which the Banks provide financing for members' housing finance activities by purchasing mortgage loans.

B. AMA Programs

FHFA's AMA regulation authorizes the Banks to acquire certain assets from their members and housing associates as a means of advancing their housing finance mission, and prescribes the parameters within which the Banks may do so.[5] Through the acquisition of AMA, the Banks provide a source of liquidity to their members and housing associates, to further mission-related lending.

FHFA's AMA regulation authorizes each Bank, at its discretion, to invest in assets that qualify as AMA subject to the requirements of the rule. Currently, each of the eleven Banks except the Atlanta Bank offers an AMA program to its members, albeit at varying levels. As of June 30, 2018, the System's total outstanding AMA mortgages were $57.3 billion and represented 5 percent of total System assets. In contrast, the System's outstanding advances, their primary business line, represented 65 percent of total assets. Outstanding mortgages relative to total assets at the Banks offering AMA programs to its members ranged from a high of 17 percent and 15 percent at the Indianapolis and Topeka Banks, respectively, to less than 2 percent at the New York and Dallas Banks. Further, as a point of comparison, in 2017 the Enterprises' mortgage purchases represented 62 percent of the secondary mortgage market comprising the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Government National Mortgage Association (Ginnie Mae), and the Banks, while the Banks' share represented less than 1 percent.

The two AMA programs that the Banks are currently offering to their members are the Mortgage Purchase Program (MPP) and the Mortgage Partnership Finance (MPF) program. The Banks generally acquire 15- to 30-year conventional conforming fixed-rate mortgage loans secured by 1- to 4-unit residential mortgages in addition to loans guaranteed or insured by a department or agency of the U.S. government.

C. Overview of the Existing Bank Housing Goals Regulation

The existing Bank housing goals regulation has been in effect since January 2011.[6] The regulation implements section 10C(a) of the Bank Act, which requires the Director of FHFA to ''establish housing goals with respect to the purchase of mortgages, if any, by the [Banks].''[7] Section 10C(b) requires that the Bank housing goals be ''consistent with'' the housing goals established by FHFA for Fannie Mae and Freddie Mac (collectively, the Enterprises) under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act), taking into consideration ''the unique mission and ownership structure of the [Banks].''[8]

The existing Bank housing goals regulation provides that a Bank will be subject to the housing goals if its AMA mortgage purchases in a given year exceed a volume threshold of $2.5 billion. The regulation establishes three single-family owner-occupied purchase money mortgage goals and one single-family refinancing mortgage goal applicable to the Banks' purchases under their AMA programs. The goals for purchase money mortgages separately measure performance on purchase money mortgages for (1) low-income families, (2) families in low-income areas, and (3) very low-income families. The goal for refinancing mortgages measures performance on refinancing mortgages for low-income families. The levels of the housing goals are established retrospectively using Home Mortgage Disclosure Act (HMDA) data to calculate the percentage of single-family originations in the Bank's district that qualify for each of the housing goals.

Each year, FHFA determines whether any of the Banks have exceeded the volume threshold. For each Bank that has exceeded the volume threshold, FHFA determines the Bank's performance under the housing goals. FHFA evaluates performance by calculating the percentage share of a Bank's AMA mortgage purchases that qualify for each housing goal. A Bank meets a housing goal if its performance is equal to or greater than the level of the housing goal established by FHFA based on HMDA data for that year.

[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. 1424; 12 CFR part 1263.

[4] Members are required to pledge specific collateral, mainly mortgages or other real estate related assets, to secure any advance taken down from a Bank. *See* 12 CFR 1266.7.

[5] *See* 12 CFR part 1268.

[6] 75 FR 81096 (Dec. 27, 2010).

[7] 12 U.S.C. 1430c(a).

[8] 12 U.S.C. 1430c(b).

III. Summary of Proposed Rule

This proposed rule would replace the existing Bank housing goals with new, streamlined goals that reflect the Banks' unique mission while supporting affordable lending. The proposed rule would provide certainty for the Banks by informing them of the housing goal levels in advance and would provide clarity and flexibility for the Banks by consolidating multiple goals into a more straightforward measurement of performance. The proposed rule would also establish a new housing goal that would measure the extent to which smaller members are participating in AMA programs.

A. New Process for Setting Housing Goal Levels

The proposed rule would revise the Bank housing goals regulation to remove the existing process for FHFA to establish the levels of the housing goals retrospectively based on HMDA data. The proposed rule would establish levels for each of the housing goals in advance, in the regulation itself. This would eliminate any uncertainty about the levels of the housing goals from year-to-year. The proposed rule would also allow the Banks to request FHFA approval of an alternative goal level. Finally, the proposed rule would eliminate the existing $2.5 billion volume threshold that triggers the application of housing goals for each Bank.

B. Prospective Mortgage Purchase Housing Goal

The proposed rule would revise the Bank housing goals regulation to remove the separate housing goals for home-purchase mortgages for low-income families, home-purchase mortgages for low-income areas, home-purchase mortgages for very low-income families, and refinancing mortgages for low-income families. The proposed rule would replace the four separate housing goals with a single, overall measurement of performance. This new housing goal would include each of the categories currently covered by the Bank housing goals, but it would not include separate targets for each category. The proposed rule would establish the prospective mortgage purchase housing goal target level at 20 percent of a Bank's AMA mortgage purchases.

C. New Housing Goal for Small Member Participation

The proposed rule would establish a separate goal for participation by smaller members in Bank AMA programs.

The proposed rule would establish the small member participation housing goal target level at 50 percent.

D. Phase-in of New Housing Goals

The proposed rule would establish a three-year phase-in for enforcement of the new housing goals.

E. Other Changes

The proposed rule would revise and simplify the criteria and requirements under which mortgages are either included or excluded from FHFA's measurement of a Bank's performance under the housing goals. The proposed rule would also revise the reporting requirements to reflect the new structure of the Bank housing goals.

IV. New Process for Setting Target Levels for Housing Goals

The proposed rule would revise the Bank housing goals regulation to establish a specific annual target level for each housing goal. The proposed rule would also allow a Bank to request FHFA approval of a different target level for either of the new housing goals. The Bank would be required to submit its proposed target level for the housing goal to FHFA for review and approval. Finally, the proposed rule would also remove the volume threshold from the Bank housing goals regulation. The new housing goals would apply to each Bank every year.

A. Target Levels for Housing Goals Established in Advance

Under the existing Bank housing goals regulation, FHFA establishes the target level for each of the housing goals retrospectively using data collected and maintained pursuant to HMDA. This data typically becomes publicly available in September of the following year, although in 2018 the Bureau of Consumer Financial Protection released 2017 HMDA data in May, subject to possible revision.[9]

A Bank meets a housing goal under the existing rule if its mortgage purchases that meet the counting requirements established in the rule, as a percentage of its overall AMA purchases, equals or exceeds the percentage originated in its district. For example, if 23 percent of mortgages originated in a Bank's district were for low-income borrowers, then the low-income share of the Bank's purchases must be 23 percent or greater.

[9] *See* Federal Financial Institutions Examination Council, ''FFIEC Announces Availability of 2017 Data on Mortgage Lending,'' (May 7, 2018), *available at https://www.ffiec.gov/press/pr050818.htm.*

Because the level of the housing goals is not known until after the end of the year being evaluated, it is more difficult for a Bank to assess its performance relative to the goal during the year. A Bank may therefore have more difficulty adjusting its activities based on its performance relative to the goals.

By setting the target levels for the housing goals in advance, the proposed rule would provide certainty for the Banks and would allow the Banks to monitor their own performance and, if necessary, take steps in advance to ensure that they meet the housing goals.

B. Bank-Proposed Housing Goal Levels

Under the existing Bank housing goals regulation, FHFA evaluates the feasibility of the target levels for the housing goals for a particular Bank after the fact. For each Bank that has exceeded the volume threshold in a year, FHFA determines whether the Bank met each housing goal. If FHFA determines that a Bank has not met one of the housing goals, FHFA will also determine whether achievement of the target level for the housing goal was feasible, taking into consideration any information provided by the Bank, along with market and economic conditions. While this process provides FHFA the ability to evaluate facts and circumstances for not meeting a goal that may weigh against adverse supervisory actions against the Banks, the Banks face uncertainty because the feasibility evaluation does not happen until FHFA makes its final determination on the Bank's performance, after the year being measured is over.

The proposed rule would address this uncertainty by setting a prospective goal, as described above, and by allowing a Bank to propose an alternate level for the housing goal. If a Bank's district, membership, or affordable housing needs do not fit the proposed goal and the Bank believes the goal is infeasible, the Bank would be able to propose an alternate level for FHFA review and approval. The Bank would be required to provide a justification for the alternate level by submitting any information it considers relevant to the feasibility of the proposed goal level. FHFA would review the Bank proposal to verify the Bank's showing of infeasibility, and to ensure: (1) That the proposed goal demonstrates a meaningful contribution to affordable housing, and (2) that the proposed goal would be feasible for the Bank's AMA program.

To illustrate, the proposed rule would establish target levels for each of the housing goals in advance. The target level for the prospective mortgage purchase housing goal would be 20 percent of a Bank's AMA mortgage purchases, and a 50 percent participation rate by small members delivering mortgages to the Bank's AMA programs. If a Bank determines that the 20 percent prospective mortgage purchase housing goal and the 50 percent small member participation housing goal are both feasible for the Bank to achieve, the Bank would not need to take any additional action. However, each Bank would have the option to propose an alternative for one or both goals. The proposed alternatives would address only the target levels for the housing goals. A Bank would not be able to change how a goal is defined and measured or how the loans meet the counting requirements established by the rules. FHFA would consider the Bank's request and notify the Bank if the request is approved.

The proposed rule would establish a three-year cycle for setting alternate target levels for the Bank housing goals. In other words, the Bank's proposal would cover the target levels for the housing goals for the next three years. For the initial three-year housing goals cycle, the Bank would submit its request by October 31, 2019. Under special circumstances that would trigger application of housing goals, such as starting a new AMA program, a Bank would have an opportunity to propose a goal alternative.

If FHFA approves an alternate target level for one or both of the housing goals for a Bank, the evaluation process would remain the same. At the end of the year, FHFA would evaluate the Bank based on the FHFA approved alternative target level and make its determination based on whether the Bank's performance met the approved target level for the housing goal or goals.

This new alternative process for setting the target levels of the housing goals would ensure that the target levels for the housing goals are feasible for each Bank, taking into account the particular programs and activities of the Bank.

C. Removing the Volume Threshold

Under the existing Bank housing goals regulation, a Bank is subject to the housing goals only if the total unpaid principal balance (UPB) of the Bank's purchases of AMA mortgages in a year exceeds $2.5 billion (the ''volume threshold''). Since the 2010 housing goals rule became effective, there have been only three instances where a Bank exceeded the $2.5 billion annual volume threshold. The three instances were in 2015 (Indianapolis Bank) and in 2016 (Indianapolis Bank and Cincinnati Bank).

The proposed rule would eliminate the annual volume threshold for triggering the application of the housing goals. The housing goals would apply to each of the Banks each year, either at the target level established by FHFA in the housing goals regulation or a Bank-proposed alternative target level approved by FHFA.

