

Federal Housing Finance Agency

§ 1272.4

New business activity means any business activity undertaken, transacted, conducted, or engaged in by a Bank that has not been previously undertaken, transacted, conducted, or engaged in by that Bank, or was previously undertaken, transacted, conducted, or engaged in under materially different terms and conditions, such that it:

- (1) Involves the acceptance of collateral enumerated under §1266.7(a)(4) of this chapter;
- (2) Involves the acceptance of classes of collateral enumerated under §1266.7(b) of this chapter for the first time;
- (3) Entails risks not previously and regularly managed by that Bank, its members, or both, as appropriate; or
- (4) Involves operations not previously undertaken by that Bank.

[65 FR 44431, July 18, 2000. Redesignated and amended at 75 FR 76622, 76624, Dec. 9, 2010]

§ 1272.2 Limitation on Bank authority to undertake new business activities.

No Bank shall undertake any new business activity except in accordance with the procedures set forth in this part.

§ 1272.3 New business activity notice requirement.

At least sixty days prior to undertaking a new business activity, except as provided in §1272.4(b), a Bank shall submit to the FHFA a written notice containing the following information:

(a) *General requirements.* Except as provided in paragraph (b) of this section, a Bank's notice of new business activity shall include:

- (1) An opinion of counsel citing the statutory, regulatory, or other legal authority for the new business activity;
- (2) A good faith estimate of the anticipated dollar volume of the activity over the short-and long-term;
- (3) A full description of:
 - (i) The purpose and operation of the proposed activity;
 - (ii) The market targeted by the activity;
 - (iii) The delivery system for the activity; and

(iv) The effect of the activity on the housing, or relevant community lending, market;

(4) A demonstration of the Bank's capacity, through staff, or contractors employed by the Bank, sufficiency of experience and expertise, to safely administer and manage the risks associated with the new activity;

(5) An assessment of the risks associated with the activity, including the Bank's ability to manage these risks and the Bank's ability to manage the risks associated with increasing volumes of the new activity; and

(6) The criteria that the Bank will use to determine the eligibility of its members or housing associates to participate in the new activity.

(b) *New collateral activities.* If a proposed new business activity relates to the acceptance of collateral under §1266.7 of this chapter, a Bank's notice of new business activity shall include:

(1) A description of the classes or amounts of collateral proposed to be accepted by the Bank;

(2) A copy of the Bank's member products policy, adopted pursuant to §917.4 of this title;

(3) A copy of the Bank's procedures for determining the value of the collateral in question, established pursuant to §1266.10 of this chapter; and

(4) A demonstration of the Bank's capacity, personnel, technology, experience and expertise to value, discount and manage the risks associated with the collateral in question.

[65 FR 44431, July 18, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

§ 1272.4 Commencement of new business activities.

A Bank may commence a new business activity:

(a) Sixty days after receipt by the FHFA of the notice of new business activity under §1272.3, if the FHFA has not issued to the Bank a notice as described in §1272.5(a)(1) through (4);

(b) In the case of the acceptance of collateral enumerated under §1266.7(a)(4) of this chapter, immediately upon receipt by the FHFA of a notice of new business activity under §1272.3; or

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(c) Immediately upon issuance by the FHFA of a letter of approval under § 1272.6.

§ 1272.5 Notice by the FHFA.

(a) *Issuance.* Within sixty days after receipt of a notice of new business activity under § 1272.3, the FHFA may issue to a Bank a notice that:

(1) Disapproves the new business activity;

(2) Instructs the Bank not to commence the new business pending further consideration by the FHFA;

(3) Declares an intent to examine the Bank;

(4) Requests additional information including but not limited to the requests listed in § 1272.7;

(5) Establishes conditions for the FHFA's approval of the new business activity, including but not limited to the conditions listed in § 1272.7; or

(6) Contains other instructions or information that the FHFA deems appropriate under the circumstances.

(b) *Effect.* Following receipt of a notice issued pursuant to paragraph (a) of this section, a Bank may not undertake any new business activity that is the subject of the notice until the Bank has received the FHFA's consent pursuant to § 1272.6.

§ 1272.6 FHFA consent.

The FHFA may at any time provide consent for a Bank to undertake a particular new business activity and setting forth the terms and conditions that apply to the activity, with which the Bank shall comply if the Bank undertakes the activity in question.

§ 1272.7 Examinations; requests for additional information.

(a) *General.* Nothing in this part shall limit in any manner the right of the FHFA to conduct any examination of any Bank.

(b) *Requests for additional information and conditions for approval.* With respect to a new business activity, nothing in this part shall limit the right of the FHFA at any time to:

(1) Request further information from a Bank concerning a new business activity; and

(2) Require a Bank to comply with certain conditions in order to under-

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take, or continue to undertake, the new business activity in question, including but not limited to:

(i) Successful completion of pre- or post-implementation safety and soundness examinations;

(ii) Demonstration by the Bank of adequate operational capacity, including the existence of appropriate policies, procedures and controls;

(iii) Demonstration by the Bank of its ability to manage the risks associated with accepting increasing volumes of particular collateral, or holding increasing volumes of particular assets, including the Bank's capacity reliably to value, discount and market the collateral or assets for liquidation;

(iv) Demonstration by the Bank that the new business activity is consistent with the housing finance and community lending mission of the Banks and the cooperative nature of the Bank System; and

(v) FHFA review of any contracts or agreements between the Bank and its members or housing associates.

PART 1273—OFFICE OF FINANCE

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APPENDIX A TO PART 1273—EXCEPTIONS TO THE GENERAL DISCLOSURE STANDARDS

AUTHORITY: 12 U.S.C. 1431, 1440, 4511(b), 4513, 4514(a), 4526(a).

SOURCE: 75 FR 23161, May 3, 2010, unless otherwise noted.

§ 1273.1 Definitions.

For purposes of this part:

Audit Committee means the OF Independent Directors acting as the committee established in accordance with § 1273.9 of this part.

Bank written in title case, means a Federal Home Loan Bank established under section 12 of the Bank Act (12 U.S.C. 1432).