BankUnited

Alfred R. Camner
Chairman & Chief Executive Officer

July 13, 2006

Federal Housing Finance Board
1625 Eye Street, NW
Washington, DC 20006
Attention: Public Comments

Re: Proposed Rule on Excess Stock Restrictions and Retained Earnings Requirements for the Federal Home Loan Banks – RIN Number 3069-AB30 – Docket Number 2006-30.

Dear Sir or Madam:

As a member and prominent borrower of the Federal Home Loan Bank of Atlanta, BankUnited is writing to express our opposition to the Federal Housing Finance Board's (the "FHFB") proposal to issue new capital regulations for the Federal Home Loan Banks (the "FHLBs").[1] If adopted as proposed, the rule is unlikely to improve the safety and soundness of the FHLBs and could possibly threaten the ability of the FHLBs to provide a cost-effective and readily available source of funding to their members. While we support the concept of strengthening the FHLB system, it is our opinion that that this proposal poses a greater risk to the FHLB system, its members and borrowers than any existing safety and soundness concern. Therefore, as written this proposal must be withdrawn or completely revised.

As proposed each FHLB would be required to achieve and maintain minimum levels of retained earnings pursuant to the following formula: $50 million plus 1% of the FHLBs' non-advance assets, calculated each quarter. During a transition period, and for any subsequent period in which a FHLB failed to meet its minimum level, the proposed rule would prohibit or restrict the declaration and payment of a dividend without FHFB approval.

Under the proposal, for low-risk assets such as federal funds and government securities the FHLBs will be required to maintain retained earnings of 1% rather than the minimal risk-free rate mandated by the banking agencies.[2] By failing to recognize the low risk inherent in certain assets such as federal funds and government securities the proposed rule could require FHLBs with high levels of low risk assets to maintain nearly twice the amount of retained earnings as would be required by the risk-adjusted systems of the banking agencies. As a result, the proposed rule's failure to distinguish among risk categories could encourage the FHLBs to assume increased risk by investing in higher risk assets in an attempt to maintain profitability.

[1] Per the Form 10 filed by the FHLB Atlanta with the Securities and Exchange Commission, BankUnited is its fourth largest borrower at March 31, 2006.
[2] The agencies include the Office of Thrift Supervision, the Office of Comptroller of the Currency, the Federal Deposit Insurance Agency and the Federal Reserve Board.

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Similarly, this approach appears to have been offered without any reasonable technical support, fails to parallel the risk based capital regulations of the banking agencies, the risk based standards proposed by BASEL II, as well as not comporting to the capital program established for the FHLBs by Congress in the Gramm-Leach-Bliley Act (the "GLBA"). Pursuant to the GLBA the FHFB has already enacted rules regarding capital and the FHLBs have already expended considerable resources developing capital plans, which have already been approved by the FHFB.

The unintended consequence of this proposed rule is damaging to member institutions in the short run by increasing their effective cost of borrowing. Further, the long-term impact could be a costly defection from the FHLBs by those members who have alternative financing opportunities and increased borrowing costs for smaller members who will remain trapped in the system. Additionally, the mere proposal of this rule has already resulted in a restriction of affordable housing programs by certain FHLBs despite the critical shortage of affordable housing throughout the nation.[3] Ultimately, this means fewer borrowing choices and opportunities for home owners and home buyers along with increased interest rates. This action is counter to the FHLBs' stated mission of promoting housing and economic development.

There has never been an incident of capital impairment at an FHLB and the FHFB itself has acknowledged that its current capital rules and the FHLBs' capital levels are adequate and the risk of capital insolvency at any FHLB in the foreseeable future is de minimis.[4] We hardly see the need for such a hastily enacted and draconian measure that does not match the level of potential risk. For the reasons cited above we are very concerned about the regulatory approach taken by the FHFB in this matter and respectfully request that the proposal be withdrawn or completely revised. Thank you for your consideration in this matter.

Sincerely,

Alfred R. Camner
Chairman and Chief Executive Officer
BankUnited, FSB

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[3] Federal Home Loan Bank of Cincinnati Press Release, April 20, 2006, *Voluntary Housing Programs Temporarily Suspended.* Article details that two affordable housing programs were suspended in direct response to the FHFB proposed rule.
[4] 71 Fed. Reg. 13308, note 5 and 71 Fed. Reg. 13311.