

January 9, 2015

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:

Thank you for the opportunity to submit comments on the FHFA’s Notice of Proposed Rulemaking – Members of Federal Home Loan Banks (NPR). Because these proposals have the great potential to drastically alter the current and future membership of the Federal Home Loan Bank of Indianapolis (FHLBI) and to reduce liquidity in the mortgage loan market, the Indiana Mortgage Bankers Association (IMBA) opposes the NPR and requests that it be fully withdrawn.

With six chapters and 133 company members, IMBA is the voice of the mortgage banking industry in Indiana. Our members include: mortgage bankers; commercial banks, savings and loans, mortgage brokers; real estate finance service providers such as title companies, private mortgage insurance companies, credit companies, law firms, and other real estate service providers; and non-profit housing organizations. Since 1958, IMBA's purpose has been to serve the mutual interests of its members in order to preserve, enhance and advance the mortgage banking and real estate finance business in Indiana.

Currently, 37 of our members are FHLBI members, and we know that they enjoy access to reliable liquidity through FHLBI advances and the trade of mortgage loans in FHLBI’s Mortgage Purchase Program. Indiana communities and some of our own non-profit members are the direct beneficiaries of funding from FHLBI’s Affordable Housing and Community Investment Programs. All of our members, even those that are not FHLBI members, benefit from the flow of FHLBI liquidity into the Indiana housing market and Hoosier communities. Consequently, we stand with FHLBI in opposing the FHFA’s proposals in the NPR.

Since the passage of the Federal Home Loan Bank Act, Congress has consistently taken action to expand access to the Federal Home Loan Banks. Although it has had ample opportunity over many years, Congress has not rewritten the Act to make continual asset-based compliance a requirement for maintaining membership, nor has Congress revised the list of membership-eligible institutions to carve out a particular group. The FHFA is enabled to regulate the Federal Home Loan Banks *from an enforcement perspective*, but by imposing on-going asset-based compliance tests and banning captive insurance companies from membership, the FHFA is effectively amending the Act, which is well beyond its authority.

In a letter to Director Melvin Watt dated November 17, 2014, a bi-partisan group of 68 members of the House of Representatives expressed the same concerns. These representatives stated:

*the* ***proposed rule*** *includes significant changes to long-standing membership rules for the Federal Home Loan Bank (FHLBank) system and* ***is likely to have a profound adverse impact*** *on the existing and prospective members and on the communities served by the system*.

They also explained that “Congress has retained the authority to determine the scope and nature of eligibility for FHLBank membership,” and further cautioned that “the ***proposed rule could*** ***jeopardize***” the Federal Home Loan Banks’ ability to “serve as a critical source of liquidity” and “as an important conduit to the secondary markets for community financial institutions.” The IMBA joins these members of Congress in urging the FHFA to reconsider the NPR and to leave these important policy decisions to the rightful decision makers -- Congress.

In the NPR, the FHFA provides results of its own analysis showing that, if the compliance tests were already in place, the majority of Federal Home Loan Bank members would be in compliance. This data does not prove that asset-based compliance tests are harmless; it proves that asset-based compliance tests are unnecessary. Members will incur costs related to performing the work needed to maintain and demonstrate compliance. There will be great opportunity cost as well because members will need to hold mortgage assets rather than selling them and use the added liquidity to make additional loans. Of course, some institutions will suffer the ultimate harm by losing their membership for failing to comply, or forfeiting membership to avoid the burdens and restrictions of these tests. There is no need to add a new regulatory burden when the evidence shows that the members of the Federal Home Loan Banks are committed to housing finance.

The IMBA opposes the adoption of the proposed compliance tests, but if the FHFA follows through and implements them, it is crucial that the formula for compliance take into account all mortgage loans *made* by members or their agents regardless of whether the loans are held in portfolio or sold on the secondary market. Many mortgage lenders sell the loans they make, referred to by the FHFA as “flow” business, which is perfectly acceptable in the mortgage industry. “Flow” generally leads to increased liquidity in the housing market. When a lender sells a mortgage loan, it will often use the sale proceeds to make a new mortgage loan. If “flow” is not counted, then members will not get the credit due for all of the mortgage loans they make, and they may hold more loans in portfolio, leaving them with less liquidity to make new loans.

Although none of our members are captive insurance companies, we are concerned that the FHFA is seeking to expel captive insurers from membership. FHLBI’s captive insurer members are organized under and subject to Indiana law. Like all other insurance companies in Indiana, captive insurers are subject to the regulatory oversight of Indiana’s Department of Insurance. So, captive insurers are legal insurance companies in the State of Indiana and are subject to the same level of rigorous inspection and regulation as all other FHLBI members. Captive insurers also further the FHLBank housing mission by providing long-term private capital in the residential mortgage market. We make all of these points about captive insurance companies because it is alarming that the FHFA would prohibit a group of businesses that are explicitly named as membership-eligible institutions under the Act and that add liquidity to the residential mortgage loan market from Federal Home Loan Bank membership. We fear that the captive insurer ban will set a precedent that could lead to some of our members losing their FHLBI membership.

Banning captive insurers not only reduces the amount of FHLBI members, it diminishes the diversity of FHLBI’s membership. A diverse membership helps to smooth out the negative impacts of economic low points, which helps FHLBI continue to serve as a reliable source of liquidity even in times like the recent financial crisis.

FHLBI will lose members as a result of the NPR. This means that there will be a decline in FHLBI liquidity flowing through Indiana’s residential mortgage loan market and a reduction in funds available under the Affordable Housing and Community Investment Programs. With no demonstrated safety-soundness need for the proposals in the NPR, there is no added benefit to outweigh the hard costs of these proposals -- particularly those that result from the new compliance tests and the captive insurance company ban.

For these reasons, the Indiana Mortgage Bankers Association respectfully urges the FHFA to fully withdraw the NPR.

Sincerely,

Alan W. Thorup

Executive Director

Indiana Mortgage Bankers Association

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