Nebraska Independent Community Bankers

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Clinton Jones
General Counsel
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

RE: Suspended Counterparty Program – Notice of Proposed Rulemaking [RIN 2590-AB23]

The Nebraska Independent Community Bankers Association (NICB) appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposed rulemaking on amending the current Suspended Counterparty Program. The NICB is a statewide trade association exclusively representing Nebraska's community banks, which are the heart and soul of the banking industry in our state.

The proposed rulemaking expands the categories of "covered misconduct" for which a suspension of a counterparty could be based. This includes a broader approach to counterparties that may encounter civil violations in connection to real property or those that have entered into a consent order with a regulator, which often can happen without admission to guilt. The NICB believes this proposed expansion fails to consider the real-world intricacies that may occur between a counterparty, such as our community bank members, and their regulators. It also ignores the impact to the prudential federal regulators and state regulators, as the result will be more litigation and less settlements.

The NICB also takes the position that immediate suspension of counterparties under the proposed rulemaking is unwarranted for civil or administrative sanctions. The proposal raises significant due process questions, especially when considered with the nuances of the relationship between community banks and their regulators. Immediate suspension from a GSE such as the Federal Home Loan Bank, can mean devastating consequences for a community bank. The threat of harm to the counterparty far outweighs the threat of harm to the GSE if immediate suspension is adopted over the default administrative process. Additionally, as stated above, an admission of guilt could very well be absent from an administrative action, further raising due process concerns for this proposal.

Our community bank members do not take the issue of entering into consent order or settlement agreements lightly and are consistently thinking about what is best for their institution, their customers, and the communities they serve. We encourage the FHFA to scrap this proposed rulemaking and rework it to narrow its scope to achieve the goal of addressing bad actors without the collateral damage of negatively impacting community banks who might rely on GSEs.

Sincerely,

S. Dexter Schrodt, JD
President & CEO