January 9, 2015

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

Re: Notice of Proposed Rulemaking and Request for Comments – Members of FHLBanks (RIN 2590–AA39)

Dear Mr. Pollard:

The Federal Home Loan Bank of Topeka (FHLBank Topeka), appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposed rule on Federal Home Loan Bank (FHLBank) membership eligibility (the Proposed Rule).

FHLBank Topeka respectfully opposes the Proposed Rule because it would have multiple adverse consequences for our member financial institutions and the communities they serve. Further, we do not believe the Proposed Rule is consistent with either the plain language of the Federal Home Loan Bank Act (the FHLBank Act) or with Congressional intent.

The Proposed Rule is Not Consistent with the FHLBank Act or Congressional Intent

The Proposed Rule would establish certain ongoing or "continuous" requirements that would require all members to meet a one percent "makes long-term home mortgage loans" test and certain members to meet a 10 percent "residential mortgage loans test." The proposed continuous tests are inconsistent with the plain language of the FHLBank Act. The FHLBank Act establishes clear eligibility requirements for becoming a member. 12 U.S.C. §1424(a) states that "Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution, or any insured depository institution…, shall be eligible to *become* a member of a Federal Home Loan Bank if such institution [meets certain requirements]" (emphasis supplied). The plain language of the FHLBank Act does not contemplate continuing membership eligibility requirements, but instead it establishes only eligibility requirements for an institution to become a member of an FHLBank. This interpretation of the FHLBank Act has been one of the most basic operating principles of the FHLBanks and their members, and it has also been the interpretation of the FHFA and its predecessor agencies since the enactment of the FHLBank Act over 82 years ago.

Only now, following a period of significant economic stress during which the FHLBanks were praised for their ability to provide liquidity to their members in order to support housing and community lending, the FHFA proposes changes to an 82 year old interpretation. It does this without identifying any concerns with the current membership process and without articulating a safety and soundness concern. In fact, in the preamble to the Proposed Rule, the FHFA stresses that its analysis reveals that relatively few members would have been out of compliance with the proposed continuous membership requirements. This indicates that the rule is unnecessary and there are no safety and soundness concerns with the current membership process. The Proposed Rule would not remedy any problems with the current membership process, but instead it would harm the FHLBanks and their members directly, and it would hinder the ability of the FHLBanks to provide necessary liquidity to the market in the event of another financial downturn.

This well established interpretation regarding membership eligibility is further supported by the FHLBank Act provisions on termination of membership. 12 U.S.C. 1426(d) contemplates only two situations in which an institution's membership in an FHLBank can be terminated. The first is voluntary withdrawal of a member, where the member chooses to withdraw its membership from an FHLBank. The second is involuntary withdrawal. Pursuant to 12 U.S.C. 1426(d)(2), the authority for terminating a member rests with an FHLBank's board of directors. The FHFA's predecessor, the Federal Housing Finance Board (FHFB), previously held this authority, but Congress removed it when it enacted the Gramm-Leach-Bliley Act (GLBA). The FHLBank Act states that "the board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to regulations of the Director, it determines that: (i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or (ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a Federal or State authority with regulatory and supervisory responsibility for the member." First, it is important to note that the items for which voluntary termination is permissible do not appear to contemplate the inability of a member to meet ongoing membership tests. Second, the plain language of the FHLBank Act is permissive, and it allows, but does not require, an FHLBank's board of directors to terminate the membership of an institution. Despite the fact that GLBA removed the authority of the FHFA/FHFB to terminate the membership of an institution, the FHFA now proposes to usurp the clear permissive authority of an FHLBank to determine whether to involuntarily terminate a member by requiring an FHLBank's board to terminate the membership of an institution if the member fails to meet the requirements set forth in the Proposed Rule. We do not believe this approach is permissible pursuant to the FHLBank Act. The Proposed Rule, which requires an FHLBank's board to terminate the membership of an institution, directly and clearly contravenes the plain language of the FHLBank Act and usurps the power of the boards of the FHLBanks, which are granted sole authority under the FHLBank Act to make determinations regarding involuntary membership termination.