The volume threshold was adopted to avoid adverse impact on Bank AMA programs, particularly programs focused on providing liquidity for smaller Bank members described at the time of adoption as being a relatively low level. Over time, however, the volume threshold has instead operated as an upper limit on Bank AMA programs. Banks below the volume threshold in effect avoid the housing goals, while Banks above the threshold face application of housing goals that AMA programs were not designed to, and typically did not, meet.

Housing goals will better serve their public purpose if they are flexible enough to be meaningful and achievable for a variety of Bank AMA programs. Instead of the housing goals being a simple binary on-or-off based on a volume threshold, the proposed rule offers a mechanism for goals to apply to all Banks in ways that fit their unique mission. The new process for setting the levels of the housing goals would accomplish the purpose of the volume threshold by allowing the Banks to propose meaningful and achievable target levels based on the nature of the AMA program at each Bank.

D. FHFA Discretion and Feasibility Review

The proposed rule would retain existing provisions that allow FHFA to exercise discretion when events out of a Bank's control occur, such as unexpected market shifts or member mergers. It would also retain the feasibility review that FHFA would undertake before exercising remedies if a Bank did not meet either housing goal.

V. Prospective Mortgage Purchase Housing Goal

The proposed rule would replace the four housing goals in the existing Bank housing goals regulation with a prospective mortgage purchase housing goal. The new housing goal would include mortgage loans that met the criteria for any of the current housing goals. The proposed rule would establish the target level for the new goal in the regulation at 20 percent of each Bank's total purchases of AMA mortgages. The proposed rule would also limit the number of loans to higher-income borrowers that could be counted toward this goal. This new prospective mortgage purchase housing goal would encourage affordable home lending as part of safe, sound, and sustainable business growth for the Banks, while providing flexibility to the Banks in how they serve borrowers by working with members.

A. Structure of the Prospective Mortgage Purchase Housing Goal

Under the existing Bank housing goals regulation, there are four separate housing goals. Three of the goals measure Bank purchases of AMA purchase money mortgages on owner-occupied, single-family housing. The current home purchase housing goals require a Bank to meet separate targets for mortgages for low-income families (*i.e.,* families with incomes at or below 80 percent of area median income), mortgages for very low-income families (*i.e.,* families with incomes at or below 50 percent of area median income), and mortgages for families in low-income areas. The regulation defines ''families in low-income areas'' to include families in low-income census tracts regardless of family income, as well as moderate-income families in minority census tracts (*i.e.,* census tracts with minority population of at least 30 percent and a tract median income less than the area median income) and moderate-income families in designated disaster areas. The fourth housing goal under the existing Bank housing goals regulation measures Bank purchases of AMA refinancing mortgages on owner-occupied, single-family housing for low-income families.

The categories of the current Bank housing goals are the same as the housing goals for Fannie Mae and Freddie Mac (the Enterprises). The Enterprise housing goals include the same single-family housing goals as the Bank housing goals, along with separate single-family subgoals and multifamily goals that are not included in the Bank housing goals. The separate categories for the individual single-family housing goals are established by statute for the Enterprises and are designed to encourage the Enterprises to target activity in each of the separately defined areas. Multiple housing goals targeting specific segments of the market are appropriate for the Enterprises, which are large institutions operating nationwide and are able to design products and programs to support many different segments of the mortgage market.

The Banks are smaller institutions with mortgage purchase programs that are much more limited in scope than the broad-based purchase activities of the Enterprises. Thus, it is more difficult for the Banks to develop products and programs targeting each of the market segments covered by the existing Bank housing goals. The proposed rule would replace the four separate housing goals for the Banks with a new prospective mortgage purchase housing goal including mortgage purchases that meet any of the existing housing goal categories. This new goal would greatly reduce the complexity of the housing goals and would make it easier for the Banks to appropriately target their AMA purchase activity based on their individual needs and the needs of their members.

The proposed rule would establish a prospective mortgage purchase housing goal, which would include all single-family, first lien AMA mortgages purchased by a Bank. Eligible mortgages meeting the income or geographic eligibility requirements for any of the current four housing goals would continue to be eligible under the proposed goal. This would include mortgages for low- or very low-income borrowers and mortgages for borrowers living in low-income areas.

The new housing goal would also include both purchase money mortgages and refinancing mortgages. This would include refinancing mortgages for low-income families, which currently count only for the separate low-income families refinancing goal. By combining the different categories into a single, overall goal the proposed rule would make refinancing mortgages for families of any income level who reside in low-income areas meet the counting requirements established by the rule.

B. Proposed Level for the Prospective Mortgage Purchase Housing Goal

The proposed rule would establish the target level for the new prospective mortgage purchase housing goal at 20 percent of the Bank's AMA mortgage purchases. In proposing a 20 percent target for the new housing goal, FHFA considered how the Banks would have performed under this new overall goal in recent years, the ability of the Banks to meet the new prospective mortgage purchase housing goal, as well as the needs of underserved borrowers.

Past performance of the Banks. Historically, most of the Banks have exceeded the 20 percent goal level. Table 1 below shows how the Banks would have performed under the proposed prospective mortgage purchase housing goal using 2017 data. For each Bank, the Table shows the percent of all AMA loans that were to very low-income (at or below 50 percent of area median income) borrowers, the percent of all AMA loans that were to low-income (above 50 percent and at or below 80 percent of area median income) borrowers, and the percent of loans to borrowers above low-income but that meet the low-income areas criteria. The low-income areas contribution to the housing goal is further limited by the requirement that no more than 25 percent of the loans counting toward the housing goal can be to borrowers above the low-income level.

The following Chart 1 shows a time series of each Bank's total percentage of loans meeting the prospective mortgage purchase housing goal over the period 2011–2017. Note that the tables and charts in this proposed rule mask the identity of individual Banks to maintain confidentiality of Bank data. The letters have been randomized for each table and chart (*i.e.,* Bank A may refer to different Banks in different tables). Rows may not appear to total due to rounding.

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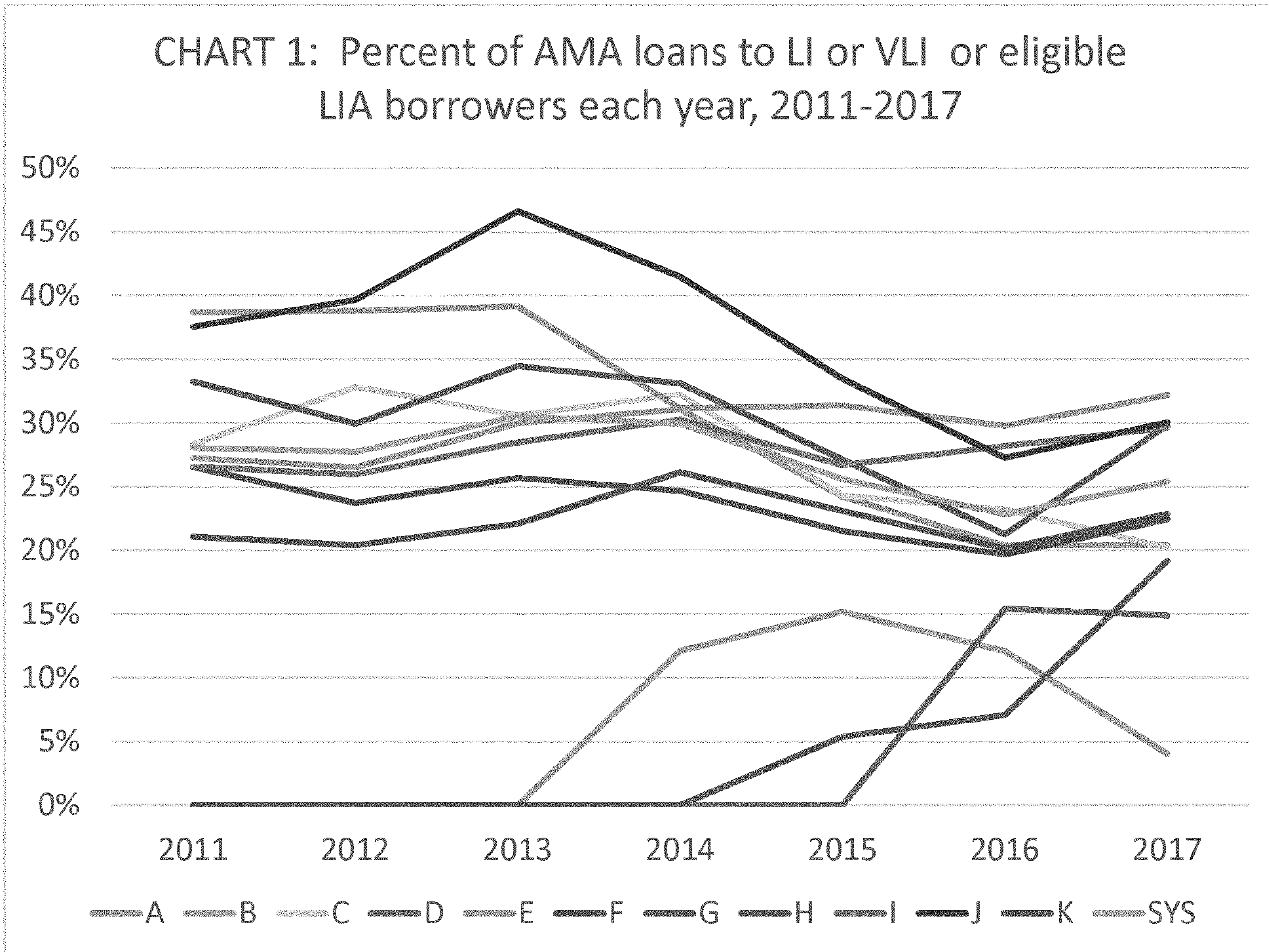
Table 1

Percent of AMA Loans Meeting Prospective Mortgage Purchase Housing Goal

Bank	Very-Low Income	Low-Income	Low income areas	Total
A	3%	12%	5%	20%
B	5%	17%	7%	30%
C	0%	3%	1%	4%
D	5%	19%	8%	32%
E	2%	10%	4%	15%
F	3%	13%	5%	20%
G	3%	14%	6%	23%
H	4%	15%	0%	19%
I	6%	19%	5%	30%
J	6%	18%	6%	30%
K	3%	13%	6%	22%
System	4%	15%	6%	25%

Data year 2017



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In 2017, the combined housing goals performance for the Bank System as a whole (shown as SYS in Chart 1) would have reached 25 percent of all AMA mortgages. The performance of the individual Banks varies significantly. The variation in performance likely results from the volumes of AMA purchased by individual Banks, different focuses by different Banks, district-level differences in the housing markets, and that Banks under the $2.5 billion threshold are not motivated to meet the affordable housing goals. Note that for the three Banks at zero for some years, Chart 1 reflects that these Banks did not have active AMA programs in those years. The same three Banks are the only Banks that would have not met the proposed 20 percent housing goal target in 2017, which may be related to having more recent AMA program initiation.

Feasibility of the proposed goal. In proposing the 20 percent target for the new prospective mortgage purchase housing goal, FHFA seeks to ensure that the proposed target level for the housing goal demonstrates a meaningful contribution to affordable housing while also being feasible given the structure of AMA programs. Striking the appropriate balance is challenging in part because of the variation in performance of the different Banks. A target level for the housing goal that is high enough to be meaningful for one Bank may not be feasible for another Bank to achieve based on differences between the Bank districts and the individual Bank prudential limits on AMA purchases.

