



Maryland Bankers Association

January 12, 2015

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

Regulatory Information Number (RIN) 2590-AA39

Re: Proposed Rule — to revise the requirements for financial institutions to apply for and retain membership in one of the 12 Federal Home Loan Banks (Banks)

Dear Director Watt:

On behalf of our members, the Maryland Bankers Association (MBA) is pleased to submit this letter commenting on the Federal Housing Finance Agency's (FHFA) proposed rule RIN 2590-AA39. Founded in 1896, MBA is the only Maryland-based trade group representing banks in the state. The 121 banks operating in Maryland hold in excess of \$120 billion in FDIC-insured deposits in nearly 1,700 branches across the state. The banking industry employs more than 40,000 banking professionals in Maryland. MBA's members include banks of all sizes and charter types including: Maryland state-chartered banks, national banks and thrifts, and state banks chartered outside of Maryland. MBA submitted an initial letter on September 5, 2014 requesting a comment deadline extension. We greatly appreciate your consideration of our concerns and the extended deadline to comment on this very important rule change.

Proposed Rule's New Membership Requirements

Proposed rule RIN 2590-AA39 would revise FHFA's existing Bank membership regulation to ensure that members maintain a commitment to housing finance and that only eligible entities can gain access to Bank advances and the benefits of membership. In brief, the proposed rule change would:

- Impose a new, continuing test on all FHLBank members that requires them to maintain at least one percent (or higher two to five percent) of their assets in long-term mortgage assets;
- Make the current 10 percent mortgage-related asset test to "become" a member of an FHLBank, an ongoing test to "remain" a member for all insured depository institutions, except community financial institutions (CFIs) – defined by FHFA as depository institutions under \$1.108 billion in assets; and
- Eliminate all currently eligible captive insurance companies from FHLBank membership. (Insurance companies are original FHLBank members dating back to 1932.)

Proposed Rule Negatively Impacts the Federal Home Loan Banks, MBA Members and the Customers and Communities They Serve

MBA's member banks' membership in the Federal Home Loan Banks and the reliable access to liquidity it provides is extremely important. The FHLBanks' reliable funding to its members has had a positive effect on the recovery of local housing markets and economies, including Maryland. The proposed rule would result in a fundamental change to the FHLBank system that has and continues to work well. Ultimately, the proposed rule change will unnecessarily limit the FHLBanks' ability to serve their

members and the communities these members serve, terminate memberships or increase the costs on current members in good standing, and ultimately reduce the funding and value of the Affordable Housing Program.

- **Negative Impacts to Federal Home Loan Banks**

The proposed rule will inhibit the FHLBanks' ability to execute their mission of providing liquidity to members and supporting affordable housing and community development. Ultimately, the rule change will reduce liquidity, tighten credit, and restrict the flow of funds for housing and economic development. The volatility in membership created by the ongoing asset tests will also negatively impact the overall stability of the FHLBanks. As members become ineligible for membership due to the new asset tests in the proposed rule, their FHLBank stock must be bought back, resulting in a less stable and reliable system. In addition, with the membership uncertainty created by the new asset tests, financial institutions will be more hesitant to seek and maintain membership – also weakening the overall system and its related mission.

- **Specific Impact to MBA Members**

The proposed rule will also have a significant impact on MBA member banks (almost all of which are FHLBanks members). According to our members, the loan programs and products FHLBanks provide are very well structured, useful to banks and effectively priced. However, the rule considerably increases FHLBank membership requirements for existing and prospective members and makes continued membership more difficult. For example, the proposed ongoing asset test will result in a number of member banks being unable to continually meet the tests in all market conditions. This in turn impacts their ability to maintain their FHLBank membership and borrowing ability – which is particularly important during times of economic volatility and stress.

If a financial institution is unable to meet the ongoing asset test and loses its FHLBank membership, its ability to access capital is negatively impacted. This will in turn put financial institutions in a position where they are less able to grow and lend; thereby restricting their ability to lend and the availability of credit to customers. This comes at a time when we should be focusing on reviving the economy and creating jobs.

