



Federal Home Loan Bank
NEW YORK

First Home Clubsm Program Guidelines

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Introduction

The Federal Home Loan Bank of New York's ("FHLBNY") First Home Club ("FHC") is a set-aside of the Affordable Housing Program ("AHP") that is designed to assist income eligible first-time home buyers in the purchase of a home. Assistance is provided in the form of matching funds based on the home buyer's systematic savings within a dedicated savings account, up to \$7,500 based on a 4:1 match of household's savings. The FHLBNY's matching funds may be used toward the down payment and/or closing costs for the purchase of a home.

The FHC provides up to \$500 paid to the stockholder institution of the FHLBNY ("Member") towards the defrayment of non-profit housing agency counseling costs. This amount will be added to the FHC grant, resulting in the potential maximum assistance of \$8,000.

First Home Clubsm (FHC) Participation

The Federal Home Loan Bank of New York (FHLBNY) has established an annual FHC Program Enrollment Cap that is in effect for 2015 and moving forward. Based upon the annual enrollment cap, each *active* FHC Member is allotted an individual enrollment cap for the year. Active Members are those who enrolled households within the prior calendar year. If you have not received a written notification regarding your enrollment cap, your participation may be inactive. Please contact the FHLBNY prior to submitting household enrollments.

Members may become approved to participate in the FHC program by completing the *First Home Club Member Application* available on the FHLBNY website at http://www.fhlbny.com/forms/fhcaap_100.pdf. Approval is based on compliance with FHLBNY Program Guidelines and submission of appropriate exhibits. Members that do not originate home mortgages may also participate if they originate mortgages through a wholly-owned subsidiary.

Please note, a FHC Member is considered a *participating* Member if, within the past three calendar years, they have either submitted household enrollments or been newly approved to participate in the FHC Program. If your institution has not participated within the past three calendar years, please contact FHLBNY regarding renewal of your participation in the FHC Program.

In addition, only Members in good standing are eligible to participate in the FHC Program. Participation may be revoked at any time at the sole discretion of the FHLBNY if the Member is no longer in good standing with the FHLBNY.

Eligibility Requirements for First Home Club Households

In order to be approved as a qualified Household, the Household must:

- ❖ Meet the definition of a first time homebuyer. A first-time home buyer, based upon the U.S. Department of Housing and Urban Development (“HUD”) definition, is an individual who meets any of the following criteria:
 - An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse (if either meets the above test, they are considered first-time homebuyers).
 - A single parent who has only owned a principal residence with a former spouse while married.
 - An individual who is a displaced homemaker and has only owned a principal residence with a spouse.
 - An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
 - An individual who has only owned a property that was not in compliance with state, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.
- ❖ Be a resident in the FHLBNY’s district at time of enrollment, namely:
 - New York
 - New Jersey
 - Puerto Rico
 - U.S. Virgin Islands
- ❖ Purchase an eligible property type, namely:
 - 1-4 family home
 - Condominium
 - Cooperative
 - Manufactured home permanently affixed to a foundation

- ❖ Be enrolled through a participating First Home Club Member.
- ❖ Demonstrate a two year history of receiving a consistent and reliable stream of income derived through full time employment, a pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources.
- ❖ College enrolled Household members will only be considered in the following scenarios:
 - The individual is a dependent within the Household.
 - Demonstrate two years consistent reliable stream of income from full time employment while enrolled as a matriculated student (i.e. continuing education).
- ❖ Meet the income guidelines at the time of enrollment with a total Household income of 80% or less of the area median income for their current place of residence, adjusted for family size, as determined under 26 U.S.C. 143(f), Mortgage Revenue Bonds, (“MRB”), as published by a State agency or instrumentality. For the U.S. Virgin Islands only, the median family income for the area, as published annually by U.S Department of Housing and Urban Development (“HUD”).
- ❖ Household size is based upon the number of people who will reside in the home being purchased. Divorced or separated households who have joint custody of their children should include the children in their household count, even though the children may live in the household on a part time basis.
- ❖ Open a dedicated savings account and agree to save systematically on a monthly basis for a minimum of 10 months to achieve an “Equity Goal” as determined by the Household and FHC Member. Any withdrawals from the dedicated savings account must be directly related to the home purchase under the FHC Program.
- ❖ Agree to completion of a homeownership counseling program, minimum 6 hour course.
- ❖ Agree to obtain mortgage financing from the FHC Member, or a wholly owned subsidiary of the Member.