The FHFA's proposal to establish ongoing membership requirements linked to the "makes long-term home mortgage loans" requirement and the "residential mortgage loans" requirement also contravenes the history and Congressional intent of the FHLBank Act. Congress specifically chose not to establish an ongoing membership requirement, but instead chose to ensure FHLBank members maintain a link to the mission of the FHLBanks through the establishment of collateral requirements. Members are required to meet an ongoing mission requirement each time a member takes an advance. Therefore, instead of the disruptive and harmful process of involuntarily terminating an institution's FHLBank membership, a member is unable to receive FHLBank advances if the member fails to maintain sufficient eligible collateral to support the advance. Congress has had ample opportunities to revise the FHLBank Act to impose continuing membership requirements as set forth under the Proposed Rule. Instead of imposing limitations on FHLBank membership, Congress has consistently expanded FHLBank membership, the mission of the FHLBanks, and the ability of FHLBank members to access System liquidity. With respect to FHLBank membership, Congress expanded membership to all Federally-insured depository institutions upon the adoption of the Financial Institution Reform, Recovery, and Enforcement Act (FIRREA), and expanded membership to community development financial institutions under the Housing and Economic Recovery Act (HERA). Similarly, under the GLBA and the HERA, Congress expanded the types of collateral that community financial institutions (CFIs) may pledge to secure advances. Specifically, Congress added small business, small farm, small agri-business, agriculture, and community development activity loans to the list of collateral that is permissible to support FHLBank advances. Such assets are statutorily defined as eligible collateral for FHLBank advances, but are not required for ongoing membership eligibility, further supporting the view that Congress did not intend to require members to meet continuous mortgage asset-related membership tests since members are permitted to use other assets as collateral for advances. By subjecting member institutions to possible loss of membership if

they do not maintain long-term home mortgage loans or residential mortgages on-balance sheet, the Proposed Rule ignores Congress' clear expansion of the FHLBanks' mission beyond merely housing finance to one that includes providing liquidity to members.

FHFA's proposal would also place the FHLBanks back into a quasi-regulatory role by requiring the FHLBanks to continually monitor their members for compliance with the Proposed Rule. In 1989 under FIRREA, Congress intentionally removed the FHLBanks' regulatory function when it abolished the Federal Home Loan Bank Board. FHFA's proposed ongoing membership requirements, which would mandate that the FHLBanks annually examine the financial statements of members for compliance with the Proposed Rule, coupled with the Proposed Rule's mandatory termination requirement, would force the FHLBanks back into the role of quasi-regulators. Although FHLBanks currently examine members' financial statements, they do not have to continuously monitor compliance of members' balance sheets with FHFA rules nor impose the draconian penalty of membership termination on them for noncompliance. This quasi-regulatory role is contrary to the intent of Congress under FIRREA. Further, the approach proposed by the FHFA places the FHFA in the position of regulating the composition of the balance sheets of FHLBank members. There is no indication in the FHLBank Act, legislative history, or any other source indicating that Congress intended for the FHFA to have such control over the balance sheet composition of FHLBank members. The Proposed Rule does not indicate the FHFA consulted with the primary regulator for any FHLBank members in developing the proposed rule, although we believe it would be helpful for the public to be aware of and understand the views of the Federal and state primary regulators of FHLBank members before the FHFA publishes a final rule on this topic.

The Proposed Rule is Not Consistent with Stated FHFA Policy

According to the FHFA's Strategic Plan: Fiscal Years 2015-2019, the FHLBanks' "core mission is to serve as a reliable source of liquidity for their member institutions in support of housing finance *and community lending*" (emphasis supplied). "Community lending" can reasonably be construed to include small business, small farm, small agri-business, agriculture, and community development activity loans. The FHLBank Act makes clear that CFIs may pledge these types of loans in support of FHLBank advances, but they would not be included in assets required to maintain FHLBank membership under the Proposed Rule.

