



VIA E-MAIL TO REGCOMMENTS@FHFA.GOV

February 3, 2012

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:

The Community Bankers Association of Illinois, on behalf of its nearly 400 members and 269 members of the Federal Home Loan Bank of Chicago, appreciates the opportunity to submit comments on the above referenced Federal Housing Finance Agency's (FHFA) proposed rule to amend the community support regulation to require the Federal Home Loan Banks (FHLBanks), as opposed to the FHFA, to monitor and assess the eligibility of each FHLBank member for access to long-term advances through compliance with the Community Reinvestment Act of 1977 (CRA) and first-time homebuyer standards (the Proposed Rule or Rule). **Based on our review of the amendments we respectfully recommend the FHFA withdraw the Rule and work closely with the FHLBanks to help design a better and more efficient eligibility assessment process.**

At the outset, the FHFA has given absolutely no justification for this Proposed Rule. What are the reasons for shifting responsibility for determining if member institutions have complied with the FHFA's community support regulation from the FHFA to the FHLBanks? Was the FHFA not fulfilling its current responsibilities? How will shifting this responsibility to the FHLBanks be a superior alternative? CBAI believes that an agency should, at a minimum, completely and honestly state the reason(s) for every proposed Rule. This has not been done.

In January of 2011, President Obama issued an Executive Order titled “*Improving Regulation and Regulatory Review*”. In that Executive Order the President directed all federal agencies to identify and use the best and least burdensome tools for achieving regulatory ends, and to take into account benefits and costs (both quantitative and qualitative) and to propose or adopt regulation only upon a reasoned determination that the benefits justify the costs. The process of assuming the new responsibilities contained in the proposed Rule will obviously be an additional regulatory burden on the FHLBanks. Was a cost benefit analysis conducted? No analysis was mentioned in the Proposed Rule except the obvious statement that the changes would materially decrease the time and burden on the FHFA. What benefit will the member-owners of the FHLBanks receive from the implementation of this Rule? Will this Rule result in an increase in the regulatory burden on the member-owners? The agency is apparently not following the letter or even spirit of the President’s Executive Order in proposing this Rule.

We believe the FHFA, as the regulator of the FHLBanks, is best suited to implement its own regulation and should not delegate this responsibility to the FHLBanks. Determining whether or not a member is in compliance with a regulation is a regulatory function, and should continue residing at the FHFA. As member-owned cooperatives, it would be inappropriate for the FHLBanks to act as both lenders to their members while also determining whether their members have sufficiently satisfied the FHFA’s community support regulation in order for them to continue having access to long-term advances.

The proposed Rule also threatens to re-create a conflict of interest which Congress had previously eliminated. As the Savings and Loan Crisis was developing in the 1980s, the FHLBanks had been delegated supervisory responsibilities over their members by their then-regulator, the Federal Home Loan Bank Board (FHLBB). In the aftermath of the Crisis, Congress expressly reversed the delegation by abolishing the FHLBB, splitting the regulatory and lending functions at each FHLBank and creating the Office of Thrift Supervision in 1989. This was done at least partly in response to the perception that it was inappropriate for the FHLBanks to be both a lender and regulator. Congressional action should be respected and not undermined.

We also oppose the proposal to eliminate the probationary period under the community support regulation. It is sound policy to allow a period of time for member banks and thrifts with a single CRA rating of “Needs to Improve” to continue to have access to long-term advances and the community investment products offered by the FHLBanks while working to improve their rating.

These products are important tools for helping such members to improve their CRA rating and they should not be denied access when it is needed most. Eliminating the probationary period would also undermine the reliability of long-term advances. A key reason for FHLBank membership is access to predictable long-term funding from the FHLBanks on very short notice. Members need certainty that funding will be available when needed. Constructive engagement during the probationary period is a more effective way to improve a member's CRA performance without undermining the value of FHLBank membership.

The FHFA is aware that credit unions are not subject to CRA requirements. This is an inequity community banks find completely unacceptable are working assiduously to change. CBAI recommends that the FHFA take additional steps to ensure that credit unions are helping first time home buyers and fulfilling the housing finance requirements of their communities.

In conclusion, the FHLBank should be allowed to continue focusing on serving the advances and community investment needs of their member institutions. The FHLBanks have not sought supervisory authority over their members, and they should not be required to perform in that role. Doing so would threaten the vital and cooperative relationship that each member has with its respective FHLBank. **We therefore respectfully recommend the FHFA withdraw the Rule and work closely with the FHLBanks to help design a better and more efficient eligibility assessment process.**

Thank you for your consideration of our comments and concerns. If you have any questions or need additional information, please contact me at 847-909-8341 or by e-mail at [davids@cbai.com](mailto:davids@cbai.com).

Sincerely,

/s/

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