

January 9, 2015

Alfred M. Pollard

Attention: Comments/RIN 2590-AA39

Federal Housing Finance Agency

400Seventh Ave SW 8th Floor

Washington DC 20024

RE: Notice of Proposed Rulemaking, request for comments: Members of Federal Home Loan Banks

 RIN 2590-AA39

Dear Mr. Pollard:

We appreciate the opportunity to respond to the proposal changing membership requirements for the Federal Home Loan Banks. While we agree with the principal of ensuring that the benefits of membership in the Federal Home Loan Bank System be used to further the statutory mission, we disagree that the proposed continuous asset thresholds and strict ban on membership by captive insurance companies is the best way to achieve that goal. For the reasons outlined below, we urge the FHFA to withdraw the proposal.

The Ohio Bankers League [“OBL”] is a non-profit trade association that represents the interests of Ohio’s commercial banks, savings banks, savings associations as well as their holding companies and affiliated organizations. The OBL has over 200 members, representing the overwhelming majority of all depository institutions doing business in this state. OBL membership is very diverse and represents the full spectrum of FDIC insured depository institutions. OBL member institutions include small savings associations that are organized as mutual thrifts owned by their depositors, community banks that are the quintessential locally owned and operated businesses, to large regional and multistate holding companies that have several bank and non-bank affiliates and conduct business internationally. Ohio depository institutions directly employ more than 130,000 people. Virtually all of our members have a great interest in this proposal because they are also members of the Federal Home Loan Bank of Cincinnati, and they all make home mortgage loans and residential mortgage loans.

*Overview*

On September 2, the Federal Housing Finance Agency [“FHFA”] requested comments in a Notice of Proposed Rule Making [NRPM] that would change long standing requirements for membership in the Federal Home Loan Bank System in two ways. First, as we understand it, the proposal would require for the first time that members at all times hold a certain amount of mortgage assets as a percentage of total assets. This test would be made up of two parts. All FHLB members would be required to hold one percent of assets in home mortgage loans as defined by FHFA.[[1]](#footnote-1) In addition, all institutions that are not Community Financial Institutions [CFIs] must also comply with an ongoing requirement that at least ten percent of total assets be in residential mortgage loans as defined by FHFA. (Currently, CFIs are defined as those depository institutions that are at or below approximately $1.1 billion in assets.)

The second part of the proposal would redefine insurance companies to per se exclude all captive insurance companies from membership, without reference to any other factors or considerations.[[2]](#footnote-2)

*This proposal will have a negative impact on housing finance and will harm the economy*

The very process of ensuring that periodic financial statements meet the test will distract from the mission of providing financing for other legitimate purposes in the community. Those banks and thrifts that fail to meet the tests at all times will be excluded from the benefits of FHLB membership, including the liquidity provided through advances. This will undermine safety and soundness by causing those institutions to either pay more for funding or assume more risk to obtain that funding, all without a clear policy benefit to the FHLB system or to the economy as a whole. Uncertainty regarding access to this liquidity is likely to lead to more conservative balance sheets, further limiting local lending.

All of these outcomes are contrary to the purpose of the Federal Home Loan Bank System. The purpose of advances is to ensure that members can rely on liquidity when it is needed, through consistent availability and pricing. In addition, fewer members will translate to fewer advances, also weakening the FHLB system and worse, restricting the availability of affordable housing grants.

*Collecting the data necessary for compliance is burdensome, and will fall disproportionately on smaller banks and thrifts*

One of the problems of the new proposal is that additional information will be required to ensure continuing compliance with the new one percent and ten percent thresholds. Unfortunately, there is insufficient information available in the periodic regulatory reports filed by FHLB members with their primary regulator to verify compliance under the proposal, so another regulatory burden will be placed on banks and thrifts. Invariably, any new reporting requirement will be more burdensome for smaller community banks and thrifts. This burden will be particularly challenging for banks that are approaching the CFI threshold and will have to begin to track and comply with both the one percent and the ten percent tests.

