



POLICY TITLE	Responsible Lending Policy		
POLICY TYPE	Management Policy		
GROUP	Risk Management	Policy Number	MP-RM-009
		Approval Date	10/28/2020
DIVISION/DEPARTMENT	Credit Policy and Review	Effective Date	10/28/2020
		Last Revision	02/06/2019
Principal Officer	Chief Risk Officer		
Policy Owner	Director of Credit Policy and Review		

1. PURPOSE OF THE POLICY

1.1 This Policy supplements the Compliance Policies provisions for the FHLBNY to have in place a Responsible Lending Policy as part of its credit risk management program that addresses (a) the prohibition of accepting investments, mortgage loans or securities and mortgage collateral pledged with Predatory Lending characteristics and (b) incorporates risk limits for and appropriate mitigation of credit exposure on nontraditional and subprime loans specific to:

- (a) Acquired Member Assets;
- (b) Collateral securing advances;
- (c) Collateral for members and housing associates;
- (d) Loan losses and asset reserves; and
- (e) Private label mortgage backed securities.

1.2 This policy supersedes and replaces the FHLBNY Board Policy RM-04-09 “*Responsible Lending Policy*”.

2. POLICY SCOPE

2.1 The FHLBNY is committed to a comprehensive Responsible Lending program that is approved by Senior Management. It is the policy of the FHLBNY to comply fully and completely with applicable statutory and regulatory requirements regarding:

- (a) The acceptance of Nontraditional and/or Subprime Mortgage Loans pledged

as collateral for advances;

(b) The purchase of Nontraditional and/or Subprime Mortgage Loans under the FHLBNY's Acquired Member Assets program ("AMA").

(c) The purchase of investment securities with underlying Nontraditional and/or Subprime Mortgage Loans; and

(d) The prohibition of accepting residential loans for collateral or investment purposes having Predatory Lending characteristics.

2.2 This policy supplements the FHLBNY's Board Compliance Policy and is supported by the following policies:

(a) Credit Risk Management Policy,

(b) Loan Loss and Asset Reserve Policy,

(c) Investments Policy,

(d) Acquired Member Asset Acquisition, Pricing and Eligibility Policy, and

(e) Collateral for Members and Housing Associates.

2.3 The FHLBNY will not accept as collateral or purchase as investments, mortgage loans or securities backed by mortgage loans that do not comply with applicable laws and regulations nor will it accept such collateral having Predatory Lending characteristics.

3. POLICY STATEMENT

3.1 The FHLBNY shall at all times have in place a responsible lending program that maintains adequately designed and effective internal controls geared towards:

(a) Prohibiting the acceptance as collateral or the purchase as investments, mortgage loans or securities backed by mortgage loans that do not comply with applicable laws and regulations including the Interagency Guidance;

(b) Providing support to its members who have responsible lending practices that address the needs of borrowers, in a manner that is suitable for each borrower's particular credit and financial profile as well as their demonstrated capacity to service debt;

(c) Complying with applicable federal, state and local lending laws and other similar credit-related consumer protection laws, regulations, orders and regulatory guidance designed to prevent or regulate abusive and deceptive lending practices and loan terms, and to ensure responsible and suitable lending practices;

- (d) Communicating the FHLBNY's expectations that members adhere to the provisions of the Interagency Guidance regarding the use of Nontraditional and Subprime loan products and lending to individuals who are subprime credits and/or who have affordability credit needs; and
- (e) Obtaining periodic certifications from members indicating their continued compliance with applicable laws, regulations and regulatory guidance.

3.2 The elements and requirements of the responsible lending program shall be made available to all members through the FHLBNY website.

4. **POLICY ADMINISTRATION**

4.1 **Authority**

- (a) **Chief Risk Officer ("CRO")** shall in accordance with delegated authority from the FHLBNY's President and CEO ensure that the provisions of this policy are implemented and to further delegate such authority as deemed appropriate.
- (b) **Head of Affordable Housing and Community Investment** shall in accordance with delegated authority from the FHLBNY's President and CEO ensure that appropriate collateral review processes are in place for accepting Nontraditional and Subprime mortgages to secure advances and prohibiting the acceptance of mortgage collateral with Predatory Lending characteristics in accordance with the provisions and standards of this policy and to further delegate such authority as deemed appropriate.
- (c) **Chief Business Officer** has been delegated authority from the FHLBNY's President and CEO to take all actions necessary to implement the appropriate collateral review processes for accepting mortgage loans with Nontraditional or Subprime mortgage into the Acquired Member Asset ("AMA") programs in accordance with the provisions and standards of this policy and to further delegate such authority as deemed appropriate.

4.2 **Responsibility and Accountability**

- (a) **The Enterprise Risk Committee ("ERC")** shall:
 - (i) Review this policy annually and approve amendments thereto as proposed by the Chief Risk Officer ("CRO"), and
 - (ii) Review credit reports regarding the FHLBNY's exposure to risks associated with Nontraditional and Subprime Mortgage Loans.

