

[START OF TRANSCRIPT]

Ruchi: Ladies and gentlemen, welcome and thank you for joining today's web conference titled "FHLBanks Affordable Housing Programs Final Rule Webinar. Please note that all participant lines will be muted for the duration of this event. You're welcome to submit written questions during the presentation, and these will be addressed during Q&A. To submit a written question, please use the chat panel on the right hand side of the screen and choose "All Panelists" from the "send to" dropdown menu. If you require any technical assistance, please send a note to the event producer. With that, I'll formally begin today's web conference and introduce Danielle Walton, Stakeholder Relationship Officer. Danielle, please go ahead.

Danielle: Thank you, Ruchi, and good afternoon everyone. This is Danielle with the Federal Housing Finance Agency. I want to welcome you all and thank you for taking the time to join us for this webinar. On November 20th, FHFA issued a final rule amending the Federal Home Loan Banks' Affordable Housing Program regulation, or "AHP." Joining me for today's webinar are Agency experts from the Office of Housing and Community Investment, who will provide an overview of the final rule, including changes from the proposed rule, and respond to questions you may have.

As the operator mentioned throughout this presentation, you can type your questions into the "submit a question" box at the bottom right of your screen. Please be sure to send to all presenters. Once the webinar has concluded, we will make a recording available on fhfa.gov where you can also find the link to the final rule. But, before we start, I'd like to turn things over to Ted Wartell for opening remarks. Ted?

Ted: Thanks, Danielle, and good afternoon everyone. My name is Ted Wartell and I have the good fortune of managing the Office of Housing and Community Investment here at FHFA. Thank you all for joining today's webinar. As most of you know, FHFA has been working on changes to the Federal Home Loan Bank's Affordable Housing Program for some time. We were very pleased to be able to publish the final rule last month.

Thanks also to everyone who commented on the proposed rule. We worked very hard to understand your feedback and consider those comments as we worked to finalize the rule. And while it doesn't adopt every recommendation, we believe the final rule expands the Banks' flexibility to implement their programs and helps to reduce the administrative burdens on the Home Loan Banks' members and project sponsors.

At the same time, we believe it implements important housing priorities identified by FHFA. Today's presentation is an overview of the final rule, and you will have an opportunity to ask questions at the end of the presentation.

You can find much more detail and explanations in the preamble, which is posted on our website. I encourage all of you to read that as well. For any additional questions we don't get to today, we also provide contact information for FHFA staff at the end of the webinar. Lastly, one final "thank you" to the Home Loan Banks themselves for providing the photos of AHP projects around the country that you'll see in today's presentation. Now to start the presentation, let me turn it over to Lauren Boyd.

Lauren:

Thank you, Ted. To recap development for the proposed rule, FHFA started with the 60-day comment period for the proposed rule, which we extended to 90 days in response to numerous requests from commenters. The extended public comment period on the proposed rule ended on June 12, 2018. FHFA received 394 comment letters on the proposed rule.

This slide breaks down the comment letters that we received on the proposed rule by type of commenter. Of the total letters we received, 251 expressed unique comments and recommendations with the remaining 143 being form letters or requests to extend the original 60-day comment period. The 13 letters we received from Federal Home Loan Banks included several joint letters as well as letters from individual Home Loan Banks. In all, 73 percent of the comment letters addressed the proposed outcome-based framework for project selection, 25 percent of the comment letters addressed the proposed owner-occupied retention agreement requirements, and 20 percent of comment letters addressed the proposed requirements for project sponsor qualifications.

FHFA posted the final rule on the FHFA website on November 20th and published it in the Federal Register on November 28, 2018. The file path for the final rule is shown in this slide. And now I will turn it over to Marcea Barringer to discuss the final rule's AHP funding allocations and project selection provisions.

Marcea:

Thank you, Lauren. I'm going to start on the slide with AHP funding allocations. As many of you know, the current AHP regulation authorizes the Home Loan Banks to establish and administer two programs for providing AHP subsidies: a mandatory Competitive Application Program and an optional Homeownership Set-Aside Program. The final rule authorizes the Federal Home Loan Banks to establish three programs providing AHP subsidies. The first program is a mandatory competitive program, also known as the General Fund, which is fairly similar to the Competitive Application Program authorized under the current regulation.

