

From: Stamper, Debra <dstamper@kybanks.com>
Sent: Wednesday, February 08, 2012 4:21 PM
To: !FHFA REG-COMMENTS
Cc: Stamper, Debra

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 state and national banks and thrifts doing business in Kentucky, I appreciate the opportunity to respond to the request for comments issued by the Federal Housing Finance Agency (FHFA) on November 10, 2011, to proposed amendments to the community support regulation.

We have several concerns with the proposal, as explained below:

The Proposed Rule establishes FHLBank as regulator of FHFA rules. The rule proposes to delegate from the FHFA to the FHLBank responsibility for determining FHFA members' compliance with the FHFA's community support requirements, which effectively would require the FHLBank to perform functions that are inherently regulatory in nature. Despite language in the proposal that states that this transfer of power is "consistent with their general advances and underwriting responsibilities," it is simply not so. Determining whether or not a member is in compliance is a wholly different matter and is a determination that should remain with a regulator. The FHFA is best suited to determine compliance with its own regulation. The FHFA already has a uniform procedure in place for this activity. Requiring each of the 12 FHLBanks to adopt its own procedure, to be reviewed under FHFA supervision, creates unnecessary duplication, potential inconsistencies and little, if any benefit.

The proposal threatens to re-create a conflict of interest which Congress eliminated long ago. As member-owned cooperatives, it would be inappropriate for the FHLBank to act as lender to, and regulator of its members. Such a result would appear to contravene the intent of Congress. In the aftermath of the 1980s Savings and Loan crisis, Congress abolished the Federal Home Loan Bank Board, splitting the regulatory and lending functions with the newly created Office of Thrift Supervision and within each FHLBank, respectively. This division recognized the inherent conflict of the FHLBanks acting as both lender and regulator.

Additionally, the proposal inappropriately broadens FHLBank underwriting standards. The FHLBank undertakes its underwriting of advances and other credit products on the basis of prudent credit risk assessment to ensure repayment. Any broader considerations put at risk the integrity and safety and soundness of the FHLBank's underwriting standards and strong historic performance.

Revise "first-time homebuyer" definition. We agree with the FHFA's recognition that the definition of "first-time homebuyer" has been expanded, through statutory amendment to the Cranston-Gonzalez National Affordable Housing Act, to include previous ownership of manufactured or substandard housing. The FHLBank uses the amended definition for application of its Affordable Housing Program and we support inclusion of the revised definition within Part 1290 of the community support regulation.

Elimination of the probationary period creates unnecessary burden. The current practice that allows 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 FHLBank while working to improve their ratings is imperative and should continue. As the proposal notes, a policy that would deny access “could restrict a member’s ability to use long-term advances to address the deficiencies that led to the ‘Needs to Improve’ rating.” It is counterintuitive to deny these products to members who need them for a purpose for which the products were designed. Member banks would also have less certainty about the availability of long-term advances if access can be denied at any time for CRA deficiencies. It would increase the risk that FHLBank liquidity and long-term funding will not be available when needed to support a member bank and its community. This would undercut the FHLBank’s housing finance mission. In addition, the proposal also notes that this change would impact very few members. Only about two percent of FHLBank members that were subject to CRA evaluations from 2008 to 2010 received ratings of ‘Needs to Improve’ requiring them to be placed on probation. In Cincinnati, from 2008-2010, just four of 740 members received a “Needs to Improve” rating. The limited impact of affected members does not suggest a problem in need of a solution, and it would be counterproductive to deny those few members the tools they could use to improve their ratings and better serve their communities.

The KBA recommends that FHFA implement any regulation consistent with the comments above.

Thank you for your consideration of these comments.

Debra Stamper

General Counsel/EVP
Kentucky Bankers Association