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Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
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Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW
Washington, DC 20001-2020
Ph. 202-383-1194 Fax 202-383-7580
www.REALTOR.org

January 9, 2015
The Honorable Mel Watt
Director
Federal Housing Finance Agency
Attention: Comments/RIN 2590-AA39
400 7th St., SW
Washington, DC 20024

Transmitted by e-mail to RegComments@FHFA.Gov

RE: RIN 2590-AA39, Members of Federal Home Loan Banks

Dear Director Watt:

On behalf of the one million members of the National Association of REALTORS®, I am writing to respond to the Notice of Proposed Rulemaking – Members of Federal Home Loan Banks. NAR is the United States' largest trade association, representing over one million real estate professionals, 54 state and territorial associations and more than 1,400 local associations. The Federal Home Loan Bank System (FHLBs or "Banks") and the successful execution of its Congressionally mandated mission of providing liquidity to support housing finance is a critical element of the nation's banking structure. NAR believes that the commitment to real estate finance and homeownership is an important membership requirement for FHLB members. Though most of the proposed changes would focus the Banks' mission on supporting mortgage lending, NAR recognizes that the proposed rules would also alter the membership requirements for FHLBs, and may have an impact on a seemingly evolving mission of the FHLBs, the relationships between the FHLBs and their members, and financial liquidity overall.

Establishment of Mortgage Liquidity Mission

The twelve Federal Home Loan Banks were organized under the Federal Home Loan Bank Act (Bank Act) in 1932 to provide a reserve banking system for thrift institutions to support their residential mortgage lending activities.[1] For many years, the availability of low cost funding and liquidity specifically focused on mortgage assets through thrift institutions and insurance companies supported a large majority of the mortgage market as demonstrated in Exhibit 1

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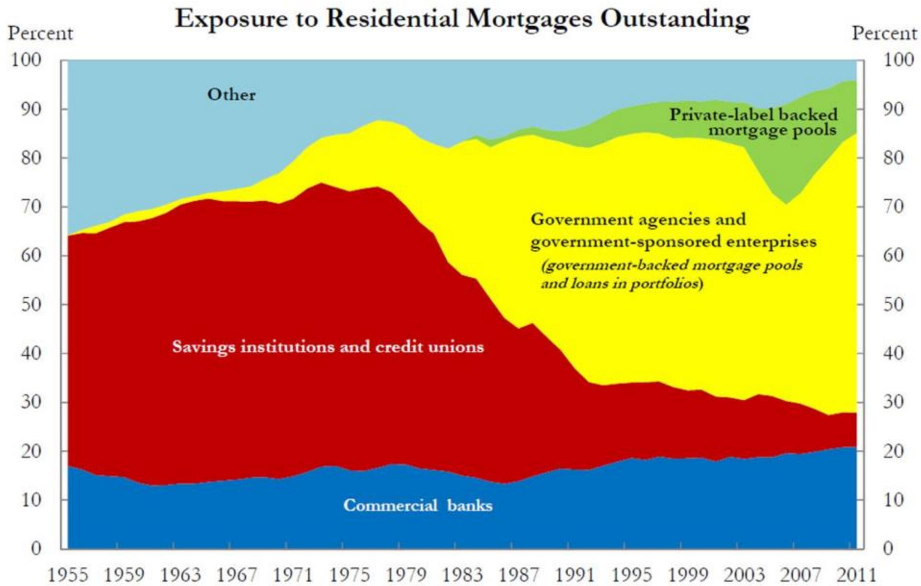

Source: Federal Reserve Board.
Notes: Other includes life insurance companies, finance companies, real estate investment companies, private pension funds, state and local government retirement funds, households and nonprofit institutions, and non-financial corporate and non-corporate businesses.