- ❖ Agree to sign, at the time of closing, a 5-year second mortgage with the FHC Member in the amount of the FHC grant.
- ❖ Regardless of the current venue of their primary residence, an enrolled Household who currently holds an ownership interest in other real property (*excluding* a time share unit or life estate) may not be considered a first-time homebuyer (and therefore ineligible for FHC assistance), particularly if that household has claimed tax deductions for mortgage interest and property taxes in connection with that property.
- ❖ Ownership of a vacant parcel of land does not constitute a principal residence. A Household that owns vacant land, on which it subsequently builds a home, will be eligible to receive FHC assistance towards the permanent financing.

Eligible/Ineligible Income for First Home Club Households

The FHC Member is responsible for verifying sources of annual income for Households enrolled in the FHC program and determining income eligibility. Income is determined at the time of enrollment with the Member based upon the Occupancy Handbook of the U.S. Department of Housing and Urban Development (“HUD”). The following lists, although not considered to be all inclusive, identify what does and does not constitute annual income.

What constitutes “income”?

- ❖ Total anticipated income from all sources for the last two calendar years and year-to-date income (at time of enrollment) received by the Household (even if a member is temporarily absent) and by each additional member of the household 18 years or older.
- ❖ The full amount (at the time of enrollment), before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation of personal services.
- ❖ The reported net income derived from operation of a business or profession averaged over a two (2) year period as evidenced by the income tax returns. A year-to-date Profit and Loss Statement prepared by a tax service or accountant coinciding with the enrollment date is required.
- ❖ Income derived from annuities, pensions, insurance policies.



- ❖ Income consistently derived from stock portfolio earnings, dividends, and other interest income.
- ❖ Net income of any kind from real or personal property.
- ❖ Payment in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- ❖ Automobile allowance.
- ❖ Alimony and Child Support.
- ❖ Social Security.
- ❖ Government/Welfare Assistance.
- ❖ All regular pay, special pay and allowances of a member of the Armed Forces.

What does not constitute "income?"

- ❖ Employment derived from individuals (including foster children) under the age of 18 years. Note: Welfare assistance, SSI, and other non-earned income paid to children are included in annual income.
- ❖ Payments received for the care of foster children or foster adults.
- ❖ Lump sum additions to Household assets (e.g., inheritances, capital gains, insurance policy death benefit payments, settlement for personal/property losses, medical expense reimbursements).
- ❖ Income of a live-in aide.
- ❖ Mileage reimbursement.
- ❖ Educational scholarships paid directly to a student, educational institution, or a veteran.
- ❖ Earned income tax credits.

- ❖ Unreliable and non-recurring income (e.g., gifts, employee stock option buyouts).
- ❖ The value of food stamp allotments (per §913.106 of the HUD regulations).
- ❖ The special pay to a household member serving in the Armed Forces who is exposed to hostile fire.
- ❖ Deferred periodic payments from supplemental security income and Social Security benefits that are received in a lump-sum amount or in prospective monthly disbursements.
- ❖ Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- ❖ Amounts paid by a state agency to a Household with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled Household member at home.

Determining Income Eligibility for First Home Club Households

Prior to enrollment with FHLBNY, the FHC Member should perform comprehensive employment verification and income analysis of each Household in order to determine their income eligibility as well as their potential to qualify for permanent financing based on the Member's underwriting standards.

Although it is not the intention of the FHLBNY to dictate loan underwriting policies, the FHC Member is responsible for ensuring that each Household who is selected to purchase and occupy a FHC subsidized unit meets the eligibility criteria set forth in the AHP Regulation. The FHLBNY uses the following parameters in determining Household income eligibility:

- ❖ Income eligibility is based on the household's projected annual income at the time of enrollment.
- ❖ The time of approved participation in the FHC is the date that the Household is registered with FHLBNY, after having been reviewed for eligibility by the FHC Member and having opened and started systematically saving in a dedicated account.