Some of the scoring criteria for the General Fund are different from the scoring criteria for the competitive application program under the current regulation. I'll discuss some of those on the next slide.

The second program that the final rule continues to authorize is the optional Homeownership Set-Aside Program. The final rule also authorizes Banks to establish a third program, a new kind of Competitive Application Program known as Targeted Funds. Targeted Funds are optional.

On this next slide, I'm going to move on to discuss the scoring criteria for the General Fund in the final rule. I'm going to start by noting that the final rule does not adopt the outcomes-based framework for project selection, which was included in the proposed rule. Instead, the final rule amends the current regulatory scoring framework for project selection to provide the Home Loan Banks with additional flexibility in designing their project selection scoring systems. The scoring framework and the final rule is similar to the recommendations made by the Home Loan Banks in a joint comment letter, but it contains changes to reflect particular FHFA policy objectives.

The scoring framework in the final rule has 100 points allocated to either six or seven mandatory scoring categories. If a Home Loan Bank allocates 10 percent or more of its annual AHP allocation to its Homeownership Set-Aside Program, there are six mandatory scoring criteria. If the Home Loan Bank does not allocate 10 percent or more of its AHP allocation to its Set-Aside Program, there are seven mandatory scoring criteria. Now I'm going to walk through the chart on the slide.

So starting from the top of the chart, Home Loan Banks must allocate five points or more to each of two mandatory statutory priorities – one for properties donated or conveyed by the federal government and a second for projects sponsored by nonprofit or government entities. As I just mentioned, if a Home Loan Bank does not allocate 10 percent or more to its Set-Aside Program, it must also allocate five points or more to a mandatory statutory priority for home purchase by low- or moderate-income households. You can see that in the chart in blue.

Looking at the middle of the chart, Home Loan Banks must also allocate points to four mandatory regulatory priorities. The first priority is [Income] Targeting to lower-income households. The second priority is Underserved Communities and Populations. The third is Creating Economic Opportunity, and the fourth priority is Community Stability Including Affordable Housing Preservation. I'll discuss some of these regulatory priorities in more detail on the next slide.

In all, each Home Loan Bank must allocate a minimum of 50 points to these mandatory statutory and regulatory scoring criteria. Under the final rule, Home Loan Banks can allocate up to 50 points to housing need priorities in their district that they identified, if they so choose. This is shown at the very bottom of the chart. Unlike the current regulations, the final rule does not require the Home Loan Banks to allocate points to a first and a second

district priority. Under the current regulation, Home Loan Banks must allocate five or more points to a first district priority, selected from a list of 12 housing needs and five or more points to a second district priority of their choice.

The proposed rule would have authorized the Home Loan Banks to design their own scoring systems within an outcome-based framework. Each Home Loan Bank would have been required to award specified percentages of its annual AHP funds to projects meeting specific outcome requirements. The proposed outcome framework was intended to address input from the Home Loan Banks and stakeholders, by providing the Home Loan Banks greater flexibility to design their Competitive Application Programs to meet their district housing needs. However, commenters preferred the scoring based framework over an outcome-based framework. The Federal Home Loan Banks, their members, and project sponsors have used the scoring based frameworks since AHP inception in 1990.

Okay, this next slide lists three of the General Fund regulatory priorities in the final rule. FHFA developed these scoring priorities based on the priorities in the current regulation, the priorities in the proposed rule, and comments received, including a proposal from the Federal Home Loan Banks. Under the final rule, the Federal Home Loan Banks must allocate a minimum of five points to each of these three regulatory priorities – one, Underserved Communities and Populations; two, Creating Economic Opportunities; and three, Community Stability Including Affordable Housing Preservation. Within each of the regulatory priorities, they have flexibility to choose the housing needs to be included in their scoring framework.