NAR appreciates the Federal Housing Finance Agency's (FHFA) efforts to reexamine the important role of the Federal Home Loan Banks in ensuring their members focus on providing consumer access to affordable homeownership opportunities. The more recent evolution of the secondary mortgage market has led to fewer thrift institutions and insurance companies holding the majority of residential mortgage loans on their balance sheets. Simultaneously, the scope of the FHLB system has seemingly expanded over time in various ways to further the original goals of the Banks' proscribed mission[2]. Some of these expansions include loans for community development purposes, investments that support community services or area revitalization, and several Small Business Administration and Small Business Investment Company investment activities.[3] While these new activities are not directly related to the FHLB's sole original mission of providing housing liquidity, NAR understands they strengthen the banking environment by providing more funding for activities that are essential to community development.

NAR supports the mission of the Federal Home Loan Bank System that, in its unique structure as a cooperative owned by its members, serves as an important source of capital for its member banks and would oppose changes that weaken the System as an important source of mortgage liquidity.

Proposed Membership Requirements

FHFA has proposed updating membership requirements and definitions that would impact current and future members of the FHLB system. In updating these requirements, FHFA proposes ongoing tests that would require all members to hold a minimum of one percent of total assets in long-term home mortgage loans; require most insured depository institutions to hold ten percent of total assets in residential mortgage loan holdings, including mortgage-backed securities; and exclude insurance companies that only serve affiliated entities.

NAR understands FHFA's concerns that the absence of an ongoing requirement for investment in mortgage assets means that a FHLB member may reduce, or even eliminate, its residential mortgage loan holdings without affecting its eligibility to continue as a Bank member. Even more problematic are the instances where institutions that have only minimal home mortgage loan assets and no plans to originate or purchase any significant amounts of such assets have been permitted to become FHLB members simply to obtain access to the low-cost funding that the FHLB system provides.

[2] 65 Fed. Reg. 43969 (July 17, 2000)
[3] Id, and 75 Fed. Reg. 76617 (Dec. 9, 2010)

The vast majority of current FHLB members have long records of stability and effectiveness; shutting out some of these members under the proposed new rules may impact the ability of these members to serve their communities. As FHFA considers these proposals, NAR believes it is essential to understand the role that individual bank members play in their respective communities, and how the proposed requirements would impact their ability to provide continued support of the FHLB's housing finance and community development mission.

FHFA also is proposing an ongoing requirement that a FHLB member that is an insured depository reflect its commitment to homeownership and real estate finance by having at least ten percent of its assets in home mortgage loans. To make this more achievable, FHFA also expands this definition to be more inclusive of the types of mortgage backed securities (MBS) that count toward this requirement. This change acknowledges how MBS characteristics have evolved to meet investors' needs over the past several decades and have made the secondary mortgage market much more liquid. In recognition of this, FHFA believes that it is appropriate to expand the definition of "home mortgage loan" to include all types of MBS backed by qualifying assets and eliminate the current distinction that the rules draw between pass-through securities and other types of MBS. NAR agrees that having an ongoing requirement is an important goal and with expanding the definition of eligible assets.

FHFA also requested comment in cases where a bank member has substantial mortgage banking operations,i.e. originating loans for resale rather than for portfolio. Under this model, a member institution's year-end balance sheet for any given year may not fully reflect its support for housing finance if it originated a substantial amount of home mortgage loans during the year that were then sold prior to year-end. Though the proposed rule doesn't call for the FHLB's to account for this 'flow', NAR supports provisions that would be inclusive of this business model, particularly because of the growth of the secondary mortgage market. These members still support the mission of the FHLBs and this should be reflected in their ability to qualify for beneficial funding advantage provided to members of the FHLB system.

As noted above, the Federal Home Loan Banks were established to ensure that banks and insurance companies that remained committed to funding long term mortgage were, in a sense, rewarded with low cost funding provided to them by the FHLBs. Some commenters have raised concerns that this rule could impact communities that benefit from the FHLB's Affordable Housing Program (AHP) since a small percentage of FHLB members may not meet the requirement of having a percentage of its assets in home mortgage loans. However, as local FHLB member institutions begin to *increase* investment in mortgage related assets to obtain the low cost, wholesale funding provided by the FHLBs, the additional investment would ensure broader support above and beyond the benefits of just the AHP.

