



# Northpointe Bank

September 25, 2009

Mr. Alfred M. Pollard, General Counsel  
Federal Housing Finance Agency  
[RegComments@fhfa.gov](mailto:RegComments@fhfa.gov)

Subject: HERA Section 1217 Study [Include this line in subject line of e-mail]

DELIVERED BY ELECTRONIC MAIL

Dear Mr. Pollard:

We are writing on behalf of Northpointe Bank, a FHLB member bank through the FHLB of Indianapolis. We would like to thank the Federal Housing Finance Agency, the regulator of the Federal Home Loan Banks, for the opportunity to comment on the HERA Section 1217 Study.

In reviewing the implications of some of the proposed changes, we have concerns about the restrictions being placed on an FHLBank's ability to accept private-label mortgage-backed securities (PLMBS) and certain acquired whole loans as collateral for advances. Our investment portfolio includes both agency and private label mortgage backed securities, with both agency and private label performing as expected based on our conservative standards at the time they were purchased.

In Section V of the HERA study presented to Congress at the end of July 2009, the FHFA announced its intent to "clarify" the restrictions on acceptance of PLMBS that are presented in its **Advisory Bulletin 2008-AB-02** ("AB-02") as follows:

"The advisory bulletin states that residential mortgage loans underlying private-label MBS issued after July 10, 2007 must conform to the interagency guidance, but it is silent about MBS issued before that date that a member may acquire after that date. FHFA intends to clarify that MBS purchased by a member after July 10, 2007, is also subject to the guidance contained in Advisory Bulletin 2008-AB-02." (emphasis supplied)

Our concerns include the following.

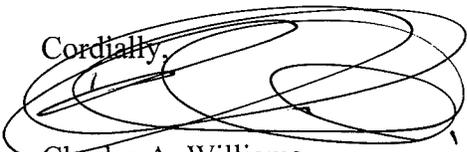
- For securities issued or purchased after July 10, 2007, to be eligible as FHLBank collateral, the issuer of the security must provide representations and warranties that the underlying loans are in compliance with regulatory guidance on subprime and nontraditional mortgage lending. However, because of the liability involved, issuers will not provide such representations or warranties. Therefore, PLMBS will be increasingly eliminated as a form of eligible collateral.

- By using the purchase date instead of the issue date, the market for sale of whole loans and the securitization of residential loan assets will be constrained, which will adversely impact the availability of credit to purchase homes. It will further freeze access to residential credit, which is contrary to current administration and congressional objectives.
- Additionally, using the purchase date adversely and unfairly impacts loans and investors by applying an impossible, retroactive standard. It will effectively ensure the PLMBS market remains illiquid as FHLBank members will effectively be locked out of participating as investors. For investors currently holding PLMBS, the “purchase date” requirement may increase the liquidity premium on such securities and drive down their market price, creating increased losses for investors holding such securities as available-for-sale.
- The possibility of re-securitizations is eliminated. Securities issued prior to July 10, 2007, cannot, by definition, comply with future guidance. Re-securitizations are important to the recovery of the housing markets.
- The original regulatory guidance clearly refers to the “issue date.” Substituting “purchase date” is a new requirement, and, as such, if implemented should be done by the regulatory process with public notice and opportunity for comment.

In summary, we believe that any FHLBank collateral requirement should not be implemented retroactively; rather PLMBS issued prior to July 10, 2007, should remain eligible as FHLBank collateral regardless of purchase date. Our institution certainly supports responsible underwriting of subprime and nontraditional mortgage lending and appropriate borrower disclosures; however, we do not believe the FHFA intended clarification achieves this goal.

We appreciate your consideration of our comment in regards to final ruling on this proposal.

Cordially,



Charles A. Williams  
President/CEO



Steven L. Germond  
Vice President/ CFO