Eight of the eleven Banks would have achieved the proposed housing goal level of 20 percent each year since 2011, though the performance for several Banks was very close to the 20 percent target in some years. The 20 percent housing goal level would be high enough to be meaningful for those Banks, while still being feasible for the Banks to achieve.

For the three Banks whose performance would have been below the 20 percent target level in 2017, it may be possible for the Banks to increase their performance. Alternatively, these Banks may elect to propose alternate target levels if the 20 percent target is infeasible based on the specific circumstances in their respective districts and under their existing AMA programs.

Needs of underserved borrowers. In determining the target level to propose, FHFA considered the Nation's affordable housing needs, which affect both homeowners and renters, while focusing on homeownership as the policy area most directly connected to the Bank housing goals. The national homeownership rate declined every year from 2004 to 2017, with particularly sharp declines for younger households and African American households.[10] Tight access to mortgage credit is an ongoing factor in the lack of access to homeownership, particularly

[10] *See* Joint Center for Housing Studies of Harvard University, ''The State of the Nation's Housing 2017,'' 23 (2015), *available at http://www.jchs.harvard.edu/sites/default/files/harvard_jchs_state_of_the_nations_housing_2017_0.pdf.*

in places with lower-cost homes.[11] Workers in growing sectors like healthcare often cannot afford to purchase even modestly priced homes in most metropolitan statistical areas. As an example, a typical emergency medical technician could afford the median home price in only 17 out of 203 metropolitan statistical areas in a recent analysis.[12] Improved financing opportunities can help mitigate homeownership difficulties for underserved borrowers.

FHFA recognizes these challenges and has considered them in proposing a target level for the AMA home purchase housing goal of 20 percent. The proposed target level encourages the Banks to continue to make meaningful contributions to affordable housing, while recognizing the limited ability of the Banks to affect the overall housing market.

C. Cap on Mortgages to Higher-Income Borrowers in Low-Income Areas

As discussed above, the proposed rule would combine each of the categories for the four current Bank housing goals into a single overall housing goal. These categories include mortgages on properties in low-income areas, which may include some mortgages for families with incomes above the low-income maximum of 80 percent of area median income. The proposed rule would include a limit on the extent to which a Bank could rely on mortgages for higher-income families in these areas to meet the new housing goal.

The proposed prospective mortgage purchase housing goal would include mortgages for families in low-income areas as one of the criteria for loans to be counted toward the new housing goal. The proposed rule remains unchanged from the current rule in that it would continue to define "families in low-income areas" to include (a) families in low-income census tracts regardless of family income, (b) moderate-income families in minority census tracts (*i.e.,* census tracts with minority population of at least 30 percent and a tract median income less than the area median income), and (c) moderate-income families in designated disaster areas. These criteria are summarized in Table 2:

TABLE 2—LOW-INCOME AREAS COMPONENTS

	Income requirement	Geographic requirement
Path 1	None	Tract Income. ≤80% AMI.
Path 2	≤100% AMI.	Minority Census Tract. (≥30% minority + Tract Income <100% AMI
Path 3	≤100% AMI	Designated Disaster Area.

The definition of families in low-income areas is different from the other components included in the proposed housing goal because it can include mortgages for families with higher incomes. For properties located in low-income census tracts, each mortgage purchase would count toward a Bank's achievement of the housing goal, regardless of family income. For properties in minority census tracts and for properties in designated disaster areas, mortgage purchases would count if family income is lower than the area median income, which would include families with incomes between 80 percent and 100 percent of area median income.

As a result, it is possible for loans to higher-income households in low-income areas to count toward achievement of the housing goal. While the proposed rule would not exclude such mortgages for higher-income families from counting entirely, the proposed rule would limit the extent to which a Bank could rely on such loans as the primary means of meeting the housing goal. FHFA recognizes an unresolved tension between the need for homeownership investment in communities that have lacked consistent, large-scale homeownership investment, on one hand, and concern about the impact of an influx of higher-income households on existing residents, on the other hand.[13]

HMDA data on mortgage lending overall suggest that lending to higher-income borrowers in low-income census tracts is already a growing segment. There is a rising trend from 2010 to 2016 of mortgages originated for borrowers with incomes greater than 120 percent of area median income in low-income census tracts. This reached a high of 33.4 percent of all borrowers in low-income census tracts in 2016, as Table 3 below shows:

TABLE 3

Income Distribution of Borrowers Residing In Low-Income Census Tracts

Borrower Income Relative to Area Median Income (AMI)

	2010	2011	2012	2013	2014	2015	2016
Borrower Income ≤ 50% AMI	18.2%	18.3%	17.4%	14.1%	12.9%	13.1%	11.9%
Borrower Income > 50% and ≤ 60% AMI	10.1%	9.6%	10.0%	9.3%	8.8%	9.0%	8.7%
Borrower Income > 60% and ≤ 80% AMI	18.9%	18.4%	18.3%	18.1%	18.1%	18.2%	18.2%
Borrower Income > 80% and ≤ 100% AMI	14.2%	14.1%	13.9%	14.5%	14.8%	14.9%	15.2%
Borrower Income > 100% and ≤ 120% AMI	10.2%	10.0%	10.3%	11.1%	11.5%	11.5%	11.8%
Borrower Income > 120% AMI	27.5%	28.4%	28.9%	31.7%	33.1%	32.4%	33.4%
Income Missing	1.0%	1.3%	1.2%	1.3%	0.9%	1.0%	0.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

[11] *Id.*

[12] National Housing Conference, "Paycheck to Paycheck 2017," 3 (Sept. 2017), *available at http://www.nhc.org/wp-content/uploads/2017/09/2017-Paycheck-to-Paycheck-Final.pdf.*

[13] For information on the effects of gentrification, *see generally* Federal Reserve Bank of Philadelphia, "Research Symposium on Gentrification and Neighborhood Change" (May 25, 2016), *available at https://www.philadelphiafed.org/community-development/events/2016/research-symposium-on-gentrification;* Diane K. Levy, Jennifer Comey & Sandra Padilla, "IN THE FACE OF GENTRIFICATION: Case Studies of Local Efforts to Mitigate Displacement" (Urban Institute 2006), *available at https://www.urban.org/sites/default/files/publication/50791/411294-In-the-Face-of-Gentrification.PDF.*

To limit the extent to which a Bank can rely on mortgages for higher-income families in meeting the prospective mortgage purchase housing goal, the proposed rule would establish a cap on how much of the goal a Bank can satisfy with loans to borrowers above the low-income threshold (*i.e.,* 80 percent of area median income). Specifically, the proposed rule would require that at least 75 percent of all mortgage purchases that count toward achievement of the prospective mortgage purchase housing goal be for borrowers with incomes at or below 80 percent of area median income. Stated differently, no more than 25 percent of the mortgages a Bank uses to qualify for the prospective mortgage purchase housing goal could be to borrowers above 80 percent of AMI. This cap would allow Banks to provide significant support for low-income areas, including minority census tracts and designated disaster areas, while ensuring an overall focus on low-income and very low-income borrowers.

Note that the proposed cap would not prohibit the Banks from purchasing mortgages for borrowers with incomes above 80 percent of AMI. Rather, it would simply limit the extent to which such mortgages could be counted toward achievement of the housing goals.

D. Comparison to Enterprise Housing Goals

FHFA considered the similarities and differences between the Enterprises' mortgage purchases and the Banks' mortgage purchases when proposing Bank housing goals. Both the Enterprises and the Banks provide valuable sources of liquidity for the secondary mortgage market and support for affordable housing. Key differences, however, informed the goal structure and levels in this proposed rule.

The Enterprises are chartered to provide stability and liquidity in the secondary market for residential mortgages by purchasing and making commitments to purchase residential mortgages. The Banks, in contrast, operate AMA programs at their discretion. If a Bank believes housing goals are too onerous or require unacceptable risks, it may cease purchasing mortgages entirely.

The Banks' AMA purchases are so small compared to other secondary market participants that they do not shape the market in the way the Enterprises do. Combined Bank AMA purchases constituted only 1 percent of the total unpaid principal balance of secondary market activity comprising Fannie Mae, Freddie Mac, Ginnie Mae, and the Banks. The Enterprises together represented 62 percent. The Banks are therefore market-takers, not market-makers.

Additionally, unlike Fannie Mae and Freddie Mac, the Banks hold in portfolio nearly all loans they purchase and must manage the related market risk exposure. While FHFA considers AMA mortgage loans a mission asset, it also advises each Bank's board of directors to establish prudential limits for the mortgage purchases. The combination of the AMA regulatory requirements, the fact that the Banks hold the loans in portfolio, and the fact that the decision to offer an AMA program to members is at a Bank's discretion (with FHFA approval) all contribute to the AMA programs being market-takers.

Goal levels reflect these differences. The Enterprises have different percentage benchmarks for each of their goals and subgoals. FHFA also compares Enterprise performance retrospectively to market levels. If an Enterprise meets either the benchmark or the market level in a particular year, FHFA determines that it has met the goal. These goals are appropriate for entities with a market position like the Enterprises. In contrast, the goal level for the Banks combines all of the eligible categories from the Enterprise goals and reflects the market niche the Banks occupy. It is difficult to compare the benchmark levels for the Enterprise goals to the proposed target level for the prospective Bank housing goal. The Enterprise housing goals measure performance in four separate categories. Table 4 below illustrates the benchmark levels from 2017 for the Enterprise housing goals (market levels are published in the 2018 Annual Housing Report).

TABLE 4—ENTERPRISE GOAL LEVELS, 2017

Goal	Benchmark Level, 2017 (%)
Low-Income Home Purchase Goal	24
Very Low-Income Home Purchase Goal	6
Low-Income Areas Home Purchase Goal	18
Low-Income Areas Home Purchase Subgoal	14
Low-Income Refinance Goal	21

The prospective Bank housing goal would combine these four categories into a single overall goal, but it is not possible to add the benchmark levels together because the categories measured by the Enterprise housing goals have significant overlap.

