



Federal Housing Finance Agency

Constitution Center
400 7th Street, S.W.
Washington, D.C. 20219
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

May 11, 2020

Presidents and Chief Executive Officers
Federal Home Loan Banks

Re: Temporary Approval of Eligible Entities under Paycheck Protection Program as Other Targeted Beneficiaries under CICA Regulation

Dear Federal Home Loan Bank Presidents:

In response to the devastating impacts of the COVID-19 pandemic, the Federal Home Loan Banks (FHLBanks) have been developing plans for increasing access to the FHLBanks' Community Investment Cash Advance (CICA) programs to provide funds to businesses adversely affected by the pandemic. Specifically, the FHLBanks would like to be able to provide CICA funds to assist the types of entities eligible for loans under the Small Business Administration's (SBA) Paycheck Protection Program (PPP).

Under the CICA regulation, a FHLBank may provide CICA advances or grants to members and housing associates to provide financing for economic development projects for the targeted beneficiaries specified in the regulation.¹ One type of CICA-eligible targeted beneficiary is small businesses.²

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) established the PPP to assist businesses adversely impacted by the COVID-19 pandemic.³ The businesses eligible for PPP loans include not only small businesses, but other businesses that employ no more than 500 employees, among other types of entities.⁴ To further address the needs of those affected by the COVID-19 pandemic, the FHLBanks would like these other PPP-eligible entities to be eligible targeted beneficiaries for CICA program purposes, regardless of whether or not the entities participate in the PPP.

¹ 12 CFR 1292.1 (definition of "targeted beneficiaries"); 1292.5(a)(3).

² The CICA regulation defines a "small business" as a "small business concern," as that term is defined in Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and implemented by the SBA under 13 CFR part 121. See 12 CFR 1292.1 (definition of "small business" and par. (3) of definition of "targeted beneficiaries").

³ Pub. L. No. 116-136, § 1102 (enacted Mar. 27, 2020), as amended by the Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, § 101(a) (enacted Apr. 24, 2020) (to be codified at 15 U.S.C. 636(a)(36)).

⁴ See Pub. L. No. 116-136, § 1102(a)(2) (to be codified at 15 U.S.C. 636(a)(36)(D)).

The CICA regulation provides that FHFA may approve other targeted beneficiaries not specified in the CICA regulation.⁵ In light of the current extraordinary circumstances and the unprecedented need for targeted economic development lending due to the COVID-19 pandemic, FHFA has determined that these additional PPP-eligible entities should be eligible targeted beneficiaries for CICA funding. Accordingly, pursuant to 12 CFR 1292.1 and 1292.5(a)(4), FHFA hereby temporarily approves the PPP-eligible entities in 15 U.S.C. 636(a)(36)(D), subject to any implementing standards or guidance issued by the SBA regarding the meaning of any terms in this provision, that do not already qualify as small businesses under the CICA regulation as other targeted beneficiaries for CICA program purposes. This Approval applies whether or not the entities are PPP participants. This Approval expires the later of December 31, 2020, or, if the authorization for the PPP is renewed, six months after the latest expiration of the PPP authority. Advances issued before expiration of this Approval may mature after its expiration. The FHLBanks may also limit their exercise of the optional authority granted by this Approval – e.g., by ceasing the issuance of CICA advances and grants authorized by this Approval prior to its expiration, or by establishing member- or housing associate-specific volume limits – provided that such limitation is otherwise consistent with applicable law.

FHFA encourages the FHLBanks to prioritize members for CICA funding under this Approval that are the types of lenders eligible for the PPP’s funding set-asides, as defined in the CARES Act, as amended. These are insured depository institutions and credit unions meeting the applicable size limitations, and community financial institutions (which include community development financial institutions and minority depository institutions).⁶ Further, FHFA encourages the FHLBanks to prioritize the issuance of CICA funds under this Approval to beneficiaries whose access to other sources of liquidity is impaired by the COVID-19 pandemic and whose CICA funding requests are therefore necessary to address the effects of the pandemic.

In exercising the authority provided by this Approval, the FHLBanks are not required to comply with the procedural, documentation, or verification requirements prescribed by the CARES Act, or subsequent legislation renewing the PPP authority, for purposes of PPP participation.⁷ However, the FHLBanks must ensure that their CICA program procedures sufficiently address compliance with this Approval and any other applicable FHFA regulations.

Each FHLBank must notify FHFA in writing of its plans to exercise the authority provided by this Approval. The notification should be submitted to Ted Wartell, Associate Director, Office of Housing and Community Investment (ted.wartell@fhfa.gov).

⁵ 12 CFR 1292.1 (par. (4) of definition of “targeted beneficiaries”); 1292.5(a)(4).

⁶ See Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, § 101(a) (enacted Apr. 24, 2020) (to be codified at 15 U.S.C. 636(a)(36)(S)).

⁷ For example, the CARES Act prescribes documentation requirements for purposes of verifying a PPP applicant’s status as a self-employed individual, independent contractor, or sole proprietorship. Pub. L. No. 116-136, § 1102(a)(2) (to be codified at 15 U.S.C. 636(a)(36)(D)(ii)(II)). The FHLBanks are not required to ensure that a member or housing associate receiving a CICA advance or grant pursuant to this Approval receives the specific forms of documentation that a PPP applicant must provide. However, the member or housing associate must still comply with the CICA documentation requirements in 12 CFR 1292.7, which may be satisfied by a certification from the member or housing associate that the entity receiving CICA funds satisfies one of the PPP entity eligibility criteria.

5/11/2020

X Sandra Thompson

Sandra Thompson

Deputy Director, Division of Housing Missio...

Signed by: Federal Housing Finance Agency

Sandra Thompson

Deputy Director

Division of Housing Mission and Goals

cc: Andre Galeano
Ted Wartell
Sharon Like