According to an MBA member bank, "we have borrowed from the FHLBank Atlanta and we are a good customer. The FHLBank Atlanta is an important source of funding for lots and lots of banks. If banks are no longer able to readily access this important source of liquidity, they will be forced to go out to the market and find alternative capital funding."

In addition to a capital scarce environment, a financial institution's ability to raise capital is greatly influenced by their specific business model and their communities. For example, non-public banks face specific, serious limitations. Emphasizing the impact of the local economy, *one member commented "...it is virtually impossible for a bank on the Delmarva Peninsula to raise additional capital for the sale of stock given the cloud that looms over the head of every community bank. We do not operate under any regulatory order but stock prices for community banks in our area have plummeted."* If unable to raise the necessary capital, banks will need to pursue alternatives – such as decreasing their asset base, restricting loan growth and the overall balance sheet, and reducing deposits.

Lack of certainty around an institution's ability to borrow from the FHLBanks will ultimately impact a bank's safety and soundness and standing with their prudential regulator. The additional 10% asset test for

institutions above \$1.108 billion in assets puts additional pressures on these institutions – as they are forced to alter their asset balances purely for FHLBank membership reasons, or jeopardize their ability to maintain membership and borrow. In addition, ongoing compliance with membership requirements of the proposed rule would impose additional regulatory burdens on FHLBank members and add uncertainty to FHLBank membership.

Proposed Rule Changes are Not Needed

The proposed new eligibility criteria and test to maintain FHLBank membership are unnecessary and we do not believe there is a compelling need for the proposed extensive changes. FHLBank members are currently subject to ongoing requirements that demonstrate commitment to housing finance. When a member borrows an advance, it must provide eligible collateral to secure the advance. Nearly all eligible types of collateral, which are determined by Congress, are related to housing. In addition, current members must certify their active support of housing for first-time homebuyers to the FHFA every two years through the Community Support Statement.

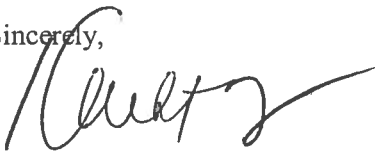
While most FHLBank members meet the proposed 10 percent asset test on an ongoing basis and the proposed 1 percent (or 2-5 percent) ongoing long-term mortgage test, the tests are neither a true indication of a housing role nor prudent policy. It is critical that financial institutions have the flexibility to manage their balance sheets based on market conditions – this is particularly important during economic downturns. MBA believes the tests are not needed, considering that over 90 percent of the collateral that supports FHLBank member access to capital advances is residential mortgage-related assets. Currently, if an institution does not meet the collateral requirements, they are not permitted to access to FHLBank liquidity. Thus the current eligibility requirements provide for a mechanism to test for residential mortgage-related assets without jeopardizing an institution's FHLBank membership.

Conclusion

MBA believes the proposed rule amends current law rather than establishing safety and soundness regulations to support the statute and FHLBank mission. MBA recommends that any changes to the statutorily established FHLBank membership, in particular changes that would narrow the FHLBanks' mission as the proposed rule appears to do, should come from Congress rather than through a regulatory proposal.

In closing, the Federal Home Loan Banks and the liquidity they provide, along with a variety of other services and products, are incredibly important to MBA's members. MBA appreciates the FHFA's role in maintaining the integrity of the System, however, we do not believe the proposed rule will strengthen the integrity of the System or enhance the safety and soundness of the financial institutions it serves. MBA respectfully urges the FHFA to reconsider this proposed rule, withdraw it, and if it determines that some changes of this nature are needed, then ask for further comment through public hearings, as well as consult with Congress and engage a more appropriate legislative process. Please contact me if you have questions or would like to discuss MBA's concerns in greater detail. Thank you for the opportunity to comment on this proposal.

Sincerely,



Kathleen M. Murphy
President and CEO, Maryland Bankers Association