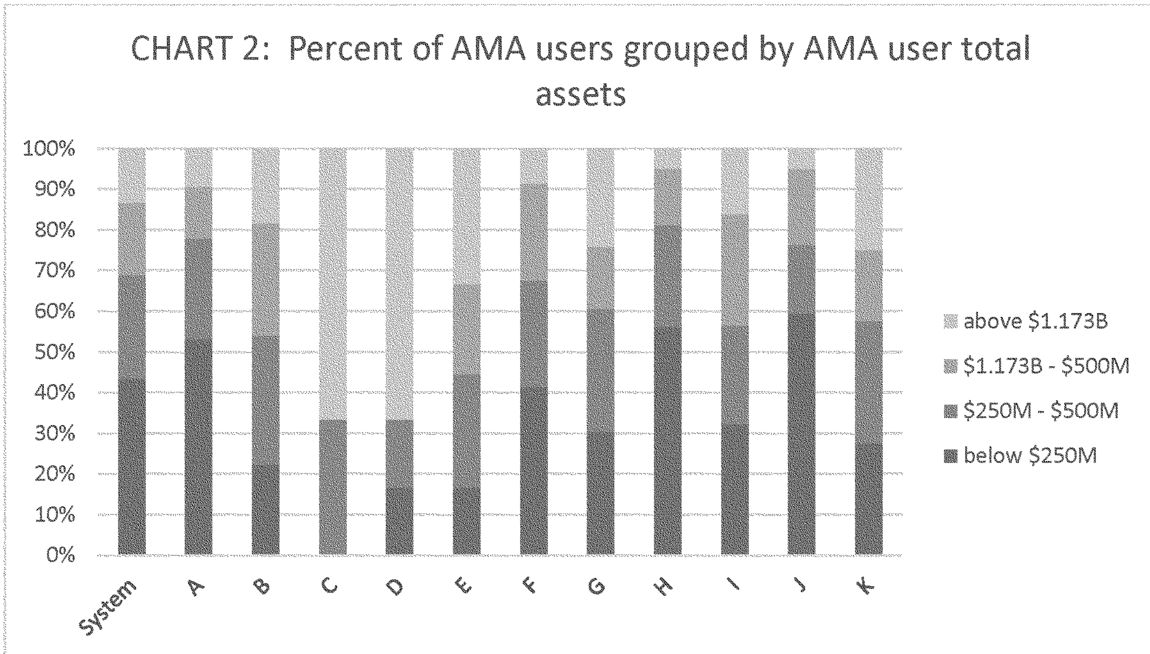
FHFA invites comment on all proposed changes related to the prospective mortgage purchase housing goal including but not limited to the following specific questions (please identify the question answered by the number assigned below):

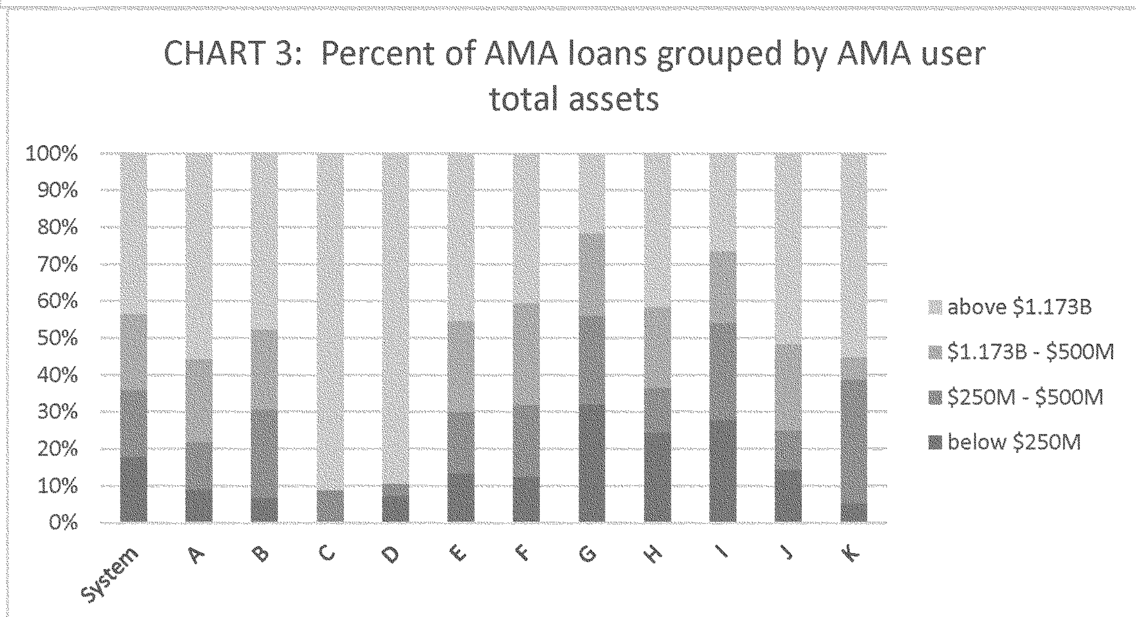
1. Is a prospective mortgage purchase housing goal measured as a percentage of each Bank's AMA purchases the optimal way to meaningfully and achievably encourage affordable home mortgage purchases? If not, what other options would more likely result in attainment of that goal? Why?
2. Is 20 percent the appropriate level? Why or why not? Please provide quantitative analysis to support your position when possible.
3. Is a single percentage goal that includes purchase and refinance loans to low-income borrowers, very low-income borrowers, and families in low-income areas an appropriate mechanism? Why or why not?
4. Is the 25 percent cap on AMA mortgages to higher-income borrowers in low-income areas that count towards the goal the appropriate level? Why or why not? Please provide quantitative analysis to support your position when possible.
5. What changes could Banks make to their AMA products to encourage more purchases of affordable home mortgages if needed to meet a goal?
6. Should the Banks have an additional opportunity to propose a revision to the target level for either housing goal, either annually or at some other interval? Why or why not?

VI. Proposed Housing Goal for Small Member Participation

The proposed rule would establish a new small member participation housing goal that would require each Bank to ensure that a certain percentage of the members participating in the Bank's AMA programs are smaller members. The new small member participation housing goal would recognize that smaller lenders are well-positioned to reach borrowers with affordable housing needs.

Across the Bank System, a majority of the members participating in AMA programs are small with respect to asset size, but a majority of the number of AMA mortgages purchased by the Banks come from members with larger assets. In 2017, 87 percent of AMA users had total assets below $1.173 billion, the current threshold for community financial institutions. Those AMA users sold 57 percent of the total number of loans purchased by the Banks. Charts 2 and 3 below show the distribution of each Bank's AMA users by asset size and share of the number of loans purchased. Note that most Banks have a large majority of AMA users below the community financial institutions threshold—Chart 2 shows the Bank System as a whole had roughly 85 percent of its AMA users in that category in 2017. Chart 3 shows, for instance, that in the Bank System nearly 45 percent of the AMA loans in 2017 came from AMA users larger than the community financial institutions threshold.





In proposing the new small member participation housing goal, FHFA considered that one of the benefits of Bank AMA programs is connecting members with the secondary mortgage market. This connection has the potential to particularly benefit borrowers in rural communities or places of persistent poverty where borrowers have less access to credit. Small institutions appear more likely to originate loans to low-income and very low-income households, as Table 5 below documents. It shows that in 2017, participating financial institutions (PFIs) above the community financial institutions asset cap produced 17 percent of their loans for low-income or very low-income borrowers, while PFIs that were also community financial institutions produced 21 percent.

TABLE 5—Affordable housing loan production by large and small PFIs, 2017

		Total loans	Very Low-Income	Low-Income	VLI + LI
PFIs with total assets above	$1,173,000,000	24,576	913	3,311	4,224
Percent of asset category total		100%	4%	13%	17%
PFIs with total assets below	$1,173,000,000	31,394	1,369	5,070	6,439
Percent of asset category total		100%	4%	16%	21%
Total all PFIs		55,970	2,282	8,381	10,663
Percent of all loans		100%	4%	15%	19%

The proposed small member participation housing goal would align with FHFA's policy position embodied in the AMA regulation, which considers the cooperative structure of the Banks and that the Banks, as government-sponsored enterprises, pass along their funding advantage to their members by providing financial services, including AMA programs. FHFA recognizes that adding new members to participate in AMA, especially smaller members with less staff capacity, requires active marketing and outreach with a long sales cycle. As individual AMA user participation may vary year-to-year, Banks would have to maintain outreach efforts to ensure that small member participation continues at or above the target level. Nevertheless, the investment of time and effort to bring new members to the program should pay off both in new lending to borrowers that may not otherwise receive access to credit and in safe and sound business growth for the Banks.

A. Structure of the Small Member Participation Housing Goal

The existing Bank housing goals regulation does not include a goal specifically targeting smaller member participation in the Bank AMA programs. However, the Bank housing goals have long recognized the importance of smaller members for the Banks, and conversely, the importance of the Bank AMA programs for some smaller members. For example, the final rule establishing the Bank housing goals included a volume threshold in part ''to avoid adverse impact on Bank AMA programs, particularly with respect to CFIs [community financial institutions].'' [14]

The proposed rule would establish for the first time a new housing goal for smaller member participation in Bank AMA programs. The new goal would encourage Banks to maintain a focus in their AMA programs on small members that are more likely to produce affordable home loans to low-income households. Small institutions often rely on their Bank membership for a connection to the secondary mortgage market. It is reasonable to require the Banks to deploy their federally supported funding-cost advantage for the benefit of small members that might otherwise have difficulty accessing national capital markets, rather than primarily to augment the financial results of large members that have no such difficulty.[15] Small institutions are also an important source of credit access for rural areas, places of persistent poverty, and other underserved populations.

The Banks already serve many small members, so the small member participation housing goal would encourage them to maintain that focus over time. FHFA anticipates that the working relationships between Banks and small members will result in ongoing purchases of mortgages to benefit borrowers in need of financing for affordable housing.

B. Proposed Level for the Small Member Participation Housing Goal

The proposed rule would establish the target level for the new small member participation housing goal as having at least 50 percent of ''AMA users'' be small members. The proposed rule would define ''AMA user'' to include any PFI that sells one or more AMA mortgage(s) to a Bank during the year being measured. The proposed rule would define the small member participation housing goal by incorporating the definition of ''community financial institution'' in the Bank membership regulation, which includes institutions with total assets below the community financial institution threshold, currently $1.173 billion.[16]

In proposing a 50 percent target for the new small member participation housing goal, FHFA considered how the Banks would have performed under this goal in recent years and the ability of the Banks to meet the new goal.

Past performance of the Banks. Table 6 below shows how each Bank would have performed under the new small member participation housing goal in 2017.

[14] 75 FR 81096, 81098 (Dec. 27, 2010).

[15] For this reason, FHFA grounds the small-member goal not just in the housing goals section of the Bank Act, 12 U.S.C. 1430c, but also in the statutory basis for the AMA program more generally. *See* 12 U.S.C. 1430, 1430b, 1431; *Texas Savings & Community Bankers Ass'n* v. *Federal Housing Finance Board,* 201 F.3d 551 (5th Cir. 2000).

[16] 12 CFR 1263.1.

TABLE 6—Small member AMA participation, 2017

Bank	Small members as percent of AMA users	Additional small member AMA users if needed to meet 3% incremental progress in 2018	Comparison: Small members as percent of all members
A	67%	met target	1%
B	33%	1	1%
C	91%	met target	13%
D	95%	met target	23%
E	33%	1	0%
F	95%	met target	13%
G	91%	met target	10%
H	76%	met target	20%
I	84%	met target	17%
J	82%	met target	14%
K	75%	met target	9%
System	87%	met target	10%
	Target percentage	50%	
	Data year	2017	

Note: Bank E purchased AMA loans from only a few AMA users in 2017, so the percentage of all members rounds to zero.

In 2017, nine of the eleven Banks would have met the new small member participation housing goal as proposed, with most of the Banks being significantly over the proposed 50 percent goal level. Two of the eleven Banks would have fallen below the 50 percent goal level. The two Banks that would not have met the goal in 2017 are also noteworthy in that they had very few AMA users during 2017.

Feasibility of the proposed goal. In proposing the 50 percent target for the new small member participation housing goal, FHFA considered the ability of the Banks to meet the new proposed goal. Recognizing that some Banks may currently have performance that would fall below the proposed goal level, the proposed rule would provide an alternate means of achieving the goal. If a Bank's performance under the goal falls below the 50 percent goal level, the Bank could also comply by increasing its performance under the goal by 300 basis points compared to the preceding year. For example, if only 33 percent of a Bank's AMA users had been small members in the preceding year, the next year the Bank could satisfy the goal if at least 36 percent of its AMA users are small members. Once a Bank reaches the 50 percent participation rate, it would no longer need to demonstrate annual growth.

