



January 12, 2015

Mr. Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20024

Re: Comments on FHFA’s Proposed Rules for Membership in the Federal Home Loan Bank System (RIN 2590–AA39)

Dear Mr. Pollard:

On behalf of the Enterprise Community Loan Fund, Inc. (ECLF) thank you for the opportunity to comment on the Federal Housing Finance Agency’s proposed rules for membership in the Federal Home Loan Bank System.

ECLF is a certified Community Development Financial Institution (CDFI) with more than \$166 million in assets under management. We are a nonprofit subsidiary of Enterprise Community Partners, Inc., a national leader in affordable housing financing, development and advocacy.

Since inception, ECLF has invested \$1.3 billion into low-income communities across the country, with a primary focus on loans that support the acquisition, construction and preservation of affordable rental housing. ECLF has helped to build or preserve more than 90,000 affordable homes in low-income communities, along with dozens of health care centers, charter schools, spaces for small businesses and other community assets.

While ECLF is not currently a member of the FHLBank System, we have an application pending with the FHLBank of Atlanta. If approved, access to low-cost capital advances and other benefits of FHLBank membership will help ECLF expand its reach and connect more low-income families to opportunity in the coming years.

We commend the FHFA for seeking to update the rules governing FHLBank membership. We also appreciate the FHFA’s recent pledge to “work with the FHLBank System to ensure that FHLBank membership and advance policies permit fair and equal participation by eligible institutions,” as laid out in the agency’s Strategic Plan for 2015-2019.

Any plan to fulfill that strategic goal must focus on expanding access to the FHLBank System for certified CDFIs. Today, out of the country’s nearly 1,000 CDFIs, approximately 25 are members of the FHLBank System, and some FHLBanks have either zero or very few CDFI members. This small number is partially due to current membership rules, which are unnecessarily burdensome for—at times discriminatory against—smaller mission-driven lenders. If the FHFA hopes to advance the purposes of the Federal Home Loan Bank Act, increasing CDFI membership in the FHLBank System is critical.

This letter lays out three recommendations for improving the proposed rule to expand CDFI participation, including:

1. Do not require CDFIs to meet a minimum threshold for “long-term mortgage loans,” since CDFIs by definition support community development lending in lower-income communities. Alternatively, if the requirement must apply to CDFIs, the definition of “long-term home mortgage loan” should be modified to include non-traditional home loans offered by CDFIs to support affordable rental housing. In this case, the one-percent requirement should be assessed only at the time of FHLBank membership application, not on an annual basis.
2. Provide more flexibility when determining the appropriate district for FHLBank membership for national CDFIs, instead of requiring that the CDFI be headquartered in the district. In addition, the FHFA should continue to allow an appeals process for institutions denied FHLBank membership.
3. Issue guidance urging FHLBanks to responsibly expand their CDFI membership, including recommended collateral rules and best practices for setting equitable fees across all types of eligible lenders.

Below we go into more detail on each recommendation.

1. Exempt CDFIs from the proposed one-percent threshold test or modify the proposed definition of “long-term home mortgage” to include non-traditional mortgage loans that support affordable rental housing

During a recent speech at the North Carolina Bankers Association’s American Mortgage Conference, FHFA Director Mel Watt explained that the proposed changes to the eligibility rules are intended to “ensure that the Banks are fulfilling their mission to support housing finance.” We fully support a one-time test to ensure that any institution benefitting from the FHLBank System is truly engaged in housing finance activities.

However, the proposed definition of a qualifying “long-term home mortgage loan” is too restrictive. If enacted, the proposed rule could unintentionally block certain housing finance entities—including CDFIs—from FHLBank membership.

A primary reason that CDFIs find FHLBank membership attractive is the availability of longer-term, very low-cost capital that is not readily available in the market. The lack of long-term capital suited to home mortgage lending is a barrier for many CDFIs to engage in a substantial amount of this kind of financing.

