



June 2, 2006

Federal Housing Finance Board
1625 Eye Street, N.W.
Washington, DC 20006

Re: Federal Housing Finance Board
Proposed Rule: Federal Home Loan Bank Directors Election
RIN Number 3069-AB31
Docket Number 2006-4
71 FR 19832 (April 18, 2006)

Dear Sir or Madam:

America's Community Bankers¹ is pleased to comment on the Federal Housing Finance Board's ("Finance Board") proposed rule on the election of Federal Home Loan Bank directors. The proposed rule would make the following changes to 12 CFR, part 915:

1. Add a new paragraph § 915.6(a)(3), which would allow each Federal Home Loan Bank ("Bank") to include in the written notice of election of directors (which goes out before nominations are received) a brief statement describing the skills and experience that the Bank has identified, pursuant to new § 915.9(a) (discussed below);
2. Modify § 915.8(a)(1) to allow each Bank, as part of the information on each ballot about each nominee, to describe briefly the nominee's skills and experience;
3. Add a new § 915.8(b) to allow each Bank to include with each ballot a brief statement describing the skills and experience that the Bank has identified pursuant to new § 915.9(a). (In the preamble the Finance Board offers that the statement of skills and experiences sent out with the ballot does not necessarily have to be the same as the statement of skills and experience sent out with the pre-nomination notice of election.);
4. Add a new 915.9(a) to allow each Bank, to conduct an annual assessment of the skills and experience possessed by the members of its board of directors as a

¹ America's Community Bankers is the national trade association committed to shaping the future of banking by being the innovative industry leader strengthening the competitive position of community banks. To learn more about ACB, visit www.AmericasCommunityBankers.com.

whole and then to determine whether the capabilities of the board would be enhanced by the addition of persons with particular skills and experience. The proposed regulation includes a non-exclusive list of qualifications that the board of a Bank could identify. The list includes financial management/accounting, hedging, risk management, capital markets, securities disclosure requirements, or housing finance. If the board of a Bank identifies such qualifications, the board may communicate those qualifications to the Bank's members in the written announcement of election;

5. Modify the existing prohibition against taking action to influence votes for directors by:
 - a. Making the prohibition no longer applicable to the directors, officers, attorneys, agents and employees of the Finance Board, but maintaining the prohibition against the same list of persons connected with the Banks; and
 - b. Maintaining the ability of a Bank director to support the nomination or election of an individual, as long as the director does not purport to represent the views of the Bank, its directors, agents, officers and employees. The proposal deletes the requirement that a Bank director not purport to represent the views of the Finance Board and related persons.

ACB Position

In general, ACB supports allowing a board of a Bank to identify the skills and experience that could enhance the capabilities of the board of directors of the Bank, as outlined in the proposed regulation, and allowing a Bank to provide members with a statement of these skills and experience with the written announcement of elections. ACB also generally supports allowing the Banks, in the discretion of the Banks, to include a brief description of the skills and experience of each candidate in the ballot, as outlined in the proposal. We also support allowing the Banks to include a statement of the identified skills and experience with the ballots.

However, we suggest that some of the proposed changes to the regulation be modified, as outlined below. ACB opposes repealing the prohibition against influencing Bank director elections as it relates to persons associated with the Finance Board. Finally, ACB notes that the current proposed rule is not a substitute for the appointment of public interest directors (PIDs), whom many Banks use to enhance the capabilities of their boards.

Number One Qualification

Beyond the statutory and regulatory eligibility requirements, ACB believes the primary consideration in selecting a candidate for director of a Bank is the ability of the candidate to represent the interests of the other member owners of the Bank. Each candidate, and only the candidate, must convince the other member institutions that he or she will act in the best interest of all the cooperative owners of the Bank.

Identification of Skills and Experience

ACB supports permitting the Banks, in the sole discretion of their boards, to identify the skills and experiences in new directors that could enhance the capabilities of the boards. We believe that providing this information to the members has the potential for enhancing the capabilities of the boards of the Banks.

While we believe it is appropriate that Banks have the option of identifying specialized financial and other skills, we are concerned that the proposed regulation fails to acknowledge the experiences and skills that member institution CEOs bring to the boards of the twelve Banks. The CEOs bring a holistic knowledge of the operations of financial institutions and a broad range of skills and expertise that enhance their ability to serve as directors of the Banks.