- (b) **The Chief Risk Officer** shall, in accordance with delegated authority from the FHLBNY's President and CEO oversee:
- (i) The assessment of the FHLBNY's risk exposure to Nontraditional and Subprime mortgage risks.
 - (ii) Establish appropriate credit risk limits for accepting Nontraditional and Subprime mortgages pledged as collateral for advances or for accepting investments, mortgage loans and securities with underlying Nontraditional and Subprime mortgages.
 - (iii) Ensure the related risk assessment and reports are vetted through the various subcommittees of the MC as required.
 - (iv) Ensure a zero tolerance for accepting mortgage loans as collateral for advances or investment instruments supported by mortgages having Predatory Lending characteristics.
- (c) **The Director of Credit Policy and Review** – shall, in accordance with delegated authority from the CRO, prepare and present credit risk reports to the CRO summarizing the FHLBNY's exposure to risks associated with Nontraditional and Subprime Mortgage Loans (including appropriate risk limits).
- (d) **Head of Affordable Housing and Community Investment** shall in accordance with delegated authority from the FHLBNY's President and CEO ensure that an appropriate collateral review processes is in place for accepting Nontraditional and Subprime mortgages to secure advances.
- (e) **The Director of Collateral Analytics Services** - shall, in accordance with delegated authority from the Chief Bank Operations Officer ensure that:
- (i) appropriate collateral review processes are in place for accepting Nontraditional and Subprime mortgages to secure advances and prohibiting the acceptance of mortgage collateral with Predatory Lending characteristics in accordance with the provisions and standards of this policy.
 - (ii) ensures a zero tolerance for accepting mortgage loans as collateral for advances or investment instruments supported by mortgages having Predatory Lending characteristics.
- (f) **The Director of Acquired Member Assets** – shall, in accordance with delegated authority from the Chief Business Officer ensure that:
- (i) appropriate collateral review processes are in place so that no

Nontraditional, Subprime mortgages or mortgages with Predatory Lending characteristics are accepted into the AMA programs in accordance with the provisions and standards of this policy.

- (ii) ensures a zero tolerance for accepting mortgage loans as investment instruments supported by mortgages having Predatory Lending characteristics.

4.3 Applicability

- (a) The provisions of this policy apply to all Bank employees.
- (b) Non-compliance with this policy is subject to exception reporting pursuant to the provisions of the Bank's Compliance Policy and Exception Procedure.

5. POLICY STANDARDS

5.1 Advances Collateral – During the course of FHLBANY's normal collateral on-site visits, the selected mortgage files will be reviewed to confirm compliance with provisions of this policy, and the processes governing the FHLBANY's residential on-site review process. Compliance monitoring shall include:

- (a) Reviewing members' regulatory examination reports, if available, for findings pertaining to unfair and/or abusive lending practices by Credit Policy and Review;
- (b) Monitoring of members' regulatory alerts for newly issued supervisory agreements, memoranda of understanding, or cease and desist orders pertaining to unfair and/or abusive lending practices by Credit Policy and Review;
- (c) Pledgors (including members' pledging subsidiaries and/or affiliates) are required to execute representations and warranties and indemnification agreements with the FHLBANY; and
- (d) Collateral Valuations shall perform annual anti-predatory loan screening for pledged residential mortgage loans.

5.2 Acquired Member Assets – The FHLBANY will take all steps deemed necessary in order to confirm or monitor the Participating Financial Institutions' ("PFI") compliance with the provisions and standards of this policy on a pre- and post-purchase basis, as outlined in the procedures governing anti-predatory lending processes for AMA to ensure that members have established anti-predatory lending policies indicating that loans of this type are not presented for purchase or funding. In addition, the FHLBANY shall:

- (a) Review members' regulatory examination reports for findings pertaining to unfair and/or abusive lending practices;
- (b) Monitor members' regulatory alerts for newly issued supervisory agreements, memoranda of understanding or cease and desist orders pertaining to unfair and/or abusive lending practices;
- (c) Require the repurchase of ineligible mortgages sold to the FHLBNY by a member within thirty (30) business days after notice by the Bank or MPF[®] Provider, and the Bank and MPF[®] Provider will accomplish the repurchase in accordance with repurchase requirements as outlined in the AMA Guides; and
- (d) Require the member to make the FHLBNY whole for any losses or costs incurred during the time the mortgage was held by the FHLBNY.

5.3 Mortgage Backed Security ("MBS") Investments – The FHLBNY limits its purchases of residential MBS only to US Agency issues.

5.4 Failure to Comply – In the event the FHLBNY knows or discovers that certain residential mortgage collaterals pledged by a Member do not conform with the provisions and standards of this policy, the FHLBNY may, in addition to all available rights and remedies at law or in equity:

- (a) Assign a zero value to such collateral;
- (b) Require the pledgors to substitute eligible collateral; and
- (c) Require the pledgors to undertake a review of their policies, practices and procedures to ensure compliance with the provisions of this policy and other FHLBNY collateral policies.

