

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Management Services, Farm Credit Administration, McLean, VA 22102-5090.

**NOTIFICATION PROCEDURE:**

Direct all inquiries about this system of records to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22102-5090.

**RECORD ACCESS PROCEDURES:**

Same as above.

**CONTESTING RECORD PROCEDURES:**

Same as above.

**RECORD SOURCE CATEGORIES:**

Information in this system of records either comes from the individual to whom it applies or comes from information supplied by Agency officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Dated: July 30, 2009.

**Roland Smith,**

Secretary, Farm Credit Administration Board.  
[FR Doc. E9-18603 Filed 8-3-09; 8:45 am]

**BILLING CODE 6705-01-P**

**FEDERAL ELECTION COMMISSION****[NOTICE 2009-18]****Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters**

**AGENCY:** Federal Election Commission.

**ACTION:** Agency procedure.

**SUMMARY:** The Federal Election Commission ("Commission") is establishing a new agency procedure that will provide respondents in certain enforcement matters brought under the Federal Election Campaign Act of 1971, as amended ("FECA") with notice of a non-complaint generated referral and an opportunity to respond thereto, prior to the Commission's consideration of whether it has reason to believe that a violation of the Act has been or is about to be committed by such respondent. This program will provide respondents in non-complaint generated matters procedural protections similar to those of respondents in complaint-generated matters. Further information about the procedures for providing notice to respondents in non-complaint generated matters is provided in the supplementary information that follows.

**DATES:** Effective August 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Shonkwiler, Assistant General

Counsel, 999 E. Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:****I. Background**

On June 11, 2003, the Commission held a hearing concerning its enforcement procedures. The Commission received public comments, many of which argued for increased transparency in Commission procedures and expanded opportunities to contest allegations. Comments and statements for the record are available at: <http://www.fec.gov/agenda/agendas2003/notice2003-09/comments.shtml>. In response to issues raised at the hearing, the Commission issued new agency procedures. See Statement of Policy Regarding Deposition Transcripts in Nonpublic Investigations, 68 FR 50688 (Aug. 22, 2003); Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 FR 3 (Jan. 3, 2005).

On December 8, 2008, the Commission issued a notice of public hearing and request for public comment on the compliance and enforcement aspects of its agency procedures. Agency Procedures (Notice of public hearing and request for public comments), 73 FR 74495 (Dec. 8, 2008). On January 14-15, 2009, the Commission received comment and testimony. The comments received by the Commission, as well as the transcript of the hearing are available at: <http://www.fec.gov/law/policy/enforcement/publichearing011409.shtml>.

The Commission received numerous comments regarding respondents in non-complaint generated matters not receiving notice when a matter has been referred to the Commission's Office of General Counsel ("OGC") for enforcement. One commenter opined that the Commission should never find reason to believe ("RTB") that a violation occurred without first giving the respondent the opportunity to respond. Another commenter recommended instituting a program whereby potential respondents in non-complaint generated matters are given a written summary of the matter and an opportunity to respond in writing before the Commission makes an RTB finding, in order to put respondents on notice about the potential outcome of the proceeding. Other commenters urged the Commission to adopt procedures to notify committees of any internal referral, and to implement procedures to provide respondents with the opportunity to review and respond to any adverse course of action

recommended by OGC before the Commission considers such recommendation.

**II. Procedures for Notice to Respondents in Non-Complaint Generated Matters**

The Commission is issuing a new agency procedure to provide notification to respondents of enforcement proceedings based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities (*i.e.*, non-complaint generated matters). See 2 U.S.C. 437g. In matters generated by complaints, the Commission may take no action on the complaint (other than dismissal) until respondents have at least 15 days after notification of the allegations contained in the complaint to answer the allegations. See 2 U.S.C. 437g(a)(1). However, the statute does not afford respondents the same opportunity to answer allegations in non-complaint generated matters. This agency procedure is intended to provide respondents in non-complaint generated enforcement matters with notice of the basis of the allegations, and an opportunity to respond.

For matters arising from a referral from the Commission's Reports Analysis Division or Audit Division ("internal referrals"), respondents will be notified of the referral within five days of receipt of the referral by OGC. The notice will contain a copy of the referral document and a cover letter setting forth the basis of the referral and potential violations of the Act and/or Commission regulations that arise based upon the referral. The respondent will then be given an opportunity to demonstrate that no action should be taken based on the referral, by submitting, within 15 days from receipt of the referral document and cover letter, a written explanation of why the Commission should take no action. The Commission will not take any action, or make any RTB finding against a respondent based on an internal referral unless it has considered such response or unless no such response has been served upon the Commission within 15 days.

