



February 8, 2012

VIA ELECTRONIC DELIVERY

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:

On behalf of the nearly 600 commercial banks and thrifts that are members of the Texas Bankers Association (TBA), thank you for the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposal amending its community support regulation to, among other things, require the Federal Home Loan Banks (FHLB) to monitor and assess the eligibility of each FHLB member for access to long-term advance through compliance with the Community Reinvestment Act of 1977 (CRA) and first-time homebuyer standards. We appreciate your consideration of our views on this important matter.

Under its current community support regulations, the FHFA biennially reviews the performance of each FHLB member bank and thrift to evaluate their compliance with the community support standards and determine their eligibility for access to long-term FHLB advances. As part of this review, members must submit a form stating their most recent CRA rating and must provide information about their record of lending to first-time homebuyers. Member institutions such as credit unions, insurance companies that are not subject to CRA requirements need only demonstrate compliance with the first-time homebuyer standard.

After reviewing the Proposed Rule, we have serious concerns that it would require the FHLBs to act as regulators of their members. The rule proposes to delegate from the FHFA to the FHLBs responsibility for determining their members' compliance with the FHFA's community support requirements, which effectively would require the FHLBs to perform functions that are inherently regulatory in nature. The proposal notes 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." I disagree. Determining whether or not a member is in compliance with a regulation is inherently a regulatory function. The FHFA is best suited to

determine whether its own regulation is being complied with. It should not be shifted to the FHLBs.

Additionally, such a proposal threatens to re-create a conflict of interest which Congress eliminated long ago. If the FHLBs are required to determine whether their members have sufficiently satisfied the FHFA's community support regulation in order for them to continue making long-term advances to those members, a clear conflict of interest would be created. As member-owned cooperatives, it would be inappropriate for the FHLBs to act as both lenders to their members and regulators of 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 FHLBs 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 FHLB 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 FHLBs to be both a lender and regulator. Congress' action should be respected and not undermined.

Furthermore, the FHLBs have not sought supervisory authority over their members. Congress has charged the FHLBs with a mission to promote housing finance and community development, which they accomplish primarily by offering advance and community investment products. They should be allowed to continue doing what they do best. Consequently, I strongly recommend amending the Proposed Rule to keep responsibility for determining compliance with the FHFA's community support regulation at the FHFA.

In conclusion, for the reasons described above, I 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 FHLBs are not required to act as regulators of their members.

Thank you for your consideration of our comments. I would be happy to discuss further should you like to do so.

Sincerely,

A handwritten signature in black ink that reads "J. Eric T. Sandberg, Jr." The signature is written in a cursive, slightly slanted style.

J. Eric T. Sandberg, Jr.  
President & CEO