It is important to acknowledge that part of today's tight lending environment is due to banks choosing to lend and invest assets far outside of housing and, more broadly, real estate in general. Consequently, even though they aren't engaged in real estate lending, they are still using the benefit of the low cost funding from the Federal Home Loan Banks for investments outside of real estate and activities that do not support homeownership. NAR believes that the commitment to real estate finance and homeownership is an important membership requirement for FHLB members.

Most importantly, as discussions on housing finance reform continues, members of NAR believe it is important to maintain a robust investment community for housing finance assets as originally conceived for the Banks. Under the proposed rule, lenders and insurers that focus on the continued liquidity and commitment to homeownership and real estate finance are provided the benefit of low-cost funding that FHLB members enjoy.

Elimination of Captive Insurers from FHLB Membership

Another change included in the proposed rules is eliminating captive insurers from being FHLB members. NAR opposes completely eliminating captive insurers. As noted by the Treasury Department, many of the activities that REITs engage in are aligned with the FHLB system's core mission, and represent an important source of private capital that should be at the core of the U.S. housing finance system.[4] NAR agrees. In addition to providing private capital funding to the primary housing finance market, captive insurance members provide extensive liquidity for community development activities and the long-

[4] Remarks by Counselor to the Secretary for Housing Finance Policy Dr. Michael Stegman Before The North Carolina Bankers Association 2014 American Mortgage Conference, September 9, 2014

term reliable nature of FHLB advances allows consistent and competitive pricing for those activities and to home loan originators.

Rather than limiting this source of liquidity in the real estate market and private capital support of homeownership, it is possible for FHFA to standardize risk management practices across the system to remedy its safety and soundness concerns while still allowing captive insurance members to remain in the FHLB system. As examples:

- FHFA could require ongoing reporting and transparency to the captive insurer's respective FHLB. This could include information about the parent company and captive insurer that the FHLB or FHFA believes is important to adequately assess financial health, investment strategy, and other risk metrics. This reporting could be required on a periodic basis, as appropriate.

- NAR would also support FHFA applying a more stringent mission test to potential captive insurance members and their parents using asset or income tests. If the parent consolidated group of affiliates is not a REIT, FHFA should consider setting a simple, but heightened, asset (or income) test threshold. For example, FHFA could require that significant percent of a parent's assets be real estate related, which would include both residential and commercial real estate assets.

- FHFA could apply a more stringent eligible collateral test to captive insurance members where collateral pledged for advances must be real estate related (this includes residential real estate and commercial real estate, since commercial real estate supports housing communities through stability and growth in communities).

In short, there are ways to preserve the FHLB memberships of captive insurers whose primary line of business fits FHFA's goal of maintaining the FHLB's housing finance mission while also recognizing that some of the commercial real estate activities supported by REITs are the very community development activities mentioned above as part of the FHLB's expanded mission on providing housing finance liquidity.

Conclusion

NAR supports the mission of the FHLB system and its members in serving a critical role of providing liquidity and oppose changes that weaken the System as an important source of mortgage liquidity. Preserving liquidity for real estate finance and homeownership is an indispensable role for the FHLB system.

NAR believes that FHFA's efforts to ensure FHLB members are committed to providing liquidity for real estate finance and affordable homeownership opportunities is an important goal. However, FHFA should not exclude members that support either liquidity in the real estate market and private capital support of homeownership either through the funding of extensive mortgage banking operations or captive insurers that allow the benefit of low cost funding from the FHLBs to flow to REITs that support liquidity in the mortgage markets.

Thank you for your time and consideration of this timely issue. NAR looks forward to working with you. If I may be of any assistance to you, please do not hesitate to contact me or Charlie Dawson, NAR's Senior Policy Representative for Financial Services, at 202.383.7522 or cdawson@realtors.org

Sincerely,

Chris Polychron
2015 President, National Association of REALTORS®