CHICAGO COMMUNITY LOAN FUND

Helping create communities where people thrive

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January 13, 2015

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

Via Electronic submission to: www.FHFA.gov

Dear Mr. Pollard:

Chicago Community Loan Fund (CCLF) appreciates this opportunity to provide you with comments on the Notice of Proposed Rulemaking covering membership in the Federal Home Loan Bank system **(RIN 2590-AA39)** published in the *Federal Register on* September 12, 2014. We have serious concerns about the potential adverse effects of the rule on the housing and community development sector. **We urge the Federal Housing Finance Agency (FHFA) to reconsider the rule.**

About CCLF

The mission of Chicago Community Loan Fund is to provide flexible, affordable and responsible financing and technical assistance for community stabilization and development efforts and initiatives that benefit low- to moderate-income neighborhoods, families and individuals throughout metropolitan Chicago.
CCLF is a Community Development Financial Institution that provides low-cost, flexible financing to non- and for-profit community development organizations for projects promising high social impact.

Specifically, CCLF accomplishes its mission by supporting the work of community development organizations. Our customers are small for-profit firms and other community-based organizations engaged in affordable and supportive housing production and preservation, social service provision, commercial/retail and other economic development activities in low-wealth neighborhoods. CCLF offers these organizations predevelopment, construction, mini-permanent, housing cooperative and equipment/working capital (e.g., social enterprise) financing. CCLF also conducts technical assistance (TA) designed to help capacity-challenged, neighborhood-based organizations develop sound projects. Both the TA program and our loan products are particularly useful to emerging nonprofits and for-profits embarking on their first community development project.

One of our strongest programs is our **Neighborhood Investor Lending Program** which provides smaller scale for-profit and nonprofit developers with the support and capital needed to acquire, rehabilitate and own 1-4 unit buildings to help stabilize lower wealth communities impacted by the foreclosure crisis.

Concerns about the Proposed Rule's Impact on CDFI Membership

CCLF is currently exploring applying for FHLB membership as a key liquidity vehicle for our very robust pipeline. We are grateful for FHFA's approach to implementing the provision in the Housing and Economic Recovery Act of 2008 that allowed CDFIs to become members, and we are pleased with the progress to date. At last count, 28 non-depository CDFIs have joined their region's Federal Home Loan Bank and a dozen other organizations in active conversations around membership.

At the same time, much remains to be done. The receptivity to CDFI membership has varied across the system and there is an important ongoing dialogue and learning process through which FHLBanks are coming to understand the CDFI business models, CDFI risk management practices, and the quality of CDFI collateral. The CDFIs are learning more about how the FHLBanks underwrite risks.

Our principal concern is that the proposed membership rule will set back this progress. **The provision in the proposed rule that would require a CDFI meet an initial and ongoing test that 1 percent of its assets must be housing mortgages is of most concern.** In a letter to FHFA commenting on the proposed rule, John Bowman from Venable LLP, writing on behalf of the Council of the Federal Home Loan Banks, reported that an analysis of Federal Home Loan Bank data showed that three existing CDFI members of the system would fail the 1 percent test.

The proposed rule goes back on the policy established by FHFA when it finalized the CDFI membership rule in January 2010. In the final rule on CDFI membership, FHFA established 7 tests that a CDFI must meet in order to become a member of the system. One of these tests, derived from statute, required that to become a member of the system, a CDFI must "make long-term home mortgage loans." In the preamble to that rule, FHFA wrote:

> FHFA expects that in assessing a CDFI applicant's compliance with this 'makes long-term home mortgage loans' requirement that the Banks will view the extent to which the CDFI originates or purchases long-term home mortgage loans in light of their unique mission and community development orientation, and thus will deem such applicants to have satisfied this requirement if they, in fact, have originated or purchased home mortgage loans and can document that fact. *Moreover, an applicants' compliance with this provision need be assessed only at the time of membership.* [Emphasis added][1]

The new proposed rule is clearly a departure from the standard originally set for CDFI membership in the system. It is not clear why the FHFA needs to change this requirement at this time. One of the premises behind the proposed rule is evidently an effort to "reinforce the connection between members and the Banks' housing mission.[2]" We would submit that this test is met to a considerable degree on an ongoing basis by the need for members of the system to pledge housing-related collateral against advances. More importantly, Congress has been moving to expand the mission-related activities of the system beyond housing finance with its designation of certain member institutions as Community Financial Institutions (CFIs). CFI status allows an institution to pledge small business loans, agricultural loans, and community development loans as collateral. **CCLF supports legislative changes that would extend the definition of a CFI to include CDFIs.** Further, the FHFA has recognized that the mission of the banks goes beyond

[1] *Federal Register*, Vol. 75, No. 2, January 5, 2010, p. 684.

[2] *Federal Register*, Vol. 79, No. 177, September 12, 2014, p. 54850.

housing finance by defining core mission assets as those that benefit households having a targeted income level and including debt or equity investments that support economic development, community services, job creation, or area revitalization or stabilization. [3] Finally, throughout the history of the FHLBank system there has not been a test imposed on member institutions with respect to what they do with the proceeds of advances – that is, there is not a requirement that these be housing related. CDFIs make enterprise level loans to housing developers, as well as an array of other beneficial investments in low income communities ranging from community facilities, charter schools, grocery stores and other health food options, and small businesses, all of which support the core mission of the system.

A rule that requires ongoing compliance with an asset test will increase costs of compliance to some extent and could affect the choices a CDFI makes between management strategies to meet the test and other strategies related to mission, business success, or risk mitigation. Decisions to lend into a non-housing asset class, to sell mortgages, or to participate in mortgages with other investors, for example, could be affected by an organization's proximity to the 1 percent threshold.

In short, concerns about the effects of the proposed rule on CDFI membership in the FHLBank system argues for the FHFA to reconsider continuing with this rulemaking.

Effects on Affordable Housing Program Funding

Finally, we would also raise a concern about the potential effects of the proposed rule on the overall revenues and profitability of the FHLBank system. To the extent that the new rule discourages membership in and borrowing from the Federal Home Loan Banks, it has potential to inadvertently shrink and reduce the system's revenues. A reduction in the FHLBank profitability would spill over into the housing and community development sector by reducing the funds available to the AHP program. The AHP program is often an important source of subsidy to complete affordable housing developments and support nonprofits working with low-income households to promote sustainable homeownership. Absent a compelling case to reduce the size of the system for safety and soundness reasons, the sweep of the proposed rule and its potential effects on the mission sector of the economy, we would urge you to reconsider.

We would recommend that FHFA do more analysis of these potential impacts on the system, on the amount of liquidity it provides, and on other mission related impacts the rule might have, and assess whether or not there is a less harmful, more nuanced way to address the public policy objectives that gave rise to this rule.

If you have any questions about these comments or would like additional information, please do not hesitate to contact me at cholmes@cclfchicago.org or by phone at (312) 252-0440 x 230.

Yours truly,

Calvin L. Holmes
President

[3] *Federal Register,* Vol. 65, No. 137, July 17, 2000, p. 43981.