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January 23, 2012

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA38
Federal Housing Finance Agency
Fourth Floor, 1700 G Street NW
Washington, DC 20552

Dear Mr. Pollard:

This letter is in response to the request for comments on the November 10, 2011 Federal Housing Finance Agency (FHFA) proposal to amend the community support regulation to require the Federal Home Loan Banks (FHLBanks), as opposed to the FHFA, 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) and first-time homebuyer standards (the Proposed Rule). We appreciate your consideration of our views on this important matter.

This proposed regulation would shift responsibility from the FHFA to the FHLBanks for determining if member institutions have complied with the FHFA's community support regulation. As a result, we are concerned that this regulation will effectively require the FHLBanks, a cooperative business, to once again become regulators of their members.

Under its current community support regulations, the FHFA biennially reviews the performance of each FHLBank member bank and thrift to evaluate their compliance with the community support standards and determine their eligibility for access to long-term FHLBank 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 and insurance companies that are not subject to CRA requirements need only demonstrate compliance with the first-time homebuyer standard.

If members have a CRA rating of "Needs to Improve," they are placed on a probationary period and have two years until the next exam review to improve their rating. If there has not been improvement to "Satisfactory" or better by the next review, those members are restricted from accessing long-term advances, defined as those with a maturity of greater than one year, as well as the FHLBanks' affordable housing and community investment programs. Members with

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a CRA rating of “Substantial Non-compliance” and those which fail to submit the required data are not allowed a probationary period, but are immediately placed on restricted status until their rating improves or until the data is submitted. Once a member improves their rating or supplies the required forms, the member’s access to long-term advances and other FHLB products is restored.

We are of the view that the FHFA, as the regulator of the FHLBanks, is best suited and has the affirmative duty to implement its own regulation in this area. The agency should not shift to the FHLBanks the responsibility to perform this duty, which we view as a regulatory function. As member-owned cooperatives, it would be inappropriate for the FHLBanks to act as both lenders to their members and regulators of them. In fact, after the FHLBanks were delegated supervisory authority in the 1980s, Congress expressly reversed the delegation, partly in response to the perception that it was inappropriate for the FHLBanks to be both a regulator of and a lender to their members. The proposed regulation would contravene the intent of Congress.

Additionally, the probationary period should not be eliminated and is in fact sound policy. FHLBank member banks and thrifts with a single CRA rating of “Needs to Improve” should continue to have access to long-term advances and the community investment products offered by the FHLBanks while working to improve their rating. These products are important tools for helping such members to improve their CRA rating and should not be denied. Eliminating the probationary period also would undermine the reliability of long-term advances. Members need to have certainty that long-term funding from the FHLBanks will be available when they need it. Constructive engagement during the probationary period is a more effective way to improve a member’s CRA performance without undermining the value of FHLBank membership.

Simply put, since 1989, the FHLBanks have not been the regulators of their members. The FHLBanks should be allowed to continue doing what they do best -- serving their mission by offering advances and community investment products to their members. To shift their responsibility to include regulating their membership only puts at risk the vital relationship that each member has with its FHLBank, a relationship our nation’s community banks rely on.

In conclusion, for the reasons described above, we recommend that the FHFA continue to keep responsibility for determining compliance with the FHFA’s community support regulation at the FHFA, thereby ensuring the FHLBanks are not required to act as regulators of their members. We also urge the FHFA not to eliminate the probationary period for members with a single CRA rating of “Needs to Improve.”

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Thank you for your consideration of our comments.

Sincerely,

John E. McWeeney Jr.
President and Chief Executive Officer

JEM/lb

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