FHFA also retains its supervisory discretion if a percentage changed due to events outside of a Bank's control, such as a sudden drop in participation due to member mergers or failures.

FHFA invites comments on all aspects of the small member participation housing goal and specifically solicits comments on the following questions (please identify the question answered by the number assigned below):

7. Is the small member participation housing goal an effective way to encourage access to mortgage credit in rural communities or places of persistent poverty, or would other approaches be more effective?

8. Should FHFA consider an alternative level (other than the community financial institutions threshold, currently $1.173 billion) for defining ''small member?''

9. Are there any issues that FHFA should consider related to the proposed 300 basis point growth rate under the small member participation housing goal? If so, please suggest and explain an alternative approach.

10. Is the 50 percent goal too low, considering that nine of the 11 Banks already meet it?

VII. Phase-in of New Housing Goals

The proposed rule would establish a phase-in period for enforcement of the new housing goals. Although many Banks would be on track for immediate compliance based on their 2017 performance, FHFA acknowledges that it may take substantial effort for some Banks to comply. A phase-in period would help the Banks adjust to the housing goals and manage risk appropriately.

The existing Bank housing goals regulation sets forth procedures for how FHFA enforces the housing goals.[17] For each Bank that is subject to housing goals, the Director determines whether a Bank achieved the goal(s), provides notice to the Bank of the Director's preliminary determination, receives a response from the Bank, and determines whether goal(s) achievement was feasible.[18] If the Director finds that a Bank has not achieved a goal and the goal was feasible, the Director may require the Bank to submit a housing plan.[19]

The proposed rule would modify these provisions to specify that not meeting a goal in the first or second year in which the new regulation is in effect will not result in the Director requiring a housing plan. During the first and second year, FHFA would monitor performance using existing AMA data collection, notify the Banks of its preliminary determination, and then make a final determination as described above, including determining whether the goal was feasible. FHFA would not, however, require a housing plan for not meeting a goal in the first or second year. The Banks should expect full implementation of the rule including the possibility of a housing plan if a Bank does not meet a housing goal in 2022.

The phase-in period would not limit the Director's remedies apart from imposition of a housing plan due to the housing goals, such as through supervisory criticism in the examination process, nor would it limit FHFA's discretion with respect to feasibility determinations.

VIII. Other Changes

The proposed rule would make a number of changes to provisions in the current Bank housing goals regulation that address which mortgages count for purposes of the housing goals. The proposed rule would revise the Bank housing goals regulation to: (a) Permit mortgages guaranteed or insured by a department or agency of the U.S. government to count for purposes of the Bank housing goals; (b) address the treatment of participations among different Banks under the Bank housing goals; and (c) remove provisions related to Home Ownership and Equity Protection Act (HOEPA) mortgages and mortgages with unacceptable terms and conditions.

A. Counting Requirements for Federally Backed Mortgages

The proposed rule would revise the existing Bank housing goals regulation to allow mortgages guaranteed or insured by a department or agency of the U.S. government to count for purposes of the Bank housing goals.

The Enterprise housing goals are defined by statute to include only conventional loans, *i.e.,* those that are not government-backed. The existing Bank housing goals regulation includes the same provisions excluding loans guaranteed or insured by a department or agency of the U.S. government from counting for purposes of the Bank housing goals. The proposed rule would change this provision so that these mortgages would be counted for purposes of the Bank housing goals. Non-conventional loans would continue to be excluded from the Enterprise housing goals.

Federal Housing Administration (FHA), Veterans Administration (VA), and Rural Housing Service (RHS) provide mortgage options that can help lower-income borrowers and borrowers in low-income areas achieve homeownership, for instance, with lower down payments. Some lenders—and particularly smaller lenders—may lack the economy of scale needed for efficiently participating in multiple secondary market options. Some depositories have dropped federally backed mortgages from their product lines, while nonbanks—which are generally ineligible to be members—originate an increasing share of this market.[20] For many PFIs, the Banks are their preferred means of access to the secondary market because of the high level of service Bank staff provide and the longstanding member relationships. Allowing small institutions to use their preferred secondary market channel along with government backing through FHA, VA, or RHS means those institutions do not have to choose between secondary market executions and loan type and can therefore better serve their borrowers.

The Banks acquire federally backed mortgages through products under both the MPF and MPP programs. Under the MPF program, the Banks acquire federally backed loans for their ''MPF Government'' and ''MPF Government MBS'' products. With ''MPF Government,'' the Bank serves as investor and holds the loans on its balance sheet. With ''MPF Government MBS,'' the Bank essentially serves as an aggregator, purchasing federally backed mortgages (MPF Government loans) and then issuing Ginnie Mae securities backed by the mortgages.

The Banks' purchases of federally backed mortgages have varied greatly. In 2017, the Bank System's purchases of federally backed loans represented 10 percent of total AMA loans (less than 8 percent measured by UPB), but the purchases by individual Banks ranged from 0 percent to 100 percent, as detailed in the Table 7 below:

[17] *See* 12 CFR 1281.14 and 1281.15.

[18] *See* 12 CFR 1281.14.

[19] *See* 12 CFR 1281.15.

[20] According to Ginnie Mae, nonbanks' overall share of Ginnie Mae MBS issuances more than doubled from 36 percent in early 2013 to over 77 percent as of November 2016. *See* Ginnie Mae, ''The Role of Nonbanks in Expanding Access to Credit,'' 3 (Jan. 2017), *available at https://www.ginniemae.gov/newsroom/publications/Documents/expand_role_nonbanks.pdf. See also* Christopher Whalen, ''No good reason for banks to offer more government-backed mortgages,'' American Banker (Jan. 22, 2018), *available at https://www.americanbanker.com/opinion/no-good-reason-for-banks-to-offer-more-government-backed-mortgages.*

TABLE 7—AMA Purchases of Federally Backed Loans in 2017

Bank	Total loans	Federal	Percent federal
A	1,335	1,335	100%
B	7,199	535	7%
C	9,000	0	0%
D	3,319	96	3%
E	1,616	143	9%
F	2,615	0	0%
G	8,739	1,163	13%
H	6,333	1,796	28%
I	2,746	0	0%
J	3,273	568	17%
K	9,815	140	1%
System	55,990	5,776	10%

The proposed rule would simplify the rules under which mortgages may be counted by including purchases of federally backed mortgages under AMA products. This approach would also complement FHFA's AMA regulation, provide better secondary market execution for many PFIs, and support the needs of underserved borrowers.

B. Counting Participations

The current Bank housing goals regulation does not explicitly address the treatment of ''participations.'' A participation exists where two or more institutions each acquire a percentage interest in a mortgage. The proposed rule would incorporate existing FHFA guidance on the treatment of participations into the regulation.

FHFA has addressed the Bank housing goals treatment of participations under two different scenarios. Under the first scenario, a Bank would purchase a mortgage and later sell a participation interest in the mortgage to another Bank. FHFA addressed this scenario in the Supplementary Information to the 2010 final rule establishing the Bank housing goals. In this scenario, FHFA stated that ''each mortgage will be assigned to the Bank that initially acquired the mortgage regardless of whether an interest in the mortgage was later sold to another Bank.'' [21] The proposed rule would codify in the regulation that participations among Banks that are executed after the mortgage was first acquired by a Bank should not be counted as ''mortgage purchases'' for purposes of the Bank housing goals regulation. This exclusion would apply even if the participation were executed on the same day as the original acquisition by a Bank.

Under a second scenario, two or more Banks would each purchase participation interests in the same mortgage simultaneously. FHFA has interpreted the existing Bank housing goals regulation to require that such transactions be counted on a *pro rata* basis according to each Bank's percentage interests in the mortgage. The proposed rule would codify in the regulation that participations among Banks that are entered simultaneously pursuant to an existing participation agreement should be counted as ''mortgage purchases'' based on the *pro rata* number of mortgages according to each Bank's percentage interests for purposes of the Bank housing goals regulation.

C. HOEPA Mortgages and Mortgages With Unacceptable Terms and Conditions

The current Bank housing goals regulation counts purchases of ''HOEPA mortgages'' and ''mortgages with unacceptable terms and conditions'' in the housing goals denominator, but makes them ineligible for the numerator.[22] This category generally encompasses mortgages with excessive points and fees, the financing of single premium, credit life insurance, and high prepayment penalties.[23]

FHFA has issued other guidance to the Banks covering purchases of mortgages with predatory features or accepting such mortgages as collateral for advances.[24] The prohibition on goals eligibility in the current regulation is largely redundant with that guidance, and the Banks have demonstrated no interest in purchasing such mortgages. The proposed rule would remove the restriction from the Bank housing goals regulation. FHFA would instead rely on existing supervisory and regulatory authorities and procedures to address any concerns about particular types of mortgages.

IX. Section-by-Section Analysis of Proposed Rule

The proposed rule would also revise other provisions of the Bank housing goals regulation, as discussed below.

A. Changes to Definitions—Proposed § 1281.1

The proposed rule includes changes to definitions used in the current Bank housing goals regulation. The proposed rule would add new definitions of ''AMA mortgage,'' ''AMA program,'' ''AMA user,'' ''CFI asset cap,'' and ''community financial institution or CFI,'' and would revise the definitions of ''dwelling unit,'' ''families in low-income areas,'' ''median income,'' ''metropolitan area,'' ''mortgage,'' and

[21] *See* 75 FR 81096, 81103 (Dec. 27, 2010), *available at https://www.gpo.gov/fdsys/pkg/FR-2010-12-27/pdf/2010-32350.pdf.*

[22] *See* 12 CFR 1281.1.

[23] *Id.*

[24] *See generally* ''Federal Home Loan Bank Collateral for Advances and Interagency Guidance on Nontraditional Mortgage Products, Notice of study and recommendations and request for comment,'' 74 FR 38618 (Aug. 4, 2009), *available at https://www.gpo.gov/fdsys/pkg/FR-2009-08-04/pdf/E9-18545.pdf.* In removing the exclusion for ''mortgages with unacceptable terms and conditions'' from the Enterprises' housing goals regulation, FHFA noted that it ''has regulatory authority to directly prohibit purchases by the Enterprises of any types of mortgages it determines are unsuitable.'' *See* ''2015–2017 Enterprise Housing Goals,'' 80 FR 53392, 53427 (Sept. 3, 2015), *available at https://www.gpo.gov/fdsys/pkg/FR-2015-09-03/pdf/2015-20880.pdf.*

''non-metropolitan area.'' The proposed rule would also remove the definitions of ''Acquired Member Assets (AMA) program,'' ''AMA-approved mortgage,'' ''conforming mortgage,'' ''conventional mortgage,'' ''HMDA,'' ''HOEPA mortgage,'' ''HUD,'' ''mortgage data,'' ''mortgage with unacceptable terms or conditions,'' ''owner-occupied housing,'' ''residential mortgage,'' and ''second mortgage.''

