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VIA E-MAIL TO REGCOMMENTS@FHFA.GOV

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, DC 20552

Re: Federal Home Loan Bank Community Support Amendments; RIN 2590—AA38

Dear Mr. Pollard:

I write on behalf of the Virginia Bankers Association, whose membership includes nearly all of the banks in Virginia. This letter is in response to the Federal Housing Finance Agency's (the "FHFA") proposal to amend its community support regulation by requiring Federal Home Loan Banks ("FHL Banks") to monitor and assess the eligibility of their member banks for access to long-term advances through compliance with the Community Reinvestment Act of 1977 ("CRA") and first-time homebuyer standards (the "Proposed Rule").

Under its current community support regulation, the FHFA evaluates each member bank's compliance with the community support regulation every two years. To perform this examination, FHFA requires member banks to submit information regarding their CRA rating and lending to first-time homebuyers. Member banks receiving a "Satisfactory" or better CRA rating are eligible to participate in FHL Bank long-term advances, community investment cash advances, and the affordable housing program ("FHL Bank Products"). If a member bank receives a CRA rating of "Needs to Improve," it is placed on probation for two years until its next CRA exam, during which period it may continue to access FHL Bank Products. If the member bank fails to improve to "Satisfactory" or better in its next CRA review, it is prohibited from participating in FHL Bank Products. Member banks receiving a CRA rating of "Substantial Non-compliance" are not given a probationary period, and are immediately prohibited from accessing FHL Bank Products until their rating improves. Once a member bank improves its rating to "Satisfactory" or better, its access to FHL Bank Products is restored.

The Proposed Rule would require the FHL Banks to act as regulators of their members. The proposed rule would delegate, from the FHFA to the FHL Banks, responsibility for determining whether FHL Bank member banks are in compliance with the FHFA's community support regulation. This is a regulatory function that should not be shifted to the FHL Banks. The FHFA is best suited to determine whether its own regulation is being complied with. The FHL Banks should remain focused on their mission of promoting housing finance and community development by offering advances and other community investment products, without getting bogged down overseeing their members' regulatory compliance.

Additionally, the Proposed Rule threatens to re-create a conflict of interest that Congress eliminated long ago. The FHL Banks are member-owned cooperatives. A clear conflict of interest will be created if the FHL Banks are required to act as both regulator and lender to the member banks that own them. Not only would such a result be ill-advised, it would appear to contravene the intent of Congress. As the savings and loan crisis was developing in the 1980s, the FHL Banks had been delegated supervisory responsibilities over their members. In the aftermath of the crisis, Congress expressly reversed this delegation and eliminated the FHL Banks' regulatory function. This was done at least partly in response to the perception that it was inappropriate for the FHL Banks to be both regulator and lender to their owner members.

The Proposed Rule adds an additional layer of burdensome regulatory oversight, rather than streamlining the regulatory process and making it more efficient. The Proposed Rule will replace the current practice in which member banks submit CRA and first-time homebuyer information directly to the FHFA. Instead, the FHL Banks will be required to establish new policies and procedures for gathering and evaluating information regarding their members' CRA and first-time homebuyer performance. According to the Proposed Rule, these additional policies and procedures will likely include (i) verifying a member's CRA rating from publicly-available information from the Federal Financial Institutions Examination Council or the member's primary Federal banking regulatory agency and (ii) posting notices on the FHL Bank's website inviting comments on any member's community support programs or activities, and considering any comments received in determining the member's compliance.

The FHFA's regulatory function in this area will not be eliminated. According to the Proposed Rule, while the FHFA may no longer be directly involved in determining member banks' community support compliance, the FHFA will continue to exercise general regulatory oversight of the FHL Banks' compliance with their community support program policies and procedures and the community support regulation. Essentially, the FHFA will be exercising regulatory oversight of the FHL Banks' compliance with a regulation requiring the FHL Banks to exercise regulatory oversight of their member banks' compliance with the FHFA's community support regulation.

We also oppose the proposal to eliminate the probationary period under the community support regulation. The current practice allows a member bank with a single CRA rating of "Needs to Improve" to continue to access FHL Bank Products while working to improve its rating. This practice should be maintained. A policy that denies access to FHL Bank Products could restrict a member's ability to use long-term advances and other FHL Bank Products to address the deficiencies that led to a "Needs to Improve" rating. These products are important tools for helping such members improve their CRA rating and should not be denied.

In conclusion, for the reasons described above, we recommend that FHFA amend the Proposed Rule to keep responsibility for determining compliance with the FHFA's community support regulation at the FHFA, thereby ensuring the FHL Banks are not required to act as regulators of their members. We also urge the FHFA not to eliminate the probationary period for members with a single CRA rating of "Needs to Improve."

Thank you for your consideration of our comments.

Sincerely,

Bruce T. Whitehurst

Bruce T. Whitehurst
President and CEO