



July 13, 2009

*BY FEDERAL EXPRESS AND
EMAIL TO RegComments@fhfa.gov*

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
1625 Eye Street, NW
Washington, DC 20006
Attention: Comments/RIN 2590-AA18

**RE: Federal Housing Finance Agency Proposed Rule: Federal Home Loan Bank
Membership for Community Development Financial Institutions**

Dear Mr. Pollard:

The Federal Housing Finance Agency (FHFA) has issued a proposed rule (the Proposed Rule) with respect to Federal Home Loan Bank membership for Community Development Financial Institutions (CDFIs). This letter sets forth the comments of the Federal Home Loan Bank of Atlanta (the Bank) with respect to the Proposed Rule, which were developed in consultation with the Bank's Affordable Housing Advisory Council, which includes representation from the CDFI industry. We support the FHFA's efforts in promulgating regulations to implement the CDFI membership authority set forth in the Housing and Economic Recovery Act of 2008 (HERA), and we thank you for the opportunity to comment on this important matter.

The Bank shares the FHFA's goal of promoting safe and sound operation of the Bank, and all of the members who benefit from the Bank's cooperative ownership structure, and believes that the establishment of appropriate membership criteria applicable to each type of applicant institution is a vital element in achieving that goal. We believe that all applicants for membership should be able to achieve, at a minimum, a common set of eligibility standards and rigorous tests for creditworthiness. The Bank's Affordable Housing Advisory Council concurred, and its overarching sentiment was to maintain strict membership and credit criteria, in order to protect safety and soundness, and ultimately the AHP and other affordable housing programs, while honoring the overall housing focus as a foundation of the Federal Home Loan Bank culture and system.

With those goals in mind, we offer the following comments for your consideration.

The Bank believes that the FHFA has set forth generally appropriate standards for approving CDFIs as members of the Bank. The Bank believes, however, that the final rule could be improved with the following revisions:

1. Audited financial statements: The final rule should require CDFI applicants to submit independent audits for the prior three years and audited quarterly statements for the past six quarters. In addition, CDFIs may engage in off-balance sheet facilities as a source of funding (e.g., New Market Tax Credit transactions), which may not be readily ascertainable by a review of the CDFI's financial statements. Therefore, in addition to audited financial statements, the Bank believes it is necessary to require an opinion provided by the CDFI's outside auditors that any off-balance sheet transactions or facilities entered into by the CDFI applicant will not be consolidated with the CDFI applicant's balance sheet. By obtaining such opinion, the Bank may obtain reasonable assurance that such off-balance sheet transactions would not cause the CDFI applicant's financial condition to suffer a material adverse change that could negatively impact its creditworthiness.
2. Fund certification: The final rule should require that CDFI applicants whose CDFI Fund certification is more than three years old at the time of membership application be required to obtain re-certification under the CDFI Fund requirements and to submit the new certification with the application.
3. Earnings: The Bank supports the requirement that the CDFI applicant show positive net income for two of the three most recent years. While we note that this would effectively prohibit membership applications by de novo CDFIs, we believe this is appropriate given the safety and soundness considerations described above.
4. Loan Loss Reserves: The Proposed Rule does not appear to address the inclusion of non-accruals on the loan loss reserve obligations. The Bank understands that CDFIs do not generally measure their loan loss reserve levels in the same manner as insured depository institutions, and that they may rely on cash funded reserves paid from earnings and grant sources. The amounts of loan loss reserves are generally set by loss history and requirements imposed by funding sources. However, as a matter of gaining membership in the Bank, the Bank believes that CDFI applicants should be required to include non-accruals in determining appropriate loan loss reserves.
5. Liquidity: The Bank suggests that the requirement for a CDFI applicant to have sufficient liquidity to cover average operating expenses for one quarter may be too low in practice. Instead, we believe that two quarters of operating expenses is a more appropriate measure. In addition, the Bank requests that the final rule revise the requirement at 1263.16(b)(2)(iv) to harmonize the requirement that liquidity for the "current year" is based on the four most recent quarters rather than the calendar year in which the CDFI applies for membership, so that the numerator and denominator of the calculation consider equivalent time periods.

6. Self-Sufficiency Ratio: The Bank believes it is essential for the final rule to include a self-sufficiency ratio as a demonstration of earned income. The Bank believes this to be a good indicator of management's strength and understanding of the need to generate funding. However, requiring complete self-sufficiency may be viewed as counter-productive to the important technical assistance work required to keep CDFI certification. Based on discussions with the Bank's Affordable Housing Advisory Council and other participants in the CDFI industry, the Bank believes that the final rule should establish a self-sufficiency ratio of 0.6 (60 percent) or greater. We believe that such a ratio is able to be achieved by CDFI applicants and also would provide reasonable assurance to the Bank.
7. Compliance Certification from CDFI Investors: The Bank suggests that section 1263.12(b) be amended to add a requirement as clause (3) that the CDFI applicant is in compliance with all material provisions of all material agreements entered into by such applicant.
8. Home Financing Policy and Community Support Requirements: The Bank believes that any CDFI applicant should be able to meet the Bank's current requirements with respect to applicants not subject to the Community Reinvestment Act, and also the current Community Support regulatory requirements. To the extent that a CDFI applicant is involved in the mortgage market, such applicant should be able to demonstrate a commitment to first-time homebuyers that meets the Community Support requirements. The Bank recognizes that there may be a need to accept alternative documentation from CDFI applicants, but there is no need for an alternative test or a waiver of these requirements.

CDFI Credit Unions – Access to State Examination Reports

The Proposed Rule suggests that FHLBanks should be able to rely on state regulatory examination reports in order to consider membership applications from CDFI Credit Unions, using the same criteria as NCUA insured credit unions. However, unlike the federal banking regulatory agencies, such state regulators are not required to share such regulatory reports with FHLBanks. In order to be able to rely on such reports to evaluate CDFI Credit Unions for membership, the FHLBanks would benefit from the assistance of the FHFA in establishing relationships with the various state regulatory agencies and the creation of a process or agreement for sharing reports of examination on CDFI Credit Union members and applicants.

Thank you for your consideration of our comments.

Sincerely,



Kirk R. Malmberg
Executive Vice President, Chief Credit Officer