Michael Middleton
President,
Chairman of the Board

August 3, 2009

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
1700 G Street, NW, fourth floor
Washington, DC 200552

Attn: Comments/RIN 2590-AA12

Dear Mr. Pollard:

I am writing on behalf of the Community Bank of Tri-County regarding the notice of proposed rulemaking request for comments on executive compensation at the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal Home Loan Banks ("FHLBs") and the Office of Finance of the Federal Home Loan Bank System ("OF").

As stated, the purpose of the proposed rule, as detailed in Sec. 1230.1, is to implement requirements relating to the supervisory authority of the FHFA under Sections 1113 and 1117 of the Housing and Economic Recovery Act of 2008 ("HERA") with respect to compensation provided by the regulated entities (Fannie Mae, Freddie Mac, and the FHLBs) and the Office of Finance to their executive officers.

The HER Act was signed into law on July 30, 2008. The law combines the regulation of Fannie Mae, Freddie Mac and the FHLBs under one regulatory agency, the FHFA. Together, Sections 1113 and 1117 specifically give the FHFA the authority to review compensation paid by the regulated entities to their executives, and to prohibit excessive compensation or to modify such compensation.

As of September 7, 2008, the FHFA placed Fannie Mae and Freddie Mac into conservatorship, effectively transferring authority over the day-to-day operations of these two entities to the FHFA. The conservatorship status of Fannie Mae and Freddie Mac gives broad operational discretion to the FHFA, including not only the compensation of such officers, but also the appointment and/or dismissal of officers. The conservatorship of Fannie Mae and Freddie Mac is most assuredly to continue until Congress acts to reform or restructure the two entities. Therefore, I shall address my comment to those sections of the proposed rule dealing with the FHLBs.

Executive Office
Community Bank of Tri-County, P.O. Box 38, Waldorf, Maryland 20604-0038
Tel: 240.427.1030 Fax: 301.885.1430 Toll Free: 888.745.BANK ex1030
www.cbtc.com

As a member and shareholder of the FHLB of Atlanta, our bank's primary concerns are with the premises contained in the proposed rule (with respect to the FHLBs). The concerns focus on the fact that the proposed rule not only fails to adequately take into consideration the widely validated, unique cooperative structure of the FHLB system, but it overreaches into the governance obligations of an entity that is privately owned and not in receivership. As the proposal notes, Section 1201 of HERA requires the FHFA to consider the differences between the FHLBs and Fannie Mae and Freddie Mac when promulgating regulations – including the cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure, and joint and several liability. The proposed rule goes on to state that the Director considered these differences in promulgating the pending rule. When considering the comparators offered, it is questionable that this directive is addressed even at a superficial level.

The FHLBs are member owned. Our bank has been a member since 1959. Each bank is member governed and has joint and several liabilities. As such, each of the FHLBs is a separate legal entity, owned by federally regulated member financial institutions. Each FHLB operates under control of a board of directors elected by member institutions. By law, a majority of these directors are individuals who are directors or officers of member institutions. The remainder of the Board consists of independent directors who are either public interest directors that have a background in representing consumer interests or other independent directors who have specified financial, accounting or risk management experience. It is important to note that none of the directors are members of management of the bank.

As members, we clearly have an interest in ensuring that the bank's executive officers are not overcompensated. As with all financial institutions, compensation is a significant component of the non-interest expenses of the bank. Members join the system to provide for their liquidity needs and, unlike former shareholders of the two failed GSE's in receivership are not owners for the purpose of investing their stock to achieve capital gains. Because the boards of directors of each FHLB come from federally regulated member institutions, their level of expertise permits them to take proper action in decisions on executive compensation, ensuring that compensation does not detrimentally impact the expenses, and thus the operations of the FHLB. What is consistently disregarded in the FHFA's proposed regulation is the recognition that the FHLB's are very complex financial entities who operate on extremely thin margins through an exceptional level of efficiency. Thus, any excessive compensation program would be transparent and readily apparent to the shareholder base. The FHLBanks demand a level of expertise in management that is universally sought after in the private financial sector. It is the fiduciary obligation of their directors is to create compensation programs that are sufficient to attract and retain this level of expertise, not the regulator.

What is more problematic is the rationale for statement included in the preamble to the rule indicating that the FHFA "may consider the Federal Reserve Banks and the Farm Credit Banks as examples of appropriate comparators to assess the reasonableness and comparability of executive compensation provided by the Banks." The preamble goes on to state that "FHFA will address such differences (between the FHLB and Fannie and Freddie) through an establishment of policies for appropriate compensation packages and termination benefits…". The Federal Reserve model is a hub and spoke system with enterprise governance emanating from the Board of Governors. The Farm Credit Banks' shareholder base consists of end users of its retail lending function that are forced to purchase shares as a part of their borrowing cost. This cannot be defined as an informed

investor by any prudent standards on investing. This shareholder base would include individuals with no expertise or interest in governance of a financial institution. More importantly, neither of these comparators is SEC registered or, by extension, subjected to Sarbanes-Oxley certification requirements at the level that the FHLBs are subjected to the rules. Clearly, the FHLB's directorate and sense of enterprise governance acumen of member shareholders is totally discounted by the FHFA in this proposed rule making effort.

The statements made on compensation suggests that the FHFA is considering establishing a formula for setting compensation packages based upon specific comparator institutions chosen without regard for the uniqueness described above. Further, the establishment of "appropriate compensation packages" suggests that FHFA is considering some form of median compensation cap, beyond which individual FHLBs could not stray. Attempting to substitute such a formula for the discretion of the independent boards of each FHLB is arbitrary wage control and would undermine the interests of the FHLB member institutions as described above. To repeat, it is the fiduciary obligation of the FHLB's Board to attract and retain its executives, not its regulator. Attempting to arbitrarily limit the ability of an individual FHLB Board of Directors to design compensation packages necessary for its strategic plan is problematic and usurps the rights and responsibilities of its Board.

The Graham/Leach/Bliley Act unequivocally devolved the responsibility for governance of the FHLBs to their Boards. That devolution includes the decisions on attraction and retention of management. The implication that the FHFA may establish "appropriate compensation packages" runs counter that law and the express prohibition in HERA (codified at 12 U.S.C. Sec. 4518(d), which prohibits FHFA from prescribing or setting a specific level or range of compensation for FHLB executives.

In conclusion, I strongly urge the FHFA to withdraw the proposed rule and resubmit for comment to correctly reflect the stated intention of HERA; to allow for regulatory review of compensation to ensure it is comparable with that of other similar businesses, not egregiously dissimilar comparators offered in the proposal. The final rule should issue broad guidelines for the directors to consider, not the setting of appropriate compensation packages. Those guidelines must consider practices of institutions whose executives share similar duties and responsibilities. This must include publicly held financial institutions or other major financial service companies.

Thank you for the opportunity to comment on this critical matter. If you have questions or choose to discuss any of these comments in greater detail, please do not hesitate to contact me at 240.427.1030 or mikemid@cbtc.com.

Sincerely,

Michael L. Middleton

EXECUTIVE OFFICE
Community Bank of Tri-County, P.O. Box 38, Waldorf, Maryland 20604-0038
Tel: 240.427.1030 Fax: 301.885.1430 Toll Free: 888.745.BANK ex1030
www.cbtc.com