FHFA goes on to state in its Strategic Plan, "As regulator of the FHLBank System… FHFA will work to ensure that the FHLBanks continue to fulfill their statutory mission of providing liquidity to their members." If the FHFA intended to limit the use of FHLBank liquidity to support only housing-related activities, it would have been easy for FHFA to describe a "housing liquidity mission." Instead, the FHFA Strategic Plan properly uses the broader term of "liquidity mission", which is consistent with the FHLBank Act and Congressional intent. Instead of supporting the FHFA's stated mission of the FHLBanks, the Proposed Rule would hamper the FHLBanks' ability to achieve their liquidity mission by expelling some institutions from membership and cutting off their access to such liquidity, even though they may be engaging in community lending.

On November 19, 2014, FHFA Director Mel Watt provided the following statement as part of prepared testimony to Congress: "...Over time, Congress has expanded… the types of assets that are eligible collateral for (FHLBank) advances." Again, FHFA confirms that Congress has expanded the FHLBanks' mission and allowed certain members to pledge non-housing related collateral in support of advances. However, the Proposed Rule contradicts this reality. Further, in recent years, the FHFA has acted to authorize additional categories of eligible collateral, including federally insured student loans (authorized in 2009), to support the FHLBanks' liquidity mission. In this way, FHFA's actions had the effect of supporting the student loan market,

increasing FHLBank profitability and retained earnings, and reinforcing the FHLBanks' general liquidity mission.

Not only does the Proposed Rule contradict the FHFA's previously stated views, but the Proposed Rule fails to identify a problem that it is trying to address through the implementation of continuous membership requirements. As noted above, the FHFA does not identify any safety or soundness concerns with the current practice. Additionally, in the preamble to the Proposed Rule the FHFA recognizes that continuous membership requirements would impact only a relatively few members. The FHFA does not cite any data or empirical evidence to indicate what problem it is trying to address by revising 82 years of precedent. Instead of reflecting the limited harm caused by the Proposed Rule, the data the FHFA does provide indicates that the Proposed Rule is a solution in search of a problem.

The Proposed Rule Would Negatively Impact Current and Prospective FHLBank Members, with No Significant Benefits

A comparatively high percentage of FHLBank Topeka's members are community financial institutions. These institutions would be disproportionately harmed by the Proposed Rule because of the high number of them that would fail FHFA's continuous membership tests. Since 2008, in FHLBank Topeka's district alone, 93 banks, 6 credit unions and 8 insurance companies would have failed the strictest interpretation of FHFA's proposed test. This would have put these institutions' FHLBank membership in jeopardy. If as many as 107 regional financial institutions were to lose access to reliable FHLBank liquidity, the result would be an unnecessary decrease in their ability to serve the public, a higher cost of credit for consumers, potential safety and soundness concerns for relevant regulators, and fewer dollars available for affordable housing projects in the region. Some smaller institutions might even fail if they lose access to FHLBank liquidity, resulting in an unnecessary drop in the number of financial institutions serving the public, often in areas that are already underserved.

Additionally, ongoing membership requirements would raise questions about our members' ability to borrow under all future economic scenarios, as changing economic conditions could require balance sheet adjustments that could jeopardize their ability to retain their FHLBank membership. This would be true even if members have pledged sufficient eligible collateral under law. It is also unfair and counterproductive for our members to live under the threat of losing membership, especially when they have pledged statutorily eligible collateral in support of advances. Following the financial crisis, the Federal financial regulators have focused on ensuring the institutions they regulate have sufficient access to liquidity to support their needs in the event of a future economic downturn. The Proposed Rule would undermine those efforts by increasing uncertainty in FHLBank members' liquidity planning. A 2008 study by the Federal Reserve Bank of New York noted that the FHLBank System was "by far, the largest lender to U.S. depository institutions," and various other reports following the financial crisis recognized the important role the FHLBanks played in providing necessary liquidity to the banking, credit union and insurance industries during the financial crisis. The Proposed Rule would hinder the FHLBanks' ability to serve in a similar capacity in the future and could remove liquidity from the marketplace at the time when it is needed most.

