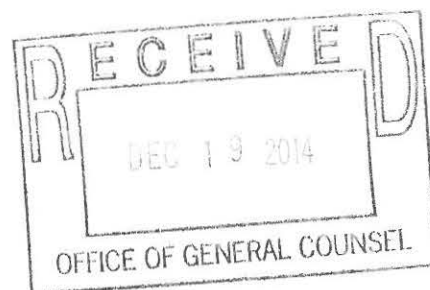


FLORIDA BANKERS ASSOCIATION

December 11, 2014

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, D.C. 20024



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

Dear Mr. Pollard:

On behalf of the Florida Bankers Association, we would like to thank you for the opportunity to comment on the Federal Housing Finance Agency's proposed rule RIN 2590-AA39. The Florida Bankers Association represents banks of all different sizes throughout the state of Florida. With nearly 300 member institutions, many of whom are also members of the Federal Home Loan Bank, we found it necessary to bring to your attention the needless hardships the proposed rule would create on the current FHLBank system. While we share your view that the FHLBank should remain focused on the housing portion of their mission, we recognize that it is but one of many important functions the FHLBanks play. In fact it is our firm belief that the proposal as it stands not only undermines the crucial mission of the FHLBank system but also undermines Congressional intent that has guided the program in the opposite direction for the past 25 years.

A. Undue Burden on Member Institutions

The ability of our members to remain strong financial institutions, able to best serve their respective communities has become increasingly challenging over the past few years. Financial institutions of all sizes are constantly attempting to adapt and adjust their business-plans and strategies to stay ahead of a constantly changing regulatory framework. To move forward with the proposed rule, would only add further burden on FHLBank members. To require a steadfast, one-size-fits-all standard for membership will significantly limit an institution's ability to respond to market changes. Financial institutions should manage their operations in response to the needs of their respective customers and communities, not an arbitrary hardline that in some cases could lead an institution to weaken its financial condition simply to maintain membership.

The newly proposed rule, requiring ongoing testing, could serve as a serious deterrent to new membership. The FHLBank system is a voluntary system that has been successful due in major part to its ability to offer financial incentives to encourage voluntary behavior that Congress has

deemed worthy. Without vast and extensive membership participation the system will not work. By effectively requiring a permanent minimum asset allocation, regardless of a member's use of FHLBank services, would not only diminish new membership, but could hamper the FHLBanks' ability to remain a stable liquidity source, as some current members may have to drop out from time to time.

Ex: If the ongoing 10% test was applied to the FHLBank system membership, , it would have caused thirty non-CFI banks and forty one credit unions to have failed the test at least once since 2008.

(Data collected from FHLBanks, as of December 21, 2013 and is based on a three-year-end average.)

Additionally, the proposed rule would cause significant harm to CFIs and CDFIs, two groups that Congress has recognized as needing access to FHLBank services. To require a CDFI to have at least 1% of total assets in a narrowly defined housing related category will prove particularly difficult as many specific assets that CDFIs maintain in portfolio do not meet the strict definition. Often times a CDFI only holds a part of a "participation loan" or may hold business loans or loans to a developer of affordable housing that would not be factored in to the 1% test.

Similarly, while CFIs may not be subject to the proposed 10% residential mortgage loan test, it still could present problems, as it requires all depository institution members with assets more than \$1.1 billion to comply on an ongoing basis. This rule may push larger CFIs, teetering close to the \$1.1 billion cap, to restrict or manage their growth by limiting services to customers to remain within the parameters of the rule, all in fear of membership termination.

Ultimately the effects the proposed rule will have on membership will reverse the previously continued growth of the system. This decline in membership will result in fewer advances leading to less money in the system, and thus hinder the FHLBanks ability to fulfill its important core mission, which is ironically what the FHFA advocates it is trying to protect. It is important to remember that FHLBank members do not all meet the needs of their communities in the same manner, however, virtually all of them fulfill the mission of the FHLBank System; some may hold eligible mortgage related assets on their balance sheets, while others serve primarily as residential mortgage originators aggregating and selling these loans into the secondary market, while yet others may be more focused on community and economic lending that may include student lending, small business lending and/or vital infrastructure lending.

B. Running Afoul of Congressional Intent

The FHLBank system was established in 1932 to aid residential mortgage lending. From inception, the program has continually been expanded in several aspects, including both membership and access to liquidity. From the get-go membership consisted of various savings and loans, banker's banks, and insurance companies. From there it was expanded to include insured commercial banks, insured credit unions, and insured savings and loans. And finally, more recently, the program was expanded to allow CDFIs to be members as well. Thus, the proposed rule is the first attempt in over 25 years to head in the opposite direction.

