



May 19, 2014

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
Constitution Center, Eighth Floor
400 7th Street SW
Washington DC 20024

Sent Via Email

Re: Comments/RIN 2590-AA66; Procedures

Dear Mr. Pollard:

On behalf of the Federal Home Loan Bank of San Francisco (“Bank”), we appreciate this opportunity to comment on the Federal Housing Finance Agency’s (the “FHFA”) proposed rule on Procedures (the “Proposed Rule”). We respectfully submit the following comments for your consideration.

Definitions (§1211.1)

The definition of “waiver” in the Proposed Rule would omit the reference to “member,” the effect of which would be to preclude FHLBank members from seeking formal waivers from the FHFA. We suggest that “member” not be deleted because many regulations adopted by the FHFA directly impact the rights and obligations of FHLBank members. Although the FHFA is not the primary safety and soundness supervisor of FHLBanks members, it does regulate member conduct in many respects, e.g., eligibility, stock requirements, voting, etc., and therefore, the ability of FHLBank members to seek waivers should not be eliminated.

Additionally, we suggest that the FHFA also consider broadening the definition to include other constituents that are impacted by regulations adopted by the FHFA. The FHFA might want to consider referencing the definition that is used in the Ombudsman regulation¹ so that AHP Project Sponsors and other entities directly impacted by FHFA decisions could seek direct formal guidance or waivers from the FHFA.

Waivers (§1211.2), Approvals (§1211.3), Non-Objection Letters (§1211.4) and (§1211.5) Regulatory Interpretations

In each of the proposed sections above relating to Waivers, Approvals, Non-Objection Letters and Regulatory Interpretations (“regulatory actions”), the Director reserves the right to modify, rescind, or supersede any of these regulatory actions on a prospective basis. We support the FHFA recognizing that changes to a prior regulatory action would take effect on a prospective basis, particularly to the extent existing rights and obligations of parties could be affected by the regulatory action. With that in mind,

¹ “*Person* means an organization, business entity, or individual that has a business relationship with a regulated entity or the Office of Finance, or that represents the interests of a person that has a business relationship with a regulated entity or the Office of Finance. The term *person* does not include an individual borrower.” (12 C.F.R. § 1213.2)

and for the avoidance of doubt regarding the meaning of “prospective basis,” and to avoid inadvertently diminishing the FHLBanks’ existing contractual rights and obligations in any transaction that could be affected by a Director’s regulatory action, we suggest that each of these sections add the following phrase (underscored):

“ . . . , with such action being effective only on a prospective basis and without adversely affecting any existing contractual rights and obligations.”

The purpose of the proposed additional language is to clarify that the Director’s action will not impair contractual rights and obligations arising from any contract formed by the parties prior to the announcement of the Director’s decision.

Submission Requirements (§1211.6)

We note that the Proposed Rule modifies the signature requirements for submissions and are more restrictive than they have been for the FHLBanks and the Office of Finance (“OF”) historically. The Proposed Rule requires the president of an FHLBank or chairperson of the board of directors of the OF to sign applications for a Waiver or Approval as well as any requests for a Non-Objection Letter or Regulatory Interpretation, whereas under existing 12 C.F.R. §907.6, applications for Waivers and Approvals must be signed by an official with authority to sign such applications on behalf of the requester, requests for No-Action Letters must be signed by the president of the FHLBank or chairperson of the board of directors of the OF, and requests for regulatory interpretations must be signed by an authorized representative of the requester.

We believe there is value in continuing to allow authorized individuals other than the president or chairperson to sign submissions under the regulations. We note that officers and directors have specialized knowledge and assume primary responsibilities with respect to different issues at the FHLBanks and OF. Since submissions to the FHFA will cover a wide variety of subject matters, allowing FHLBanks and OF the flexibility to determine their own authorized representatives for signing submissions would be efficient and help alleviate any logistical issues and additional burdens associated with concentrating signing authority in a single individual at an FHLBank or OF.

We have successfully operated under 12 C.F.R. §907.6 in the past and would respectfully request that the final rule follow the current rule with respect to Waivers, Approvals and Regulatory Interpretations, and given that requests for Non-Objection Letters have historically been submitted by not only presidents but various other representatives of the FHLBanks, apply the same “authorized representative” concept to Non-Objection Letters as well.

Removal of 12 C.F.R. §907.8 Case-by-Case Determinations

With respect to the proposed removal of the case-by-case determination provision (12 C.F.R. § 907.8), the Bank believes that the case-by-case determination provision is a procedure that should be preserved because the purpose of this provision was to give the FHLBanks an opportunity to obtain a review of a matter that “is best resolved on a case-by-case basis by a ruling applicable only to the Petitioner and any Intervener, and not by adoption of a rule of general applicability” without resorting to a request for a notice and comment rulemaking. See 64 Fed.Reg. 30880, 30882 (June 9, 1999). Removing this

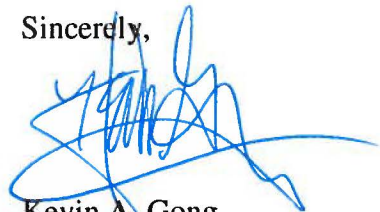
Alfred M. Pollard, Esq.
May 19, 2014
Page 3

provision will limit the procedures by which the FHLBanks and the FHFA can avoid more formal and lengthy means of resolving potential issues (e.g., 12 C.F.R. § 907.15(d) which contains procedures for settling issues between Petitioners, Intervenors and the agency without litigation).

Conclusion

The Bank appreciates the opportunity to comment on the Proposed Rule.

Sincerely,



Kevin A. Gong
Senior Vice President and
Chief Corporate Securities Counsel