Under the proposed rule, in order for a loan to qualify as a “long-term home mortgage,” it must be “secured by a first lien mortgage on said property” and have a “term to maturity of five years or greater.” Based on our analysis, of the \$103 million in mortgage loans in ECLF’s portfolio—nearly all of which support affordable multifamily properties—only \$3.6 million would qualify under the proposed definitions. That puts ECLF just above the proposed one-percent threshold for FHLBank membership, but only by a very small margin.

Specifically, by only including loans with original maturities of greater than five years, the proposed definition disqualifies certain loan products that are crucial for the construction and preservation of affordable rental housing, such as predevelopment loans and shorter-term loans for the acquisition or rehabilitation of existing affordable properties. In addition, requiring a first lien position on the property being financed poses another unnecessary barrier to membership for housing-focused CDFIs.

For example, ECLF recently closed on a 10-year, \$1.6 million loan to help an affordable housing developer acquire a 170-unit apartment building in Washington, D.C. The loan is secured by a first lien, but the lien is on a nearby parking lot, not the property itself, and therefore does not qualify as a “long-term home mortgage.” However, as a long-term affordable housing loan, it is clearly aligned with the spirit behind the FHFA’s proposed rule.

There are two simple ways that the FHFA could modify the definition to fix this problem. First, FHFA could provide a broad exemption for certified CDFIs from the “long-term home mortgage” test. In order to be certified as a CDFI, an institution must go through an extensive application and approval process with the Treasury Department to prove that its primary mission is community development lending in lower-income communities. Given that rule, it seems redundant for FHFA to conduct another threshold test to validate the recipients and purposes of CDFI lending.

Alternatively, a more focused solution could be to expand the definition of “long-term home mortgage” to include (a) loans that are secured by a first lien on property other than the building being financed; and (b) loans with terms of less than five years that support the development or preservation of affordable rental housing. These types of loans are made by ECLF and other CDFIs across the country and are an important driver of the number of affordable homes preserved and created across the country.

Regardless of which solution the FHFA pursues, we strongly urge the agency to make this a one-time threshold test at the time of application for FHLBank membership, not an ongoing annual assessment. Many smaller financial institutions—and especially CDFIs—have little-to-no control over broad market conditions and the availability of patient investment capital, which determine our ability to offer long-term mortgage products in a given year. Therefore, it is very difficult to ensure that each book of business includes a certain percentage of eligible loans.

2. Provide flexibility when determining the appropriate district for FHLBank membership for national CDFIs (and/or allow for multiple bank membership) and continue to allow an appeals process.

ECLF is headquartered in the state of Maryland, but we are a national CDFI with investments in hundreds of communities across the U.S. In fact, at the end of 2013 two of our largest investment markets were the greater New York City metropolitan area and California, comprising roughly 37 percent of our overall portfolio of loans outstanding.

According to FHFA’s current rules, an entity can only become member of the FHLBank in which its “principal place of business” is located, defined as “the state in which it maintains its home office” from which the institution “conducts business operations.” In the case of ECLF, this means that we are

only eligible to become a member of the FHLBank of Atlanta, even though we have significant investments that are under the jurisdiction of the FHLBanks of New York and San Francisco. Under special circumstances, FHFA can approve membership in a “district adjoining the one in which the institution maintains its principal place of business,” but we understand that such approval is very rare.

Large for-profit banks can often circumvent this issue by setting up a subsidiary within a particular district to become a member of a specific FHLBank. However, given scarce resources and other constraints, most nonprofit CDFIs and other small financial institutions do not have that option.

To help solve this problem, we recommend that FHFA provide more flexibility to national CDFIs when determining the appropriate district for FHLBank membership. Specifically, national CDFIs should be allowed to choose between the region in which they are headquartered and the region in which they have the most assets invested. If feasible, national CDFIs should also be allowed multiple bank memberships, similar to other FHLBank members.