While all financial institutions continue to make substantial investments to ensure compliance with Dodd-Frank requirements is an inappropriate time to add to regulatory burdens, particularly when the benefits of such increased costs are so unclear.

*The Federal Home Loan Banks’ current business model already ensures that the benefits of lower cost funding flow to those institutions committed to home finance.*

Under current practices, every member is required to pledge adequate collateral, *comprised overwhelmingly of residential housing assets* in order to obtain advances. Stated another way, members can access the liquidity provided by the FHLB at favorable rates only when they have residential housing assets consistent with the statutory purpose of the Federal Home Loan Banks. This policy already connects the benefits of liquidity and low cost financing with residential lending, satisfying the stated goal of the proposed rule without the additional regulatory burdens. This is a far more efficient way to achieve the results stated in the NPRM.

*This proposal is contrary to the consistent intent of Congress to expand FHLB access, and is also contrary to recent actions by the Federal Housing Finance Agency*

The Federal Home Loan Bank System was first chartered in 1932 to provide liquidity for housing finance to the primary mortgage lenders at that time, building and loan associations and insurance companies. Since that time, membership has been consistently expanded by Congress. In 1989 Congress expanded FHLB membership to include banks and federally insured credit unions. In 1999 and 2008 Congress expanded eligible collateral pledged by members and in 2008 Congress formally recognized the FHLB’s role in providing liquidity to members without limiting that purpose to housing finance. In recent years, FHFA has also acted to further authorize additional categories of collateral beyond housing. For example, in 2009 federally insured student loans were added to the list of eligible collateral and in 2010 loans made by CFI members for community development purposes were also authorized.

Thus, both Congress and FHFA have consistently expanded both the institutions that are eligible for membership and eligible collateral. Abruptly changing course would be contrary to that well established trend and contrary to the mission of the Federal Home Loan Banks to provide liquidity to their member institutions.

*If a primary concern is to preclude captive insurance companies from joining FHLBs & diverting liquidity that would otherwise finance home ownership, there are better more efficient ways to address that Issue*

FHLBs already impose constraints on the borrowing limits of all insurance companies, including captive insurers, such as higher collateralization rates and the actual delivery of collateral to the FHLB. It would be better to permit each FHLB to impose controls over the borrowing ability and collateral requirements to address any issues related to individual captive insurance members’ use of the system. As mentioned at several points in this letter, a far better way to limit any potential abuse is the time-tested method currently used: Access to liquidity provided by the FHLB system is limited by the amount of eligible collateral.

Finally, we would point out there are no limits imposed on the size of the Federal Home Loan Bank System, so it is not as if the potential growth of captive insurance companies would divert any resources away from longer term members. It would only supplement the lending already done by banks, thrifts and credit unions.

*This proposal does not identify a compelling problem requiring this dramatic proposal.*

One of the primary purposes of the proposal is to prevent banks, thrifts and other eligible institutions from making the effort to join the Federal Home Loan Bank system, and then for some reason, abandoning the housing market. As noted above, the current method of securing advances precludes this already by focusing the benefits of membership on those institutions that have sufficient eligible collateral.

Statistics in the proposed rule illustrate that most members currently meet the proposed thresholds. While the intent is to demonstrate that, if adopted, the rule won’t harm current members, it also demonstrates that there is really little if any need for the new requirements.

*Conclusion*

If the proposal is adopted in the same or similar form as proposed in the NPRM, it would adversely impact OBL member institutions, the Federal Home Loan Bank system and the communities we serve. In view of the points made in this letter and by others in the industry, we would urge the FHFA to withdraw this version and resubmit a new proposal.

Respectfully Submitted;



Jeffrey D Quayle

Senior Vice President & General Counsel

1. One of our concerns is that the FHFA is also seeking comment on whether this new threshold should be increased over time to five percent or an even more stringent standard. [↑](#footnote-ref-1)
2. It is our understanding that at this time the Cincinnati Federal Home Loan Bank does not currently have any captive insurance members. [↑](#footnote-ref-2)