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January 12, 2015

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 Proposed Rulemaking and Request for Comments
Members of Federal Home Loan Banks (RIN 2590-AA39)**

Dear Mr. Pollard:

This comment letter provides additional comments from the Federal Home Loan Bank of New York (“FHLBNY” or “Bank”) regarding the Federal Housing Finance Agency’s (“FHFA” or “Agency”) notice of proposed rulemaking (“NPRM”) regarding Federal Home Loan Bank (“FHLBank”) membership published at 79 Fed. Reg. 54848 (Sept. 12, 2014).

The NPRM proposes, *inter alia*, to create an entirely new membership location rule for insurance company applicants by revising the current membership regulation’s treatment of an applicant’s principal place of business (“PPOB”).¹ This letter responds specifically to the Agency’s request for comments regarding an insurance company’s PPOB² described in the proposed regulation at section 1263.19(f) - *Insurance companies and CDFIs*.

The FHLBNY believes that a member should have a strong actual nexus to the FHLBank district in which it is a member. This principle aligns with the geographical boundaries set up by Congress under the Federal Home Loan Bank Act (“Bank Act”) in 1932. Section 4(b) of the Bank Act, 12 U.S.C. § 1424(b), provides:

(b) **Location requirement.** An institution eligible to become a member under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business, or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the Board.

¹ The NPRM notes that the amendments to the principal place of business regulation would apply prospectively and thus would not affect any existing FHLBank members. NPRM at 54865.

² See *id.* at 54865-66.

Since the beginning of the Federal Home Loan Bank System, FHLBank members have had strong geographical ties to the districts in which they are members. This was a result of the historical ties that depository institutions and insurance companies had to the states where they were chartered. If the geographical outlines of the FHLBank System are to remain intact, members should belong to FHLBank districts based on the location of their actual principal places of business -- that is, the 'nerve centers' out of which their operations are conducted. The principal place of business of a member should be at a particular location and the member's business should actually be conducted from that location -- and should be greater in some respect than at any other of its business locations that might exist.

Thus, it is felt that every insurance company must have a principal place of business, or be run from a parent organization, with an actual locus in a state. As such, the following language in proposed section 1263.19(f) should not be included in the new rule because it runs contrary to the general concept that a member's actual principal place of business should dictate its state for Federal Home Loan Bank membership purposes:

In the case of an insurance company that maintains no physical offices of its own and has no employees of its own, or whose senior officers are situated at multiple locations, a Bank shall designate the state of domicile as the principal place of business for the insurance company.¹

The foregoing language would, if adopted, permit an insurance company to apply for a charter in any FHLB district in which it felt it could obtain a 'better bargain' and would thus destroy the geographic nature of the FHLB System. This language would completely undo the requirement of PPOB for membership purposes and make 'forum shopping' for Federal Home Loan Bank membership entirely too easy.

We separately note that the proposed regulation also provides at section 1263.19(f) that if the requirements of paragraphs (b) or (c) of proposed section 1263 cannot be satisfied :

"... a Bank shall designate as the principal place of business the geographic location from which the institution actually conducts the predominant portion of its business activities."

To help better define the phrase "conducts the predominant portion of its business activities", a protocol could be established under which an applicant could be deemed to engage in such conduct in a district if at least two of the following three tests are passed:

- i) A plurality of the employees of the company have their primary place of employment in the FHLBank's district.
- ii) A plurality of the company's senior officers with titles that include "Chief," "President," "Executive Vice President," "Senior Vice President," or "General Counsel" have their primary place of employment in the FHLBank's district. (Officer titles below the level of "Senior Vice President" or "General Counsel" would not be included in determining whether this factor is met.)

¹ Id. at 54879

- iii) The location of the largest office (measured by number of employees of the applicant who work in such office) is in the FHLBank's district.

The foregoing sets forth a more definitive exposition of the factors to be considered in determining a company's PPOB. The suggested test if adopted will help take the guesswork out of the issue of district determination and aid in maintaining a stable FHLBank System while avoiding 'forum shopping'.

With the removal of the offending language in proposed regulation 12 C.F.R. § 1263.19(f) and the inclusion of additional tests to determine the PPOB of an insurance company as described above, we believe that the intent of the FHLBank Act with respect to maintaining the geographical boundaries of the FHLBank System as specifically discussed in this letter will be fulfilled in the regulation.

We thank you for allowing us the time to present our thoughts on this important concern which is to assure, in conformity with the Federal Home Loan Bank Act, that Federal Home Loan Bank membership is anchored to a member institution's principal place of business.

Very truly yours,



José R. González

President and
Chief Executive Officer