In addition, the FHFA should continue to permit applicants that have been denied membership to appeal those denials. Most FHLBanks do not have significant experience processing membership applications from CDFIs, or they do not adequately understand how to underwrite a CDFI. Until each FHLB has a track record and experience working with the industry, the appeals process must be made available. The inconsistent experience with CDFI membership across the FHLBank System suggests that the option for appeal should be maintained.

3. Issue guidance urging FHLBanks to responsibly expand their CDFI membership

In addition to the above recommendations, we urge FHFA to take further steps to ensure “fair and equal participation by eligible institutions” in the FHLBank System. Under the current rules, individual FHLBanks are granted significant flexibility in setting collateral requirements and other advance policies for its member banks. As mentioned above, many of these rules make it very difficult for even the largest and most financially sound CDFIs to participate in the FHLBank System.

Part of the problem is a general misperception of risk. Most FHLBanks are used to and comfortable with the regulatory environment surrounding large banks—especially those that are insured by the FDIC—but often they are less familiar with CDFIs. As a result, some FHLBs perceive advances to CDFIs as “riskier” than advances to traditional banks, which is not always the case. For example, ECLF’s historical loan loss rate is just 1.57 percent of all dollars disbursed.

This misperception can often lead to excessive collateral requirements imposed on CDFIs compared to larger banks. It is not uncommon for a FHLBank to require a CDFI to endure an additional 6-8 percent “haircut” on collateral, as compared to a FDIC-insured bank requesting the same advance amount. For example, many CDFIs have caps on loan amounts to a particular project or exposure amount to a borrower, so they partner or participate with banks to finance a project. In some cases, a bank and a CDFI might provide the same first lien property for a FHLBank advance. In this scenario, the bank might receive 88 cents on the dollar while the CDFI receives only 83 cents on the dollar for the same property, meaning the CDFI needs to generate additional resources to finance the loan. Having to offer

Mr. Pollard
January 12, 2015
Page 5

a higher level of collateral for each advance deeply impacts a CDFI's ability to provide loan capital, weakening a CDFI's potential to support low-income families and communities.

FHFA can provide greater clarity on this issue by publishing guidance urging FHLBanks to expand their CDFI membership. At a minimum, we recommend that this guidance include:

- **Encourage FHLBanks to accept loans as collateral.** Many FHLBanks prefer—or even require—cash or securities as collateral for advances. However, cash collateral is often not an option for nonprofit CDFIs. By encouraging FHLBanks to accept other safe forms of collateral—such as loans—from CDFIs and smaller banks, FHFA can meaningfully improve access to the benefits of FHLBank membership without posing an added risk to the FHLBank System.
- **Identify best practices for setting collateral haircuts.** In certain cases, it is reasonable for a FHLBank to require more collateral on a given advance amount from a CDFI compared to an FDIC-insured bank. However, the collateral discount offered to a particular bank—the so-called “haircut”—often poses an excessive burden on CDFIs which significantly overestimates the risks in CDFI lending. By issuing guidance with reasonable, risk-adjusted expectations for haircuts offered to different types of banks, FHFA could clarify the disparity in risks and help to level the playing field for all member banks.

Conclusion

CDFIs are a crucial source of financing for the acquisition, construction and preservation of affordable rental housing—a segment of the market that is historically underserved by traditional financial institutions. By adopting the above recommendations, the FHFA has the opportunity to meaningfully expand CDFI membership in the FHLB System, helping them access the long-term, low-cost capital they need to better serve low-income families and communities across the country.

Again, thank you for the opportunity to comment on this important topic. If you have any questions about the above comments, please contact me at lchatman@enterprisecommunity.org or Charlotte Crow, Senior Vice President of Enterprise Community Loan Fund, at ccrow@enterprisecommunity.org.

Sincerely,



Lori Chatman
President, Enterprise Community Loan Fund, Inc.
Senior Vice President, Enterprise Community Partners, Inc.