CUNA
Credit Union National Association

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March 28, 2011

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

Re: Members of Federal Home Loan Banks (RIN 2590-AA39)

Dear Mr. Pollard:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA's) Advance Notice of Proposed Rulemaking on Federal Home Loan Bank (FHLB) membership requirements. By way of background, CUNA is the largest credit union advocacy organization in the country, representing approximately 90 percent of our nation's nearly 7,600 state and federal credit unions, which serve approximately 93 million members.

We do not support the aspects of the Advance Notice that propose ongoing compliance monitoring requirements for FHLB members—including credit unions—designed to confirm that FHLB members remain committed to long-term mortgage lending. Congress has consistently acted to increase access to the FHLB system and ongoing monitoring of FHLB-member credit unions is unnecessary as it is our understanding that these credit unions meet or exceed the membership requirements of the Federal Home Loan Bank Act, as discussed below.

Credit unions are already subject to significant mortgage lending reporting requirements under the Home Mortgage Disclosure Act (HMDA). The ongoing compliance monitoring requirements proposed in the Advance Notice would be largely duplicative of existing credit union HMDA and similar reporting requirements, and would impose new and unnecessary compliance burdens on already over-burdened credit unions.

Many credit unions are FHLB members and rely on FHLBs for necessary liquidity to support their mortgage lending programs. These FHLB-member credit unions meet or exceed the Act's FHLB membership requirements such as the requirement to hold 10 percent of assets in "residential mortgage assets" such as first and second residential mortgages and/or related

products like residential mortgage-backed securities. In the aggregate, credit unions held 38.9 percent of their assets in residential first mortgages and 15.6 percent of their assets in second-lien residential mortgage products as of November 2010; far exceeding the Act's 10 percent requirement without even considering credit union holdings in residential mortgage-backed securities.

In addition, credit unions—by their very nature as member-owned, not-for-profit cooperatives dedicated to promoting thrift and making loans to members at reasonable rates[1]—meet the Act's requirements regarding members' "character of management" and having a home-financing policy that is consistent with sound and economical home financing.

The Advance Notice also presents possible safety and soundness concerns from an interest-rate risk perspective. The National Credit Union Administration (NCUA) Board has recently proposed new interest-rate risk policy requirements for federally-insured credit unions that, if finalized, may require credit unions to significantly reduce their mortgage-related asset holdings in order to limit interest-rate risk in a rising rate environment.[2] While FHLB-member credit unions would presumably retain more than 10 percent of their balance sheets in residential mortgage-related assets in any case—given that over 50 percent of aggregate credit union assets are in first or second mortgages—we think that individual FHLB-member credit unions should have the flexibility to temporarily dip below the 10 percent asset threshold without penalty if doing so is necessary for safe-and-sound asset and liability management purposes.

If FHFA does choose to proceed to a Notice of Proposed Rulemaking regarding FHLB membership requirements, credit unions should not be subject to ongoing compliance reporting. Credit unions should only be required to make a report to its FHLB if and when the credit union has fallen out of compliance with the Act's membership requirements. Any FHLB member which has fallen out of compliance should have at least 90 days to make such a report to its FHLB, and should be given at least a one year grace period to come back into compliance so long as the institution agrees to make a good faith effort to comply.

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[1] *See, e.g.*, 12 U.S.C. § 1752(1) ("[T]he term 'Federal credit union' means a cooperative association organized . . . for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes."); American Ass'n of Credit Union Leagues, Model Credit Union Act § 1.15 (2011) ("'Credit union' means a cooperative, not for profit corporation, organized under this Act, for the purposes of providing provident and beneficial services to its members including, but not limited to: encouraging thrift, creating a source of credit at reasonable rates of interest, and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.").

[2] NCUA Board, Interest Rate Risk, RIN 3133-AD66 (proposed Mar. 17, 2011), *available at* http://ncua.gov/GenInfo/BoardandAction/DraftBoardActions/2011/Mar17/Item5b11-0317.pdf

Further, compliance with the 10% balance sheet requirement—if ongoing monitoring is indispensible—should be based on average holdings of mortgage assets over a period of time, such as the prior year, rather than based on a snapshot at a particular time. Using average holdings of mortgage-related assets would help avoid skewed data resulting from seasonal changes in lending and similar factors.

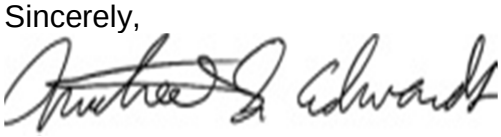
The agency should not establish a minimum dollar amount for volume of mortgage originations. A minimum dollar amount of originations would be unfair to smaller financial institutions and also unfair to institutions operating in lower-cost real estate markets that have relatively low average loan sizes compared to more expensive markets.

No measures applicable to credit unions should be tied to the federal Community Reinvestment Act (CRA). Congress has not subjected credit unions to CRA because credit unions have no incentive to discriminate against their member-owners and have not engaged in redlining. Therefore any proposed measures tied to CRA in the case of banks and thrifts should not apply to credit unions. FHFA should instead look to credit unions' purposes of promoting thrift and making loans at reasonable rates, as defined by federal and state law.

Requiring a narrative statement regarding an FHLB member's housing policy on a periodic basis, as discussed in the Advance Notice as an alternative to CRA-related measures, would not be a justifiable information collection burden on credit unions under the Paperwork Reduction Act in light of credit unions' statutory purposes to promote thrift and make loans at reasonable interest rates. If FHFA believes that ongoing reporting in this context is necessary, the agency should look to existing credit union HMDA data or other existing financial reports in a manner which imposes no new regulatory burdens on credit unions.

Thank you for the opportunity to comment on the Advance Notice on FHLB membership requirements. If additional information about CUNA's views on the proposal would be useful, please do not hesitate to contact CUNA's SVP and Deputy General Counsel Mary Dunn or me at 202-508-6705.

Sincerely,



Michael S. Edwards
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