



VIA EMAIL TO [REGCOMMENTS@FHFA.GOV](mailto:REGCOMMENTS@FHFA.GOV)

September 30, 2009

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

Attention: Comments/RIN 2590-AA10 --  
Notice of Proposed Rulemaking on Record Retention

Dear Mr. Pollard:

The Federal Home Loan Bank of New York (the "FHLBNY") is writing to comment on the Federal Housing Finance Agency's proposed rule addressing record retention requirements for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Banks, and the Office of Finance that was published in the Federal Register on August 4, 2009 (the "Proposal"). The Bank welcomes the opportunity to comment on the Proposal

A. With regard to the definitions included in proposed **Section 1235.2**, the FHLBNY has the following comments:

*Electronic record* would be defined as a record created, generated, communicated, or stored by electronic means.

**Comment: The FHLBNY requests clarification on the words "created" and "generated" used within the above definition as they appear to be synonymous.**

*Record* would be defined as any information, whether generated internally or received from outside sources by a regulated entity or the Office of Finance or employee, maintained in connection with a regulated entity or Office of Finance business (which business, in the case of the Office of Finance, shall include any functions performed with respect to the FICO), regardless of the following—

(1) Form or format, including hard copy documents (e.g., files, logs, and reports) and electronic documents (e.g., e-mail, databases, spreadsheets, PowerPoint presentations, electronic reporting systems, electronic tapes and back-up tapes, optical discs, CD-ROMS, and DVDs), and voicemail records;

**Comment: The FHLBNY requests that the phrase "and voicemail records" be removed from the end of section (1) of the definition of "Record" included above, as the FHLBNY does not conduct business via voicemail. However, we note that the FHLBNY has recorded telephone lines over which transactions may be consummated, and as such "recorded telephone lines" might be considered a category of electronic record.**

B. **Section 1235.3**, "Establishment and Evaluation of Record Retention Program", would, if the proposal is adopted, require each regulated entity and the Office of Finance to establish and maintain a written



record retention program and provide a copy of such program to the Deputy Director of the Division of Enterprise Regulation and the Deputy Director of the Division of Federal Home Loan Bank Regulation, or his or her designee (Deputy Director), as appropriate, within 120 days of the effective date of this part, and annually thereafter, and whenever a significant revision to the program has been made.

**Comment: While the FHLBNY has a record retention program currently in place, we believe that the initial 120 day requirement may provide an insufficient period of time to properly establish and implement a formal Record Retention Program that would meet the requirements of the Proposal. Compliance with the rule could require significant planning, internal process changes, file plan development, system implementations, and inventory analysis; further, compliance will likely have significant budget considerations. We therefore recommend the adoption of a one year implementation period.**

C. Section 1235.6, "Access to Records", would, if the proposal is adopted, set forth the requirement that records must be readily available for inspection within a reasonable period upon request by FHFA, at a location acceptable to FHFA. For requests made during the course of an onsite examination and pursuant to an examination's scope, a reasonable period is defined to be no longer than one business day, and for requests for documents made outside of an onsite examination, a reasonable period is presumed to be three business days.

**Comment: The FHLBNY believes that a reasonable amount of time for making records available during the course of an onsite examination and pursuant to an examination's scope should be up to three business days; this will allow for the delivery of offsite physical records. We also believe that a period of up to five business days would be reasonable for complying with requests for documents outside of an onsite examination.**

On behalf of the FHLBNY, we appreciate your consideration of these comments regarding the Proposal.

Sincerely,

G. Robert Fusco  
CIO and Head of Enterprise Services