

February 16, 2007

By e-mail to comments@fhfb.gov

Federal Housing Finance Board
1625 Eye Street NW
Washington DC 20006

Attn: Public Comments

Re: Federal Housing Finance Board. Interim Final Rule: Federal Home Loan Bank Appointive Directors. RIN Number 3069-AB-33. Docket Number 2007-01.

Ladies and Gentlemen:

The Federal Home Loan Bank of Topeka is pleased to submit comments on the interim final rule on Appointive Directors (“Rule”) published in the *Federal Register* on January 24, 2007.

We commend the Finance Board for making this historical step to improve corporate governance of the FHLBanks. By involving the FHLBanks and their boards in the process of selecting appointive directors, the Rule utilizes the local and regional knowledge of the FHLBanks and their directors to assist in identifying individuals with the skills and experience to enhance the effectiveness of their boards.

The Rule represents an innovative solution to the potential conflict of interest created by the statutory requirement that the regulator must appoint directors of the institutions it regulates. By having the FHLBank boards nominate the director candidates, the potential conflict is eliminated because the Finance Board acts in a regulatory role by ensuring that the appointed directors are qualified and independent when it makes the final selection.

While we strongly support the Rule, we believe its effectiveness could be enhanced by the following clarifications and modifications:

1. Although the FHLBanks might receive a number of unsolicited applications for available directorships, it is most likely that the best candidates with the most desirable skills and experience will need to be actively recruited. Recruiting the best candidates will be challenging because the FHLBanks are not well known to the general public, extensive conflict-of-interest restrictions limit the universe of available candidates, and limits on director compensation do not allow the FHLBanks to be competitive in this respect with other large financial institutions.

The Rule adds to this challenge by requiring FHLBanks to recruit *two* candidates for each available position. This means that an FHLBank and its board must successfully promote the FHLBank and the directorship to two highly qualified persons and convince them that it is in their best interest to prepare and submit the extensive and detailed application form, but must also tell them that even though we are recruiting them, their chances of selection are at best 50 percent. This places the FHLBanks at a competitive disadvantage compared to other SEC-registered companies, at which a director candidate who is recruited and nominated by the board is virtually assured of election, even if shareholders may be able to place other candidates on the ballot.

In addition, the significant possibility of being the “losing” candidate and the consequent disappointment could have a chilling effect on those who would otherwise be interested in serving on the board. We realize that candidates for corporate positions generally face the possibility that they will not be selected, but that is not normally the case when a directorship candidate is actively recruited by the organization and its board, and he or she accepts the invitation.

Accordingly, we recommend that the rule be revised to state that each FHLBank shall nominate one person for each available directorship. This modification would not mean that the Finance Board is delegating its director appointment responsibility to the FHLBanks. After reviewing a nominee’s qualifications as presented in his or her application form, if the Finance Board decides that a nominee is not eligible or qualified, the Finance Board can exercise its regulatory oversight by rejecting the nominee and requesting another nomination.

2. In the event that the Finance Board decides not to make the revision requested above, the nomination and appointment process is not entirely clear when two or more directorships are available, which will always be the case except when a directorship becomes vacant before expiration of its term. For example, if two directorships are available, the FHLBank submits four nominations. If the FHLBank’s board determines that its effectiveness would best be enhanced by the addition of a financial accounting expert and a director with experience in derivatives, and nominates two candidates in each category of expertise, the Finance Board could appoint both financial accounting experts or both persons with derivatives experience. Although they both may be fine directors, the board would not obtain the best combination of skill sets. Likewise, if one of the positions is a community interest directorship, the Finance Board could appoint both community interest nominees and deny the board the other skill set it desired.

If the Finance Board chooses not to modify the requirement that there must be twice as many nominees as available directorships, we believe the best solution to this problem is to modify the Rule to state that the FHLBanks shall nominate two persons for each specific directorship available, and the Finance Board shall select one of the two designated nominees for each specific directorship (but will also have the right to request additional nominees under Section 910.10 (b)).

3. Section 915.10 (b) states that “...if the Finance Board does not fill all of the appointive directorships from the list initially submitted by the Bank, it may require the Bank

to submit a supplemental list of nominees for its consideration.” The use of the word “may” indicates that the Finance Board might choose *not* to request additional nominees. In that case, it is not clear whether the Finance Board could proceed to appoint someone not nominated by the FHLBank, or choose not to make any appointment. Both possibilities would be undesirable.

In the first case, an appointment would be made without FHLBank input. Such appointment would fail to take advantage of the local and regional knowledge of the FHLBanks and their directors to assist in identifying individuals with the skills and experience to enhance the effectiveness of their boards, and would raise the possible conflict of interest issue of a regulator appointing directors of the institutions it regulates. In the second case, if no appointment were made, the Finance Board would fail to comply with the statutory requirement to appoint directors and, moreover, would fail to provide the FHLBank board with additional skills and experience that could improve its effectiveness.

We believe the solution is to clarify this subsection by requiring the FHLBank to submit additional nominations as follows:

“...if the Finance Board does not fill all of the appointive directorships from the list initially submitted by the Bank, it shall give the Bank 45 days to submit [one/two] additional nominee[s] for each available appointive directorship that has not been filled, and the provisions of this paragraph (b) shall apply to such nominees as if they had initially been nominated under paragraphs (a) or (e).”

4. To protect confidential information, the disclosure of which would serve no substantial public purpose, we recommend that the Appointive Director Application Form be amended to include notification that the applicant may request that certain information on the form be exempt from disclosure under the Freedom of Information Act. Such notification should include a summary of the procedures for submitting, and the standards for approving, such request. This is the approach taken by the banking agencies in their “Interagency Biographical and Financial Report” disclosure form for bank directors.

We appreciate the opportunity to comment on the Rule. If you have any questions or would like to discuss any of our comments, please call me at (785) 438-6001.

Sincerely,

Andrew J. Jetter
President and CEO