1. Definition of ''AMA Mortgage''

The current Bank housing goals regulation defines ''AMA-approved mortgage'' as a mortgage that meets the requirements of an AMA program, with cross-references to the Acquired Member Assets regulation (12 CFR part 1268) and the New Business Activities regulation (12 CFR part 1272). The proposed rule would replace the term ''AMA-approved mortgage'' with ''AMA mortgage'' as a technical, non-substantive change. ''AMA mortgage'' is more consistent with typical usage for the AMA program. In addition, because the proposed rule would define the term ''AMA program'' by cross-referencing the Acquired Member Assets regulation, it is not necessary to include additional cross-references in the proposed definition of ''AMA mortgage.''

2. Definition of ''AMA program''

The current Bank housing goals regulation defines ''Acquired Member Assets (AMA) program'' as a program that authorizes a Bank to hold assets acquired from a member by a purchase or funding transaction subject to the requirements of parts 1268 (Acquired Member Assets) and 1272 (New Business Activities). At the time the current Bank housing goals regulation was adopted, the term ''AMA program'' was not a defined term in the Acquired Member Assets regulation. A definition for the term ''AMA program'' was added to the Acquired Member Assets regulation in 2016.[25] There is no substantive difference between the definition of ''Acquired Member Assets (AMA) program'' under the Bank housing goals regulation and the definition of ''AMA program'' under the Acquired Member Assets regulation. The proposed rule would replace the definition of ''Acquired Member Assets (AMA) program'' in the Bank housing goals regulation with a new definition of ''AMA program'' that would cross-reference the definition in the Acquired Member Assets regulation.

[25] 12 CFR 1268.1.

3. Definition of ''AMA user''

The proposed rule would add a new definition for the term ''AMA user,'' to mean any participating financial institution from which a Bank purchased at least one AMA mortgage during the year being measured.

The Acquired Member Assets regulation generally defines ''participating financial institution'' as a member or housing associate of a Bank that is authorized to sell, credit enhance, or service mortgage loans to or for a Bank through an AMA program. This definition includes all members that are authorized to sell mortgages through an AMA program, regardless of whether the member actually sells such a mortgage in any particular year. The proposed rule would define the term ''AMA user'' more narrowly than the definition of a participating financial institution. An ''AMA user'' would be defined as a participating financial institution from which the Bank purchased at least one AMA mortgage during the year being measured. The proposed new small member participation housing goal would be limited only to AMA users, *i.e.,* those participating financial institutions that sold at least one mortgage loan to the Bank in question in the year being measured.

4. Definition of ''CFI Asset Cap''

The proposed rule would add a new definition for the term ''CFI asset cap.'' The proposed rule would define the term ''CFI asset cap'' to have the same meaning as defined in the Bank membership regulation.[26] The term ''CFI asset cap'' is defined in the Bank membership regulation to mean $1 billion, as adjusted annually by FHFA based on changes in the Consumer Price Index.

The new small member participation housing goal would measure the percentage of AMA users for a Bank with assets that are below the CFI asset cap. The proposed rule would define the term ''CFI asset cap'' by cross-referencing the existing definition in the Bank membership regulation.

5. Definition of ''Community Financial Institution or CFI''

The proposed rule would add a new definition for the term ''community financial institution or CFI.'' The proposed rule would define the term ''community financial institution or CFI'' to have the same meaning as defined in the Bank membership regulation.[27] The term ''community financial institution or CFI'' is defined in the Bank membership regulation to mean an institution (1) the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*); and (2) the total assets of which, as of the date of a particular transaction, are less than the CFI asset cap, with total assets being calculated as an average of total assets over three years, with such average being based on the institution's regulatory financial reports filed with its appropriate regulator for the most recent calendar quarter and the immediately preceding 11 calendar quarters. The proposed rule would define the term ''community financial institution or CFI'' by cross-referencing the existing definition in the Bank membership regulation.

[26] *See* 12 CFR 1263.1.

[27] *Id.*

6. Definition of ''Conforming Mortgage''

The current Bank housing goals regulation defines ''conforming mortgage'' as a conventional, AMA-approved single-family mortgage with an original principal obligation that does not exceed the dollar limitation under the Acquired Member Assets regulation or under the Freddie Mac conforming loan limits. The Bank housing goals are already limited to purchases of mortgages under AMA programs, which include limits on the size of mortgages that can be purchased by a Bank. It is not necessary for the Bank housing goals to include a separate limit on the size of mortgages that may be counted for purposes of the Bank housing goals. The proposed rule would remove the definition of ''conforming mortgage'' from the Bank housing goals regulation as unnecessary.

7. Definition of ''Conventional Mortgage''

The current Bank housing goals regulation defines ''conventional mortgage'' as any mortgage that does not include a guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities. The definition of ''conventional mortgage'' is included in the Bank housing goals regulation because the Bank housing goals are currently limited to conventional mortgages. The proposed rule would expand the coverage of the Bank housing goals to include all AMA mortgages, including both conventional mortgages and non-conventional mortgages. Because the proposed rule would no longer limit the Bank housing goals to conventional mortgages, the proposed rule would remove the definition of ''conventional mortgage'' from the Bank housing goals regulation as unnecessary.

8. Definition of ''Dwelling Unit''

The current Bank housing goals regulation defines ''dwelling unit'' to mean a room or unified combination of rooms intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property. In its 2015 final rule amending the Enterprise housing goals regulation, FHFA revised the analogous definition in the Enterprise housing goals regulation to exclude a combination of rooms without plumbing or kitchen facilities.[28] The proposed rule would revise the definition of ''dwelling unit'' to align with the definition of ''dwelling unit'' provided in the Enterprise housing goals regulation.

9. Definition of ''Families in Low-income Areas''

The current Bank housing goals regulation defines ''families in low-income areas'' to mean (1) any family that resides in a census tract or block numbering area in which the median income does not exceed 80 percent of the area median income; (2) any family with an income that does not exceed area median income that resides in a minority census tract; and (3) any family with an income that does not exceed area median income that resides in a designated disaster area. In its 2015 final rule amending the Enterprise housing goals regulation, FHFA amended the analogous provision in the Enterprise housing goals regulation (12 CFR 1282.1) by removing the reference to ''block numbering areas'' to conform to the terminology used by the U.S. Census Bureau.[29] The proposed rule would amend the Bank housing goals regulation by making a conforming revision to the definition of ''families in low-income areas.''

10. Definition of ''HMDA''

The current Bank housing goals regulation defines ''HMDA'' as the Home Mortgage Disclosure Act of 1975, as amended. The definition of ''HMDA'' is included in the current Bank housing goals regulation because the Bank housing goals are currently evaluated based on a retrospective market measurement calculated using HMDA data. The proposed rule would remove the retrospective market measurement from the Bank housing goals and instead establish goal levels prospectively in the regulation. Because the proposed rule would no longer include a market calculation based on HMDA data, the proposed rule would remove the definition of ''HMDA'' from the Bank housing goals regulation as unnecessary.

11. Definition of ''HOEPA Mortgage''

The current Bank housing goals regulation defines ''HOEPA mortgage'' as a mortgage covered by the definition of ''high-cost mortgage'' under the Truth in Lending Act. The definition of ''HOEPA mortgage'' is included in the current Bank housing goals regulation because the Bank housing goals do not allow HOEPA mortgages to be counted toward achievement of the Bank housing goals. The proposed rule would remove the provision excluding HOEPA mortgages from counting for purposes of the Bank housing goals. Therefore, the proposed rule would remove the definition of ''HOEPA mortgages'' from the Bank housing goals regulation as unnecessary.

12. Definition of ''HUD,'' ''Median Income,'' ''Metropolitan Area,'' and ''Non-Metropolitan Area''

The current Bank housing goals regulation defines ''median income,'' with respect to an area, as the unadjusted median family income for the area as determined by HUD. The current definition further provides that FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan areas are to be applied for the purposes of determining median family income. FHFA's practice is to calculate the applicable median income figures for both metropolitan and non-metropolitan areas and to provide the median income information to the Banks. The proposed rule would align the definition of ''median income'' with FHFA's practice, by revising it to mean, with respect to an area, the unadjusted median family income for the area as determined by FHFA. The proposed rule would also revise the definition to provide that FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan and non-metropolitan areas are to be applied for purposes of determining median income.

The current Bank housing goals regulation defines ''metropolitan area'' as a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median family income estimates are determined by HUD. The regulation defines ''non-metropolitan area'' as a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area for which median family income estimates are published annually by HUD. The proposed rule would align the definition of ''metropolitan area'' with FHFA's practice by revising it to mean an MSA, or a portion of such an area, including Metropolitan Divisions, for which median incomes are determined by FHFA. The proposed rule would align the definition of ''non-metropolitan area'' with FHFA's practice by revising it to mean a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area, for which median incomes are determined by FHFA.

The current Bank housing goals regulation defines ''HUD'' as the United States Department of Housing and Urban Development. The term ''HUD'' is used only in the definitions of ''median income,'' ''metropolitan area,'' and ''non-metropolitan area'' in the current Bank housing goals regulation. The proposed rule would revise those definitions to remove each reference to ''HUD,'' and the proposed rule would therefore remove the definition of ''HUD'' from the Bank housing goals regulation as unnecessary.

13. Definition of ''Mortgage''

The current Bank housing goals regulation defines ''mortgage'' to include all loans secured by real estate and any interests in such mortgages. The current definition is based on the definition of ''mortgage'' in the Enterprise housing goals regulation and excludes chattel loans on manufactured housing. The proposed rule would revise the definition of ''mortgage'' in the Bank housing goals regulation to include chattel loans on manufactured housing. The AMA regulation allows the Banks to acquire chattel loans on manufactured housing. Adding such loans to the definition of ''mortgage'' in the Bank housing goals regulation would further align the coverage of the Bank housing goals with the AMA regulation and would make it easier for the Banks to assess their own housing goals performance during the year. Chattel mortgages on manufactured housing are a significant means by which lower-income households obtain housing, and are therefore appropriate to be included in the Bank housing goals calculation.

14. Definition of ''Mortgage With Unacceptable Terms or Conditions''

The current Bank housing goals regulation defines ''mortgage with unacceptable terms or conditions'' as a

[28] *See* 80 FR 53392 (Sept. 3, 2015), codified at 12 CFR 1282.1.

[29] *Id.* at 53423.

mortgage that has one or more of a series of terms or conditions that FHFA determined to be harmful to borrowers. The definition of ''mortgage with unacceptable terms or conditions'' is included in the current Bank housing goals regulation because the Bank housing goals do not allow mortgages with unacceptable terms or conditions to be counted toward achievement of the Bank housing goals. The proposed rule would remove the provision excluding mortgages with unacceptable terms or conditions from counting for purposes of the Bank housing goals. Therefore, the proposed rule would remove, as unnecessary, the definition of ''mortgage with unacceptable terms or conditions'' from the Bank housing goals regulation.

15. Definition of ''Owner-Occupied Housing''

The current Bank housing goals regulation defines ''owner-occupied housing'' as single-family housing in which a mortgagor resides, including two- to four-unit owner-occupied properties where one or more units are used for rental purposes. The definition of ''owner-occupied housing'' is included in the Bank housing goals regulation because the Bank housing goals are currently limited to mortgages on owner-occupied housing. The proposed rule would expand the coverage of the Bank housing goals to include all AMA mortgages, including mortgages on owner-occupied and investor-owned single-family properties. The proposed rule would not establish separate criteria for evaluating whether a mortgage on an investor-owned property could be counted for purposes of the housing goals. Any such mortgages would be evaluated based on the income of the mortgagor in the same manner as the evaluation of a mortgage on an owner-occupied property. Because the proposed rule would no longer limit the Bank housing goals to mortgages on owner-occupied housing, the proposed rule would remove the definition of ''owner-occupied housing'' from the Bank housing goals regulation as unnecessary.