- ❖ Household income is determined at the opening of the systematic savings account. Any change in a Household's income following enrollment will not adversely impact eligibility. Only in the event of a change to the Household size prior to the closing date, will the Household income be re-evaluated retroactively to the opening of the systematic savings account.
- ❖ An eligible Household seeking to enroll in the FHC should demonstrate a two year history of receiving a consistent and reliable stream of income derived through full-time employment, a pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources (The FHLB NY will include in its review of household income all sources of earnings, including income derived from overtime, bonuses, commissions, or special allowances.)
- ❖ The net income from the operation of a business or profession averaged over a two (2) year period as determined by the 1040 Federal Tax Return. A year-to-date Profit and Loss Statement prepared by a tax service or accountant coinciding with the enrollment date is required.
- ❖ As a general rule, FHLB NY underwriting standards are as follows:
 - Maximum original Loan to Value ("LTV") is 97.0%
 - Maximum original Loan to Value ("LTV") is 100% for a VA-Guaranteed Loan. LTV is calculated using the base mortgage amount.
 - Maximum Debt to Income ("DTI") ratio is 55%
 - For $DTI \geq 45\%$ and $< 50\%$, at least one (1) mitigating factor required
 - For $DTI \geq 50\%$ and $= 55\%$, at least two (2) mitigating factors required
 - Examples of mitigating factors are:
 - High credit score and/or good credit history
 - Reserve assets
 - Probability for increased income
 - DTI includes installment accounts with less than 10 payments remaining
 - Low LTV
- ❖ Any income earned by a spouse or cohabiting partner must also be verified and included in Household income calculations regardless of their inclusion on a loan application, Deed, Mortgage Agreement or Promissory Note.
- ❖ FHLB NY does not recognize income from a co-signor or loan guarantor.

Income Documentation for First Home Club Households

Acceptable forms of income source documents at time of enrollment may include the following:

- ❖ Two (2) years most recent signed 1040 Federal Income Tax Returns and any associated schedules, with applicable W-2 Wage Statements and other income statements such as 1099s.
- ❖ One (1) month of paychecks with accompanying earnings/deductions statements from within two (2) months of the date of enrollment/account opening. In accordance with industry standards, the pay period end date, not the check date, will be utilized in calculating income.
- ❖ Completed and properly executed Fannie Mae Request for Verification of Employment (Form 1005) reflecting income as of the enrollment date.
- ❖ Social Security Supplemental Income notices reflecting income within the year of enrollment/account opening
- ❖ Retirement, disability, and/or unemployment benefit statements.
- ❖ Notice of Decision of Public Assistance Benefit.
- ❖ Section 8 Homeownership Voucher Program approval letter.
- ❖ Court orders verifying alimony awards and/or child support payments.
- ❖ Individuals working under contractual agreements (i.e. teachers) must also provide most recent contract within the date of enrollment/account opening. The contracted salary and any additional income listed above salary will be included in the income analysis.

Submission of First Home Club Household Information

The Gramm-Leach-Bliley Safeguard Rule, the Identity Theft Act, Privacy State Laws and FACTA are some of the legislation enacted to protect consumers from identity theft. To protect borrower information that may be utilized to develop a 'credit profile' if intercepted by an unauthorized Third party, the Federal Home Loan Bank of New York ("FHLBNY") requires that all First Home

Club Household information be submitted through a FHC Member's secure file transfer service or through encrypted email.

Homeownership Counseling

Homeownership counseling must be completed before the FHC assisted purchase of a home. Household members executing the FHLBNY Promissory Note are required to complete homeownership counseling; a minimum of six hours of either face-to-face or online counseling is required along with receipt of a completion certificate. While the curriculum may vary amongst agencies, the counseling program should, at minimum, address the following topics:

❖ **Requirements of FHC**

Review of topics such as systematic savings process, homeownership counseling and use of the FHC dedicated savings account.