For example, under the Creating Economic Opportunity regulatory priority, a Bank could choose to include only promotion of empowerment in its scoring framework or it could choose to include only residential economic diversity in its scoring framework or another housing need that the Agency provides in guidance, or the Federal Home Loan Bank could choose two or even all three of these housing needs to meet the Creating Economic Opportunity regulatory priority.

On this next slide, we continue the discussion of FHFA regulatory priorities. This slide focuses particularly on several housing needs under the Underserved Communities and Populations regulatory priority. The final rule retains the current regulation's targeting thresholds for special needs and homeless households at 20 percent of total project units instead of the proposed increase to 50 percent. The final rule also establishes a 20 percent targeting threshold for other targeted populations instead of the proposed 50 percent threshold. In addition, the final rule makes a change regarding supportive services. The proposed rule would have required projects with units serving special needs populations to provide supportive services or

access to services for the special needs population served. The final rule does not include this requirement. Now, I will turn it over to Eric Howard to discuss Targeted Funds.

Eric:

Thank you, Marcea. As Marcea mentioned earlier, one of the biggest changes to the AHP in the final rule is that Federal Home Loan Banks are now authorized to establish competitive Targeted Funds. Targeted Funds can assist Home Loan Banks in addressing district housing needs that are challenging to reach using the existing scoring framework. A Home Loan Bank that decides to establish a Targeted Fund must design the Targeted Fund to receive sufficient numbers of applicants to facilitate a robust competitive scoring process. Under the final rule, and subject to phase-in requirements, Home Loan Banks may allocate up to 40 percent of their total annual AHP funds to establish up to three Targeted Funds. Each Targeted Fund must be competitive and must have a scoring rubric that includes three separate and distinct scoring criteria. The scoring rubric must have an allocation of 100 points, just like the General Fund. Home Loan Banks may allocate a maximum of 50 points to any one scoring criterion.

The final rule continues the requirements that each Federal Home Loan Bank must adopt an annual Targeted Community Lending Plan. The final rule requires the Home Loan Banks identify and assess significant affordable housing needs in their districts that will be addressed through the AHP in their [Targeted Community Lending] Plans. In addition, if a Home Loan Bank plans to establish a Targeted Fund, the final rule requires that the Bank specify the particular affordable housing need it will address through that Targeted Fund in its Plan.

The final rule also requires the Home Loan Banks to publish their Targeted Community Lending Plans at least 90 days prior to the opening of the application round for the Targeted Fund. The final rule makes an exception to the publication requirement for Targeted Funds for federal- or state-declared disasters. A Federal Home Loan Bank that establishes a Targeted Fund for federal- or state-declared disasters is not required to publish its Plan 90 days before the opening of its application round.

I'll now move on to discuss project sponsor qualifications under the final rule, which will apply to applicants for the General Fund or any Targeted Funds. The final rule requires the Federal Home Loan Banks to evaluate the qualifications of, and any covered misconduct by, the project sponsor at AHP application and before each AHP subsidy disbursement. The Home Loan Bank's AHP subsidy application form and AHP subsidy disbursement forms must include a requirement for the project sponsor to certify that it meets the Home Loan Bank's qualification criteria, and that it has not engaged in covered misconduct. The Federal Home Loan Banks are not required to evaluate the qualifications or any misconduct of the project

sponsors, affiliates, team members and general contractors, as was proposed.

The next slide covers changes in the final rule to the optional Homeownership Set-Aside Programs. Under the final rule, the maximum annual funding amount that a Home Loan Bank may allocate for its Homeownership Set-Aside Program remains at the level in the current regulation, which is the greater of 35 percent of a Home Loan Bank's annual total AHP contribution or \$4.5 million.

The proposed rule would have allowed a Home Loan Bank to allocate annually up to the greater of 40 percent or \$4.5 million dollars. FHFA is maintaining the current 35 percent maximum set aside funding allocation. The Federal Home Loan Banks and a number of homeownership advocacy organizations supported increasing the maximum allocation. However, numerous organizations pointed to a national decrease in available affordable rental housing for very low-income households. They also pointed to the possibility that the proposal would result in a reduction in AHP funds awarded to rental housing projects under the General Fund.

