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January 25, 2011

Alfred M. Pollard  
General Counsel  
Federal Housing Finance Agency  
Fourth Floor  
1700 G Street, NW  
Washington, DC 20552

Attention: Comments/RIN 2590-AA37

Dear Mr. Pollard:

The Independent Community Bankers of America<sup>1</sup> welcomes the opportunity to comment on the proposed rule on voluntary mergers of Federal Home Loan Banks. Section 1209 of the Housing and Economic Recovery Act of 2008 amended section 26 of the Federal Home Loan Bank Act (Bank Act) to permit any Federal Home Loan Bank (FHLB) to merge with another FHLB with the approval of its board of directors, its members and the Director of the Federal Housing Finance Agency (FHFA). The proposed rule would establish the conditions and procedures for the consideration and approval of voluntary mergers.

The vast majority of community banks are FHLB members and are active advance users or look to them as an alternative source of liquidity. Throughout the financial crisis, the FHLBs continued to provide advances to their members without disruption, while other segments of the capital markets ceased to function. Daily, community banks depend on their FHLBs for liquidity, asset/liability management and to enable them to match fund longer term loans. The FHLBs must remain a healthy, stable, reliable source of funding, liquidity and other products to serve the needs of all member-owners and help them provide lendable funds for the local communities they serve.

ICBA generally supports the proposed rule. We believe that it is very helpful to the FHLBs, their members and other interested parties to have this approval framework available to guide them through any mergers. We believe that the FHFA has appropriately looked to

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<sup>1</sup> *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

*With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold more than \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).*

governance practices that are common under general principles of corporate law, disclosure practices that are required under the federal securities laws and the approval standards required under federal banking laws relating to mergers of insured depository institutions as guidance for the key provisions of the proposal.

While we recognize there may be opportunities to enhance financial strength and gain economic efficiencies through FHLB mergers, the regional structure of the FHLB system must be maintained as it best addresses the diverse needs of community bank members. The cooperative nature of the system also must be maintained with members having a strong voice in governance. ICBA has long held that because the FHLBs are owned and governed by their members any move towards consolidation should develop from the grass roots level, based on what members perceive to be the best operational and geographic structure for their district FHLB to meet their needs. Thus, we strongly believe that there must be a member vote as a key component of the approval process. A vote by only the directors of the FHLBs involved—recognizing that they represent members and the majority are directly elected by members—is not sufficient. Community banks have told ICBA that they want the opportunity to vote on any mergers.

ICBA has also heard from its members that because of the importance of the FHLBs to the operations of their members, votes by directors and by members should be an affirmative vote by a **super majority**, not a simple majority. The reasons for any merger should be sufficiently compelling and the benefits sufficiently evident to directors and members to warrant a super majority. We also believe strongly that an affirmative vote by the **full** board of directors of the FHLBs, rather than simply a quorum, should be required to show members that the boards strongly support the merger. We also strongly support the proposal that the boards involved in the merger meet on the record with the votes and matters discussed fully and accurately reflected in an electronic recording, a written transcript or written minutes of the meeting. In the merger consideration and approval process, we recognize that some information will remain confidential, however, it is extremely important that there be as much transparency as reasonably possible so members feel confident that they have the information they need to vote.

We strongly recommend that the member voting process otherwise be the same process that is used for director elections and that members vote their shares in the same manner as for a director election. We agree with the FHFA that this voting process recognizes the cooperative nature of the FHLBs' corporate structure, it is a sound process and one that is contained in the Act. We think that members would be concerned if this voting method was substantially altered for the merger approvals and might view changes as benefiting one member group over another. This is a voting process that has long worked well for establishing the governance structure of the FHLBs and thus is appropriate for merger approvals.

ICBA generally supports the proposed merger application. The FHFA has requested comments on the inclusion of pro forma financial statements and the appropriate timeframe. While we recognize the challenges in forecasting the future, it is important to provide the best picture possible of the resulting institution so that all who must vote on the merger have the information they need to make an informed decision. Members not only have their

capital at stake in their FHLB but are daily users. They also highly value their current district FHLB and may be reluctant to give it up unless they see clear evidence that a merger is in their best interest.

We appreciate the opportunity to comment and would be happy to discuss our views further with you.

Sincerely,

Ann M. Grochala  
Vice President, Lending and Accounting Policy