The Proposed Rule could also discourage potential members from joining the System. This could have the effect of excluding a significant number of financial institutions from safely serving the credit needs of their communities through the use of FHLBank advances. And because all FHLBank members benefit from the scale of the System when it accesses the capital markets, discouraging potential members from joining an FHLBank could make liquidity more expensive for those institutions that have joined an FHLBank.

As stated earlier, FHLBank Topeka is also concerned that the Proposed Rule would disproportionately harm small and medium sized banks and credit unions – institutions that comprise the vast majority of FHLBank Topeka's membership base. At a time of industry consolidation, we do not believe Congress intended for FHFA to propose rules that would have such a harmful effect on community lenders.

The Proposed Rule could also have the following adverse effects:

- Members would have to manage their balance sheets to the regulation, rather than to what is best for the financial institution. It is reasonable to expect that some financial institutions would be discouraged from adjusting the composition of their balance sheets for prudent reasons such as raising capital, generating liquidity, diversifying portfolios, and safety-and-soundness reasons. This would reduce institutions' options to maximize earnings and control risk. Restricting balance sheet strategies could, thus, have an adverse impact on the safe and sound operation of our members, and it could cause concerns for prudential regulators.

- CFIs approaching non-CFI status might forego acquiring another institution or reduce other activities that could grow their business solely because it would push their asset size above CFI status. Such institutions would rightly be concerned that the higher mortgage-asset threshold required of non-CFIs under the Proposed Rule could be highly problematic. This could negatively impact their communities and the broader economy.

- As economic conditions change, or as a member's financial condition changes, members vary the amount of originated mortgages they sell into the secondary market. Members may have to adjust their secondary market strategies just to meet FHFA's test.

- Banks and credit unions that originate mortgages but sell all of those loans into the secondary market might not pass FHFA's test, despite the fact that they are fully engaged in supporting the mortgage market. The FHFA's Proposed Rule fails to take such housing finance activities into account.

- The Proposed Rule would introduce "uncertainty of access" concerns for FHLBank members. The importance of access to reliable FHLBank liquidity is a critical matter – both to our members and to the nation's overall economy. The highest value the 12 FHLBanks provide to the System's 7,400 members is reliability. FHLBank membership has always meant – and should always mean – access to liquidity that is constant and reliable. The FHFA's proposal puts the reliability of this access in jeopardy.

- The requirement to track all members' mortgage asset levels will add an expense to the FHLBanks, the costs of which will undoubtedly be passed along to member financial institutions. These costs will ultimately be borne by consumers, resulting in a higher cost of credit, with no apparent compensating benefits.

Captive Insurance Companies

Problematically, under the Proposed Rule, the FHLBank membership of captive insurance companies would be terminated. A captive insurance company meets the definition of an insurance company under state law.

And because the FHLBank Act is clear that "any" insurance company may be eligible to join an FHLBank, the Proposed Rule's provisions excluding captive insurance companies from FHLBank membership directly contradict the plain language of the FHLBank Act.

The plain language of the FHLBank Act – as well as legislative history – provides that *any* insurance company may be eligible to join an FHLBank. The FHFA proposes to define the phrase "any insurance company" to exclude an entire class of entities that are defined by state statutes as insurance companies. Congress established very simple and straightforward standards for what types of entities constitute insurance companies for purposes of FHLBank membership. In order to meet the standards, an insurance company must only be (1) duly organized under the laws of any State or of the United States, and (2) subject to inspection and regulation under the banking laws, or under similar laws, of the state or of the United States. Captive insurance companies meet both of the foregoing requirements. Congress specifically considered the breadth of the term "insurance company" prior to adoption of the FHLBank Act and, after hearing testimony on the various types of insurance company charters, declined to restrict the term "insurance company" to any particular subgroup of insurance companies. See the Hearing before a Subcommittee of the U.S. House Committee on Banking and Currency on H.R. 7620, Creation of a System of Federal Home Loan Banks, 72nd Cong., 1st Sess., p. 146 (March 18, 1932). In fact, insurance companies that underwrote insurance for affiliated persons and entities existed prior to the adoption of the FHLBank Act and certainly could have been excluded from FHLBank membership by Congress if it so chose, but instead Congress chose to allow any insurance company to become a member of an FHLBank, even if that insurance company's primary business was the underwriting of insurance policies for affiliated persons or entities (see, for example, The Church Properties Fire Insurance Corporation, which was founded in 1929 to reduce the cost of fire insurance to the Episcopal Church). Based on the foregoing, it is unreasonable and directly contradictory to the plain language and legislative history of the FHLBank Act for the FHFA to effectively define "any" to mean "some, but not all."