Under current Commission practice, non-complaint generated matters based on referrals from the U.S. Department of Justice or any other law enforcement or governmental agency ("external referrals") are also deemed to be matters based on information ascertained in the normal course of carrying out its supervisory responsibilities. Under the new procedures, if OGC intends to initiate an enforcement proceeding based on an external referral, notice of

the referral will be provided to respondents in the same manner as an internal referral. However, where immediate notification to a respondent of an external referral is deemed inappropriate, OGC will notify the Commission of the referral within 5 days of receipt of the referral from the governmental agency. In cases where, due to law enforcement purposes, the referral document may not be provided to a respondent, OGC will provide the respondent with a letter containing sufficient information regarding the facts and allegations to afford the respondent an opportunity to demonstrate that no action should be taken. Absent exercise of the Commission's discretion (by the affirmative vote of four Commissioners), OGC will not proceed with an enforcement proceeding based on an external referral until the referral or substitute informational letter is provided to the respondent.

### III. Conclusion

This notice establishes agency practices or procedures. This notice does not constitute an agency regulation requiring notice of proposed rulemaking, opportunities for public participation, prior publication, and delay effective under 5 U.S.C. 553 of the Administrative Procedures Act ("APA"). The provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), which apply when notice and comment are required by the APA or another statute, are not applicable. The above provides general guidance concerning notice to respondents in non-complaint generated matters and announces the general course of action that the Commission intends to follow. This notice sets forth the Commission's intentions concerning the exercise of its discretion in its enforcement program. However, the Commission retains that discretion and will exercise it as appropriate with respect to the facts and circumstances of each matter it considers. Consequently, this notice does not bind the Commission or any member of the general public.

On behalf of the Commission.

Dated: July 29, 2009.

**Steven T. Walther,**

*Chairman, Federal Election Commission.*

[FR Doc. E9-18542 Filed 8-3-09; 8:45 am]

**BILLING CODE 6715-01-P**

## FEDERAL HOUSING FINANCE AGENCY

[No. 2009-N-10]

### Federal Home Loan Bank Collateral for Advances and Interagency Guidance on Nontraditional Mortgage Products

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice of study and recommendations and request for comment.

**SUMMARY:** Section 1217 of the Housing and Economic Recovery Act of 2008 (HERA) requires the Director of the Federal Housing Finance Agency (FHFA) to conduct a study on the extent to which loans and securities used as collateral to support Federal Home Loan Bank (FHLBank) advances are consistent with the interagency guidance on nontraditional mortgage products. The study must be submitted to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives no later than July 30, 2009, one year after the date of the HERA enactment. Further, the study (the HERA Section 1217 Study) must consider and recommend any additional regulations, guidance, advisory bulletins, or other administrative actions necessary to ensure that the FHLBanks are not supporting loans with predatory characteristics. Section 1217 of HERA also requires that the public have an opportunity to comment on any recommendations made as a result of the study. This Federal Register Notice is intended to inform the public about the HERA Section 1217 Study and provide the public with the requisite opportunity to comment.

**DATES:** Comments must be received on or before October 2, 2009.

**ADDRESSES:** You may submit your comments on the HERA Section 1217 Study, identified by a subject line of "HERA Section 1217 Study," by any of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/HERA Section 1217 Study, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/HERA Section 1217 Study, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at

the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov). Please include "HERA Section 1217 Study" in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by the agency. Please include "HERA Section 1217 Study" in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:**

Louis M. Scalza, Associate Director, (202) 408-2953 or Linda L. Campbell, Senior Bank Examiner, (202) 408-2586, Division of Federal Home Loan Bank Regulation; or Neil R. Crowley, Deputy General Counsel, Office of General Counsel, (202) 343-1316, Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** Section I of this Notice provides background on FHFA, the FHLBank System, and the collateral securing FHLBank advances. Section II summarizes the provisions of the interagency guidance and three Federal Housing Finance Board (FHFB) advisory bulletins relating to nontraditional, subprime, and anti-predatory lending. Section III describes the resources used to complete the HERA Section 1217 Study, including a collateral data survey that FHFA conducts annually, in-depth secured credit reviews performed during recent examinations, and a specific questionnaire related to the HERA Section 1217 issues that FHFA sent to the FHLBanks. Sections IV and V of this report present FHFA's analysis and conclusions from the HERA Section 1217 Study and Section VI requests comments on specific related questions.

The HERA Section 1217 Study reports that FHLBanks' reliance on collateral described as nontraditional, subprime or Alt-A declined during 2008, accounting for about one-fifth of collateral securing advances as of December 31, 2008. Some portion of this collateral predates the issuance of the interagency guidance, but the FHLBanks need to manage and mitigate the risks associated with all of the collateral supporting advances.

FHFA, through advisory bulletins issued by the prior regulator of the