



January 9, 2015

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

**RE: Members of Federal Home Loan Banks
Notice of Proposed Rulemaking, RIN 2590-AA39**

VIA ELECTRONIC MAIL: www.fhfa.gov/open-for-comment-or-input

Dear Mr. Pollard,

The Michigan Credit Union League (MCUL), the statewide trade association representing 98% of the credit unions located in Michigan and their 4.5 million members, appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposal to amend regulations governing Federal Home Loan Bank (FHLB) membership.

Community Financial Institutions

The MCUL is concerned with the definition of "community financial institution." It is unclear why the definition does not include financial institutions whose deposits are insured by the National Credit Union Administration, similar to the exclusion for FDIC-insured institutions. The footnote in the proposal that references 12 U.S.C. 1430 (a)(2), indicates that exempting "community financial institutions" allows the FHLB to make long-term investments for the purposes of providing funding to small businesses, small farms, small agri-business and community development lending activities. As a member-owned not-for profit organization, that is exactly what the credit union model aims to achieve and how borrowings from the FHLB are utilized. The MCUL strongly encourages the FHFA to reconsider their limited exclusion and provide parity by permitting federally insured credit unions with less than \$1 billion in assets to be exempt from the requirement to have at least 10% of total assets in residential mortgage loans, similar to FDIC insured institutions.

Current Regulatory Environment

When the FHFA drafted their proposed revision for FHLB membership, was there any consideration of the current regulatory environment, specifically for mortgage lending? Credit unions in Michigan that were actively originating mortgage loans for their membership have already had to reduce their originations because of the potential liability for underwriting a non-qualified mortgage under the new CFPB rules. While the FHFA appears to be considering the potential for "an institution to become a member without having a history of supporting residential housing finance" by acquiring more home loans shortly before applying for membership, it does not appear to be taking into consideration institutions that **actually** have a history in residential housing finance, but are forced to limit that activity because of federal regulation. Additionally, the FHFA, by leaving no room for objective analysis under its proposed quantitative asset-based tests, gives no deference to the presence of other factors, like the current interest rate

environment, that have an impact on members' portfolios. The ability to hold mortgage assets does not necessarily prove or disprove a member's commitment to "making long-term home mortgage loans."

The MCUL continues to oppose the quantitative standards proposed by the FHFA. As indicated in the commentary, the former Federal Housing Finance Board required an institution to provide evidence that it had a continuing policy of mortgage loan purchases or originations and that it intended to continue to pursue that policy. The FHFA is apparently concerned that membership may be misused, but it has not offered any justification to support the need for imposing burdensome ongoing tests.

We respectfully suggest that the FHFA is incorrect in its assessment that "any institution with less than one percent of its total assets in home mortgage loans clearly would not have the requisite commitment to home mortgage lending that Congress sought to support through the benefits of Bank membership." The FHFA fails to consider the impact of additional regulations and portfolio risk mitigation strategies a credit union may be required to implement or comply with from a safety and soundness perspective. A risk mitigation strategy for a smaller credit union may be to utilize a credit union service organization (CUSO) to assist their credit union with mortgage lending. A successful CUSO arrangement is intended to provide a service to credit union members that may otherwise not be made available. Credit unions, through a CUSO relationship, are able to offer their members mortgage loans. Because the credit union may not have the capacity to hold these real estate assets in portfolio, is the FHFA doubting the commitment of that institution to the mortgage lending process? Unfortunately, quantitative compliance tests only implement numerical thresholds, without the ability for justification or explanation. With this type of approach, the FHFA would be responsible for eliminating mission-supportive financial institutions from FHLB membership eligibility and, subsequently, decreasing the availability of home financing options in communities.

Flow Business

The FHFA is seeking comment on whether the final rule should include a provision taking into account a financial institution's "flow" business, or loans that were *originated and sold*, rather than *kept* in portfolio. The MCUL strongly believes the FHLB should consider this information when determining ongoing or initial eligibility. As previously discussed, the inability to hold a loan, due to portfolio constraints, may require a credit union to sell mortgage loans to the secondary market. The FHFA also seeks information as to how it could obtain this type of data. Credit unions specifically report mortgage loans sold on the secondary market in their quarterly call report. Therefore, information on "flow" business could easily be obtained by the FHFA for measurement purposes.

As indicated in the proposal, the Federal Home Loan Bank Act is intended to provide a reserve banking system for thrift institutions to support their residential mortgage lending activities. If credit unions are providing their members with mortgage lending resources, it shouldn't matter if the loans are held in portfolio or sold in the secondary market.

Credit Union Impact

The FHFA's proposal may fundamentally reduce the availability of capital for credit unions, thus negatively impacting the reliability of liquidity that credit unions depend on to serve their member-owners. As we understand from our local FHLB of Indianapolis, decreased membership, due to

the proposed compliance tests and the elimination of Michigan captive insurance company members, would lead to lower profits and corresponding decreases in funding for the Affordable Housing Program, the Community Investment Program and other set-aside programs, all of which our Michigan credit unions take advantage of in serving their local communities.

Summary

Although the MCUL does not concur with the necessity of this proposed rule, there are opportunities for the FHFA to revise the proposal in order to provide parity and some regulatory relief to credit unions that will otherwise be severely negatively impacted. The first would be to include credit unions in the definition of a Community Financial Institution. By expanding this definition to include credit unions, it would provide a necessary exemption to the smaller institutions that would struggle with the ongoing portfolio compliance requirements.

The second would be to allow FHLB members' "flow" business to be included in the quantitative calculations. Without including these transactions, the FHFA disregards the potentially smaller institutions who are committed to the FHLB mission, but may not have the capacity to hold loans in portfolio or have the expertise in-house to purchase MBS.

According to the FHFA, data obtained from the December 31, 2013 NCUA call reports, of 1,204 credit unions that were FHLB members, 14 of those credit union members would have failed to comply with a 1% portfolio requirement, 29 would have failed to comply at 2% and 67 with a 5% portfolio requirement. From the MCUL's perspective, 14 credit unions that would have their FHLB membership terminated based on this proposed rule, is too many. With a draconian, quantitative approach, the FHFA fails to consider that there may be valid reasons, such as regulatory limits, that a credit union is unable to meet the proposed compliance tests. Subsequently, the FHLB will lose members and potential members that lack the ability to hold enough mortgage loans in portfolio to satisfy the proposed tests, even though they are actively involved in housing finance and serve the FHFA's housing mission.

If the FHFA adopts its proposed rule, the outcome will be counterproductive to the FHLB's housing finance mission -- especially if it's implemented without revisions similar to what we have suggested in this letter. With the potential loss of funding access, credit unions may not have the capacity to provide mortgage lending services to their members, subsequently decreasing the availability of options for mortgage financing in communities across the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Ross". The signature is stylized with a large, looped "R" and a distinct "K" and "R" at the beginning.

Ken Ross
Executive Vice President & Chief Operating Officer