The FHFA has never articulated a safety or soundness concern unique to captive insurance companies, and in our experience, the risks associated with lending to captive insurance companies are no different than the risks an FHLBank takes in lending to other insurance company members. Thus, captive insurance companies do not present dangerous or unique credit risks. If, however, any significant or unique risks associated with lending to captive insurance companies were to be identified, the FHFA should propose specific safety and soundness regulations to address those concerns. The FHLBank Act provides a specific mechanism for conducting such a review. 12 U.S.C. 1428 requires the FHFA to conduct a review of the laws of various states governing the conditions under which members are permitted to be formed or to do business, and if such a review indicates inadequate protection to an FHLBank, the FHFA may restrict the operation of an FHLBank in the state until the law is revised. The Proposed Rule does not indicate that the FHFA has conducted such a review, but a review of laws of specific states would be a much less restrictive approach to addressing concerns regarding captive insurance companies than a draconian exclusion of such members from FHLBank membership. Until unique risks related to lending to captive insurance companies, if any, are identified and fully deliberated, the FHFA is not authorized to impose a penalty as drastic as the termination of an entire membership subclass without even examining less drastic alternatives.

REITs Should Not Be Treated Differently Than Commercial Bank Holding Companies

The preamble to the Proposed Rule suggests that Real Estate Investment Trusts (REITs) should not have access to the FHLBanks. A REIT is merely an entity that has made a tax structure election analogous to a bank holding company that makes a Subchapter S election. Like bank holding companies and other corporations,

they are not eligible, by law, to be FHLBank members. However, membership-eligible corporate entities (e.g., banks or other insurance companies, including captive insurance companies) should not be disqualified from FHLBank membership simply because of the legal structure of their parent companies. The FHLBank Act does not contemplate evaluating the parent company in order to determine membership eligibility, but only requires the applicant to meet certain membership criteria. The FHFA should not be in the role of dictating the appropriate corporate structure for entities beyond the actual FHLBank member or applicant.

Suggestions that this approach could lead to FHLBank mission creep are unwarranted, especially given that REIT affiliates of captive insurance companies accessing FHLBank liquidity are focused on single- and multi-family residential lending, or investments that support such lending, as well as commercial lending. All of these activities closely align with the FHLBanks' broad mission of providing liquidity in support of housing and community development.

The REIT investment vehicle places private capital at risk to support housing and economic development, which benefits families and communities. By encouraging broader investment in housing and economic development, reliance on the deposit insurance funds is reduced, and the risk to taxpayers is decreased. The importance of injecting additional private capital into our mortgage markets was underscored in September by Dr. Michael Stegman from the U.S. Department of the Treasury when he stated, "…many of the activities that REITs engage in appear to be aligned with the FHLB System's core mission, and represent an important source of private capital that should be at the core of the U.S. housing finance system."