❖ **Mortgage Payment versus Rent**

How to assess the issues that should be considered in choosing between renting and owning a home.

❖ **Financial Planning for a Home**

How to estimate the mortgage a Household can or should consider affordable. Provide a guide to credit enhancement and maintenance. Assist each Household in establishing a schedule of systematic savings.

❖ **Choosing an Affordable Home**

Discuss the procedures in searching, negotiating, and making the offer to purchase.

❖ **Creating a Monthly Budget**

Develop budgeting skills in order to manage money in all aspects of the Household's life. Describe the payments (principal, interest, taxes, and insurance or "PITI") and costs of maintaining a home.

❖ **Contract of Sale**

Explain the signing of the contract and the professional home inspection.

❖ **Mortgage Loan Application**

Assist and explain the application and approval process. Explain verification of income, grants, gift letters, and underwriting procedures.

❖ **Down Payment and Closing Costs**

Explain down payment requirement and the fees paid at closing.

❖ **Closing Documents**

Explain the information provided in the various documents executed at closing and the obligations incurred as a borrower.

❖ **Closing**

Explain the closing day process from scheduling to final preparations and the roles of the parties at the closing table.

❖ **Life as a Homeowner**

Understanding homeownership issues such as the following: payment due dates; late payment penalties; tax benefits of home improvements; how to maintain and improve the home; refinancing choices; importance of keeping good documentation on capital improvements.

❖ **Predatory Lending**

Recognizing and avoiding predatory lending practices before and after purchasing a home. Recognizing traps, scams and costly fees such as private transfer fees (sometimes known as “flip fees”).

❖ **Other Topics**

As determined by the FHC Member and/or counseling provider.

Through the FHC, the FHLB NY may provide to the FHC Member, up to \$500 for each household at time of closing, to assist in defraying the cost of the non-profit housing agency counseling depending upon actual cost as confirmed by the FHC Member.

Enrollment of First Home Club Households

Households are enrolled with FHLB NY on a monthly basis by approved FHC Members through the *Enrollment Period Report*. Reports are due by the tenth of each month and must include Households approved with systematic savings accounts opened in the prior month by the Member. No retro-enrollments will be considered.

The report includes a Certification indicating the FHC Member is confirming the following:

- ❖ The information included in the *Enrollment Period Report* as being true and accurate to the best of their knowledge.
- ❖ The Household's income does not exceed 80% of the family median income, adjusted for Household size, for their current place of residence.
- ❖ The Household(s) are first time homebuyers.
- ❖ The FHC Member has received the FHLBNY *Enrollment Terms and Conditions* form (http://www.fhlbny.com/forms/fhc_104.pdf) from each Household to certify that the information provided to the Member is true and accurate.
- ❖ Files for each Household have been established at the FHC Member's location and contain the documents used to verify income eligibility at time of enrollment.
- ❖ Prior to closing, the Household will have successfully completed a homeownership counseling program.

The FHLBNY reserves the right not to enroll all or any portion of the Households listed in the *Enrollment Period Report*. Retroactive enrollments are not permitted. If extenuating circumstances exist, a FHC Member may contact the FHC at FHC@fhlbny.com.

Enrollment Extension Options

For all Households enrolled in 2015 and forward, all extensions are at the sole discretion of FHLBNY. As a general rule, the guidelines for extensions are as follows:

- ❖ For Households enrolled in 2015 and beyond the maximum timeframe to close and fund is within 24 months.
- ❖ For Households enrolled in 2014 only, the maximum timeframe to close and fund is 24 months; however, there is an option for a one-time six month extension upon the FHC Member's request.

- ❖ For Households enrolled in 2012 and 2013, the maximum timeframe to close and fund is 24 months; however, there is an option for a one-time twelve month extension upon the FHC Member's request.
- ❖ A Household that has been withdrawn from the program can be considered again; however, that Household must be submitted under a new enrollment period and evidence satisfaction of all program requirements.

