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**From:** Dennis Koons <dkoons@MIBANKERS.COM>  
**Sent:** Friday, February 03, 2012 11:55 AM  
**To:** !FHFA REG-COMMENTS  
**Subject:** Federal Home Loan Bank Community Support Amendments; RIN 2590—AA38

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 am writing on behalf of the banks of Michigan in response to the request for comments issued by the Federal Housing Finance Agency (FHFA) November 10, 2011, regarding a proposal to amend the community support regulations impacting Federal Home Loan Bank (FHLB) member banks. The proposed revision would require the Federal Home Loan Banks to monitor and assess the eligibility of each FHLB member for access to long-term advances based upon compliance with the Community Reinvestment Act of 1977 (CRA) and first-time homebuyer standards. The Michigan Bankers Association strongly opposes the proposed changes and encourages the FHFA to withdraw this proposal.

**Current oversight already assures bank compliance with CRA and first time home buyer requirements.**

Under its current community support regulations, the FHFA reviews performance for each FHLBank member bank and thrift to evaluate their compliance with community support standards and determine their eligibility for access to long-term FHLBank advances. Bank and thrift members must demonstrate their most recent CRA rating and provide information about their record of lending to first-time homebuyers. Non-bank member institutions such as credit unions and insurance companies that are NOT subject to CRA requirements need only demonstrate compliance with the first-time homebuyer standard.

If a member's CRA rating is "Needs to Improve," it is placed on probation and has two years to improve its rating. If it has not improved to "Satisfactory" or better by the next review, members are restricted from long-term advances, as well as the FHLBanks' affordable housing and community investment programs. Members with a CRA rating of "Substantial Non-compliance" and those that fail to submit the data are immediately restricted. Once a member improves its rating or supplies the required data, the member's access to long-term advances and other FHLB products is restored.

**The Proposed Rule would require the FHLBanks to act as regulators of their members.**

The proposed rule would require the FHLBs to perform functions that are inherently regulatory in nature. We strongly disagree with the assertion in the proposal that requiring the FHLBs to "make decisions on any restrictions on access to long-term advances would be consistent with their general advances and underwriting responsibilities." Determining compliance with a regulation is a regulatory function. Every bank is currently thoroughly regulated and examined by its primary regulatory agency for compliance with CRA. This oversight and enforcement function should not be shifted to the Federal Home Loan Banks. This role for FHLBs creates a conflict of interest making them both lenders to and

regulators of their member institutions. It also adds to the costs for the FHLBs; costs that will directly reduce capital available to support lending to the very communities the CRA intends to assist.

This conflict is not only ill-advised it contravenes the intent of Congress. In the aftermath of the savings and loan crisis of the 1980's, Congress split the regulatory and lending functions previously placed at each Federal Home Loan Bank, creating the Federal Housing Finance Board (a predecessor agency to the FHFA) to regulate the FHLBs and the Office of Thrift Supervision to regulate the federal thrift institutions. Congressional intent in this action to divide lending and regulatory functions should be respected and not undermined.

**Eliminating the probationary period under the community support regulation is counterproductive and will harm communities.**

Current practice allows FHLB members with a single CRA rating of "Needs to Improve" continued access to advances and community investment products while working to improve their rating. This assures a powerful incentive to improve ratings immediately, while continuing funding necessary to support a member's community. These products are important tools for helping members invest in their communities and improve their CRA rating. Immediate denial of advances would harm that bank's ability to improve their rating, and more importantly, would penalize the community by reducing credit resources. Constructive engagement during a probationary period is more effective without undermining the ability to provide community support.

**Conclusion**

Congress charged the FHLBs to promote housing finance and community development through member institutions. They accomplish this very well, primarily by offering advances and community investment products. Our communities are best served by requiring the FHLBs to concentrate on this primary mission. Our Michigan banks have an incredibly positive record of supporting their communities despite the longest and most profound economic challenges faced by any state in the nation over the past decade. The FHLBI has been an important part of this support. Consequently, we strongly recommend the Proposed Rule be withdrawn to keep responsibility for determining compliance with the FHFA's community support regulation at the FHFA and maintain the current probationary enforcement approach.

Thank you for your consideration.

Sincerely,

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