

From: Mike Smith <msmith@nyba.com>  
Sent: Tuesday, February 07, 2012 4:53 PM  
To: !FHFA REG-COMMENTS  
Subject: Comments/RIN 2590-AA39

Michael P. Smith  
President & CEO  
New York Bankers Association  
99 Park Avenue, 4th Floor  
New York, NY 10016-1502  
(212) 297-1699/msmith@nyba.com

February 7, 2012

Alfred M. Pollard, Esq.  
General Counsel  
Federal Housing Finance Agency, Fourth Floor  
1700 G Street, NW  
Washington, DC 20552

Attention: Comments/RIN 2590-AA39

Dear Mr. Pollard:

In response to the notice of proposed rulemaking published in the November 10 Federal Register, the New York Bankers Association is submitting these comments on Federal Home Loan Bank community support amendments. Our Association opposes the amendments and urges that they be withdrawn. The amendments would shift the burden of enforcing on Home Loan Bank member institutions the FHFA's community support regulation from the FHFA to the individual Home Loan Banks, creating a significant conflict of interest and potentially reducing uniformity and adding to the regulatory burden of member institutions engaged in home mortgage lending. Our Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. Our members have in aggregate more than \$9 trillion in assets and approximately 250,000 New York employees.

The proposal would require the Federal Home Loan Banks (FHLBs) to monitor and assess the eligibility of each of their commercial bank, thrift institution and other members for access to long-term advances through compliance with the Community Reinvestment Act and first-time homebuyer standards that each FHLB would issue. It would replace the current practice in which member institutions submit to FHFA biennial community support statements containing their most recent CRA evaluations. In its place, FHLBs would be required to verify member institutions' CRA ratings from federal regulatory bodies and be responsible for overseeing member compliance with first-time homebuyer requirements.

Our Association is concerned that this shift in the burden of supervising FHLB member institutions from the FHFA to the individual FHLBs will create an inherent conflict of interest, lead to possibly inconsistent compliance standards and examination

requirements, and potentially increase the regulatory burden on member institutions. In addition, we are unaware of any problems with the current system of supervision that would justify the shift.

The Federal Home Loan Bank System is a nationwide network of member-owned cooperative institutions that serve as sources of liquidity to its members. Each Home Loan Bank is an autonomous entity governed by a Board of Directors elected by its membership. Officers of member institutions typically comprise a majority of the Board of Directors. The FHLBs make billions of dollars of loans to their members, making them intimately concerned with their members' success.

Our Association believes that the very close relationship between the FHLBs and their member lending institutions make the FHLBs inappropriate regulators of their members. The Congress established the FHFA as the regulator of the Federal Home Loan Bank System. We believe that the process that has been in use to regulate the individual members of the FHLBs, whereby FHFA reviews submissions certifying compliance with CRA and first-time homebuyer requirements is more in accord with Congressional intent and avoids the conflicts of interest inherent in the relationship between the FHLBs and their members.

In addition, we believe that the proposal could lead to inconsistent and possibly even incompatible examination standards between and among the individual FHLBs. Under the proposal, each FHLB would "establish and maintain a community support program." Each individual FHLB, under this program, would establish and maintain its own policies and procedures for the evaluation of community support compliance by individual members, and develop an extensive list of additional community and first-time homebuyer assistance programs. As demonstrated in the recent housing downturn, overly aggressive affordable housing or first-time homebuyer support programs can be pushed to the point of potential overreach. Because individual banks, thrifts and other lenders can be members of more than one FHLB, they could be torn between conflicting demands by their FHLB regulator. One of the hallmarks of the federal regulatory system to date has been the attempt by federal banking regulators to ensure consistency and equity among federal regulators. By delegating regulatory and examination authority so dramatically to 12 distinct, regional entities, we are concerned that this proposal could be a step backward for the consistency of the regulatory and examination process.

Finally, we believe that committing regulatory and examination functions to 12 separate and independent entities may lead to an unhealthy competition in regulation. In recent years, the community banking system has been subject to dramatic restrictions on many of their core products – including mortgage loans – which have severely restricted their ability to safely and soundly serve the residential home loan needs of their customers. One of the bright spots in this generally gloomy picture has been the level of support provided by the FHLBs, which have increased their liquidity lending at a time when many secondary market residential mortgage loan entities were reducing or even eliminating theirs. Introducing a new element of regulatory uncertainty – particularly in the area of affordable housing and first-time homebuyer lending – can only further complicate the task of funding the nation's housing needs.

For these reasons, we strongly oppose this regulation and urge that it be withdrawn.

Sincerely,

Michael P. Smith

Michael P. Smith  
President  
New York Bankers Association  
99 Park Avenue, 4th Floor  
New York, NY 10016-1502  
Tel. 212-297-1699  
Fax. 212-297-1658  
E-mail. msmith@nyba.com

This e-mail is intended solely for the person or entity to whom it is addressed and may contain confidential and privileged information. Any dissemination, copying, printing or other use of this e-mail by persons other than the addressee is prohibited. If you have received this e-mail in error, please reply to the sender immediately and delete this material from any computer.