National Association of Home Builders NAHB Regulatory Affairs

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February 8, 2012

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

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

Submitted via Electronic Delivery to:
RegComments@fhfa.gov

Dear Mr. Pollard,

On behalf of the National Association of Home Builders (NAHB), I appreciate the opportunity to submit comments on the above-referenced Proposed Rule, *Federal Home Loan Bank Community Support Amendments*. NAHB is a Washington-based trade association representing more than 140,000 members involved in all aspects of single family and multifamily residential construction, including the building, operation, and management of market rate and affordable rental properties. NAHB and its members have a strong interest in supporting a housing finance system that offers access to home buyers for affordable mortgage financing in all geographic areas in all economic conditions and to home builders for acquisition, development and construction lending. The Federal Home Loan Banks (FHLBanks) play a significant role in meeting the needs of both home buyers and home builders by providing a source of affordable mortgage funding as well as offering community support through the affordable housing, community investment, and cash advance programs.

BACKGROUND

The proposed rule shifts the responsibility to monitor a member's compliance with the Community Reinvestment Act of 1977 (CRA) and first-time homebuyer requirements from the Federal Housing Finance Agency (FHFA) to the individual FHLBanks. Additionally, the FHLBanks will be required to determine whether a member bank is eligible for long-term advances and notify a member bank if and when it becomes ineligible for long-term advances. The CRA rating still will be determined by the member's primary federal banking regulator, but the FHLBank will monitor and determine any necessary action due to the rating.

The proposed amendments to FHFA's community support regulation suggest significant changes to the current supervisory process and have the potential to disrupt the system. NAHB believes the changes could reduce access to affordable credit for home buyers and home builders due to a more restrictive policy on the timing of when member banks are determined ineligible for access to long-term advances, the Affordable Housing Program (AHP) and the Community Investment Cash Advance (CICA) program.

COMMENTS

<u>Compliance with CRA Standard</u>

Today, a member's primary federal banking regulator determines its CRA rating by evaluating the member's compliance with certain requirements. The rating is then available from both the Federal Financial Institutions Examination Council (FFIEC) and the member's primary regulator. Currently, FHFA evaluates the member's CRA rating and compliance with first-time home buyer requirements every two years and notifies the FHLBank and the member if it decides the member should be placed on restriction from access to long-term advances. The current rule allows a member to have two consecutive "Needs to Improve" ratings before it is restricted from long-term advances.

The proposed rule would require each FHLBank to develop policies and procedures for obtaining its members' rating annually from FFIEC or the primary regulator and ensure that only members with "Satisfactory" or "Outstanding" ratings have access to long-term advances. If a member has a CRA rating of "Needs to Improve," the FHLBank would be required to deny the member access to long-term advances. When a member is restricted from access to long-term advances, the member also becomes ineligible to participate in the AHP and the CICA program.

A rating of "Needs to Improve" could be indicative of deficiencies at a bank that would be exacerbated if the bank no longer had access to long-term advances. Without access to long-term advances, a vulnerable community bank may find itself in a position of illiquidity and unable to meet the affordable lending needs of its community. Often, smaller banks do not have the same options for raising capital as larger FHLBank members that can more easily raise new deposits, sell assets, limit lending or access the capital markets. For these smaller banks, a loss of access to long-term advances presents a hardship that should not be meted out lightly.

NAHB believes the current practice of allowing a bank to continue to have access to long-term advances for two consecutive “Needs to Improve” ratings before restricting access to long-term advances should remain in place. Maintaining this allowance is especially important if CRA ratings will be reviewed annually. The current schedule of compliance reviews every two years effectively allows a member bank up to four years to correct any deficiencies that might have led to the “Needs to Improve” rating. The proposed change would eliminate any probationary period for a member to have access to long-term advances and the AHP and CICA programs that might be critical to helping it improve its rating.

CONCLUSION

NAHB urges FHFA not to undertake any changes to the FHLBank System that might impair the ability of the FHLBanks to provide liquidity and low-cost credit to their members. Therefore, NAHB requests the FHFA not to eliminate the probationary period for members with a single credit rating of “Needs to Improve.” NAHB believes this proposed change could result in a loss of assistance provided by long-term advances and other FHLBank programs to those members most needing the benefits provided by the programs.

Thank you for your consideration of NAHB’s comments. If you have questions, please contact Becky Froass, Director, Financial Institutions and Capital Markets at 202.266.8529 or email at rfroass@nahb.org.

Sincerely,

David L. Ledford

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Senior Vice President
Regulatory Affairs