First Home Club Dedicated Savings Accounts

The FHC Member will assist each Household in establishing a realistic schedule of systematic savings. The dedicated savings account must evidence continuous and consistent monthly deposits as agreed upon in the *First Home Club Enrollment Terms and Conditions Agreement* ("ETC").

Achieving the equity goal cannot be accelerated by making additional and/or lump-sum deposits. The minimum timeframe to meet the equity goal is 10 months.

Any withdrawals from the dedicated savings account must be evidenced by supporting documentation (i.e. copy of check, invoice or Good Faith Estimate), verifying the withdrawal is directly related to the purchase of the home under the FHC Program.

Matching Funds

FHLBNY will determine the matching funds based on a ratio of up to 4:1 in matching a household's savings. For every \$1 saved and deposited into the dedicated account with the FHC Member under a systematic schedule of savings, the FHLBNY will match with \$4, not to exceed \$7,500 in matching funds per Household.

The FHLBNY will not match funds deposited in other savings accounts including accounts with other institutions. Automatic direct deposits from checking accounts and direct deposits into the dedicated savings account from payroll deductions are acceptable. Funds deposited into the dedicated account that are not the result of systematic savings, will not be included in determining the matching funds.

Matching Funds Use

The matching funds will be used toward the down payment and/or closing costs for the purchase of a Household's principal residence. FHC funds may also be used in conjunction with other grant programs, including the FHLBNY's competitive Affordable Housing Program. The combined FHC and AHP subsidy may not exceed \$20,000 per Household.

Matching funds may not be used for home ownership counseling costs and expenses. Additional funds may be provided to the FHC Member up to a maximum of \$500, depending upon actual cost as confirmed by Members, to defray the costs of a non-profit housing agency providing home ownership counseling to FHC households that successfully close on a FHC grant assisted home.

Progress Reporting

FHC Members are required to notify the FHLBNY of any Households who have ceased to participate in, or no longer qualify for, the FHC Program. A *Member Pipeline Status Report* will be issued on a quarterly basis providing the opportunity for Members to withdraw households, request extensions (see *Enrollment Extension Options*), and otherwise reconcile their records to those of the FHLBNY and certify to the accuracy of the information. Statuses to be updated are as follows:

- ❖ **Extend:** For households approaching their 24-month expiration, refer to *Enrollment Extension Options* section for applicable extension options. Extensions should only be requested for households that are making progress towards the equity goal and are actively looking for a home to purchase.
- ❖ **Withdraw:** No longer active with FHC. Upon reaching the 24th month, FHLBNY will automatically withdraw any household from program unless the Member has requested otherwise.

Household Transfers Between Members

Transfer of Households from an enrolling FHC Member to another participating FHC Member is permissible whenever the enrolling Member is unable to accommodate the loan. The acquiring Member must provide their consent to accept the household through completion of the Transfer

Notification Form which is located on the website at: http://www.fhlbny.com/forms/fhc_115.pdf. A pre-approval from FHLBNY is not required. The executed Transfer Notification Form should be submitted with the Funding Certification package.

Submission of Funding Certification

Within five (5) business days of the issuance of the first mortgage commitment, the FHC Member must submit the First Home Club Funding Certification (“Funding Certification”) http://www.fhlbny.com/forms/fhc_105.pdf and accompanying documentation, as outlined below, to the FHC mailbox (FHC@fhlbny.com).

The Funding Certification is a means of attesting that the information provided to FHLBNY is true and accurate. The FHC Member should indicate if a financial incentive (i.e. reduced legal fees, reduced up front mortgage costs) is being provided directly to the Household in connection with the mortgage financing. Along with the Funding Certification, the following information must be submitted for approval of the matching funds:

❖ **Income Documentation**

Documentation reflecting household income should be submitted as referenced under, “Income Documentation for First Home Club Households.”

❖ **Copies of FNMA Forms 1003 and 1008**

Copies of FNMA Uniform Residential Loan Application and FNMA Uniform Underwriting and Transmittal Summary.

❖ **Evidence of Systematic Savings Deposits**

Copy of savings accumulated over a minimum period of ten months in a dedicated savings account.

