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March 28, 2011

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

Attention: Comments/RIN 2590-AA39

Dear Mr. Pollard:

The Independent Community Bankers of America¹ (ICBA) welcomes the opportunity to comment on the Federal Housing Finance Agency's advance notice of proposed rule-making entitled *Members of Federal Home Loan Banks*. The vast majority of ICBA members are members of Federal Home Loan Banks; nearly all meet the definition of Community Financial Institution.

ICBA has strong concerns about this proposal and urges the FHFA not to go forward with it. It appears to us to be a solution looking for a problem. While there were multiple factors that led to the housing finance crisis and to problems that certain FHLBs have been facing, we do not see a connection between these and the changes the FHFA proposes. We believe that the time and resources of the FHFA and the FHLBs would be better used to focus on safety and soundness issues.

“Makes Long-Term Home Mortgage Loans” Requirement

Section 4(a)(1)(C) of the Bank Act applies to **all** applicants for FHLB membership and provides that an institution may become a member only if it makes such home mortgage loans as the FHFA Director determines to be long-term loans. Regulations define long-term to mean a maturity of five years or greater. The FHFA states that Section 1263.9 of

¹ *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 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 \$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.

the membership regulations implements that provision through a “presumptive compliance” approach, under which an applicant is deemed to have satisfied the statutory requirement if its most recent regulatory financial report demonstrates that it originates or purchases long-term home mortgage loans. However, there is no test to determine compliance at subsequent reporting dates. The FHFA believes that as a matter of sound regulatory policy its membership regulations should not encourage institutions to reduce or cease making long-term home mortgage loans after becoming a member. The FHFA is considering amendments to membership regulations to make compliance with the “makes long-term home mortgage loans” an ongoing requirement. Further, it proposes to require any member that does not qualify as a Community Financial Institution to maintain at least 10 percent of its assets in residential mortgages, though the Federal Home Loan Bank Act only requires this test to become a member and the FHFA by regulation has applied it to all applicants. The FHFA does not believe that these new requirements would pose an undue burden for FHLB members.

ICBA is very troubled by the FHFA’s proposal to impose ongoing requirements not specified by statute. We are strongly opposed to any effort by the FHFA to impose a requirement that **all** members have a specified portion of their assets invested in long-term mortgage loans or meet a minimum dollar volume of originations and purchases of such loans. Imposing an ongoing test on rural banks may also have quite misleading results as their asset mix changes on a seasonal basis to meet agricultural funding needs. This would by regulation reverse the removal by Congress of the asset test on Community Financial Institutions. Meeting an asset test indeed does pose a significant burden on smaller insured depositories located in rural areas, which Congress addressed.

When Congress expanded membership to include commercial banks through the Financial Institutions Reform, Recovery and Enforcement Act of 1989, many ICBA members, particularly those located in rural areas greatly wanted to become FHLB members to have access to a new liquidity source. These institutions could not go to the capital markets because of their size. However, they could not meet membership requirements because of the limited housing related assets they held due to a lack of residential mortgage lending opportunities in their small rural communities and were unwilling to purchase qualifying mortgage related investments they did not understand. ICBA worked on behalf of its members to open access to the FHLBs and the result was the authorization by Congress in the Gramm-Leach-Bliley Act of 1999 for Community Financial Institutions to pledge small business, agribusiness and agricultural loans as collateral and obtain long-term advances for these types of loans. With this action, Congress also moved the FHLBs away from a strict focus on housing finance. This was reinforced by the 1999 Act’s provisions that removed the statutory priority for advances to Qualified Thrift Lenders, the 30 percent system-wide cap on advances for non-QTL members and the advance-based stock purchase requirement for non-QTL members. With these provisions, Congress also leveled the playing field for members, ensuring equal requirements and treatment for all members. The Housing and Economic Recovery Act of 2008 explicitly recognized the FHLBs’ mission of providing liquidity to members without limiting that purpose to housing finance, increased the asset size ceiling on Community Financial Institutions to \$1 billion (adjusted annually by inflation) and expanded eligible collateral for these institutions to include community development

loans. Thus, Congress has laid out a clear path of expanding the mission and role of the FHLBs beyond just housing finance.

ICBA has strong concerns that the FHFA is looking to impose new reporting and other requirements that would result in additional regulatory burden for FHLB members, particularly Community Financial Institutions. This is particularly troubling because of the thousands of smaller financial institutions that are FHLB members and that have limited funds and resources to meet the requirements in addition to the massive new regulatory burdens constantly being imposed on them. Further, with changes to residential mortgage secondary market programs and the FHA program, and new statutory and regulatory constraints impacting residential mortgages, many community banks are concerned about their ability to continue offering residential mortgages. Smaller community banks, particularly in rural areas, have very limited liquidity sources and need FHLB access to meet their periodic needs. We are concerned that faced with new, unnecessary FHLB regulatory burdens they will be forced to give up membership.

Again, ICBA urges the FHFA not to go forward with a rulemaking addressing the issues contained in the ANPR. We appreciate the opportunity to comment on this issue. If you have any questions about our views, please do not hesitate to contact me at 202-659-8111 or ann.grochala@icba.org.

Sincerely,

/s/

Ann Grochala
Vice President, Lending and Accounting Policy