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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STEVEN H. HILFINGER, DIRECTOR

KEN ROSS
COMMISSIONER

March 8, 2011

Mr. Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW.
Washington, DC 20552

Dear Mr. Pollard:

I wish to respond to the Federal Housing Finance Agency's (FHFA) request for comment regarding the proposed changes in the membership requirements for the Federal Home Loan Bank (Bank) system. As a matter of introduction, I am the Director of Captives for the Michigan Office of Financial and Insurance Regulation (OFIR). OFIR is responsible for the regulation of all state financial institutions such as banks, credit unions, insurance companies, and mortgage lenders.

My comments will specifically address question thirteen which relates to captive and shell insurance companies. Question thirteen asks the following:

“Should FHFA amend its membership regulations to require that insurance company applicants be actively engaged in underwriting insurance for third parties and be actively examined and supervised by their appropriate state insurance regulator, and that insurance company members remain so engaged and so examined and supervised as a condition to remain Bank members?”

The question references two points. The first point is that an insurance company applicant be actively engaged in the underwriting of insurance for third parties. FHFA seems to infer that unless the insurance company underwrites to third parties it cannot possess an investment portfolio that supports the housing finance goal. I see no correlation between underwriting activity to third parties and investment strategies of these insurance companies. Captive insurance company investment laws in Michigan do not differ from those of traditional insurance companies. A captive insurance company may possess mortgage loans and mortgage backed securities as any other insurer.

The second point is that an insurance company be actively examined and supervised. This implies that FHFA believes that captive insurers are not actively examined and supervised. Michigan captive insurance companies are subject by law to the same examination schedule as all other insurance companies. The examinations will be performed by contract examiners and reviewed by Michigan personnel. An examination report will be issued and signed by our Captive Specialist. Michigan captive insurance companies are required to file annual financial reports that are reviewed in the same manner as all insurance company financial statements. Interim financial reporting by a captive insurer may be required. So, captive insurance companies licensed in Michigan are subject to ongoing regulation and supervision through the Michigan Office of Financial and Insurance Regulation (OFIR).

Finally, FHFA implies that captive insurers may seek membership specifically to obtain funds to funnel to a parent company that is ineligible for membership. However, any prospective company seeking membership could be susceptible of this same action. Unless there is a trend of such deeds by captive members, it is unclear why FHFA is seeking a solution to a problem that on the surface doesn't exist. If FHFA is concerned with the manner in which borrowed funds are being used by members, perhaps it should focus its attention on this aspect of membership. Be advised that per Michigan captive law, any dividends paid out of a captive to an affiliate would need to be approved by the OFIR. This requirement is consistent with the dividend regulations of any Michigan insurance company.

Thank you for allowing me the opportunity to comment.

Yours truly,

A handwritten signature in black ink, appearing to read 'David Piner', written in a cursive style.

David Piner
Director of Captives
Office of Financial and Insurance Regulation