The final rule also increases the current maximum set-aside subsidy per household limit from \$15,000 to \$22,000, subject to annual upward adjustments based on FHFA's House Price Index. Each Home Loan Bank has discretion to establish its set-aside subsidy per household up to the \$22,000 limit. Finally, the final rule revises the current one-third set-aside funding allocation, which requires that one-third of the set-aside funding allocation must be allocated to first-time homebuyers, to also include owner-occupied rehabilitation or a combination of both first-time homebuyers and owner-occupied rehabilitation.

Now I'll turn to provisions for rental project monitoring in the final rule. The final rule streamlines the current monitoring requirements by removing the requirement for the Federal Home Loan Banks to review back-up household income and rent documentation at initial monitoring for AHP projects receiving Low-Income Housing Tax Credits.

The final rule also streamlines monitoring of rental projects by authorizing the Federal Home Loan Banks to rely on the monitoring of certain other governmental entities for AHP projects that also receive funds from those entities, with those government programs to be specified in separate FHFA guidance. Specifically, it removed the requirement that the Federal Home Loan Banks review back-up household income and rent documentation during initial and long-term monitoring for such projects. FHFA plans to issue guidance soon that will initially include four government programs – HUD's Section 202 and Section 811 programs, and the USDA's 514 and 515 programs. These programs are included because their income, rent and retention requirements are similar to the standards for the AHP. These

programs also have very low rates of non-compliance. Moving forward, FHFA may add or remove federal housing programs through guidance.

This slide identifies another final rule provision regarding rental project monitoring. The final rule requires that project owners notify the Federal Home Loan Banks in the case of material and unresolved non-compliance with LIHTC household income targeting or rent requirements during the AHP 15-year retention period. I'm going to now turn the presentation over to Tiffani Moore who will discuss homeownership retention agreements and AHP project non-compliance under the final rule.

Tiffani:

Great. Thanks, Eric. In a significant change from the propose rule, the final rule eliminates the requirement for homeownership retention agreements where a household uses AHP subsidy for rehabilitation only, but retains the requirement for homeownership retention agreements where a household uses the AHP subsidy for purchase, or purchase in conjunction with rehabilitation of the unit. These requirements apply to the Competitive and Homeownership Set-Aside Programs. There is no option for discretion for the Home Loan Banks to maintain retention agreements for owner-occupied rehabilitation.

Many commenters supported the use of owner-occupied retention agreements on the basis that they help deter flipping or other types of fraud. Based on the comments, particularly from organizations with extensive expertise with the AHP in similar programs -- public and private -- that offer comparable assistance, FHFA was persuaded that retention agreements may play a significant role in deterring abuse and flipping, as well as protecting homeowners from predatory lending schemes.

FHFA opted to eliminate the retention or, excuse me, the requirement for retention agreements for rehabilitation only because flipping is unlikely. Many of the recipients of AHP subsidy for rehabilitation are long-term homeowners who are often elderly or disabled requiring accessibility improvements to their homes or deferred maintenance that needs to be addressed for the home to be habitable. They are generally less likely to move within a five-year period.

In a change from the approach in the current regulation, the final rule requires the Home Loan Banks to use a subsidy repayment calculation based upon net proceeds and the cost of the household investment, if documented, to determine the amount of AHP subsidy available for repayment if the home is sold within the five-year retention period.

The next slide will illustrate how AHP subsidy will now be calculated for repayment. In an effort to reduce the administrative burden to the Home Loan Banks and members, the final rule provides for an exception to the AHP subsidy repayment requirement for AHP-assisted households where

the amount of AHP subsidy subject to repayment is \$2,500 or less. This will be discussed in greater detail on an upcoming slide. The final rule also retains the exception to the AHP subsidy repayment requirement if the assisted unit is sold to a low- or moderate-income household, but authorizes the use of proxies in the absence of actual documentation of the subsequent purchaser's income. FHFA anticipates that the use of proxies will ease operational burdens for the Home Loan Banks and their members. This will also be discussed in detail on a forthcoming slide.