❖ **Evidence of Completion of Homeownership Counseling Program**

Copy of completion certificate for each Household member executing the FHLBNY Promissory Note.

❖ **Copy of Executed *Enrollment Terms and Conditions Agreement***

Agreement must evidence execution at the time of enrollment.

- ❖ **Copy of FHC Member's Mortgage Commitment**
- ❖ **Other documents required at the discretion of the FHLB NY**

Failure to submit the Funding Certification and accompanying documentation to the FHLB NY within five (5) business days of the issuance of the first mortgage commitment will result in processing delays.

Closing Requirements

The following documents, available on our [website](#), must be executed at the closing between the FHC Member and the Household:

- ❖ **FHC Promissory Note**
- ❖ **FHC Subordinate Mortgage**
- ❖ **FHC Certification of Intent to Record**

Please complete the documents with the applicable information and note the following:

- ❖ Other than the completion of the necessary fields, no alterations may be made to the FHC Promissory Note and Subordinate Mortgage Documents.
- ❖ FHC Subordinate Mortgage must be signed by all individuals listed on title to the subject property.
- ❖ If household receives subordinate financing provide, loan amount, APR and mortgage term.
- ❖ Required Disclosures based upon mortgage application date, as follows:

For mortgage applications **prior to** October 3, 2015 (*no change*):

1. Fully executed *HUD-1 Settlement Statement*:
The disbursement of the FHC funds *must be* reflected on the HUD-1 Settlement Statement. The total FHC Grant of Eight Thousand Dollars (\$8000.00) must be

reflected in section 200, “**Amounts Paid by or In Behalf of Borrower**” itemized as FHC Grant. If counseling agency cost defrayal funds are included, the HUD-1 must reflect the total counseling defrayment charges paid to the applicable not-for-profit counseling agency (sum not to exceed \$500 in FHC funds).

2. Fully executed *Truth In Lending Disclosure*

For mortgage applications **on or after** October 3, 2015:

1. Fully executed *Closing Disclosure*:

If full FHC amount is not listed on *Closing Disclosure* provide applicable Disclosure(s) reflecting full grant amount itemized as “FHC Grant” and not –for-profit counseling agency fee, if applicable.

- ❖ In accordance with §1291.6(c)(9) of the AHP Regulation, the FHC Member may provide cash back to a Household at closing in an amount not exceeding \$250 above the sum of the items reflected on either the HUD-1 Settlement Statement as “Borrower Paid Out of Closing” (POCB) or “Borrower Paid Before Closing” listed on the Closing Disclosure in order to partially reimburse the household for any pre-closing expenses directly related to the acquisition of their dwelling, i.e., mortgage application fees, credit report fees, appraisal fees, property inspection fees, or down payment costs.
- ❖ FHC Members must use any FHC grant funds that exceed what is needed at time of closing to cover closing costs and down payment as a credit to reduce the outstanding principal of the first mortgage or as a credit toward the household’s monthly payments on the mortgage loan.
- ❖ Fully executed copies of the following closing documents must be returned to the FHLBNY within 15 days of closing:
 - i. **FHC Promissory Note**
 - ii. **FHC Subordinate Mortgage with property legal description as Exhibit A (If a Cooperative provide copy of UCC-1)**
 - iii. **FHC Subordinate Mortgage Certification of Intention to Record**

iv. **Closing Disclosure or HUD-1 Settlement Statement, if applicable**

v. **Final Truth in Lending Disclosure Statement, if applicable**

- ❖ Copies received must be legible and deemed acceptable to the FHLBNY, in its sole discretion. The documents must be consistent and accurate as to the Household closing, including but not limited to: borrower name, property address, maturity dates and terms, etc.
- ❖ Failure to submit the closing documentation to FHLBNY within the noted timeframe may affect the Member's participation status in the FHLBNY FHC Program and may result in a recapture of FHC funds.
- ❖ Proof of the cost of homeownership counseling is required in the form of a check and/or invoice.

Funding Methods

Funding Pre-Closing

- ❖ After review and approval of the Funding Certification and Household eligibility via email, the FHC Member will notify FHLBNY of the closing date and request the FHC funds be credited to their DDA account prior to the household closing.

