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- Christianna Lewis Barnhart, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5-B552, Washington, DC 20554; email: Christianna.Barnhart@fcc.gov and

- Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5-B521, Washington, DC 20554; email: Charles.Tyler@fcc.gov.

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16. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

Trent Harkrader,

Division Chief, Wireline Competition Bureau.

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FEDERAL HOUSING FINANCE AGENCY

[No. 2012-N-02]

Notice of Annual Adjustment of the Cap on Average Total Assets That Defines Community Financial Institutions

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA) has adjusted the cap on average total assets that defines a "Community Financial Institution" based on the annual percentage increase in the Consumer Price Index for all urban consumers (CPI-U) as published by the Department of Labor (DOL). These changes took effect on January 1, 2012.

FOR FURTHER INFORMATION CONTACT:

Patricia L. Sweeney, Division of Federal Home Loan Bank Regulation, 202-649-3311, Pat.Sweeney@fhfa.gov, or Eric M. Raudenbush, Assistant General Counsel, 202-649-6421,

Eric.Raudenbush@fhfa.gov, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The Federal Home Loan Bank Act (Bank Act) confers upon insured depository institutions that meet the statutory definition of a "Community Financial Institution" (CFI) certain advantages over non-CFI insured depository institutions in qualifying for Federal Home Loan Bank (Bank) membership, and in the purposes for which they may receive long-term advances and the collateral they may pledge to secure advances.¹ Section 2(10)(A) of the Bank Act and § 1263.1 of FHFA's regulations define a CFI as any Bank member the deposits of which are insured by the Federal Deposit Insurance Corporation and that has average total assets below a statutory cap.² The Bank Act was amended in 2008 to set the statutory cap at \$1 billion and to require the Director of FHFA to adjust the cap annually to reflect the percentage increase in the

CPI-U, as published by the DOL, for the prior year.³ For 2011, FHFA set the CFI asset cap at \$1,041,000,000, which reflected a 1.1 percent increase over 2010, based upon the increase in the CPI-U between 2009 and 2010. Due to a transcription error, the agency's **Federal Register** notice announcing the CFI asset cap adjustment for 2011 mistakenly stated that the cap had been set at \$1,040,000,000. *See* 76 FR 3142 (Jan. 19, 2011).

II. The CFI Asset Cap for 2012

As of January 1, 2012, FHFA has increased the CFI asset cap from \$1,041,000,000 (the correct number for 2011) to \$1,076,000,000 which reflects a 3.4 percent increase in the unadjusted CPI-U from November 2010 to November 2011. The new amount was obtained by rounding to the nearest million, as has been the practice for all prior adjustments. Consistent with the practice of other federal agencies, FHFA bases the annual adjustment to the CFI asset cap on the percentage increase in the CPI-U from November of the year prior to the preceding calendar year to November of the preceding calendar year, because the November figures represent the most recent available data as of January 1st of the current calendar year.

In calculating the CFI asset cap, FHFA uses CPI-U data that have not been seasonally adjusted (*i.e.*, the data have not been adjusted to remove the estimated effect of price changes that normally occur at the same time and in about the same magnitude every year). The DOL encourages use of unadjusted CPI-U data in applying "escalation" provisions such as that governing the CFI asset cap, because the factors that are used to seasonally adjust the data are amended annually, and seasonally adjusted data that are published earlier are subject to revision for up to five years following their original release. Unadjusted data are not routinely subject to revision, and previously published unadjusted data are only corrected when significant calculation errors are discovered.

Dated: March 5, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

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¹ See 12 U.S.C. 1424(a), 1430(a).

² See 12 U.S.C. 1422(10)(A); 12 CFR 1263.1.

³ See 12 U.S.C. 1422(10); 12 CFR 1263.1 (defining the term *CFI asset cap*).