It is important to note that the mandatory compliance date for the Home Loan Banks to implement the homeownership retention agreement provisions is January 1, 2020, but a Home Loan Bank may choose to implement these provisions and other related provisions earlier, if so desired.

So, how does the subsidy recovery calculation work? For the purpose of the discussion of this slide, "Home Loan Bank" is used, understanding that the steps that will have to be performed by the Bank, or may be completed by a member designated by the Home Loan Bank. Also, the discussion of the subsidy recovery calculation is focused on the sale of a unit as it is the most common transaction that triggers repayment. The calculation is slightly different for refinancing.

If a household sells or refinances the AHP assisted home during the five-year retention period, this may trigger recovery from available net proceeds a pro rata amount of the AHP subsidy that the household received upon the purchase of their home. First, a Home Loan Bank calculates the pro rata subsidy amount available for recovery as provided on the slide. Consistent with the current regulation, the final rule requires that the AHP subsidy be reduced on a pro rata basis for the time that the household owned the unit. However, where the current regulation provides generally for this reduction annually, you'll note that the final rule reduces the original AHP subsidy on a pro rata basis monthly. This is consistent with current Home Loan Bank practice.

Next a Home Loan Bank calculates the net proceeds available from the sale of the home. In a departure from the net gain calculation used by the Home Loan Banks, all data required for the net proceeds formula is available on the closing disclosure statement. Net proceeds for a sale of a home is defined as sales price minus outstanding superior debt and any reasonable and customary seller paid transaction costs. You will note that this calculation does not include the AHP subsidy originally provided to the household, as it is not added to the net proceeds or subtracted from any component of the calculation. Since the AHP final rule limits repayment to available net proceeds, a Home Loan Bank can only recover what is available from net proceeds.

Step three. To ensure that a household enjoys the benefits of homeownership, the AHP subsidy recovery calculation prioritizes a household retaining its investment in the home upon sale or refinancing. Households that invest resources in their home in the form of down payment, repayment of principal on senior debt, reasonable and customary costs paid in connection with the purchase of the unit such as broker's commission and title search fees, and the cost of documenting capital improvements are permitted to recover those expenses before repaying any portion of the AHP subsidy. Remember that no AHP subsidy can be recovered by the Home Loan Bank unless the net proceeds exceeds the household investment.

Four. If any net proceeds remain after the household retains its investments, the Home Loan Bank recovers up to the pro rata subsidy recovery amount calculated in step one.

And finally, step five. If there are any remaining net proceeds after the household retains its investment and the Home Loan Bank recovers their pro rata subsidy amount, the remaining net proceeds are retained by the household.

As just discussed the net proceeds approach in the final rules permits the household to recover its entire investment in the home before repaying the pro rata AHP subsidy due. In instances where there are insufficient net proceeds to recover the amount due, the AHP assisted household is not responsible for paying the difference between the amount of AHP subsidy due and the amount available from net proceeds. And now I will discuss two exceptions to the AHP subsidy repayment requirement.

The final rule provides for an exception to the AHP subsidy repayment requirement for households where the amount of AHP subsidy subject to repayment is \$2,500 or less. If the pro rata subsidy amount is \$2,500 or less, calculation of net proceeds (as described on slide 18, steps two through five) is unnecessary. This should reduce the administrative burden on the Home Loan Banks and members associated with recovering AHP subsidy.

A \$2,500 threshold will also minimize any AHP subsidy repayments by the household. This furthers the underlying policy of the AHP that the purpose of the AHP subsidy is to enable low- or moderate-income households to enjoy the benefits of homeownership, which includes appreciation in the value of their home.

As previously stated, the final rule retains the exceptions to the AHP subsidy repayment requirement if the AHP existing unit is sold to a low- or moderate-income household. In contrast to the current regulation, the final rule provides for a method of evaluating the subsequent purchaser's income in the absence of actual documentation. In such cases, a Home Loan Bank

will determine the subsequent purchaser's income using one or more proxies that are reliable indicators of the subsequent purchaser's income, which may be selected by a Bank upon publication of guidance by FHFA on proxies. This requirement will become effective upon issuance of the guidance by the Agency.

