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December 18, 2014

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency - Fourth Floor
1700 G Street, NW
Washington, D.C. 20552

Re: Notice of Proposed Rulemaking and Request for Comments – Members of Federal Home Loan Banks (RIN 2590-AA39)

Dear Mr. Pollard:

On behalf of the Michigan Mortgage Lenders Association (MMLA), I am writing to request that the FHFA withdraw its Notice of Proposed Rulemaking – Members of Federal Home Loan Banks (NPR), and I appreciate your consideration.

The MMLA's membership is made up of over 1,780 individuals from mortgage banking firms, brokers, commercial banks, savings banks, credit unions, mortgage professionals, investors, insurance companies and others providing products and services to the mortgage industry. We serve our members and the Michigan real estate finance industry by providing access to the Michigan Legislature and state regulatory agencies to help produce and maintain the type of legislation and regulatory climate that permits lenders to fully meet the real estate financing needs of Michigan residents. We also provide educational opportunities to help members keep abreast of the rapidly changing mortgage origination, underwriting and servicing environment.

Many of our members work for and even own institutions that are members of the Federal Home Loan Bank of Indianapolis (FHLBI), and they enjoy the benefits of membership such as FHLBI letters of credit and cash management services; FHLBI's Mortgage Purchase Program (MPP), Affordable Housing Program (AHP) and Community Investment Program (CIP); and, most importantly, reliable access to FHLBI's affordable liquidity. FHLBI provides Michigan's mortgage lenders the liquidity needed to make home mortgage loans, and FHLBI's AHP and CIP provide essential funding to projects that benefit low income individuals, families, and neighborhoods. Michigan's housing finance and overall housing market are further boosted by the housing-related collateral that FHLBI members must provide to secure their advances. As an organization comprised of mortgage lending professionals, the MMLA knows that the FHLBI is a valuable housing finance resource, and we firmly oppose the FHFA's unilateral efforts to restrict access to the FHLBI.

The FHFA is seeking to impose new on-going asset-based compliance tests on FHLBank members. From the inception of the FHLBank system in 1932 through the date of this letter, Congress has never required on-going compliance tests or anything similar. The FHFA's express purpose for these tests is to ensure that members do not abandon the FHLBanks' housing-related mission. There is no factual basis for this concern as the FHFA's own statistical analysis shows that current membership is, by-and-large, meeting the proposed on-going tests. With that in mind, these tests will only prove what is already known to be true -- FHLBank members are committed to housing finance and the betterment of their communities.

The FHFA's concern about mission abandonment indicates a surprising lack of understanding of the FHLBank borrowing process. It is not a coincidence that most FHLBank members own a significant amount of mortgage loans and mortgage-backed securities. These institutions must first establish their commitment to housing finance upon application for membership, and they must provide appropriate housing-related collateral to obtain liquidity from their FHLBank. This system naturally produces an FHLBank membership base that has a keen focus on housing finance, and it does so without imposing the added costs and regulatory burdens of on-going asset-based compliance tests.

We are concerned that the FHFA does not plan to include mortgage loans sold by a member, referred to in the NPR as "flow" business, in determining compliance with the proposed 1% "makes long-term home mortgage loans" test. Many mortgage lenders make mortgage loans and sell them on the secondary market. This is not a questionable practice, and it actually increases housing liquidity. The Federal Home Loan Bank Act only requires an institution applying for membership to demonstrate that it makes long-term home mortgage loans, not that it holds the loans, but the proposed test calls for a review of the three-year average of mortgage loans held by members at the end of each year. No doubt, Congress used the word "makes" because loans made, not loans held, are the clearest indicator of an institution's commitment to housing finance.

A simple suggestion for tracking "flow" would be to look at home mortgage loans made throughout the year by a financial institution or its agents as opposed to the balance of loans held by a member on a certain date. A growing number of FHLBI members are participating in the MPP, where they sell mortgage loans to the FHLBI. Such information is easily obtainable to use in measuring compliance. Failing to include "flow" restricts members' ability to participate in the MPP and other secondary markets. In order to meet the FHFA's new regulatory burden, loans that may have been sold will be held, limiting the liquidity available for members to make new mortgage loans.

The proposed on-going compliance tests should not be adopted because they do not add new benefits to the FHLBank system, but they will be costly to members and will produce results that are contrary to the housing-finance mission of the FHLBanks.

We are also troubled by the FHFA's proposal to eliminate captive insurers from membership. Captive insurance companies are legally eligible for membership, and it is beyond the power of the FHFA to rewrite the Federal Home Loan Bank Act and declare them ineligible. FHLBI's captive insurance company members are lawful companies duly organized under the laws and subject to the insurance regulations of the State of Michigan. Not only are these companies legally eligible for FHLBank membership, captive insurers and their parents directly fulfill the FHLBank mission of supporting housing finance by providing long-term private capital in the residential mortgage market.

Despite years of opportunity, including four years since the FHFA first proposed this concept in its Advanced Notice of Proposed Rulemaking (R/N 2590-AA39), Congress has not acted to prohibit captive insurers or to otherwise restrict access to the FHLBanks. In fact, since the inception of the FHLBanks, Congress has consistently taken action to expand membership. As such, the restrictive proposals of the NPR are contrary to Congressional intent, policy and practice, and they should not be adopted.

All-in-all, the NPR will reduce the amount and the diversity of FHLBI members. Fewer Michigan mortgage lenders will have access to FHLBI liquidity, and our communities will suffer because the FHLBI will have less funds available to support the AHP and CIP. Eliminating captive insurers will remove a growing and active class of members that, because they do not necessarily follow the same cycles as banks, are likely to remain active during periods of slow banking activity. Diversity of membership helps to ensure the FHLBI's good health so that it can continue to provide needed liquidity in times like the recent Great Recession. Overall, the NPR will restrict access to the FHLBI's reliable liquidity and reduce the flow thereof into Michigan's mortgage finance market. If adopted, the proposals in the NPR will cause real harm to the FHLBanks, their members, the U.S. housing market, and low-income families and communities. The NPR is bad policy for the members of the Michigan Mortgage Lenders Association and the communities that we serve; therefore, we respectfully request that the NPR be fully withdrawn.

Sincerely,
Michigan Mortgage Lenders Association

Joanne Misuraca

Joanne Misuraca
Executive Director