



July 14, 2009

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

Dear Mr. Pollard:

The National Association of State Credit Union Supervisors (NASCUS)<sup>1</sup> appreciates the opportunity to submit comments on the Federal Housing Finance Agency's (FHFA) proposal to amend its membership regulations to authorize non federally insured community development financial institutions (CDFI) Fund-certified CDFIs to become members of a Federal Home Loan Bank (FHL Bank). We thank the FHFA for requesting comment to achieve a better understanding of the examination and regulation of non federally insured credit unions.

As the representative of public officials charged with the responsibility of regulating state-chartered credit unions, NASCUS appropriately expresses confidence in the safety and soundness of state-chartered credit unions. States have repeatedly assumed a leadership role in the development and authorization of a wide range of innovative credit union products and have contributed to the vitality of the credit union system in the United States. At NASCUS, our objective is to ensure the safety and soundness of the state credit union system and support for reasonable efficiencies to minimize regulatory burden. We therefore encourage your consideration of our comments as you prepare the final rules that would allow FHLB membership eligibility for CDFI credit unions, as permitted by the Housing and Economic Recovery Act of 2008.

#### Comparable Information Available for Review

Currently, Banks in the FHLB System evaluate the financial condition of credit unions based on information in their regulatory financial reports, their audited financial statements and, in some cases, the examination reports prepared by their applicable regulators. The analysis of the proposed rule states, "CDFI credit unions should file comparable reports with their appropriate state regulator, and FHFA believes that those documents can be used by the FHL Banks to assess the financial condition of the CDFI credit unions, applying the same criteria as the existing regulations."

NASCUS agrees that the same or substantially comparable reports should be used to assess the financial condition of CDFI credit unions, as is currently used to evaluate federally insured credit

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<sup>1</sup> NASCUS is the professional association of the 48 state credit union regulatory agencies that charter and supervise the nation's 3,100 state-chartered credit unions.

unions that access the FHLB System. State credit union regulators use substantially similar examinations and composite ratings to examine all state-chartered credit unions, including both federally and non federally insured credit unions. Reports and financial statements generated by state regulators are comparable to those filed by the National Credit Union Administration (NCUA).

Although the reports generated by the NCUA and state credit union regulators are comparable, individual state laws differ about information sharing between state credit union regulators and an FHL Bank. Some state laws provide the ability to share financial and examination documents with an FHL Bank, and some states do not. In addition, some states have specific information sharing agreements between an individual state regulatory agency and an FHL Bank that allow confidential information to be shared.

In those states where examination reports or audited financial statements are not available to an FHL Bank, financial information could be attainable from Callahan & Associates at: <http://www.creditunions.com/Data/Cusearch>. This is the same information available on a credit union's 5300 Call Report filed with the NCUA. This information is available and would provide substantially the same information about a CDFI credit union to an FHL Bank, as that used to analyze the financial condition of a federally insured credit union.

#### Section 1263.11 Financial condition requirement for depository institutions and CDFI credit unions

The analysis of the proposed rule states, "Because CDFI credit unions are not subject to oversight by the NCUA and because the Banks may be less familiar with state examination ratings, FHFA believes that it is prudent to require all such CDFI credit unions to demonstrate that their earnings, non performing assets, and allowance for loan and lease performance losses are consistent with the existing performance criteria."

NASCUS objects to the substance of the Proposal that would treat CDFI non federally insured credit unions differently than federally insured credit unions. Under the current regulation for federally insured credit unions, only depository institutions with a composite rating of "2" or "3" must satisfy the performance trend criteria, including earnings, nonperforming assets and allowance for loan and lease losses. The proposed rule provides that a CDFI credit union applicant must meet the performance trend criteria irrespective of its composite regulatory examination rating.

All state chartered credit unions, regardless of their share insurance provider, are required to meet and maintain the same standards of financial performance by their state regulators. Non federally insured credit unions follow similar laws and regulations as federally insured credit unions and are rated in a consistent fashion using the same standards. Accordingly, NASCUS urges that there be no disparity of treatment between non federally insured and federally insured credit unions.

#### Robust and Comprehensive State Regulatory Oversight of Credit Unions

The state regulator in each state is the safety and soundness regulator for CDFI credit unions and the primary contact for FHL Banks when there is an inquiry about a CDFI credit union.

Page Three

It is irrelevant to the examination of a state-chartered credit union whether it is insured by the National Credit Union Share Insurance Fund (NCUSIF) or by an alternative share insurance provider. All state-chartered credit unions are regulated and examined for safety and soundness at standards consistent with those used by the NCUA. In fact, as administrator of the NCUSIF, the NCUA relies primarily on state examinations for its due diligence in monitoring federally insured state credit unions, as provided by federal statute.

Further, all state examinations for CDFI credit unions are completed with the same examination software used by the NCUA. NCUA and state examiners use Automated Integrated Regulatory Examination Software (AIRES) to complete examinations. AIRES combines Visual Basic and Microsoft Excel, Access and Word programs to conduct a safe and sound examination process.

Thank you for your consideration of our comments. Please contact me directly at 703-528-8688 if you have any questions. We would be pleased to be of further assistance to the FHFA.

Sincerely,

- signature redacted for electronic publication -

Mary Martha Fortney  
NASCUS President and CEO