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SENATOR
EDDIE LUCIO, JR.

February 7, 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:

I write this correspondence in response to the public comment request issued by the Federal Housing Finance Agency (FHFA) on November 10, 2011, regarding amending the community support regulation to, among other matters, require the Federal Home Loan Banks (FHLBanks) 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). I appreciate your consideration of these comments.

As you work to improve the proposed rule language, I respectfully request that you consider some of the possible unintended consequences of the proposal. In practice, if the FHFA were to delegate its responsibility of determining whether its community development regulations were being followed to the FHLBanks -- as suggested by the proposed new rule -- FHLBanks would be put in a precarious position that has the potential of creating a conflict of interest. As background, FHLBanks are cooperatives which are owned and governed by their financial institution members and were chartered by Congress to provide their members financial assistance and support to promote housing finance and community development. Consequently, FHLBanks have the professional duty and responsibility of offering community investment financial products to their members. In laymen terms, FHLBanks are lenders to its cooperative members. The new rule would require FHLBanks to *"evaluate and determine [FHLB] members' compliance with the community support requirements and whether members maintain access to long-term Bank advances."* By this delegation of duty, as the published "Analysis of the Proposed Rule" explains, *"...FHFA would no longer be directly involved in determining [FHLBanks] members' community support compliance..."* In practice, FHLBanks, which are member-owned cooperatives, would be required to be both lenders to their members, as well as be their regulators. As the aforementioned Analysis suggest this additional professional duty is brought forth since it will be the FHLBanks, and no longer the FHFA, which will be directly involved in determining FHLBanks' members compliance with FHFA community support regulations. Arguably, an incompatibility of professional duties is created by having the member-owned cooperative being both a lender and compliance regulator. It appears that allowing the FHFA to continue to have oversight over compliance and adherence to FHFA community support regulations avoids the creation of incompatibility of professional duties. Consequently, not only may FHFA be better suited to continue to have the oversight, regulatory role, but it may also be the best course to take in order to avoid a potential conflict of interest.



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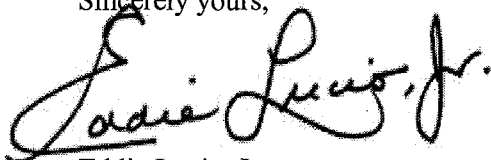
Additionally, I would like to comment on another element of the proposed rule that pertains to the elimination of the probationary period under the community support regulation. As the "Analysis of the Proposed Rule" explains, currently "a member with a most recent CRA rating of 'Need to Improve' continues to have access to long-term advances but is placed on probation." It is my understanding that the current practice allows members to have access to critical resources/products offered by the FHLBanks while they work to improve on their rating. Since these products are essential to address their CRA rating there is a benefit to allow such a practice to continue. A policy that does otherwise would inhibit the improvement of ratings by eliminating the access to these critical resources. The rule's Analysis seems to arrive at the same conclusion when it reports that, "*Because the proposed rule would prohibit Banks from making long-term advances to members after a single CRA rating of 'Need to Improve,' this policy could restrict a member's ability to use long-term advances to address the deficiencies that led to the 'Needs to Improve' rating.*" Accordingly, I respectfully request that you carefully evaluate the natural consequence of this rule.

A subsequent concern with eliminating the probationary period is that such a policy could create uncertainty on the availability of long-term advances. Members would likely have less certainty about the availability of long-term advances since they could be denied at any time for CRA deficiencies. It would increase the risk that when FHLBank liquidity and long-term funding are needed, they will not be available to support a member bank and its community. This in turn does not further the FHLBanks' housing finance mission. Consequently, it may be best to not eliminate the probationary period. However, if a change is to be made, it may be more prudent to amend the provision in question to allow impacted members to continue to have access to FHLBanks' Affordable Housing Programs and Community Investment Cash Advance Programs.

In conclusion, if the goal is to increase community support compliance, I respectfully ask that you consider retaining the responsibility and duty of determining community support compliance with the FHFA and thereby avoiding any unintended consequence of possibly creating a conflict of interest. Additionally, also please consider not eliminating the probationary period for members with a single CRA rating of "Need to Improve."

Thank you for your consideration of these comments.

Sincerely yours,

A handwritten signature in black ink that reads "Eddie Lucio, Jr." in a cursive script.

Eddie Lucio, Jr.
State Senator, District 27