16. Definition of ''Residential Mortgage''

The current Bank housing goals regulation defines ''residential mortgage'' as a mortgage on single-family housing. The term ''residential mortgage'' is not used anywhere else in the current Bank housing goals regulation, and the proposed rule would not include any use of the term either. The proposed rule would remove the definition of ''residential mortgage'' from the Bank housing goals regulation as unnecessary.

17. Definition of ''Second Mortgage''

The current Bank housing goals regulation defines ''second mortgage'' as any mortgage that has a lien position subordinate only to the lien of the first mortgage. This term is used in § 1281.13(b)(8), which provides that ''purchases of subordinate lien mortgages (second mortgages),'' do not count for purposes of housing goals credit. The proposed rule would clarify that this prohibition would apply to all mortgages that are subordinate to the first mortgages, not only second mortgages. Because ''second mortgage'' would no longer appear in the regulation, this definition is unnecessary and would be removed.

B. Changes to General—Proposed § 1281.10

The proposed rule would revise § 1281.10 to reflect the new housing goals that would be defined by the proposed rule.

The current regulation states that the subpart establishes three single-family housing goals for purchase money mortgages and one single-family housing goal for refinancing mortgages. The current regulation also states that the subpart establishes a volume threshold for the Bank housing goals.

The proposed rule would revise the structure of the Bank housing goals to remove the volume threshold and to replace the existing housing goals with a new prospective mortgage purchase housing goal and a new small member participation housing goal. The proposed rule would revise § 1281.10 to reflect these changes.

C. Changes to Bank Housing Goals—Proposed §§ 1281.11 and 1281.14

The proposed rule would revise § 1281.11 to define the new prospective mortgage purchase housing goal and small member participation housing goal, and would make conforming changes to § 1281.14.

The current regulation establishes three single-family housing goals for purchase money mortgages and one single-family housing goal for refinancing mortgages. The proposed rule would revise § 1281.11 in its entirety to replace the existing Bank housing goals with two new housing goals: a prospective mortgage purchase housing goal and a small member participation housing goal.

The current regulation establishes a volume threshold that a Bank must exceed before it is subject to the housing goals. The threshold is $2.5 billion in unpaid principal balance in a single year. The proposed rule would remove the volume threshold provision so that the new Bank housing goals would apply to each Bank regardless of the volume of AMA mortgages purchased by the Bank. The proposed rule would also make a conforming change to § 1281.14(a) by eliminating Bank volume thresholds as a consideration in determining whether the Director evaluates annual performance of Bank performance under each housing goal.

The current regulation establishes criteria for determining the target level for each goal based on HMDA data for the year being measured, *i.e.,* retrospectively. The proposed rule would define the prospective mortgage purchase housing goal as the percentage of a Bank's AMA mortgages acquired during the calendar year that are for very low-income families, low-income families, or families in low-income areas. The proposed rule would establish a target level of 20 percent for the prospective mortgage purchase housing goal. The proposed rule would also require that at least 75 percent of the mortgages that are counted toward a Bank's achievement of the prospective mortgage purchase housing goal must be for low-income or very low-income families.

The proposed rule would define the small member participation housing goal as the percentage of AMA users with assets that do not exceed the CFI asset cap. The proposed rule would establish the target level for the small member participation housing goal as the lesser of 50 percent or 300 basis points greater than the percentage of the Bank's AMA users with assets that do not exceed the CFI cap from the preceding year.

The proposed rule would also establish a process for a Bank to propose a different target level for the prospective mortgage purchase housing goal, the small member participation housing goal, or both. The proposed rule would require that this Bank-specific housing goal proposal be submitted to FHFA by October 31, 2019, and by October 31 every third year thereafter, or at some other appropriate time as may be determined by FHFA, for example if a Bank, in the middle of a three-year cycle, resumes purchasing AMA mortgages under a dormant AMA program. The proposed rule would require that a Bank-specific housing goal proposal include proposed targets for each of the three years following the year in which the Bank's proposal is submitted, and that the proposal include a detailed explanation of (i) why the corresponding housing goal provided in the regulation is infeasible, (ii) why the proposed goal is achievable, and (iii) how the proposed goal meaningfully furthers affordable housing mortgage lending in the Bank's district.

D. Changes to General Counting Eequirements—Proposed § 1281.12

The current Bank housing goals regulation defines the ''numerator'' and ''denominator'' used to calculate performance under the current housing goals. The new housing goals are clearly defined in the proposed rule. The proposed rule would delete paragraph (a) as unnecessary in light of the mortgage goal calculation standards reflected in proposed § 1281.11. The current Bank housing goals regulation also provides that mortgages with missing data or information necessary for counting would be included in the denominator when calculating a Bank's performance, but not in the numerator. This effectively penalizes a Bank's performance by treating mortgages with missing data or information as if they were loans that did not meet the applicable criteria. The proposed rule would remove paragraph (b)(1), so that mortgages with missing data or information would be disregarded for purposes of measuring a Bank's performance on the housing goals. Finally, paragraph (c), which provides that a mortgage may only count once towards achievement of a current housing goal even if it satisfies more than one goal, would be redesignated as paragraph (b) and revised to permit each mortgage to be counted only once toward achievement of the prospective mortgage purchase housing goal, even if it satisfies multiple criteria. The changes to this paragraph would be consistent with the revised structure of the prospective mortgage purchase housing goal established in proposed § 1281.11. The proposed rule would make conforming redesignations of paragraphs throughout the remainder of § 1281.12.

E. Changes to Special Counting Requirements—Proposed § 1281.13

Paragraph (b) of § 1281.13 currently enumerates categories of transactions or activities that are not counted for purposes of the housing goals and are not included in the numerator or the denominator in calculating a Bank's housing goals performance. The proposed rule would amend this paragraph by removing the references to ''numerator'' and ''denominator.'' This language would be unnecessary in light of the simplified calculation methodology provided in proposed § 1281.11.

Paragraph (b)(1) currently excludes non-conventional single family mortgages from counting towards housing goals credit. The proposed rule would allow loans guaranteed or insured by a department or agency of the U.S. government to count towards housing goals credit for the prospective mortgage purchase housing goal. Paragraph (b)(1) would be revised to codify FHFA's current treatment of mortgage participation interests. The proposed rule would exclude participation interests in AMA mortgages that are purchased from another Bank, except where two or more Banks acquire a participation interest in the same mortgage simultaneously. The proposed rule would add new paragraph (e) to clarify that where two or more Banks acquire a participation interest in the same mortgage simultaneously, the mortgage would be counted on a *pro rata* basis for each Bank.

Paragraph (b)(8) would be revised to clarify that all mortgages which are subordinate to the first mortgage are excluded from counting for purposes of the Bank housing goals.

F. Changes to Determination of Compliance With Housing Goals; Notice of Determination—Proposed § 1281.14

The proposed rule would amend § 1281.14(a) by removing the reference to the volume threshold, which would be moot in light of the threshold's elimination under proposed § 1281.11. The proposed rule would also amend § 1281.14(a) to require that FHFA publish the annual determination of compliance. The proposed rule would describe the data that would be included in the published determination.

G. Changes to Housing Plans—Proposed § 1281.15

The proposed rule would revise § 1281.15 to provide that the Director may only require that a Bank submit a housing plan for any year after 2021. This would reflect the phase-in period for the new housing goals, eliminating possibility of a housing plan during the first two years in which the proposed prospective and small member participation housing goals are operative. Because a Bank may be required to submit a housing plan while awaiting FHFA's response to a Bank-specific housing goal proposal, the proposed rule would amend § 1281.15 by adding new paragraph (b)(5) to require that the housing plan address any Bank-specific housing goals the Bank is proposing.

H. Changes to Reporting Requirements—Proposed §§ 1281.1 and 1281.20.

The proposed rule would revise Subpart C to simplify and clarify the reporting requirements for the Banks under the new housing goals.

The current Bank housing goals regulation sets out a number of specific reporting requirements for the Banks. Section 1281.20 of the current regulation describes the matters that are covered by Subpart C, ''Reporting Requirements.'' Section 1281.21 of the current regulation describes the reporting requirements including the required timing and format of the data to be submitted. Section 1281.22 of the current regulation permits FHFA to require additional reports, information, and data as it determines appropriate. Finally, § 1281.23 of the current regulation requires a senior officer of each Bank to certify the data submitted under the Bank housing goals regulation and allows FHFA to address errors, omissions or discrepancies in data reported by a Bank by adjusting the Bank's official housing goals performance figures and in certain circumstances increasing a Bank's housing goal in a later year.

The proposed rule would revise the reporting requirements in Subpart C to reflect the new housing goals structure and to eliminate provisions that are either duplicative of or potentially inconsistent with the existing Bank reporting requirements under FHFA's Data Reporting Manual (DRM). The DRM is issued by FHFA containing reporting requirements for the Banks and is amended from time to time. The DRM includes detailed requirements about the data elements that the Banks must report and the timing and format of the required reporting. The proposed rule would remove reporting requirements from the Bank housing goals regulation that are duplicative of and potentially inconsistent with the DRM.

The proposed rule would consolidate the four sections that currently exist in Subpart C of the Bank housing goals regulation into a single section. Sections 1281.21, 1281.22 and 1281.23 would be removed from the regulation. Section 1281.20 would include the new reporting requirements for the Bank housing goals regulation. As revised, § 1281.20(a) would require the Banks to submit to FHFA any data that FHFA determines to be necessary to evaluate transactions and activities under the Bank housing goals. Section 1281.20(b) and (c) would set out the data reporting requirements for the prospective mortgage purchase housing goal and the small member participation housing goal, respectively, and would require such submissions to be made in accordance with the DRM. Section 1281.20(d) would continue to permit FHFA to require a Bank to provide such additional reports, information, and data as FHFA may request from time to time.

In addition to the above clarifications of the existing Bank reporting requirements, the proposed rule would also remove the provision in the current Bank housing goals regulation that addresses errors, omissions or discrepancies in the data reported by a Bank. This provision is unnecessary in light of FHFA's existing supervisory and regulatory authorities and procedures, and the proposed rule would remove the provision.

Finally, the proposed rule would remove the definition of ''mortgage data'' from § 1281.1. The current Bank housing goals regulation defines ''mortgage data'' as data obtained from the Banks under the Data Reporting Manual. The revisions to the reporting requirements in Subpart C would remove all references to the term ''mortgage data.'' The proposed rule would therefore remove the definition of ''mortgage data'' from the Bank housing goals regulation as unnecessary.

X. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Safety and Soundness Act requires the Director of FHFA 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. FHFA, in preparing this proposed rule, considered the differences between the Banks and the Enterprises as they relate to the above factors. FHFA also considered these differences in light of section 10C of the Bank Act, which requires that the Bank housing goals be consistent with the Enterprise housing goals, with consideration of the unique mission and ownership structure of the Banks.[30] FHFA requests comments from the public about whether these differences should result in any revisions to the proposed rule.

