

March 28, 2011

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

Re: Advance Notice of Proposed Rulemaking and Request for Comments – Members of Federal Home Loan Banks (RIN 2590-AA39)

Dear Mr. Pollard:

On behalf of the membership of the Independent community Banks of North Dakota we want to thank you for the opportunity to comment on an advance notice of proposed rulemaking (ANPR) in which the agency has expressed its desire to review current Federal Home Loan Bank (FHLBank) membership requirements.

We have a number of concerns regarding the questions posed in the ANPR. First and foremost we have no indication as to why the ANPR is even being considered. Here in North Dakota we have a great deal of concern about our member banks ability to continue to make residential real estate mortgages and the ANPR questions seem to indicate rules are being considered which would make it difficult for FHLB members (and our membership) to continue to make these critical loans in their communities. Problems already being faced by our membership include appraisal gap, qualified comparable properties for appraisal comparisons, FHA qualified lender criteria which will require all institutions to have a full financial and compliance exam annually adding thousands of dollars of costs to these local loans. And now this proposed ANPR apparently being considered for FHLB member banks. On the one hand we have everyone from the President to federal regulators telling banks to make more loans while the very agencies whose purpose is to help make this happen are making it difficult to impossible to make loans.

To be more specific, our concerns are as follows:

- FHFA is considering requiring FHLBank members to “maintain a demonstrable involvement (10% or more on an ongoing basis rather than just when they join) in residential mortgage lending and otherwise comply with the statutory requirements for membership.” Also, objective and quantifiable standards could be established for the requirements that each member “makes long-term home mortgage loans” and have a “home financing policy” and apparently noncompliant members could be barred from further access or have their membership terminated.
- The regulatory changes under consideration would make it more difficult for many financial institutions to obtain and maintain access to the liquidity available through FHLBank advances which will call into question the ability of FHLBank members to borrow under all future economic scenarios. This will destabilize a key tenant of the

System, the reliability of accessing liquidity. The changes will also discourage potential members from joining, ultimately inhibiting the ability of FHLBanks to serve the housing and community development needs of their districts.

- The proposal threatens to limit access to the low-cost funding provided by the FHLBanks which will create uncertainty and impede the economic recovery.

During the recent financial crisis, the Federal Home Loan Banks provided liquidity to their (and our) members for housing and community credit needs through the financial crisis. As other sources of liquidity disappeared we understand the Federal Home Loan Banks increased their lending to members by 58 percent between the second quarter of 2007 and the third quarter of 2008. The FHLBanks were especially important as a source of funding to smaller institutions (including our membership) during this stressful period, when other sources of funding dried up. The ability of community lenders to rely on their FHLBank as a readily accessible and reliable source of funding was critical during this period. The proposed changes indicated by the question in the ANPR will have serious adverse consequences for our members if they are implemented.

As we work hard to generate economic growth, create jobs and recover from the financial crisis and housing downturn, the FHLBanks play a critical role as a source of liquidity and term funding for its member institutions. As Congress intended, FHLBank funding is used by members to provide traditional residential mortgage finance as well as to support community development and affordable housing activities in their communities, helping their local economies to recover including here in North Dakota..

Requiring continuous compliance with membership requirements would impose new regulatory burdens on FHLBank all members. Requiring members to meet on-going requirements would add an element of uncertainty to FHLBank membership. Members could never be sure of their ability to meet these tests and therefore maintain their access to FHLBank liquidity and funding products, particularly in times of financial stress. For example, in periods when mortgage valuations rapidly decline, as we recently experienced, members could not be assured of maintaining at least 10% of their assets in mortgages. As a result, the FHLBanks would be viewed by both existing members and potential members as a far less reliable funding partner.

As we noted early in this letter the ANPR does not present any compelling reason for imposing new membership rules, and does not present any information showing that there is a problem with the current membership rules, which have served the FHLBanks well for many decades. The ANPR also failed to cite a benefit it hoped to achieve by changing the membership rules to require continuous compliance. The FHFA's annual report to Congress on the state of the FHLBanks did not note any problems with the implementation of these rules.

Any changes to the FHLBanks' membership or mission – especially changes that would restrict membership eligibility or narrow the FHLBank's mission - should come first from Congress, particularly at this time when Congress and the Administration are just at the beginning of an extensive effort to review housing finance in this country, including the FHLBanks' role. When Congress has examined the FHLBanks in the past, the result has been to expand, rather than contract, the role of the FHLBanks.

For these reasons, the membership of Independent Community Banks of North Dakota ask that the ANPR be withdrawn. Once again, thank you for the opportunity to submit this comment on the ANPR.

Sincerely,

Donald Forsberg
Executive Vice President