Funding Post-Closing

- ❖ After review and approval of the Funding Certification and Household eligibility via email, the FHC Member will proceed to fund the household at closing. Upon receipt and review of the executed closing documents, the FHLBNY will credit the Member's DDA account.

Approval and Funding Post-Closing

- ❖ The FHC Member will proceed to independently fund the Household without prior approval from the FHLBNY. After the Household has closed, the Member will submit the Funding Certification and executed closing documents. Upon review and approval of the required documentation, the FHLBNY will credit the Member's DDA account.

After a Household has been credited with FHC funds, a confirmation email will notify FHC Members of the transfer to their DDA Account.

Retention Period

All FHC-assisted households must continue to comply with the requirements of AHP Regulation for a minimal period of time, known as the “Retention Period.” The Retention Period for FHC households shall be five (5) years from the date of closing.

Monitoring Practices

Transfers of title for owner-occupied properties are effectively monitored through legally enforceable FHC Retention Agreements. On an annual basis the FHC will require its participating Members certify households within the five year retention period have not had an event of non-compliance.

Recapture and Events of Non-Compliance

FHLBNY may determine by receiving notification from a Member that FHC subsidy will not be, or is no longer being used for purposes that conform to AHP Regulation. Such a situation would constitute an event of non-compliance which may result in the recapture of FHC subsidy. Members notifying FHLBNY need to complete the *Recapture Form* (<http://www.fhlbny.com/community/housing-programs/fhc/member-forms-and-guidelines.aspx>) and submit the documentation to FHC@fhlbny.com for processing of the recapture. The recaptured funds will be withdrawn from the Member’s DDA account.

Recapture:

- a) Direct Subsidy Held by the Member Not Disbursed to Household

A Member which has been funded FHC subsidy is required to notify FHLBNY immediately upon receiving information that the subsidy will not be or is no longer being used for the intended purchase of the home by the household approved for subsidy.

If the Member does not reimburse FHLBNY, the Member’s Demand Deposit Account (“DDA”) or any other deposits, credits or moneys of the Member then in the possession of the FHLBNY may be debited at the sole discretion of FHLBNY.

If the subsidy subject to recapture remains in the possession of the Member for more than 30 days, the FHLB NY may, in its sole discretion, assess the Member a Fed Funds-driven per diem rate of interest.

b) Direct Subsidy Disbursed to Household

If a household fails to correct an event of non-compliance, the Member is accountable for recovering all FHC subsidy from a household on a “pro rata” basis as determined by FHLB NY. If the Member does not reimburse FHLB NY, the Member's Demand Deposit Account (“DDA”) or any other deposits, credits or moneys of the Member then in the possession of the FHLB NY may be debited at the sole discretion of FHLB NY.

c) Premature Sale, Transfer, or Refinancing

If an owner-occupant decides to sell or refinance the FHC-assisted unit during the Recapture Period, a pro rata portion of the FHC grant may need to be repaid to the FHLB NY from any *net gain* realized upon the sale or refinancing, unless:

- i. The unit is sold to a very low-, or low- or moderate-income household; or
- ii. Following a refinancing, the unit remains subject to a standard, legally enforceable FHC retention agreement.

d) Foreclosure

In cases of foreclosure or a deed-in-lieu of foreclosure, there is no obligation to repay FHC subsidy.

A FHC-assisted property may experience an Event of Non-Compliance when it fails to attain a level of performance which was specified and approved at time of enrollment. Examples of Events of Non-Compliance may include, but are not limited to evidence of fraud or willful non compliance by a Household, FHC Member or counseling agency.

Suspension and Debarment Policy

If, in the judgment of either the FHLB NY or the FHFA, the FHC Member or counseling agency shows a pattern of noncompliance, or engages in a single instance of flagrant noncompliance with the terms of the AHP regulation, the FHLB NY, either in its sole discretion or under the regulatory direction of the FHFA, may suspend or debar the Member or counseling agency from participation in the FHC.