

March 28, 2011

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General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, DC 20552

Subject: Northwest Credit Union Association Comments on Advanced Notice of Proposed Rulemaking Regarding Members of Federal Home Loan Banks, RIN 2590-AA39

Thank you for the opportunity to comment on this advanced notice of proposed rulemaking (ANPR) regarding requirements for initial and ongoing Federal Home Loan Bank (FHLB) membership. The Association understands the perspective of the Federal Housing Finance Agency (FHFA) but believes there is no express need for the proposed regulations and if adopted they would only hinder the ability of members to rely on the FHLB system. We request FHFA withdraw this ANPR.

The Northwest Credit Union Association represents 194 credit unions with 4.2 million members and \$45.2 billion in collective assets, including over 50 FHLB Seattle members across Oregon and Washington. Credit unions are overwhelmingly recognized as community partners; having a genuine interest in bettering the communities they serve. Credit unions are often able to offer loans when other institutions will not, responsibly helping build a generation of homeowners - building on the mission of the FHFA system.

General Comments

Our members rely on the FHLB as a consistent source of liquidity during what can be, and have been, difficult times. At the end of 2009, FHLB had \$631 billion in outstanding advances, down from \$1 trillion in the third quarter of 2008, demonstrating the benefit of this relationship during hard times. By implementing the proposed changes - requiring members to maintain certain measures - the confidence in being able to sustain membership would be undermined. The ability to depend on the FHLB as a source of low-cost funds would be eliminated.

It is important to note that FHLB members come from a wide range of industries with very different regulations including banks, primarily regulated by the Federal Deposit Insurance Corporation and credit unions being primarily overseen by the National Credit Union Administration. All FHLB member groups are already highly regulated by their relevant agencies and placing additional requirements on them from yet another agency would add to what is already a barely navigable regulatory spider web.

While still dealing with a difficult economy, now is not the time to consider potentially building more barriers for credit unions which are, or would be, using the FHLB.

“Home-Mortgage Loans” Requirement

Currently there are no ongoing requirements to ensure that FHLB members are consistently making long-term home mortgage loans, just a one-time check during the membership application process. However, this does not mean that members are ditching their home-mortgage operations simply because there is no ongoing requirement. FHFA doesn't cite any specific concerns around this requirement or that members are abusing the intent.

In addition, there are no quantitative standards which constitute compliance with this requirement. To determine ongoing compliance, new measures would have to be developed that apply to all members and remain in line with already established regulations. This sets a dangerous precedent by changing the rules in the middle of the game where those who have already undergone the membership process may be caught in a difficult position, potentially being unable to meet these new measures.

“10 Percent” Requirement

Requiring that members maintain at least 10 percent of total assets in residential mortgage loans could be problematic. This could potentially hinder the ability of members to adjust their balance sheets and take away the flexibility that is key to maintaining a strong financial position. Credit unions make decisions based on what is best for the health of their organizations, and have made decisions forecasting several years down the road. Altering membership requirements and could impact their long-term goals and security.

“Home-Financing Policy” Requirement

FHLB membership applicants that are not subject to the Community Reinvestment Act (CRA) are currently required to file a written justification of how and why their home financing policy is consistent with the FHLB system's housing finance mission. Under this proposal FHFA would be required to establish a qualitative and potentially quantitative standard by which to judge ongoing compliance.

The Association does not believe that tying this home-financing policy requirement to certain business practices, such as established levels of mortgage-related assets best serves the mission of the FHLB system and its members. With the variety of institutions comprising FHLB membership, FHLB would need to establish standards specific to the regulation and operation of all types of members including banks, credit unions and insurance companies for example.

Enforcement

In addition to the “10 percent requirement”, under this proposal, quantifiable measures for “makes long-term home mortgage loans” and potentially for “has home financing policy” would likely be required. Further, monitoring those levels on an ongoing basis would require additional staff, paperwork, reporting, and enforcement. Adding to the regulatory red tape of credit unions and FHLB members in general would not help the FHFA accomplish its mission.

Enforcement of the new requirements could create many new headaches for FHFA as well as member institutions. Determining what the penalty for noncompliance would be and how it would be enforced would be difficult. Discontinuing membership or suspending privileges would both require long processes and presumed opportunities for litigation.

Federal Housing Reform

Beyond the potential impact of this proposal, the Obama Administration and Congress are beginning to take a serious look at needed US housing policy reforms. This attention being turned to the federal housing system and related entities may result in much larger and more sweeping changes. Because of this it does not seem the ideal time to generate new regulations which, by most accounts, are not necessary and would not be “fixing” any “problems”.

Conclusion

While the intent of this proposal is clear, the FHFA has not made a sufficient case for the necessity of the potential changes. Developing, implementing, and enforcing ongoing requirements would create yet another layer of bureaucracy. More administration would ultimately mean more headache and higher rates for FHLB members.

The Association believes that while the intent of the FHFA is laudable, it appears action is being taken in fixing a problem that has not yet emerged. We urge the Agency to reconsider and withdraw this ANPR.

Respectfully yours,

Jaycee Winn, Director of Regulatory Advocacy
Northwest Credit Union Association