5.5 Non-compliance with this policy is subject to exception reporting to the Board and Management Committee, each of which has the discretionary authority to take appropriate action.

6. DEFINITIONS

6.1 Nontraditional Mortgage Loans – means mortgage loan products that allow borrowers to defer repayment of principal and/or interest. These products include, but are not limited to interest only, negative amortization and payment option loans but exclude home equity loans, home equity lines of credit and government insured loans.

6.2 Predatory Lending / Residential Mortgages with predatory lending characteristics – for purposes of this policy following practices and characteristics

apply:

- (a) Residential mortgage loans that require borrowers to obtain prepaid, single premium credit life, disability unemployment or other similar credit insurance.
- (b) Residential mortgage loans that charge prepayment penalties for early payoff beyond the first five years or that may be more restrictive under state laws regarding prepayment penalties with which members must comply.
- (c) AMA loans with mandatory arbitration clauses and residential mortgage loans with an effective origination date of October 1 2004, or thereafter, containing mandatory arbitration clause with respect to dispute arbitration clauses unless such clauses are either:
 - (i) In compliance with applicable state lending laws; or
 - (ii) Not explicitly enforced in accordance with member corporate policies.
- (d) Residential mortgage loans that exceed the annual percentage rate, or points an fee thresholds of the Home Ownership and Equity Protection Act of 1994 and Federal Reserve Board Regulation Z, whether individually, as part of a loan pool or as underlying collateral in a mortgage backed security at the time the loan was made.

6.3 Senior Management – means the current members of the FHLB NY’s Management Committee.

6.4 Subprime Mortgage Loans – means mortgage loans extended to borrowers who, at the time of loan origination or purchase, exhibit a credit history and financial characteristics indicating a higher probability of default than borrowers who have consistently demonstrated the capacity to service debt. Subprime borrowers typically have weak credit histories including delinquencies, charge-offs, judgments, foreclosures, repossessions and bankruptcies. Excluded from this category are home equity loans, home equity lines of credit and government insured loans.

7. GETTING HELP

IF YOU NEED HELP WITH	CONTACT
Questions about this policy	Chief Risk Officer
Questions about collateral	Head of Affordable Housing and Community Investment
Questions about Investments	Chief Capital Markets Officer

Questions about internal controls and exception reporting	Director, Strategic Operational Risk and Compliance
Questions about regulatory interpretations	General Counsel

8. **REFERENCES**

8.1 **Regulations and Regulatory Guidance**

- (a) **Federal Home Loan Bank Act**
- (b) **12 C.F.R. Part 1263 –Members of the Banks**
- (c) **12 C.F.R. Part 1266 – Advances and 12 C.F.R. Part 1268 Acquired Member Assets**
- (d) **Advisory Bulletin 2005-AB-08 – Guidance on Federal Home Loan Bank Anti-Predatory Lending Policies**
- (e) **Advisory Bulletin 2007-AB-01 –Nontraditional and Subprime Residential Mortgage Loans**
- (f) **Advisory Bulletin 2008-AB-02 – Application of Guidance on Nontraditional and Subprime Residential Mortgage Loans to Specific FHLBank Assets**
- (g) **Advisory Bulletin 2010 AB-01 – Clarification of Advisory Bulletin 2008-AB-02**
- (h) **FRB, FDIC OTS, OCC and NCUA - Interagency Guidance on Nontraditional Mortgage Product Risks**
- (i) **FRB, FDIC OTS, OCC and NCUA –Interagency Guidance on Subprime Lending, March 1999 and expanded guidance for Subprime Lending Programs**
- (j) **FRB – Statement on Subprime Mortgage Lending**
- (k) **FRB Regulation Z at 12 C.F.R. § 226.36 – Prohibited acts or practices in connection with credit secured by a dwelling**
- (l) **Home Ownership and Equity Protection Act of 1994**
- (m) **Servicemembers Civil Relief Act, as amended**

8.2 **Truth in Lending Act (“TILA”)Policies**

- (a) **Acquired Member Assets- Acquisition and Eligibility Policy, ME-03-05**
- (b) **Collateral for Members and Housing Associates Policy, ME-02-05**
- (c) **Credit Risk Management Policy, RM-04-11**

(d) Investments Policy, ALM-01-02

(e) Loan Loss Reserve and Asset Review Policy, RM-04-06

8.3 Procedures

(a) SOP 560-0095 Compliance Monitoring for Responsible Lending Policy

(b) SOP 419-0090 Residential On-Site Review Process

(c) SOP-424-0170 Annual Anti-Predatory Lending (“APL”) Screening

(d) SOP-419-0240 Review of Annual Anti-Predatory Lending (“APL”) Screening

(e) SOP 560-0050 Approval and Monitoring of Bank and Credit Union Members (“Members”) / Enforcement Actions

(f) SOP 419-0090 Residential On-Site Review Process

(g) SOP 419-0230 Income Producing On-Site Review Process

(h) MAP Guide