Application of Three-Year Rolling Averages

The Proposed Rule would require an FHLBank to determine an institution's compliance with the "makes long-term home mortgage loans" test and the "residential mortgage loans" test by using a three-year average for both the numerator (the amount of the institution's home mortgage loans or residential mortgage loans) and the denominator (the amount of the institution's total assets). A member that fails the "makes long-term home mortgage loans" test or the "residential mortgage loans" test in two consecutive years would have its membership terminated by its FHLBank. We do not believe the three-year rolling average test, on its own, is reasonable or appropriate. For example, pursuant to the Proposed Rule, it would be possible for a member to fail the tests based on a three-year rolling average, but based on the member's financial information for the immediately preceding year, the member would have met the requirements of both tests. As a result, a member that currently holds assets that meet the "makes long-term home mortgage loans" test and the "residential mortgage loans" test could lose its FHLBank membership because it failed one or both of the tests based on a three-year rolling average. We do not believe this is an equitable result, nor do we believe this is the result intended by the FHFA. However, the Proposed Rule does not provide any flexibility in handling such a situation and would therefore result in a member being unable to be readmitted to membership in an FHLBank for a period of five years from the date on which its membership is terminated and it divested all of its shares of FHLBank stock, even though the member meets the required continuous membership tests.

The Proposed Rule Raises Serious Questions about FHLBank Capital Stock

Both the FHLBank Act and the Proposed Rule provide that an institution that is subject to termination of its membership, whether voluntarily or involuntarily, is ineligible to acquire capital stock of an FHLBank and be readmitted to membership for a period of five years from the date on which its membership is terminated. First, as we noted above, we do not believe the FHLBank Act authorizes the FHFA to implement the Proposed

Rule; if Congress intended for members to be subject to continuous membership requirements, it could have easily crafted a provision regarding the termination of membership and the applicability of those requirements to capital stock. However, the FHLBank Act is silent on this subject. Further, although the five-year waiting period is appropriate for a member that voluntarily withdraws its membership, it is unduly harsh for a member that may have failed an ongoing membership test as set forth above. For example, it is unreasonable to require a terminated member to wait five years for readmission if the member were to meet the continuous membership requirements in the current year. It is even more unreasonable to require a terminated member to wait five years to be readmitted to membership if the member meets the continuous requirements based on a three-year rolling average at some point after losing its FHLBank membership under the Proposed Rule, but before the end of the five-year waiting period. As a result, we believe the Proposed Rule unfairly penalizes members that make a good-faith effort at compliance, and it unreasonably excludes them from membership in an FHLBank, even if that member meets the continuous membership requirements following the termination of its membership.

Further, the Proposed Rule would cause substantial financial harm to institutions that lose their FHLBank membership. FHLBank Topeka currently pays a dividend on membership stock of 1.00%, and it pays a 6.00% dividend on activity-based stock. This is a significant return on investment for our members. Financial institutions that fail the Proposed Rule's ongoing requirements will lose the opportunity to receive future dividends on their capital stock investment. Also, a decrease in members in the System will mean decreased economies of scale in the operations of each FHLBank. This will likely decrease FHLBank earnings, which will decrease the dividend we can pay to remaining members.

Additionally, with fewer members, the FHLBanks will build retained earnings much more slowly. In an era in which Congress and regulators are rightly calling for financial institutions such as the FHLBanks to build robust capital cushions, the Proposed Rule would have the effect of making the FHLBank system less well capitalized. And if members are terminated for failing to comply with the rules proposed by the FHFA, the capital stock bases of the FHLBanks would become more volatile and less stable as stock is redeemed or repurchased. This could impact the capital adequacy of the FHLBanks, as well as the stability of the System and its effectiveness in meeting housing finance, community development and affordable housing objectives.

Finally, a strong argument can be made that the Proposed Rule constitutes an unconstitutional taking pursuant to the Fifth Amendment. Pursuant to the FHLBank Act, the holders of the Class B stock of an FHLBank own the retained earnings, surplus, undivided profits, and equity reserves of an FHLBank. Although under the Proposed Rule it would be the FHLBank taking action to terminate an institution's membership, the FHFA's regulations requiring an FHLBank to terminate a membership could be viewed as an unconstitutional taking of that member's property since an agency of the Federal government would be mandating the termination of such property rights. In such a case, a member may not be fairly compensated for its pro rata property interest in the retained earnings, surplus, and undivided profits of the FHLBank, despite receiving the return of the par value of the member's stock.

