



Housing Finance & Regulatory Affairs

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February 3, 2025

Naa Awaa Tagoe
Acting Director
Federal Housing Finance Agency
Office of the Director
400 7th Street, S.W.
10th Floor
Washington, D.C. 20219

Re: Notice of Proposed Rulemaking: Federal Home Loan Bank System Boards of Directors and Executive Management

Submitted via FHFA's website: <https://www.fhfa.gov/regulation/federal-register?comments=open>

Dear Acting Director Tagoe:

On behalf of the National Association of Home Builders (NAHB), I welcome the opportunity to submit comments to the Federal Housing Finance Agency (FHFA) regarding the Notice of Proposed Rulemaking (NPR) on the FHFA's proposal to revise regulations addressing boards of directors and overall corporate governance of the Federal Home Loan Banks (FHLBanks) and the FHLBank System's Office of Finance. NAHB is a staunch advocate of the FHLBanks and believes they are integral to the housing industry and to an efficient and liquid housing finance system by facilitating financing of housing and community development. The governance of the FHLBanks including the selection of members to their boards of directors is of utmost importance to ensure they fulfill their public policy mission while remaining safe and sound.

NAHB is a Washington, D.C.-based trade association representing more than 140,000 members involved in the development and construction of for-sale single-family homes, including homes for first-time and low- and moderate-income homebuyers, as well as the construction, ownership and management of multifamily rental housing, including affordable rental housing. The ability of the home building industry to meet the demand for housing, including addressing affordable housing needs, and significantly contribute to the nation's economic growth is dependent on an efficiently operating housing finance system. The nation's housing finance system must offer home buyers in all geographic areas access to affordable mortgage financing at reasonable interest rates through all economic conditions and provide financing for multifamily housing development to support affordable rental opportunities.

Background

NAHB always has been a reliable supporter of the FHLBanks and their public policy mission as government sponsored enterprises to provide liquidity to their members to support housing finance and community development activities. A robust and reliable FHLBank system is critical to home builders and developers who rely on the ability of financial institutions to access FHLBank products and services that support financing for home building, home buying and community development. We believe the FHLBanks are particularly important to the success of smaller community banks by offering access to products and services that often are not

available to them from other sources that prefer to serve large financial institutions and thereby allowing smaller banks to compete with large ones. A significant portion of NAHB's members are single-family home builders and multifamily developers who rely on their community banks for financial services.

Over the years, NAHB members have served as Independent Directors – referred to in the NPR as Regular Independent Directors – and Public Interest Independent Directors on the boards of directors of many FHLBanks. Serving on FHLBank boards, home builders and developers provide a perspective on housing and housing finance needs within a FHLBank's district that is beneficial to the FHLBank and its members. Currently, only the FHLBank of Pittsburgh has an NAHB builder/developer on its board of directors and his final term will end on December 31, 2026.

Current and Proposed Eligibility Requirements for Directors on FHLBanks' Boards of Directors

Current requirements for regular independent directors, per the Federal Home Loan Bank Act (Bank Act), are demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management and the law (FHFA added "the law" by regulation.) The NPR proposes to add additional areas of qualifying experience for regular independent directors. These additions include artificial intelligence, information technology and security, climate-related risk, Community Development Financial Institutions (CDFI) business models, and modeling.

The NPR clarifies that for a person to qualify for a public interest independent directorship, a person must have represented consumer or community interests on banking services, credit needs, housing, or financial consumer protections. It defines representation as an individual must have advocated for, or for the direct benefit of, consumers or the community and specifies that qualifying experience in one of the four areas may have been acquired in professional, public service, or significant volunteer positions, so long as the work done was substantial in terms of time commitment and responsibility. While the statute stated the individual, i.e. the director or nominee for director, must personally have undertaken the activities of the qualifying experience as opposed to solely being associated with the organization undertaking the activities, the Housing and Economic Recovery Act (HERA) of 2008 revised the language in the Bank Act to further ensure the individual had personal experience representing consumer or community interests.

