

November 23, 2010

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA35
Federal Housing Finance Agency
Fourth Floor, 1700 G Street, NW
Washington, D.C. 20552

VIA E-Mail (regcomments@fhfa.gov)

Re: Notice of Proposed Rulemaking and Request for Comments – Information Sharing Among Federal Home Loan Banks (RIN 2590-AA35)

Dear Mr. Pollard:

The Federal Home Loan Bank of Topeka (“FHLBank”) appreciates the opportunity to comment on the Proposed Rule issued by the Federal Housing Finance Agency (“Finance Agency”) on September 30, 2010. The FHLBank strongly supports the Finance Agency’s efforts to enhance the information available to the FHLBanks regarding the condition of the other FHLBanks and offers the following comments:

A. We Support the Sharing of Reports of Examination (“ROEs”) and Other Supervisory Reports Among the FHLBanks.

The FHLBank supports the terms of the Proposed Rule providing for sharing of: 1) final ROEs presented to an FHLBank’s board of directors and 2) any other final Finance Agency supervisory determination presented to an FHLBank’s board of directors. The FHLBank agrees with the Finance Agency that documents such as findings and conclusions memoranda and work programs should not be included among the distributed materials.

However, we believe the basis for information sharing among the FHLBanks is broader than simply providing each FHLBank with sufficient information to evaluate the financial condition of the other FHLBanks to assess the likelihood that it may be required to make payments on behalf of another FHLBank under the joint and several liability on the FHLBanks’ Consolidated Obligations (“COs”).

Because the FHLBanks issue COs jointly as a System, the ROE information that is to be shared among the FHLBanks by the Finance Agency could be used by FHLBanks to assess factors and trends that might affect their funding access and terms. Moreover, access to ROEs of other FHLBanks could provide an FHLBank with insight into ways of approaching and resolving a variety of issues and risks similar to those it faces. Thus, information sharing could enhance an FHLBank’s operational efficiency and ability to carry out its mission. Consequently, the Finance Agency’s sharing of information among the FHLBanks is consistent with the Finance Agency’s duties under 12 U.S.C. § 4513(a)(1)(B) to ensure that the FHLBanks operate in a safe and sound manner and their operations and activities foster liquid, efficient, competitive and resilient national housing finance markets.

Accordingly, we agree that the Finance Agency should share the complete ROEs with the FHLBanks without removing non-financial information. In addition, it would be helpful if FHLBanks could also view management's responses to ROEs of other FHLBanks, which could provide useful additional information regarding the issues and show how those FHLBanks have addressed or intend to address the findings. Consequently, we request the Finance Agency to add a provision to the rule stating that the Finance Agency shall also distribute management's responses to ROEs to the other FHLBanks as they become available to the Finance Agency.

The FHLBank also agrees that it is not necessary to distribute the ROEs for the Office of Finance ("OF") as the FHLBanks already have access to this information via their representation on the OF board of directors. However, we ask the Finance Agency to provide clarification that FHLBank presidents, who receive the OF ROEs as members of the OF board of directors, are permitted to share such ROEs with their boards of directors and senior staffs.

B. The Final Regulation Should be Enhanced to Better Protect Certain Confidential Information.

Depending on the source or nature of information, its disclosure may be subject to legal limitations, such as confidentiality agreements or confidentiality provisions of license or other similar agreements. While the FHLBanks are likely to have included in many of their contracts the authority to disclose confidential information under the contract to their auditors, examiners and regulators, disclosure of such confidential information to any other third party, including another FHLBank, may be prohibited under the terms of various FHLBank contracts. Any final Finance Agency regulation should include an explicit recognition that such information shall not be included in the disclosure of an FHLBank's ROE by the Finance Agency to the other FHLBanks.

The FHLBank supports section 1260.3(b) and (c) of the Proposed Rule under which an FHLBank will be given ten (10) business days to object to the disclosure of its confidential and proprietary information. The FHLBank believes, however, that when an FHLBank has objected to the disclosure of certain confidential or proprietary information in the ROE, if the Finance Agency determines not to accept that FHLBank's identified redactions in full, prior to distributing the ROE to the other FHLBanks, the Finance Agency shall notify the original FHLBank in writing and provide that FHLBank with information regarding what information will not be redacted.

The circumstances under which information is withheld as proprietary should be limited. The two-part statutory test restated in the Proposed Rule requires not only that the information be considered proprietary, but also that the public interest requires that it not be shared. Pursuant to 12 U.S.C. § 1440a, the general rule is that information should be shared among the FHLBanks, and we urge the Finance Agency to limit the circumstances in which it grants exceptions to that general rule.

C. Each FHLBank Must Ensure that Its Directors, Officers and Employees with Access to Supervisory Information Regarding Another FHLBank Maintain the Confidentiality of that Information.

Because ROEs contain highly sensitive and confidential information, all FHLBanks should be required under the terms of the final regulation to maintain safeguards (for example, Code of Conduct terms, confidentiality agreements, blackout agreements) to ensure that the confidentiality of ROE information of another FHLBank is maintained by their directors and any employees given access to the ROEs.

D. Responses to Specific Requests for Comment.

The Finance Agency requested comment on whether the rule should allow the Finance Agency to expand the categories of information to be distributed to the FHLBanks through a less formal means, without undertaking a subsequent rulemaking. Because information sharing among the FHLBanks is highly beneficial, as we have indicated above, we support such a provision, as long as the FHLBanks are given a reasonable opportunity to review and comment on the proposed expansion in advance.

The Finance Agency also requested comments on whether the rule should retain the approach whereby the Finance Agency distributes supervisory information directly to each of the FHLBanks. We support this approach because we believe it is the most efficient and effective means for distributing the information.

Finally, the Finance Agency requested comments regarding whether the transition provision should require distribution of any ROEs other than the most current ROE as of the effective date of the final rule. We support the transition provision as proposed because we believe that if the most current ROEs are distributed, earlier ROEs would provide little or no additional relevant information.

On behalf of the Federal Home Loan Bank of Topeka, we thank the Finance Agency for its consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Jetter", with a long horizontal flourish extending to the right.

Andrew J. Jetter
President and CEO