The Proposed Rule Will Have an Adverse Impact on Affordable Housing and Community Development

Of particular concern to FHLBank Topeka is the almost certain decrease in its annual contribution to the Affordable Housing Program (AHP) if the Proposed Rule were to take effect as currently written. As stated earlier, as many as 107 of FHLBank Topeka's members would have failed FHFA's proposed asset tests at some point in the very recent past. Those institutions represent $1.54 billion in outstanding FHLBank advances. A loss in advances of that level would reduce FHLBank Topeka's annual net earnings by approximately $5.1

million. The Proposed Rule would have a correspondingly negative impact on FHLBank Topeka's annual contribution to its AHP. We estimate that the Proposed Rule could reduce FHLBank Topeka's annual contribution to its AHP by $510,000.

A $510,000 annual reduction in our AHP contribution would have a quantifiably adverse impact on low- and moderate-income households in the states of Colorado, Kansas, Nebraska and Oklahoma. According to our analysis, in our four-state region, $510,000 per year in lost funding for AHP would result in as many as 68 fewer down-payment-assistance grants for moderate-income home buyers. Or considered another way, the proposed rule could result in 92 fewer affordable rental units available per year for underserved individuals and households in our region. These statistics represent real people and real families that would be adversely – and completely unnecessarily – impacted by the Proposed Rule.

A smaller membership base would also negatively impact FHLBank Topeka's Community Development Program (CDP) and Community Housing Program (CHP). CDP provides wholesale loans priced below FHLBank Topeka's regular market rates to help member institutions finance qualifying commercial loans, farm loans and community and economic development initiatives. CHP provides wholesale loans priced below FHLBank Topeka's regular advance rates to help member institutions finance qualifying owner-occupied and rental housing in their communities. We estimate that in the past year, 17 members utilized $95 million in CHP funding, while 52 members utilized $88 million in CDP funding. If FHLBank Topeka were to lose as many as 107 of its 794 members due to the Proposed Rule, funding for CHP and CDP would likely drop by a corresponding amount.

Conclusion

The Proposed Rule goes far beyond interpreting and implementing the FHLBank Act. In several ways, the Proposed Rule directly contravenes the intent of Congress, and it runs counter to subsequent acts of Congress that have broadened the scope of the FHLBanks' mission, membership and eligible collateral. Congress – and Congress alone – may act to alter the FHLBanks' eligible membership base, and FHLBank stakeholders should expect regulations that fully conform to the FHLBank Act as well as the clear intent of Congress.

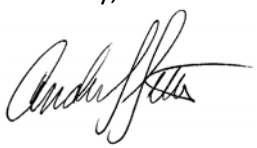
Instead of helping the nation's economy to further recover, the Proposed Rule would have the unfortunate effect of making the situation worse. The Proposed Rule would increase the cost of credit to lower income families, small business owners, farmers and entrepreneurs in our region and across the country. The Proposed Rule would also result in unnecessary and lasting harm to lower income individuals who rely on our AHP.

Importantly, FHFA fails to provide a compelling need or reason for wanting to restrict membership in the FHLBanks, and FHFA does not present any information showing there is a problem with existing membership rules. Nor does FHFA present analysis in the Proposed Rule indicating that it took into account the harm that could be caused by the Proposed Rule. The Proposed Rule does not identify a safety and soundness concern with the FHLBank System. And the Proposed Rule fails to cite a benefit it hopes to achieve by upending existing membership rules.

On behalf of FHLBank Topeka's approximately 794 members, we respectfully request that FHFA immediately withdraw its Proposed Rule. If FHFA maintains the opinions that gave rise to the Proposed Rule, we feel strongly that FHFA must share its concerns with Congress and seek statutory changes to the FHLBank Act.

Thank you for considering these comments.

Sincerely,



Andrew J. Jetter
President and CEO