



October 2, 2009

VIA EMAIL TO REGCOMMENTS@FHFA.GOV

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, D. C. 20552
Attention: Comments/RIN 2590-AA10

Re: Proposed Rule on Record Retention

Dear Mr. Pollard:

The Office of Finance of the Federal Home Loan Bank System ("OF") is writing to comment on the proposed rule on record retention published by the Federal Housing Finance Agency ("FHFA") in the Federal Register on August 4, 2009 (the "Proposal"). The FHFA indicates that the Proposal is intended to apply to the OF based on the FHFA's general regulatory authority over the OF.¹ The OF welcomes this opportunity to comment on the Proposal.

1. Section 1235.3 Establishment and evaluation of record retention program

We respectfully submit that there should be a longer transition period before the OF must establish the new record retention program required by the Proposal. Section 1235.3 of the Proposal requires that a written record retention program be established within 120 days of the effective date of proposed regulation. Although the OF has a written record retention policy in place, that policy will need to be reviewed and enhanced in order to meet all of the minimum requirements set forth in Section 1235.4 of the proposed regulation. This is particularly true because the Proposal defines "record" in a broad manner and does not focus only on specific categories of records.

In order to provide sufficient time to implement an enhanced new program successfully, we respectfully request that the final rule extend the compliance date. From the OF's perspective, we suggest the deadline should be at least 180 days after the effective date of the final rule, but

¹ Although the background section of the Proposal acknowledges that the OF is not directly covered by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the "Safety and Soundness Act"), in several places in the Proposal the FHFA describes the application of various sections of the Safety and Soundness Act as if that Act directly applied to the OF along with the "regulated entities." The OF has previously commented on this scope issue in connection with other FHFA proposed regulations, and may do so in the future; however, the OF acknowledges that a record retention regulation is consistent with the FHFA's general examination authority over the OF as set forth in 12 CFR §985.4.

we believe the OF should be subject to the same record retention rule as the Federal Home Loan Banks generally and therefore a longer transition period may be warranted because the Federal Home Loan Banks conduct more complex businesses than the OF and may therefore require more time to satisfy the new requirements.

2. Section 1235.6 - Access to records

We respectfully submit that the final rule or its preamble recognize that offsite records may take more time to produce than on-site records. Section 1235.6 sets forth the presumptive access requirements, which are virtually identical to 12 CFR§ 914.3, the access to books and records rule relating to the Federal Home Loan Banks. However, we are concerned that records maintained offsite may be requested during the course of an onsite examination and arguably pursuant to an examination's scope, but that it may be difficult to comply with the one business day presumption contained in the Proposal.

We suggest that the final rule take this situation into account by providing that at least [two] business days will be presumed to be reasonable for the production of offsite records that were not specifically identified as part of the scope of an examination for which the OF otherwise received adequate notice regarding its scope. Alternatively, the preamble to the final rule could refer to the kinds of situations where a longer period would be considered reasonable, including the one identified here.

If you have questions or need clarification with respect to these comments, please feel free to contact me at (703) 467-3640 or fisk@fhfb-of.com.

On behalf of the OF, we appreciate your consideration of these comments.

Sincerely,



John Fisk
Chief Executive Officer