



By e-mail

July 13, 2009

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA18
Federal Housing Finance Agency
Fourth Floor
1700 G Street NW
Washington, DC 20552

Re: Comments to proposed rule governing Federal Home Loan Bank membership for Community Development Financial Institutions

Dear Mr. Pollard:

The National Federation of Community Development Credit Unions (the “Federation”) is a 501(c)(3) organization representing more than 200 credit unions that serve low-income communities across the United States (community development credit unions, or “CDCUs”). We are submitting this letter in response to the request for comments from the Federal Housing Finance Agency to the proposed rule governing Federal Home Loan Bank (“FHLB”) membership for Community Development Financial Institutions (“CDFIs”), as published in the Federal Register on May 15, 2009.

As well as representing credit unions, the Federation is also a federally certified CDFI, which has invested more than \$75 million in our local member CDCUs across the country as secondary capital (deeply subordinated equity-like debt) and deposits. In addition, for the last four years, we have operated a special secondary market, the CDCU Mortgage Center, LLC, which purchases mortgages originated by our member credit unions, in order to free up their capital for re-lending to low-income families. In this capacity, membership in the FHLB system would be extremely valuable to the Federation: the ability to access advances from a Federal Home Loan Bank would greatly facilitate our purchasing and help us to expand our portfolio of long-term, fixed-rate mortgages.

We offer our comments on the proposed regulations from a dual perspective: as a representative of federal and state credit unions, and as a CDFI which hopes to take advantage of membership in the Federal Home Loan Bank system.

Membership for State-Chartered Privately Insured Credit Unions

The Federation is pleased that the proposed rule would make membership available to this group of credit unions. In general, the proposed rule does not appear to pose any barriers to membership for these institutions. We know of only one privately insured CDFI credit union which would be immediately affected: Faith Community United CU (Cleveland, OH), which is insured by American Share Insurance (Dublin, OH) and which was one of the first recipients of CDFI funding. However, we believe that the FHFA's action will be helpful in motivating other privately insured credit unions to seek CDFI designation.

We believe that it is acceptable for the FHFA to "subject CDFI credit unions to the same financial condition provisions that apply to state chartered credit unions that are insured by NCUA" (see: II. Analysis of Proposed Rule, C: Definitions). To our knowledge, CDFI credit unions currently are subjected to supervision generally comparable to that of federally insured credit unions (FICUs). Therefore, we believe that the criteria for CDFI credit unions should be similar to those the FHFA currently applies to FICUs, without imposing differing "performance trend criteria."

Regarding General eligibility requirements, (Subpart C – Eligibility Requirements (a)1263.6 (a), in the interests of clarity, we believe it would be appropriate and consistent to specifically list "CDFI credit union."

Opening membership to non-depository CDFIs, which we fully support, suggests another issue. It may be timely for the FHFA to review its policies to reconsider offering membership to other privately insured credit unions, regardless of CDFI status: these state-regulated credit unions have to meet a higher standard of supervision than do the non-regulated CDFIs which will now be joining the system.

FHLB Membership for CDFIs

As a Community Development Financial Institution with a significant mortgage portfolio, the Federation is eager to become a member of the FHLB system, and through it gain access to longer-term capital at advantageous rates. Our concerns with the proposed rule are these.

A. Net Asset Ratio

- We believe that a 20% net asset ratio as a threshold for membership is too high and should be lowered, lest it bar membership to many well-run, well-capitalized CDFIs that can play an important role in restoring credit availability in low-income communities. Credit unions, for example, are officially designated as "well capitalized" if their net asset ratio is seven-percent. We suggest that the FHFA

consider a ratio in the neighborhood of 10%.

- We believe it is appropriate to include restricted net assets in the calculation of net assets. The proposed rule quite accurately states that government and other grants are often “restricted, but [are] nonetheless available to absorb any losses” (p. 22854).

B. Earnings

The proposed section 1263.16(b)(2)(ii) requires a CDFI applicant to have “positive net income for two of the three most recent years.”

- We support the proposal to review annual results rather than quarterly results for CDFIs.
- Regarding the stipulation that any two of three years should be positive, while this may be appropriate during ordinary times, the current period is extraordinary, and there are no firm predictions as to when “normalcy” may return. Many CDFIs have suffered unusual, indirect or “collateral damage” to their portfolios and earnings from the far-reaching effects of the subprime crisis. Disqualifying them from membership if they have two out of three negative years would materially inhibit them from aiding in the recovery of housing finance.
- As the proposed rule recognizes, income streams for CDFIs may vary as government or foundation grants are received. It is common for CDFIs to receive large grants in one year that may be required to be spent over subsequent years, potentially producing an annual operating loss in the out years. In light of this fact, we believe that a moving three-year average would be more appropriate than the two-out-of-three-years test.

While we acknowledge the importance of consistent earnings, we would urge the FHFA to consider the extraordinary economic conditions that have affected much of the nation. As other commentators have noted, membership in the FHLB system does not automatically qualify an institution to obtain an advance. There are CDFIs with weak or non-existent earnings because of the current economic crisis that are nonetheless well-capitalized, and well-managed. We urge the FHFA not to bar these institutions from membership.

Loan loss reserves

We support the proposal to lower the threshold to 30% compared to the 60% figure for depository institutions, and endorse the reasoning in the proposed rule.

C. Community Financial Institution Amendments

The FHFA requested comment on whether the Act's provisions related to Community Financial Institutions ("CFIs"), which broadened the circumstances under which CFIs may obtain advances from the FHLB, should also apply to CDFIs. We agree that extending this privilege to CDFIs would be in accord with the spirit and intent of previous legislation and rule-making.

Thank you for the extensive and thoughtful staff work that went into this proposed rule, and for the opportunity to comment. We are available to discuss any issues further with you.

Sincerely yours,



Clifford N. Rosenthal
President and CEO