

March 17, 2011

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

Attention: Comments/RIN 2590-AA39

Re: Advance Notice of Proposed Rulemaking and Request for Comments –
Members of Federal Home Loan Banks (RIN 2590-AA39)

Dear Mr. Pollard:

The American Bankers Association (ABA) appreciates the opportunity to submit comments on an advance notice of proposed rulemaking (ANPR) regarding the membership requirements for members of the Federal Home Loan Banks (FHLBs) and the housing finance mission of the FHLBs.

At the outset, we must question both the rationale and the statutory authority for the ANPR. Mission and membership are core attributes of the System and are appropriately left to the Congress to determine. We believe the premise underlying the ANPR to be deeply flawed in that it would, by regulation, not statute, eliminate some institutions from membership in the System and curtail the mission activities of other members.

The Federal Home Loan Banks were established in 1932 to support residential mortgage lending. Eligibility for membership in the System has been expanded by statute over the years, for example, expanding to allow membership for commercial banks in 1989. Similarly, the mission of the System has been expanded by statute, such as the expanded categories of collateral made available to Community Financial Institutions (CFIs) in 1999.

In the nearly 80 year history of the Federal Home Loan Banks, we can find no evidence of Congress taking action to reduce the membership scope of the System or to shrink the mission of the System. Yet, the ANPR would potentially remove from membership eligibility certain insurance companies and other members not meeting new “housing finance” tests contemplated by the ANPR. Such an action runs counter to the clear Congressional intent of broadening both System membership and mission. ABA certainly does not advocate unfettered expansion of either the System’s membership base or mission. Over the years, ABA has expressed concerns over legislative proposals to further expand both membership and mission of the System. Nevertheless, those proposals have properly come from Congress, just as should any proposals to shrink either the membership base or mission of the System.

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We do recognize that the FHFA does have an important role in ensuring membership eligibility for specific institutions within the membership categories established by Congress. Ensuring that members (and potential members) meet the requirements set forth in statute protects the safety and integrity of the entire System.

The ANPR, however, provides no evidence that the current methods for determining member eligibility or mission compliance are flawed. Instead, the ANPR contemplates replacing the existing mechanisms for determining membership eligibility and compliance with potentially draconian measures which will add regulatory burden and cost for members of the System; create confusion about ongoing membership eligibility and potentially add instability to the entire System. Our concerns are detailed more specifically below.

The System is a collateral based system. In order to borrow, members must pledge eligible collateral. This requirement serves to ensure that members maintain a commitment to housing finance, as to utilize the System members must have eligible collateral (i.e., mortgage loans) in their portfolios to pledge. If members fail to use advances to make mission appropriate loans, they will eventually fail to have enough collateral to obtain further advances. This is an elegant and well-functioning approach. There is no need to impose additional regulatory burden such as an ongoing 10 percent asset test (and the tracking system which such a test would require) particularly when the FHFA states that it has "no evidence that significant numbers of members that were subject to the 10 percent requirement when they became members have substantially reduced their holdings of residential mortgage loans after becoming members".

Additionally, applying such a requirement to other categories of members, particularly insurance companies and Community Development Financial Institutions (CDFIs) runs counter to the authorizing statute. The Federal Home Loan Bank Act authorizes membership for these types of institutions and makes special and necessary accommodations to reflect their balance sheets and business models.

We would also note that the various new requirements being considered in the ANPR will lead to greater complexity and uncertainty about who is an eligible member of the System both initially and on an ongoing basis. Such uncertainty injects a level of instability into the System with the potential for members falling in and out of membership. Such instability is likely to drive both existing and potential members from the System, increase the costs of capital for the System overall and reduce the viability of the System. Such impacts run directly counter to prudent regulation, the hallmark of which should be to ensure stability of its regulated entities.

ABA appreciates FHFA's publishing this proposal as an Advance Notice so that it can be given the appropriate level of scrutiny before any further action is taken. Given the fundamental concerns we have with the proposal and its deleterious effect on the System, its members, and potentially the entire economy, we strongly urge the FHFA not to proceed with this rulemaking.

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If you would like to discuss any of these issues in greater detail, please do not hesitate to contact me at 202-663-5480 or JPigg@aba.com. Again, on behalf of the American Bankers Association and our members, thank you for this opportunity to comment on the ANPR.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Pigg". The signature is fluid and cursive, with a large initial "J" and a stylized "P".

Joseph Pigg