A few notes regarding the use of proxies. FHFA intends to develop an affordability price index for use as a proxy for subsequent purchaser income. The affordability price index, which will be posted on the Agency's website, will list the house price that is affordable to households at 80 percent of area median income by geography. Also, neither the Home Loan Bank nor its member is required to request or obtain the subsequent purchaser's income, but must evaluate any income documentation if made available.

And now I'll provide a brief overview of remedial actions for AHP project non-compliance. Consistent with the proposed rule, the final rule addresses remedial actions for AHP project non-compliance. The final rule revises and streamlines the current language to provide greater clarity on the scope of the sections and the responsibilities of the parties. Excuse me. The final rule establishes a sequence of remedial steps for a Federal Home Loan Bank to follow before recovering AHP subsidy in cases of project non-compliance and codifies practices some Home Loan Banks generally follow now.

The final rule requires a project sponsor to first make a reasonable effort to cure project non-compliance in a reasonable time period. Requiring that the Banks attempt to cure non-compliance before modification helps ensure that sponsors fulfill commitments in their approved AHP applications and do not over promise the creation or retention of units or unachievable income targeting in their applications. If a project non-compliance cannot be cured within a reasonable time period, the Home Loan Bank may approve a project modification request that meets the final rule's modification requirement.

If the non-compliance cannot be eliminated through a cure or a project modification, a Home Loan Bank must first demand repayment of the full amount of the AHP subsidy not used in compliance with the commitment of the AHP applications or AHP regulation. This ensures that the Home Loan Bank attempts to recover all the subsidy due before considering settlement. If the demand for repayment of the full amount of subsidy due was unsuccessful, then the Bank is required to make reasonable efforts to collect the subsidy from a project sponsor or owner. This may include settlement for less than the full amount of AHP subsidy due.

When determining whether to settle, the Home Loan Banks are required to consider the facts and circumstances of the non-compliance. This includes the degree of culpability of non-compliant parties, but also the financial capacity of the project sponsor or owner, assets securing AHP subsidy, and

other assets of the project sponsor or owner. It is very important to remember that settlement is the last resort in a series of steps that a Home Loan Bank initiates to remedy project non-compliance, as the goal of the AHP is to ensure the creation and retention of affordable housing. Now I'll turn the presentation back to Eric Howard to discuss governance provisions in the final rule.

Eric: Thank you, Tiffani. The final rule retains the current authority for Federal Home Loan Bank boards of directors to delegate their statutory responsibility to meet quarterly with their affordable housing advisory councils to a board committee. This is a change from the proposed rule, which would have prohibited this kind of delegation. The final rule prohibits Federal Home Loan Bank boards from delegating strategic decisions to a board committee. This includes the responsibility to approve General Fund, Targeted Fund, and Homeownership Set-Aside Program policies, as well as the AHP Implementation Plan and the Targeted Community Lending Plan.

And finally, a note about reorganization of the regulation. As you read the final rule, you will notice that it generally adopts the reorganization of the current regulation as it was proposed. FHFA expects that the reorganization will make it easier for the Federal Home Loan Banks and AHP stakeholders to read and understand the final rule since it groups similar subjects together under new subpart headings. And now I'll turn the presentation back over to Ted Wartell to wrap up the webinar.

Ted: Thanks, Eric. Before we wrap up, I did want to say a few words about the effective dates of the final rule and the compliance dates. First, the rule is effective 30 days after publication in the Federal Register, which worked out to December 28th, 2018, but that doesn't mean the Home Loan Banks will have to implement the rule by that date. We're using the term "compliance date" to describe the implementation dates for the final rule. The Home Loan Banks will have to implement all parts of the rule by January 1st, 2021. However, there are exceptions. First, as Tiffani said, the compliance date for all owner-occupied retention agreement provisions is earlier. That's January 1st, 2020.