NAHB Comments

NAHB and FHLBanks are united in their commitment to housing. NAHB believes increased participation of home builders and developers on the boards of directors of FHLBanks would help the banks identify and develop solutions for creating housing in their regions. At a time when the FHLBanks are contributing an unprecedented amount of funding to the FHLBanks' statutory Affordable Housing Program (AHP) to finance the construction, purchase and rehabilitation of housing it should be a priority of FHFA to have experts in housing production represented on the boards of directors of each FHLBank.

Home builders and developers literally have a "boots on the ground" awareness of the housing market in their regions as well as the distinct characteristics and economies of the communities in which they develop and build homes. Single-family and multifamily home builders and developers work extensively with stakeholders, financial institutions and state and local governments in their communities to assess housing needs, understand and follow local regulations, gauge affordability constraints of homebuyers and renters, assess community

demographics, and create financing options, in order to understand and respond appropriately to consumer and community needs.

The lack of home builders and developers on FHLBank boards of directors appears to indicate the skills, knowledge and experience of these professions are not viewed by FHFA as meeting the qualifying requirements specified in the regulation for board membership. However, NAHB believes individuals in the leadership of successful home builder and developer organizations certainly “have experience or knowledge” in the areas of organizational management and project management – skills their livelihoods require them to have.

Further, NAHB believes for-profit home builders and developers should not be excluded from public interest independent directorships as has been conveyed to NAHB in previous conversations with FHFA suggesting that home builders and developers do not advocate for, or for the direct benefit of, consumers or the community. NAHB asserts that an individual who has been on the executive or management team or held other senior positions within home builder and/or developer organizations could meet the qualification of representing consumers or the community in housing needs. They seek to build housing that will meet the needs of the consumers and communities where they build.

For example, prior to beginning to build a housing development or multifamily housing project, a builder or developer does significant due diligence within a community to identify unmet housing needs. Both single-family and multifamily builders trying to meet those needs work extensively with other stakeholders in the community to overcome potential barriers to the production of such housing. These individuals should not be considered as only representing industry-side interests and disqualified from public interest independent directorships.

Finally, there is the overriding language in the NPR that states, “Ultimately, determinations as to qualification to serve as a public interest independent director must be made on a case-by-case basis, given the numerous ways in which a person could conceivably meet the statutory standard.” NAHB believes this is critical for FHFA and the individual FHLBanks to keep in mind when considering applications for public interest independent directorships.

NAHB Recommendations

As noted above, the NPR proposes to add numerous areas of qualifying experience for regular independent directors and further proposes that the list of qualifying knowledge or expertise for regular independent directors would also include “such other areas as the Director shall determine.” This would allow FHFA to add other areas to the list, as appropriate, and convey the inclusions through guidance without going through the rulemaking process.

NAHB recommends that private-sector home building and housing project development be added to the list of experience that qualifies an individual for regular independent board membership. With lack of housing supply a critical area of concern nationwide, builder and developer expertise on FHLBank boards of directors is particularly timely, although, NAHB maintains the housing industry expertise of home builders and developers will always provide a valuable perspective to these government sponsored entities whose mission is thoroughly tied to housing.

NAHB believes the experience of home builders and developers, particularly those involved in affordable housing projects, offers an extremely valuable and unique perspective of a district's housing needs that should be interpreted as representative of consumer and community interests and thereby allow for consideration of home builders and developers for public interest independent directorships.

Conclusion

The FHLBanks' mission is two-pronged: providing liquidity to member financial institutions to support housing finance and promoting community development, which includes affordable housing. Like the FHLBanks, home builders and developers have housing at their core. To exclude their expertise from the list of qualifications for independent directorships on the boards of directors of Federal Home Loan Banks dismisses the significance of the logical synergy between the FHLBanks, their housing mission and housing professionals.

Thank you for the opportunity to provide input on this important Notice of Proposed Rulemaking.

Please contact Rebecca Froass at rfroass@nahb.org for additional information or to answer any questions you may have regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Jessica R. Lynch". The signature is written in a cursive, flowing style.

Jessica R. Lynch