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of Federal Credit Unions
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March 25, 2011

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
1700 G Street, NW
Washington, D.C 20552

RE: Members of Federal Home Loan Banks

Dear Mr. Pollard:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions (FCUs), I am writing to you regarding the Federal Housing Finance Agency's (FHFA) Advance Notice of Proposed Rulemaking (ANPR) on requirements for membership to Federal Home Loan Banks (FHLBs). *See* 75 FR 81145 (December 27, 2010).

FHLBs play an important role in the nation's housing finance market. Among other things, they provide insured depository institutions, including FCUs, liquidity services that enable FCUs to offer low-cost home loans to their members. NAFCU believes that it is critically important that credit unions continue to have access to services provided by the FHLBs.

The ANPR seeks comments on a number of issues related to membership at FHLBs. NAFCU appreciates the opportunity to provide the following comments. As a preliminary matter, the ANPR did little to explain why new membership rules are necessary or what benefits, if any, the FHFA hopes to achieve by making the proposed changes to regulations on FHLB membership rules.

10 Percent Requirement

Currently, an insured depository institution that was not a FHLB member as of January 1, 1989 may become a member only if it has 10 percent of its total assets in residential mortgage loans. The 10 percent requirement applies to all credit unions regardless of asset size. Importantly, however, the 10 percent requirement is not an ongoing requirement; thus, a credit union need only demonstrate that it meets the 10 percent requirement when it applies for membership and need not show that the requirement is met on ongoing basis. FHFA is considering making the 10 percent requirement an ongoing requirement.

NAFCU strongly opposes the proposed changes relative to making the 10 percent requirement an ongoing one. We do not believe there are discernible benefits that can be

derived from this proposal. On the other hand, such change could significantly impact the flexibility a credit union needs to make sound business decisions that are in the best interest of its members. Should FHFA move forward with the proposal, credit unions would have to tailor their operations so that the threshold is met on an ongoing basis, or risk losing the many important benefits associated with being a FHLB member. We simply do not believe that credit unions should be put in a situation where they would have to make such choice.

If the FHFA moves forward with making the 10 percent rule an ongoing requirement, it should grandfather insured depository institutions that are currently FHLB members, or at the very least, allow such institutions adequate time to meet the requirement. We believe this is especially important in the near term because many depository institutions may have seen a decrease in their home mortgage portfolio due to the ongoing housing crisis.

Additionally, the FHFA should allow the FHLBs flexibility in carrying out new regulation implementing the 10 percent requirement. For example, the FHLBs should be allowed to make temporary adjustments to the 10 percent requirement during downturns in the housing finance markets. Further, they should be allowed to establish a “cure” period for those depository institutions that do not meet the requirement for a specified period of time.

FHFA specifically requests comments on how to measure compliance and offers two options in the ANPR: (1) basing compliance upon the actual amount of residential mortgage loans held as of specified points in time; or (2) looking to the average amounts held over a specified period.

We reiterate our strong opposition to making the 10-percent requirement an ongoing one. However, if FHFA moves forward with the proposal, NAFCU believes that compliance should be measured based on the average amount held over a specified period. We believe this approach better reflects the fact that member-institutions’ mortgage lending will vary over a period of time and provides a fairer accounting of an institution’s home mortgage lending business.

As another alternative, FHFA could allow the FHLBs to base compliance upon the attainment of the 10 percent requirement at any time during a stated time period, for example, one year.

The “Makes Long-Term Home Mortgage Loans” Requirement

Current regulations require that FHLB members make long-term mortgage loans. Like the 10 percent requirement, the long-term mortgage loans requirement must only be met at the time of application for membership. Further, there are no quantifiable standards that the FHLBs are required to follow in implementing this requirement. The agency is considering making this requirement one that member depository institutions

must satisfy on an ongoing basis and also adding one or more quantifiable standards, such as requiring that a percentage of a member's assets be in long-term home mortgage loans.

NAFCU is very concerned about the FHFA's approach to amending this aspect of the membership requirements. While we do not have a problem with requiring members to make long-term loans on an ongoing basis, we do not believe there should be a quantity attached, whether it is a percentage of assets or a particular amount. We believe that requiring the FHLBs to mandate a particular quantity could make it significantly more difficult for small institutions to obtain and maintain their FHLB memberships. As such, we strongly urge the FHFA to refrain from adopting regulations that would include quantifiable standards for the long-term home mortgage loans requirement.

Making the ten percent requirement and the long term mortgage loan requirement ongoing conditions for membership is particularly troubling as the changes would undermine the stability of the system. For example during the recent economic crisis, there were several legitimate reasons that might cause an institution to fall below the ten percent threshold. This ANPR, if adopted, could force those institutions out of the FHLB system at the very time when access to liquidity is most needed. This will undermine the confidence that both FHLB members and their partners have in the system, which is particularly problematic as the reliability of access to liquidity is one of the key benefits of FHLB membership.

The Home Financing Policy Requirement

The third aspect of the regulations to which FHFA is considering changing concerns the statutory requirement that the character of the FHLB member-applicant's "home financing policy" is consistent with sound and economical home financing. Currently, the FHFA regulations do not define the term "home financing policy." An applicant that is subject to the Community Reinvestment Act (CRA) and has received a "satisfactory" rating is presumed to have met that requirement, while a financial institution not subject to CRA must file a written justification acceptable to the FHLB of how and why its home financing policy is consistent with the FHLBs' housing finance system. Further, the requirement need only be met at the time of application and is not an ongoing requirement.

Similar to the 10 percent requirement discussed above, FHFA is considering making the home financing policy requirement an ongoing requirement. Additionally, the agency believes the requirement should contain specific standards, including: (1) requiring that the policy be written; and (2) mandating that the applicant or member maintain a specified level of mortgage related assets or mortgage loan originations. Further, the written policy would have to describe in narrative fashion the manner and extent to which an applicant's past and current activities and investments support home financing.

NAFCU does not believe that credit unions should be required to maintain a written home financing policy or a specified level of mortgage related assets or mortgage

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loan originations. As not for profit financial cooperatives, credit unions are chartered specifically to serve the needs of their members and are by default, designed to provide provident credit. In addition, credit unions are subject to rigorous safety and soundness regulations and oversight, including a prompt corrective action capital regime under which they must maintain a minimum of 7 percent of total assets to be considered adequately capitalized. Given these facts, we recommend that, rather than imposing a requirement that credit unions maintain a particular level of mortgage related assets, FHFA prescribe regulations that would presume that credit unions that are adequately capitalized are presumed to have met the home financing policy requirement.

NAFCU appreciates the opportunity to comment on the proposed rule. Should you have any questions, please contact me by telephone at (703) 842-2268 or by e-mail at chunt@nafcu.org.

Sincerely,

A handwritten signature in cursive script that reads "Carrie R. Hunt". The signature is written in black ink on a light blue background.

Carrie Hunt

General Counsel and Vice President of Regulatory Affairs