Other Examples of Congressional intent to expand the FHLBank:

- *1989- Via the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Congress amended FHLBA to widen the breadth of FHLBanks' incidental powers.*
- *1999, 2008- Via Gramm-Leach-Bliley Act of 1999, Congress expanded the types of eligible collateral that community banks were able to pledge to secure advances.*
- *2008: HERA removed the narrow language involving the "housing finance mission" and replaced it with language demonstrating a mission focused on liquidity generally and the need to provide assistance in the realm of affordable housing as well as community development.*

Not only does the proposed rule seem to contradict Congress' intention to expand the program but it also seems to run contrary to Congress' intent to eliminate the FHLBanks' "regulatory" functions. The new proposal will require the FHLBank to essentially become a quasi-regulator, policing membership on a continued basis. The FHLBanks would be required to examine the financial statements of members, examining asset composition on an annual basis, without guidance or mechanisms for appropriately doing so. To task these banks with such a regulatory role could not only result in conflict between the member and its prudential regulator, who after all may restrict disclosure of some of the information needed for these annual reviews, but also completely undermines Congress' intent for flexibility within the system.

The proposal would require the FHLBanks to terminate members who do not meet the newly proposed standards, whereas now, the FHLBanks *may* terminate should they choose to do so. The push for a less regulatory, more flexible approach has been evidenced by Congressional action in many ways. In 1989, Congress abolished the Federal Home Loan Bank Board (FHLBB), which was a board initially created by the original Federal Home Loan Bank Act of 1932 for the purpose of overseeing the System as a whole. The FHLBB was then superseded by the Federal Housing Finance Board. In 1993 the Federal Housing Finance Board then delegated approval of new membership directly to the FHLBanks. In 1999, through the Gramm-Leach-Bliley Act, Congress transferred the ability to remove members from the Federal Housing Finance Board, to the individual FHLBanks. The trend of transferring power from a general overseeing body directly to the individual FHLBanks has continued for years. It is a prime example of Congress' intent to equip the FHLBanks with the tools to further the System's general housing policies, but allow them to do so in a flexible manner; one that can be tailored to each individual member institution. Establishing a bright-line rule, where for example termination is required, without any investigation into an institution's circumstance does just the opposite.

C. A Solution in Search of a Problem

As an association we fully appreciate the need to continual review and update programs where there is clear evidence improvements can be made. However, in the case of the FHLBank system, we fail to see any causes to warrant such a stark shift in program direction. In reviewing the history of the FHLBank system, it is evident that these banks have proven themselves as a safe and sound business model through all types of economic cycles, including our most recent crisis. For years FHLBanks have consistently provided liquidity to a broad range of cooperative members for a multitude of uses. So why make the change?

It has been suggested that the proposed rules are necessary to prevent members from ceasing to make long-term home mortgage loans after they have initially been accepted as a member. Not only does there seem to be a lack of evidence highlighting this as a serious issue, but the current system already has safeguards in place to make this does not become a problem.

The system as it stands is guided by a set of rules and regulations all focused on preserving the FHLBank system's mission, safety, and soundness. Members must pledge housing-related assets as collateral in order to secure advances and other FHLBank borrowings. Plus, current member institutions are randomly selected every two years to submit their Community Support Statements to the FHFA to certify their active support of housing for first-time homebuyers to the FHFA in order to access long term funding.

Ex: From 2010-2012, 97% of the FHLBank system's advances had been secured by housing related eligible collateral.
(Data collected by the FHFA in the Report on Collateral Pledged to the Federal Home Loan Banks 5 (Sep 2013).)

Furthermore, numbers from the initial research conducted by the FHFA in preparing the 2010 advanced notice of proposed rulemaking indicate that a substantial majority of member institutions already comply with the newly proposed standards and the numbers remain the same today.

Ex: In 2010 roughly 98% of FHLBank members currently comply with the 10% requirement while another 1% of members have more than 9% of their assets in mortgages.
(Data collected by the FHFA in 2010 ANPR, 75 Fed Reg. 81145, 81151)

As the above mentioned statistics and system safeguards demonstrate the FHLBanks are already focused on making sure member institutions maintain support of the system's housing finance and liquidity missions, and are doing so well. To trade a well working set of parameters, ones that offer flexibility and case-by-case review, for a one-size-fits all approach that would arguable add significant burden and costs to both member institutions and the FHLBanks, does not make sense.

In sum, the proposed rules would provide little benefit in exchange for a multitude of complications. What in theory may seem reasonable, in actuality would pose systemic risk to the FHLBank system. Uncertainty would abound and instability would arise as system growth declines thanks to lack of new membership, forced terminations, and strategic withdrawal to avoid costs. Liquidity would be reduced, credit would tighten, and the availability of private sector funding for affordable housing and community development would dwindle.

Until a truly valid purpose is put forth for these proposed changes, the system should be left alone, to continue to work effective and efficiently. We urge that the FHFA please reconsider this rule and withdraw it. After further review, should the FHFA discover evidence of compelling areas for change, then a dialogue with Congress is the appropriate forum to begin such a

discussion. Congress has watched over this program for several years now, and it is questionable as to whether the FHFA has the authority to even make these proposed changes.

Thank you again for providing us and the general public the opportunity to comment.

Best,

A handwritten signature in black ink, appearing to read "Alex Sanchez". The signature is fluid and cursive, with a large initial "A" and "S".

Alex Sanchez
President & CEO

AMS/kas