The final rule also allows the Home Loan Banks to elect to implement any provision of the rule early before the related compliance date. For example, a Bank might choose early implementation for Targeted Funds or for monitoring. A Bank that chooses to implement a specific provision before the related compliance date must also adopt all other changes related to that specific provision. And lastly, if a Home Loan Bank does not elect to implement a new provision in the final rule early before the compliance date it must comply with the current regulatory provision until the related compliance date.

All right a few words about next steps on our side. First, as we talked about, FHFA plans to issue monitoring guidance naming the four federal government programs eligible for reduced initial and long term monitoring. We also plan to issue guidance [on] using proxies to determine subsequent purchase or income in connection with owner-occupied retention agreements. Another step will be clarifying the Need for Subsidy determination. Finally, FHFA anticipates future rulemaking on sponsor-provided permanent financing, revolving loan funds and loan pools.

All right, with that, we do have time to answer any questions. Are there any questions?

Danielle: Ruchi, would you mind reminding our attendees how they can submit a question?

Ruchi: Absolutely, Danielle. Ladies and gentlemen, please go ahead and submit your questions in the chat panel located in the bottom right hand side of the screen, and please send your questions to all panelists, which you can select from the “send to” drop down menu.

Danielle: Thank you. While everyone is thinking about their questions, we did have one question submitted in advance, so I'll read that one first:

“May the Federal Home Loan Banks eliminate retention agreements for owner-occupied rehabilitation projects prior to implementing the full requirements of 12 CFR 1291.15? This is prompted by the following requirement: that a Bank that chooses to comply with a specific provision before the applicable compliance date must also comply with all other provisions related to that specific provision [in part 1291 and section 1290.]. [We are] unsure if [1291.15] in its entirety is related to the elimination of retention agreements for owner-occupied rehabilitation projects, which is implicit in the exclusion of such projects from the list [in 1291.15(a)(7)].”

Marcea: Okay, this is Marcea Barringer and I'm going to attempt to answer that question. So yes, a Bank can adopt the provisions - a Federal Home Loan Bank can adopt the provisions for owner-occupied retention agreements before the compliance date of January 1st, 2020. If a Bank does that, it does not have to adopt all the provisions in the section of the regulation that was mentioned, section 1291.15. Instead, it has to adopt the provisions related to owner-occupied retention agreements that are in 1291.15 as well as any other provisions related to owner-occupied retention agreements that are found elsewhere in the regulation. I hope that helps.

Danielle: Okay, great. We do have another question: “is this the same as the proposed rule for the Federal Home Loan Bank housing goal?”

Ted: Great question; important question. No, it is not the same. So, I will just, the Affordable Housing Program as many of you know is a program under

which the Federal Home Loan Banks put aside 10 percent the previous year's net earnings to run a competitive program and a noncompetitive set-aside program for affordable rental and home ownership. The Agency has a proposed rule out about Federal Home Loan Bank affordable housing goals, which has to do with loan purchases that the Banks make under their AMA programs. That is also posted on our website. We would love to have as many comments as possible on that. The comment period closes on January the 31st, and I encourage people to look it over and let us know any thoughts.

Danielle:

Thanks Ted. So, our next question is a two-part question related to the termination of retention mechanism:

"Language was specifically added by FHFA that a retention mechanism terminates upon a deed-in-lieu of foreclosure for owner-occupied projects. We [FHFA] did not add that for rental projects. Would a Federal Home Loan Bank run afoul if they allowed that for rental projects?"

And the second part:

"Remedial actions for project non-compliance – under 'scope,' it states 'this section does not apply to individual AHP-assisted households or to the sale or refinancing by such households of their homes.' Does that mean that if there was an owner-occupied general project that is for purchase or rehabilitation of individual homes, does the sponsor not have to follow the prescribed steps in order to set forth the regulation to remediate non-compliance?"

That was a mouthful.

Tiffani:

I will take the second question first. Given the nature and nuanced nature of the question, we're going to take that one offline and work with our legal counsel on getting an appropriate response back to the submitter of the question, because we want to make sure we understand the question in its entirety. Then the first question was regarding the termination of a retention mechanism – making sure I'm reading the question just to make sure.

