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400 Seventh Street SW, Eighth Floor

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Via: [www.fhfa.gov/open-for-comment-or-input](http://www.int.fhfa.gov/open-for-comment-or-input) (RIN 2590–AA39) and

 RegComments@fhfa.gov (Comments/RIN 2590–AA39)

Re: FHFA’s proposed rule on FHLB membership (RIN 2590–AA39)

Dear Mr. Raudenbush:

On behalf of Denali Alaskan Federal Credit Union, headquartered in Anchorage, Alaska, I write to you to submit the following comments on the Federal Housing Finance Agency’s (FHFA) proposed rule on membership requirements for the Federal Home Loan Banks (FHLB). In addition to serving as the President and CEO of Denali Alaskan, I also sit on the Board of the Federal Home Loan Bank of Seattle; this is a uniquely held position for a credit union. As currently drafted, this proposed rule would have a lasting detrimental impact on the ability of credit unions and community banks to establish and maintain membership in the FHLBs.

Overall, the proposed regulation would make it more difficult for credit unions to maintain access to the FHLB system, and we question the need for the proposal at all. Just four years ago, Congress reviewed FHLB membership rules and saw no need to narrow eligibility for the FHLBs. Credit union membership in the FHLBs has been steadily increasing over the past few years to almost 20%, which represents over 75% of total credit union assets.[[1]](#footnote-1) FHLBs represent the largest collective source of home mortgage credit in the U.S. and they have been a source of significant assistance to participating credit unions.

The FHLBs are a vital source of liquidity. The FHLBs provides their members with an important source of funding for mortgages and asset-liability management, liquidity for short-term needs, and additional funds for housing finance and community development. Most concerning, FHFA’s proposal will reduce liquidity and make borrowing in the FHLB system less certain and more expensive. Access to liquidity, particularly for credit unions and community banks, is critical to sound operations.

This rule is unnecessary and runs counter to the authorizing statute, putting at risk an important source of liquidity for credit unions at a time when such liquidity is vitally necessary. Hence, we and other concerned stakeholders have termed this rule FHFA’s “anti-liquidity rule.”

**Membership Qualification**

The many different types of financial entities eligible for membership in the FHLB system are expressly delineated in statute and includes insurance companies**.** However, revisions to the definition of insurance company in the agency’s proposed rule would effectively ban captive insurers from membership and prevent other entities from gaining access to benefits through a captive. The proposal therefore runs counter to the statute’s plain meaning. Our sense is that Alaska and Washington State insurance regulators, and the FHLBs themselves, are supportive of the captive insurance model currently being used by mortgage real estate investment trusts (REIT). The proposed rule would therefore dismantle a sound and successful business model and have a devastating impact on REITs.

**Ongoing Membership Eligibility Tests**

The proposed rule would impose an ongoing asset test on FHLB members requiring they continuously track and report on the mortgage related assets held on their books. Members who fail this ongoing test can be immediately expelled out of the FHLB system, which could destabilize the banks’ capital base. The process set forth in the proposed rule for membership termination does not provide sufficient notice and protection for non-compliance. In addition, the FHFA should retain the option for appeals of FHLB denials of membership applications, and should provide for a credit union or community bank to demonstrate an erroneous FHLB membership denial.

We do not agree that there is any need for a member to hold 1% of their assets in home mortgage loans and 10% of their assets in residential mortgage loans on an ongoing basis. Currently, the 10% requirement only applies when an applicant first seeks membership in an FHLB. Although we appreciate the need for FHFA to ensure FHLB members have an ongoing commitment to housing finance, 10% on an annual basis is an overly high bar and will preclude many financial institutions from FHLB membership. Further, credit unions, community banks, and other small financial institutions will be hampered by the requirement that financial institutions with less than $1 billion in assets maintain, again on an ongoing basis, at least 1% of their assets in home mortgages. These requirements will require our credit union to change its asset portfolio in order to remain compliant.

Qualifying for membership eligibility should not be necessary on an ongoing basis, but only for the initial membership application as is the current and effective practice. The FHLB system is a critical source of stable, low-cost funding for home mortgage lending, loans for land purchases, and affordable housing. As a result of an ongoing eligibility test, some credit unions and community banks with a long history of using the FHLB system may be cut off from a vital source of funding reducing access to credit in some markets. The new proposal will reduce liquidity, and will make borrowing from the system less certain and more expensive.

This regulation will create yet another compliance requirement for financial institutions that will need to maintain a very close watch over their balance sheets to ensure they meet an arbitrary requirement on an ongoing basis. FHFA acknowledges that the proposed regulation will put existing FHLB membership for some credit unions in jeopardy because of this unnecessary monitoring requirement.[[2]](#footnote-2) Loss of FHLB membership will limit access to the low-cost sources of funding provided by the FHLBs, restricting credit at a time when housing recovery is very tenuous.

**Comment Period**

This proposed regulation is very complex; stakeholders need sufficient time after each iteration of the rule to assess potential impacts and provide meaningful comments. The esoteric nature of the FHLB System and membership within it, coupled with a slate of other outstanding FHFA proposals, makes it difficult to organize effective and informative comments. The agency should be lauded for extending the initial comment period, and we hope it will continue to grant additional time for comments in the future.

**Complimentary Pending Legislation**

**We continue to work with our trade associations and lawmakers on legislation to permit privately insured credit unions to join the FHLB System**. The proposed rule does not expand FHLB membership to privately insured credit unions, which would require Congressional action. Under current law, privately insured credit unions are generally prohibited from joining the FHLB System unless they are designated as community development financial institutions. We support H.R. 3584, *Capital Access for Small Community Financial Institutions Act*, which would make 132 small, privately insured credit unions eligible for FHLB membership. H.R. 3584 was passed by the House May 6, 2014, and we will continue to advocate for the Senate Banking Committee to take up the bill in 2015.

**Conclusion**

Financial regulators, including ours—the National Credit Union Administration—have placed significant emphasis on the ability of financial institutions to access and maintain that access to liquidity. The FHLB system is the most important source of this required liquidity. Needlessly restricting membership to the FHLBs is counter-intuitive, counter-productive, and will harm the stability of the housing financing system.

We appreciate this opportunity to comment and look forward to working with the FHFA on the next iteration of its rule. If you have any further questions, please contact me directly at bobt1@denalifcu.com or at (907) 257-9408.

Sincerely,

Robert (Bob) M. Teachworth

President & CEO

Denali Alaskan Federal Credit Union

1. NAFCU letter to FHLB, September 4, 2014. As of the end of the second quarter of 2014, 19% of all credit unions were members of an FLHB. According to the FHFA 1,204 credit unions are currently FHLB members. [↑](#footnote-ref-1)
2. Testimony before the Senate Banking, Housing, and Urban Affairs Committee Hearing (September 2014). [↑](#footnote-ref-2)