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February 8, 2012

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

Attention: Comments/RIN 2590-AA38

Dear Mr. Pollard:

The Independent Community Bankers of America¹ (ICBA) welcomes the opportunity to comment on amendments to the Federal Home Loan Bank Community Support regulation proposed by the Federal Housing Finance Agency (FHFA) which requires the Federal Home Loan Banks (FHLBs or FHLB) to monitor and assess the eligibility of each of their members to access long-term advances through compliance with the regulation's Community Reinvestment Act of 1977 (CRA) and first-time homebuyer standards. Nearly all ICBA members are FHLB members.

The proposed rule would replace the current practice where members submit to FHFA biennial community support statements containing their most recent CRA evaluations. The CRA is a 1977 law intended to encourage insured banks and thrifts to meet local credit needs, including those of low- and moderate-income neighborhoods, consistent with safe and sound operations. Instead, the FHLBs would verify a member's CRA rating from publicly-available information from the Federal Financial Institutions Examination Council (FFIEC) or the member's primary Federal banking regulatory agency. The FHLBs would also be responsible for overseeing members' compliance with first-time homebuyer requirements. Members not subject to the CRA (e.g., credit

¹ *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

unions and insurance companies) have been required to submit documentation evidencing that they engage in activities related to community support.

The FHFA states that requiring the FHLBs to adopt policies and procedures for community support evaluations, to conduct the evaluations, and to make decisions on any restrictions on access to long-term advances would be consistent with their general advance underwriting responsibilities. The FHFA would no longer be directly involved in determining members' community support compliance but would exercise its general regulatory authority to oversee the FHLBs' compliance with their community support program policies and procedures and the community support regulation, consistent with how the FHFA regularly performs its oversight responsibilities with respect to the FHLBs' other mission-related activities.

The Federal banking regulators regularly publish lists of banks recently evaluated for compliance with the CRA. As part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Congress mandated the public disclosure of an evaluation and rating for each bank or thrift that undergoes a CRA examination on or after July 1, 1990. The FFIEC provides the public a searchable database containing all current CRA ratings and additional information about the examination process. In addition, a copy of an individual bank's CRA evaluation is available directly from the bank, which is required by law to make the material available upon request, or from its primary regulator.

ICBA Views

While we see that requiring the FHLBs to monitor and assess the eligibility of each of their members to access long-term advances through compliance with the regulation's CRA and first-time homebuyer standards could be viewed as consistent with their underwriting responsibilities and their other authorities used to ensure that members do meet all membership requirements, we also understand that this change could be viewed as a step back to an era when the FHLBs had regulatory and supervisory responsibility over members, roles Congress removed. In reviewing the proposed rule and its preamble, we do not see a compelling explanation for the FHFA to pass this responsibility back to the FHLBs. In our view, the FHLBs should continue to focus on developing the products and services that their members need to serve their communities. Community banks do not want the FHLBs becoming another regulator.

At a time when community banks are facing many regulatory changes, particularly in the area of mortgage lending, we are concerned that this is an unnecessary change and one that raises strong concerns among our members that in the process their burden to meet these standards may be increased. Community banks already undergo periodic CRA examinations by their primary regulator and do not want to see any new burdens imposed by either the FHFA or the FHLBs. As noted above, the Federal banking regulators along with the FFIEC make available a strong searchable website that provides the public with

information about CRA ratings and other relevant data. This should be the primary tool for gathering CRA data on FHLB members and a way to use existing technology to lessen the reporting burdens on those FHLB members that are subject to CRA. Many community banks are classified as “small” or “intermediate small”² under annual adjustments required by the CRA rules and are evaluated under different CRA examinations procedures based upon their asset-size classification. For example, those meeting the small and intermediate small asset-size threshold are not subjected to the data collection and reporting requirements applicable to large banks. These institutions may also have longer intervals between CRA examinations. We urge the FHFA to not make any changes to the community support rule that would increase the examination and supervision requirement related to CRA, such as requiring a more frequent evaluation than the member’s primary regulator requires.

The FHFA asks whether the public comment process would be enhanced if the FHLBs were required to give public notice when specific members are selected for community support review or whether such notice should be at the discretion of each bank. We do not believe that this is necessary given the access the public has to CRA assessments through the members and through their regulators and the ability for the public to comment on an institution’s community support performance through the CRA process. The establishment of the Consumer Finance Protection Bureau with its extensive public outreach provides another way for the public to provide feedback on individual institutions it has jurisdiction over. Thus, we do not see a need for an additional public notice. However, we would not be opposed to the FHFA continuing its current practice of publishing in the Federal Register notices regarding member community support activities and evaluations.

First-Time Homebuyer Standards

The FHFA proposes to remove the definition of “first-time homebuyer” from the current rule to be consistent with the FHFA’s Affordable Housing Program, which does not define the term, leaving the definition to the discretion of each FHLB. ICBA agrees with this change as making the treatment of the terms consistent is beneficial to members and eliminates the potential for confusion.

The FHFA proposes a list of first-time homebuyer activities and programs eligible for meeting the first-time homebuyer standard and that are similar to those used in the current Community Support Statement Form. ICBA views those in the list as appropriate but we would urge the FHFA not to specify a particular number of programs or activities that a member must undertake to comply with the standard. While large FHLB members have the ability to have many programs and activities related to first-time homebuyer

² For 2012, “small bank” or “small savings association” means an institution that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.160 billion; “intermediate small bank” or “intermediate small savings association” means a small institution with assets of at least \$290 million as of December 31 of both of the prior two calendar years, and less than \$1.160 billion as of December 31 of either of the prior two calendar years.

lending, there are many very small FHLB members that due to their geographic location or community size are very limited in their ability to offer special products or activities for first-time homebuyers. Thus, what is needed to meet a first-time homebuyer standard should be commensurate with the member's size and market potential.

Probation Period

The FHFA proposes that the FHLBs allow access to long-term advances only for members with CRA ratings of "Satisfactory" or higher on their most recent CRA examination. Currently, a member with a "Needs to Improve" rating can access long-term advances but is put on probation. Two such ratings or a current rating of "Substantial Noncompliance" requires the member to be restricted from obtaining long-term advances. Currently, a member that fails to submit a complete community support statement must be placed on restriction. For access to long-term advances a member must receive a CRA rating of "Satisfactory" or above on its next CRA evaluation and submit a complete community support statement. The FHFA asks whether a single "Needs to Improve" CRA rating should restrict members from accessing long-term advances or whether such members should be placed on probation pending their next rating. As the FHFA points out, access to long-term advances may be very useful to addressing the deficiencies cited in the CRA examination. In addition, the member may also need access to the Affordable Housing Program and Community Investment Programs. Thus, in our view probation is more appropriate than a restriction from these programs.

We appreciate the opportunity to comment. Please contact me by email at ann.grochala@icba.org or by phone at 202-659-8111 if you would like to discuss our comments further.

Sincerely,

/s/

Ann M. Grochala

Vice President, Lending and Housing Policy