Sharon:

Yeah, this is Sharon Like. The first question about the termination of retention agreements – that's something we'll take a look at. We need to get additional information before answering that question. On the second one, regarding projects, if you're talking about a project then clearly the remedial steps would apply so that those sections definitely in the regulation apply.

Danielle:

Okay, just to reiterate, we do have another question about getting a copy of the slides. We will be posting this webinar recording, as well as a full transcript and the slides on our website in the coming weeks. The next

question is: “do you anticipate revisions to the DRM reporting requirements for AHP as a result of the new rule? And if so, when will those provisions be published?”

Danielle S.: Yes, this is Danielle Safran. Yes. The answer is: yes, we do anticipate revisions to the DRM reporting requirements. I don't have a date for you now. We'll get back to you on that.

Danielle: Okay. We'll give it another minute in case anyone else is typing another question. Okay, looks like we do have another question: “if adopting the new rule regarding retention agreements for homeowner rehabilitation programs doesn't apply to homeowner projects that are already in retention from previous years, does the \$2,500 *de minimis* provision apply as well?”

Tiffani: So, the answer to that question is: yes. So for projects that are projects that are currently under retention agreement under the current regulation, the *de minimis* provision does apply to those projects upon the effective date of the final rule.

Adam: Of the Bank's adoption.

Tiffani: Oh, excuse me, of the Bank's adoption of the final rule.

Adam: Of that provision.

Tiffani: Of that provision.

Adam: Yeah.

Tiffani: Thank you for correcting me. I appreciate that. Thank you.

Danielle: Okay. [Next question]: “does the final rule apply to all AHP projects or only projects that are awarded AHP awards moving forward?”

Marcea: This is Marcea Barringer. That's a simple question and a great question, but one with a complicated answer. So, I think we're going to have to say now “that depends,” in general, because it depends on the specific provision.

Danielle: Please give me another minute for questions to come in. Okay, looks like we have one on LIHTC:

“For LIHTC projects, the revised regulation indicates no back-up documents are required at initial monitoring. Is a Federal Home Loan Bank still required to determine at initial monitoring: AHP subsidy use for eligible purposes, household income and rents comply with application commitments, actual costs are reasonable, retention requirements and services and activities committed in the application were provided? If it's still required to determine, how would a Federal Home Loan Bank do this without the back-up documents?”

Marcea: This is Marcea. The back-up documentation are back-up income and rent requirement documentation. So, for instance, for income documentation, that would be W2 forms or tax returns. For the rent documentation, we would still require a rent roll; like, the Banks are not required to review leases, for instance. A lot of the requirements mentioned in that question actually don't have to do with household income and rent eligibility and the Banks will still be required to determine at initial monitoring that those requirements are complied with. I hope that helps.

Danielle: I'm just waiting to see if there's any more questions. I think we might have time. Okay. Sorry for the delay. "If owner-occupied rehab projects have no retention agreement, is recapture of the subsidy ever required?"

Tiffani: The answer to that is: no. My simple answer.

Danielle: Okay. I think we might have time for one more question. "If it's just income and rent, do we have to have third-party verification of homeless and special needs?"

Marcea: I'm not sure exactly what that question is referring to – third-party verification of what? But, the project would have – and maybe this is what the question is getting at – "would the Bank still be required to verify that the project is serving the special needs population that it committed to in the application?" The answer to that would be yes.

Danielle: Just to verify, that's for LIHTC projects?

Marcea: Yes, for monitoring for LIHTC projects. That is correct.

Danielle: Okay. I think we're out of time for questions. Ted you want to give us a recap on how to contact us?

Ted: Sure, yeah. So, thanks again, everyone, for joining the webinar today. The contact information for everyone who has presented today, as well as Sharon Like and Adam Pecsek from our General Counsel's office, is listed on slide 27. That brings us – just in case you have additional questions – so it brings us to the end of the webinar today, but we absolutely look forward to hearing from you going forward.

Danielle: Thank you so much.

Ruchi: Thank you for joining the conference today. The call has now concluded and you may disconnect.

[END OF TRANSCRIPT]