MICHIGAN CREDIT UNION LEAGUE & AFFILIATES

Comment Call (14-18)
FHFA – Members of Federal Home Loan Banks

Impact: Federal and State Chartered Credit Unions
Relevant Department: CEO/CFO
Priority Level: ***Medium***

Background
The Federal Housing Finance Agency (FHFA) is proposing to revise its regulations governing Federal Home Loan Bank (FHLB) membership. The revisions would require each applicant hold one percent of its assets in "home mortgage loans" in order to satisfy the statutory requirement that an institution make long-term home mortgages. This requirement would have to be complied with on an **ongoing** basis, as opposed to the current one-time requirement at initial application.

Additionally, credit unions (since they do not qualify as a Community Financial Institution as defined in this regulation) would also be required to have at least 10% of their assets in "residential mortgage loans."

Financial institutions not meeting these ongoing criteria would have a year to return to compliance. After two consecutive years of non-compliance, membership would be terminated.

The definition of "insurance company" is being proposed to exclude from membership eligibility, captive insurance companies.

The proposal can be found here.

Comments must be received on or before **November 12, 2014.**

Definitions
Community Financial Institution **-** ***FDIC insured*** depositary institutions with less than $1 billion in average total assets (adjusted annually for inflation) over the preceding three years. CFIs are exempt from the "10 percent" requirement.

Long-term – a term to maturity of five years or greater.

Membership Requirements
There are three eligibility requirements that a financial institution must satisfy to become a member of the FHLB. Those requirements are listed below:

Duly organized – be duly organized under the laws of any state or the United States;
Subject to inspection and regulation –subject to inspection and regulation under banking, or similar, laws of a state or the United States; and
Makes long term mortgage loans – makes such home mortgage loans as, in the judgment of the Director [of FHFA], are long-term loans.

Eligibility Requirements

There are four additional eligibility requirements on insured depository institutions that were not members of the FHLB as of January 1, 1989, requiring that the institution:

***10 percent* -** have at least 10 percent of its total assets in "residential mortgage loans";
***Financial condition* -** be in a financial condition such that advances may be safely made to it;
***Character of management* -** show that the character of its management are consistent with sound and economical home financing; and
Home financing policy - home financing policy is consistent with sound and economical home financing.

Summary of Proposed Rule Changes and Request for Comment
The FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule.

Existing Membership Requirements
All insured credit unions are required to meet six eligibility requirements:
1. Duly organized
2. Subject to inspection and regulation
3. Makes long term home mortgage loans;
4. Financial condition
5. Character of management
6. Home financing policy

Currently there are not quantifiable standards for determining compliance with the "makes long-term home mortgage loans" requirement. It is a presumptive compliance approach, which the financial institution is deemed to have complied with if, at the time of its application for membership, its most recently filed regulatory financial report demonstrates that it originates or purchases long-term home mortgage loans. There is no current level specified to meet this requirement.

Additionally, once membership has been established, there is no assessment if the financial institution continues to meet the requirements of "making long-term home mortgage loans." Neither is there a requirement on the financial institution to continue to hold 10 percent of its total assets in residential mortgage loans after it becomes a member.

Proposed Revisions
A quantitative standard for determining compliance with the "makes long-term home mortgage loans" requirement would specify that an institution must have at least one percent of its total assets in home mortgage loans in order to meet that requirement. This one percent ratio would be required to be maintained on an ongoing basis in order to remain eligible for membership.

Additionally, each member subject to the "10 percent" requirement would have to maintain that 10 percent of assets in residential mortgage loans on an ongoing basis in order to remain eligible for membership.

The FHLB would conduct a review annually to determine compliance with the above requirements. Members that are not in compliance would be given 1 year to return to compliance. Membership would be terminated if there were two consecutive years of non-compliance.

In order to address the revisions made above, the proposed regulation would make several conforming revisions to:
1. Establish the manner in which the FHLB are to determine compliance with the ongoing eligibility requirements;
2. Establish the manner in which, and the time within which, de novo insured depository institutions must comply with those requirements;
3. Require the FHLB to assess the financial condition of their insurance company members, based on their most recent audited financial statements;

4. Establish a cure process, under which a member that fails to comply with the ongoing eligibility requirements would have one year to come in to compliance; and
5. Require the FHLB to terminate the membership of any institution that has failed to comply with the ongoing requirements for a second consecutive year.

Changes to implement the ongoing nature of the requirements will be made to the wording that currently exists referencing the requirements to "become" a member of the FHLB, to read "be" a member.

Definitions
The list of assets would also be expanded that qualify as a "**home mortgage loans**" to include all types of mortgage-backed securities (MBS) that are fully backed by first mortgage loans on single or multi-family property or by other securities that are fully backed by such loans. The definition of "home mortgage loan" would be amended to read:

1. A loan, whether or not fully amortizing, or an interest in such a loan, which is secured by a mortgage, deed of trust, or other security agreement that creates a first lien on one of the following interests in property: (i) one-to-four family property, in a fee simple; (ii) A leasehold on one-to-four family property or multifamily property under a lease of not less than 99 years that is renewable, or under a lease having a period of not less than 50 years to run from the date the mortgage was executed; or (iii) combination business or farm property where at least 50% of the total appraised value of the combined property is attributable to the residential portion of the property, or in the case of any community financial institution, combined business or farm property on which is located a permanent structure actually used as a residence (other than for temporary or seasonal housing), where the residence constitutes an integral part of the property; or
2. A security representing: (i) a right to receive a portion of the cash flows from a pool of long-term loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of paragraph (1) of this definition; or (ii) an interest in other securities, all of which meet the requirements of paragraph (2)(i) of this definition.

This expanded definition is intended to bring within the definition all types of MBS, including pass-throughs, CMOs, REMICs, and principal-only and interest-only strips, that are fully backed by whole loans that meet the definition or by other MBS that are fully backed by such loans.

The definition of "residential mortgage loan" would also be amended to correspond to the changes to the home mortgage loan definition.

Comments

The FHLB believes that even in cases where the financial institution originates a loan for resale, rather than portfolio, given the home mortgage loan to asset ratio is only 1%, it is probably not necessary for the rule to require the FHLB take into account this type of "flow" business in determining whether the institution complies with the "makes long-term home mortgage loan" requirements. Should the final rule include such a provision? If so, how would the FHLB be required to obtain the necessary data?

Although the FHFA is proposing to use one percent of total assets as the standard for compliance, it could establish a higher percentage as well. Comments are requested on whether setting the minimum required home mortgage loan-to-total assets would be more consistent with the statutory intent and, if so, what the appropriate percentage should be?

Comment Letters

Please submit a Comment Letter to:

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20024

Comments should be identified by "Regulatory Information Number (RIN) 2590-AA39"

Electronically:	www.fhfa.gov/open-for-comment-or-input http://www.regulations.gov; follow the instructions for submitting comments. If you submit your comment in this method, please also send it by email to the FHFA using the below e-mail to ensure timely receipt by the agency.
E-mail:	RegComments@fhfa.gov

Please submit to the MCUL a copy of your response to the attention of:

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We Appreciate Your Response.