[30] *See* 12 U.S.C. 1430c.

XI. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

XII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. (5 U.S.C. 605(b)). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the proposed rule, if adopted as a final rule, is not likely to have a significant economic impact on a substantial number of small entities because the regulation applies to the Federal Home Loan Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1281

Credit, Federal home loan banks, Housing, Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, under the authority of 12 U.S.C. 4526, FHFA proposes to amend part 1281 of Title 12 of the Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER E—HOUSING GOALS AND MISSION

PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS

■ 1. Revise the authority citation for part 1281 to read as follows:

Authority: 12 U.S.C. 1430, 1430b, 1430c, 1431.

■ 2. Amend § 1281.1 by:
■ a. Removing the definitions of ''Acquired Member Assets (AMA) program'' and ''AMA-approved mortgage'';
■ b. Adding definitions for ''AMA mortgage'', ''AMA program'', and ''AMA user'' in alphabetical order;
■ c. Removing the definitions of ''Conforming mortgage'' and ''Conventional mortgage'';
■ d. Adding definitions for ''CFI asset cap'' and ''Community financial institution or CFI'' in alphabetical order;
■ e. Revising the definition of ''Dwelling unit'' and paragraph (1) of the definition of ''Families in low-income areas'';
■ f. Removing the definitions of ''HMDA'', ''HOEPA mortgage'', and ''HUD'';
■ g. Revising the definitions of ''Median income'', ''Metropolitan area'', and ''Mortgage'';
■ h. Removing the definitions of ''Mortgage data'' and ''Mortgage with unacceptable terms or conditions'';
■ i. Revising the definition of ''Non-metropolitan area''; and
■ j. Removing the definitions of ''Owner-occupied housing'', ''Residential mortgage'', and ''Second mortgage''.

The revisions and additions read as follows:

§ 1281.1 Definitions.

* * * * *

AMA mortgage means a mortgage that was purchased by a Bank under an AMA program.

AMA program has the meaning set forth in § 1268.1 of this chapter.

AMA user means any participating financial institution, as defined in § 1268.1 of this chapter, from which the Bank purchased at least one AMA mortgage during the year for which the housing goals are being measured.

* * * * *

CFI asset cap has the meaning set forth in § 1263.1 of this chapter.

Community financial institution or *CFI* has the meaning set forth in § 1263.1 of this chapter.

* * * * *

Dwelling unit means a room or unified combination of rooms with plumbing and kitchen facilities intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

Families in low-income areas * * *

(1) Any family that resides in a census tract in which the median income does not exceed 80 percent of the area median income;

* * * * *

Median income means, with respect to an area, the unadjusted median family income for the area as determined by FHFA. FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan and non-metropolitan areas are to be applied for purposes of determining median income.

Metropolitan area means a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median incomes are determined by FHFA.

* * * * *

Mortgage means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, or a manufactured home that is personal property under the laws of the State in which the manufactured home is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. *Mortgage* includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

* * * * *

Non-metropolitan area means a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area, for which median incomes are determined by FHFA.

* * * * *

■ 3. Amend § 1281.10 by revising paragraphs (a) and (b) to read as follows:

§ 1281.10 General.

* * * * *

(a) A prospective mortgage purchase housing goal;

(b) A small member participation housing goal;

* * * * *

■ 4. Revise § 1281.11 to read as follows:

§ 1281.11 Bank housing goals.

(a) *Prospective mortgage purchase housing goal.* For each calendar year, the percentage of a Bank's AMA mortgages acquired during the calendar year that are for very low-income families, low-income families, or families in low-income areas must meet or exceed either:

(1) 20 percent; or

(2) A percentage target approved under paragraph (d) of this section.

(b) *Cap on low-income areas loans counted toward goal.* At least 75 percent of the mortgages that are counted toward a Bank's achievement of the prospective mortgage purchase housing goal must be for low-income or very low-income families.

(c) *Small member participation housing goal.* For each calendar year, the percentage of all AMA users that are AMA users with assets that do not exceed the CFI asset cap must meet or exceed either:

(1) 50 percent;

(2) A percentage that is three percentage points greater than the percentage of the Bank's AMA users with assets that do not exceed the CFI cap from the preceding year; or

(3) A percentage target approved under paragraph (d) of this section.

(d) *Bank-specific housing goals.* (1) A Bank may submit a written request for FHFA approval of different target percentages for the prospective mortgage purchase housing goal, the small member participation housing goal, or both. A Bank request under this paragraph must include proposed target percentages for three consecutive years following the calendar year in which the proposal is submitted. A Bank is not required to propose the same target percentage for each of the three years.

(2) A Bank's request under this paragraph must include a detailed explanation of:

(i) Why the goal in paragraphs (a) and (b) of this section, as applicable, is infeasible;

(ii) Why the Bank's proposed goal is achievable; and

(iii) How the Bank's proposed goal meaningfully furthers affordable housing mortgage lending in its district.

(3) A proposal under this paragraph may only be submitted once every three years, or under the circumstances described in paragraph (d)(4) of this section. The deadline for submitting a proposal under this section is October 31, 2019, and October 31 for every third year after 2019. FHFA will review each Bank proposal that is received by the deadline and will notify the Bank in writing if the Bank proposal is approved. If FHFA does not notify a Bank that its proposal is approved, the Bank will remain subject to the percentage goals in paragraphs (a) and (b) of this section, as applicable.

(4) FHFA may require a Bank to propose a target percentage for either or both housing goals to address discontinuation of an AMA program or approval of a new AMA program.

■ 5. Revise § 1281.12 to read as follows:

§ 1281.12 General counting requirements.

(a) *General.* Mortgage purchases financing single-family properties shall be evaluated based on the income of the mortgagors and the area median income at the time the mortgage was originated. To determine whether mortgages may be counted under a particular family income level (*i.e.,* low- or very low-income), the income of the mortgagor is compared to the median income for the area at the time the mortgage was originated, using the appropriate percentage factor provided under § 1281.1.

(b) *No double-counting.* A mortgage may be counted only once toward the achievement of the prospective mortgage purchase housing goal, even if it satisfies multiple criteria for the prospective mortgage purchase housing goal.

(c) *Application of median income.* For purposes of determining an area's median income under § 1281.1, the area is:

(1) The metropolitan area, if the residence that secures the mortgage is in a metropolitan area; and

(2) In all other areas, the county in which the property is located, except that where the State non-metropolitan median income is higher than the county's median income, the area is the State non-metropolitan area.

(d) *Sampling not permitted.* Performance under the housing goals for each year shall be based on a tabulation of each mortgage during that year; a sampling of such purchases is not acceptable.

■ 6. Amend § 1281.13 by:

■ a. Revising the introductory text of paragraph (b);

■ b. Revising paragraphs (b)(1) and (b)(8);

■ c. Removing paragraph (d);

■ d. Redesignating paragraph (e) as paragraph (d); and

■ e. Adding new paragraph (e).

The revisions and additions read as follows:

§ 1281.13 Special counting requirements.

* * * * *

(b) *Not counted.* The following transactions or activities shall not be counted for purposes of the housing goals, even if the transaction or activity would otherwise be counted under paragraph (c) of this section:

(1) Purchases of participation interests in AMA mortgages from another Bank, except as provided in paragraph (e) of this section;

* * * * *

(8) Purchases of subordinate lien mortgages;

* * * * *

(e) *Mortgage participation transactions.* Where two or more Banks acquire a participation interest in the same mortgage simultaneously, the mortgage will be counted on a *pro rata* basis for the prospective mortgage purchase housing goal for each Bank with a participation interest.

■ 7. Amend § 1281.14 by revising paragraph (a) to read as follows:

§ 1281.14 Determination of compliance with housing goals; notice of determination.

(a) *Determination of compliance with housing goals.* On an annual basis, the Director shall determine each Bank's performance under each housing goal and will publish the final determinations. FHFA will publish its final determination including the numbers and percentages for each Bank's AMA purchases that meet each of the housing goals criteria, including loans to low-income families, loans to very low-income families, and loans to families in low-income areas, including by each of the defined categories. FHFA's determination will include these numbers in total and separated into purchase money mortgages, refinancing mortgages, conventional mortgages, and non-conventional mortgages.

* * * * *

■ 8. Amend § 1281.15 by revising paragraphs (a) and (b) to read as follows:

§ 1281.15 Housing plans.

(a) *Housing plan requirement.* For any year after 2021, if the Director determines that a Bank has failed to meet any housing goal and that the achievement of the housing goal was feasible, the Director may require the Bank to submit a housing plan for approval by the Director.

(b) *Nature of plan.* If the Director requires a housing plan, the housing plan shall:

(1) Be feasible;

(2) Be sufficiently specific to enable the Director to monitor compliance periodically;

(3) Describe the specific actions that the Bank will take to achieve the housing goal for the next calendar year;

(4) Address any additional matters relevant to the housing plan as required, in writing, by the Director; and

(5) Address any Bank-specific housing goals the Bank is proposing.

* * * * *

■ 9. Revise Subpart C to read as follows:

Subpart C—Reporting Requirements

§ 1281.20 Reporting requirements.

(a) *General.* Each Bank must collect and submit to FHFA any data that FHFA determines to be necessary for FHFA to evaluate transactions and activities under the Bank housing goals.

(b) *Reporting for prospective mortgage purchase housing goal.* Each Bank must collect data on each AMA mortgage purchased by the Bank. The data must include any data elements specified by FHFA. On no less frequent than an annual basis, each Bank must submit such data to FHFA in accordance with the DRM.

(c) *Reporting for small member participation housing goal.* Each Bank must collect data on AMA user asset size. On no less frequent than an annual basis, each Bank must submit such data to FHFA in accordance with the DRM.

(d) *Other reporting.* Each Bank must provide to FHFA such additional reports, information and data as FHFA may request from time to time.

Dated: October 29, 2018.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2018–23890 Filed 11–1–18; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA–2018–0954]

Request for Comments on Requirement for Helicopters To Use the New York North Shore Helicopter Route

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: The FAA Reauthorization Act of 2018 directs the FAA to provide notice of, and an opportunity for, at least 60 days of public comment with respect to the regulations mandating that pilots operating civil helicopters under Visual Flight Rules use the New York North Shore Helicopter Route when operating along that area of Long Island, New York. The Act further states the FAA shall hold a public hearing in order to solicit feedback on the regulations from impacted communities. Such an opportunity will be provided and additional meeting information will be announced.

DATES: Written comments must be received on or before January 2, 2019.

ADDRESSES: Send comments identified by docket number FAA–2018–0954 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Facsimile:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions concerning this action, contact Sheri Edgett-Baron, Airspace Policy Group, Air Traffic Organization, AJV–11, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783; email: *sheri.edgett-baron@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In response to concerns from a large number of local residents regarding noise from helicopters operating over Long Island, the FAA issued the New York North Shore Helicopter Route final rule (77 FR 39911, July 6, 2012). The Rule, as set forth in subpart H of part 93 of Title 14 of the Code of Federal Regulations, requires civil helicopter pilots operating under Visual Flight Rules (VFR), whose route of flight takes them over the north shore of Long Island between the Visual Point Lloyd Harbor (VPLYD) waypoint and Orient Point (VPOLT), to use the North Shore Helicopter Route, as published in the New York Helicopter Chart (''the