We have two additional suggested modifications to improve this part of the proposal. In the Federal Home Loan Bank System, which is a cooperative, the member owners must continue to be the ones to decide who will best represent their interests. The members exercise their prerogative through the nomination and election process. Although the identification of skills and experience is not meant to define new eligibility criteria, if the process is to provide any benefit to the system, the member owners must view the process credibly. In order to enhance the credibility of the process, we believe that the proposed rule should be modified to require the boards of directors of the Banks to seek input from the broader membership, whenever they choose to undertake the optional identification of skills and experience.

Although the preamble to the rule states clearly that members are free to nominate candidates for directors who do not necessarily possess the identified skills and experience, this point should be made clear in any communication to the membership about identified skills and experiences. We suggest that the regulation be modified to require that any written notice of election announcement or ballot that includes identified skills and experience should make clear that the identified attributes are not eligibility requirements and that members are free to nominate or vote for anyone who meets the statutory and regulatory eligibility requirements.

Description of Nominees' Skills and Experience on the Ballot

We have three concerns with respect to the contents of the ballot as anticipated under § 915.8(a)(1) and § 915.8(b). Proposed § 915.8(a)(1) would permit a Bank, at its election, to provide members a brief description of the nominee's skills and experience with the ballots for the election of directors. Firstly, we believe that the regulation should make clear that a Bank has this option, only if it has undertaken an assessment of skills and experiences needed by its board.

Secondly, the regulation should make clear that the information on nominee skills is information provided by the nominees without substantive editing by Bank personnel. Without this clarification, there is a potential for the screening of nominees'

qualifications by Bank personnel, which would be an indirect way of influencing the outcome of an election.

Finally, the preamble indicates that a Bank could identify one set of skills and experience for the nomination process and identify a different set of skills and experiences to accompany the ballot. We believe that permitting Boards to identify two different sets of skills and experience could potentially allow a Board to skew the skills to favor particular nominees. The regulation should make clear that a Board only has authority to establish one set of skills and experience to be used in both the nomination and election stages.

Prohibition Against Influencing Vote for Director

Currently, part 915.9(a) prohibits a director, officer, attorney, employee or agent of the Finance Board or of a Bank from: (i) communicating in any manner that any such person associated with the Finance Board or a Bank supports the nomination or election of individual for the position of Director with a Bank; and (ii) taking any other action to influence votes for directorship. (Both the current and proposed regulation permit a director of Bank in his or her individual capacity to support the nomination or election of a particular individual.) The proposed regulation would delete any references to the Finance Board. The reason given in the preamble for the deletion is that the Finance Board no longer supervises the election of directors of Banks. We are concerned that the deletion of the reference to the Finance Board from the prohibition would imply that persons associated with the Finance Board are free to attempt to influence the election of directors, however unlikely the case. We suggest that proposed part 915.9(c) be modified to include the Finance Board.

No Substitute for the Appointment of PIDs

The Federal Home Loan Bank Act requires that each Federal Home Loan Bank have at least 14 directors. Six of those 14 are PIDs who must be appointed by the Finance Board. Today, each of the Banks has a significant vacancy rate on its board because the PID positions are not being filled by the Finance Board, as required by law. Many of the Banks could rely on the PIDs to provide specialized expertise to the boards in areas such as financial accounting and auditing, market risk analysis, technology, community development and affordable housing. Although the stated purpose of the current regulatory proposal is to foster the election of directors with some of these skills, the current proposal cannot be viewed as a substitute for the appointment of PIDs. The attrition of public interest directors has had an impact on the operations of many of the boards resulting in the abolition or combination of essential board committees--simply because there are too few directors. We respectfully renew our request that the Finance Board fill the PID positions at the Banks. To improve on the existing process for appointing public interest directors, the members of the Banks, working through the boards of the Banks, could advise the Federal Housing Finance Board on the areas of expertise that could be provided by the PIDs and then could recommend candidates for the open positions.

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ACB appreciates the opportunity to comment on this matter. Please contact the undersigned at 202-857- 3132 or ijones@acbankers.org, if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Ike Jones". The signature is written in a cursive style with a large, stylized "I" and "J".

Ike Jones
Vice President and Legislative Counsel