



November 25, 2008

Dana A. Yealy
Managing Director,
General Counsel and
Corporate Secretary

BY FEDERAL EXPRESS AND E-MAIL

Federal Housing Finance Agency
1625 Eye Street, NW
Washington, DC 20006
Attention: Public Comments/RIN 2590-AA03

**RE: Federal Housing Finance Agency Interim Final Rule with Request for Comments:
Federal Home Loan Bank Boards of Directors – Eligibility and Elections**

Ladies and Gentlemen:

The Federal Housing Finance Agency ("FHFA") has issued an interim final rule (the "Rule") with respect to the eligibility and election of Federal Home Loan Bank directors. This letter sets forth the comments of the Federal Home Loan Bank of Pittsburgh (the "Bank") with respect to the Rule and is based on analysis and discussion among the Federal Home Loan Banks ("FHLBanks"). We appreciate the FHFA's effort to expedite its rulemaking on this topic, and we thank you for the opportunity to comment on this important matter.

The Bank shares the FHFA's goal of promoting safety and soundness and believes that the election of qualified and accountable directors is a critical element in achieving that goal. With that shared goal in mind, we offer the following comments for your consideration:

- Bylaws and Public Interest Director Nominating and Election Procedures. The Bank requests the FHFA not require the FHLBanks to include detailed procedures in their bylaws for the nomination and election of public interest directors. The Rule is, effectively, the procedure. Therefore, the statutory requirement for inclusion of such procedures in the FHLBanks' bylaws can be satisfied with a reference to applicable regulations.
- Permit the FHLBank Boards to Establish the Number of Public Interest Directorships. We believe that FHLBank boards are in the best position to identify the skills needed to govern their FHLBank and should possess the flexibility needed to determine that additional expertise beyond the statutorily required number of public interest directors is beneficial. While, a board could only reduce the number of public interest directors as their terms expired, the flexibility to add additional expertise when needed enhances each board's ability to actively manage business challenges with the optimum combination of skills and experience.
- Clarify the Interim Final Rule's Application of the Statutory Term Limitation. The Bank Act, as amended by HERA, limits the service of directors chosen by election to three consecutive full terms; directors are then eligible for re-election two years after the end of the last full term.

- Based on the preamble to the regulation, we understand that the intent of the Rule is to deem existing three-year terms of both member and public interest directors expiring after December 31, 2008 and four-year terms beginning after the effective date of the Act (July 30, 2008) to be full terms. Terms beginning after July 30, 2008 that are shortened to implement staggering are not intended to be full terms; nor are they intended to be gaps in service.

The text of the Rule, however, does not correspond to that intent. Section 1261.4(c)(2)(ii) states, "Any three-year term of office ending immediately before a term of office that is adjusted after July 30, 2008 to a period of fewer than four years and *any term of office commencing immediately following such adjusted term of office* shall constitute consecutive full terms of office" [emphasis added]. The italicized phrase could be read as providing that, a term of office immediately following a shortened term is a full term even though it may be less than a four-year term. In addition, section 1261.4(c)(2)(ii) conflicts with section 1261.4(c)(2)(i) which provides that a term of office that is adjusted after July 30, 2008 to a period of less than four years is not deemed to be a full term. We suggest that the final regulation clarify that a shortened term after July 30, 2008 is not counted as a full term for purposes of calculating and applying the three-consecutive term limit.

Additionally, we suggest that the final regulation confirm, consistent with current practice, that as to any director that serves a partial term to fill a vacancy (for example, a member director that is elected by the Bank's board to fill the unexpired portion of a seat vacated by a director) service in such partial term is not included in the calculation of the three-consecutive term limit.

- Also for consistency in applying the statutory term limitation provision to all classes of directors (including directors previously appointed by the Federal Housing Finance Board) to correspond to the intent stated in the preamble, section 1261.4(c)(2)(iii) should be revised to read, "A three-year term of office existing on or before July 30, 2008 shall be deemed to be a full term." Without such clarification, the Rule does not address the application of the term limitation provision to directors previously appointed by the Federal Housing Finance Board.
- Retain the Consultative Role of the Advisory Council. We believe that individual FHLBank boards should have the flexibility to determine the role of their Advisory Council in selecting public interest directors and should develop a process that best encompasses the role and expertise of their Advisory Council and the fiduciary duties of the board. The form, content, and timing of their Advisory Council's participation will differ depending on the background and experience of the FHLBank's board and its process for identifying nominees and a regulatorily prescribed process may not meet the unique needs of each FHLBank.

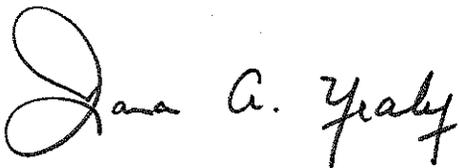
- Deem Existing Public Interest Directors to be Public Interest Directors Under HERA. Each of the Bank's current public interest directors meet HERA's experience requirement, so application of the Rule will not affect the Bank. However, from the perspective of the FHLBank system as a whole, we believe that in the current economic climate, the immediate benefit of board continuity is more important than the benefit derived from replacing an experienced director with an individual that fits the new criteria.
- Retain the Rule Permitting the Board to Nominate a Minimum of One Nominee for Each Public Interest Directorship. This rule should be maintained.
- Clarify that the Board May Immediately Elect a Member Director if the Number of Nominees Is Insufficient. The preamble to the Rule states that the board must wait until January 1 of the year following an election to elect a member director to fill a vacancy resulting from insufficient nominees. However, sections 1261.7(c) and 1261.14(a) conflict with the preamble language by requiring a board to fill vacancies "as soon as practicable after any vacancy occurs." We believe that these sections of the Rule, consistent with the existing regulation in regard to member directors, correctly permit the board to fill such a vacancy immediately, so that the member director can begin service on January 1.
- Do Not Require 20 Percent of Eligible Votes Cast to Elect Public Interest Directors—Require Election Through a Straight Up or Down Vote. The Bank requests that this requirement be revised as follows:
 - FHLBank members will be provided with a slate of eligible directors and given the opportunity to vote "yes" or "no" on each candidate. Nominees receiving a majority of "yes" votes over "no" votes cast are duly elected. Nominees receiving a greater number of "No" votes are thereby defeated.
 - Requiring Election Via the "Up-Down" Vote Process is Consistent with the Bank Act. The meaning of "majority" is well-understood. Applying majority in an up-down vote process would mean that if there are more "no" votes against the nominee than there are "yes" votes, the nominee loses. Alternatively, if there are more "yes" votes for the nominee than "no" votes, the nominee wins. This mechanism is consistent with the HERA "plurality" requirement since winning candidates will have received a plurality of votes cast.
- Clarify the Election Process following Failed Public Interest Director Elections. In the event that a nominee for public interest director failed to win more "yes" votes than "no" votes, the FHLBank would have to conduct a new election. The final regulation should provide a flexible timeframe, allowing the FHLBank to conduct the election in time to seat new directors by January 1 to the extent practical.
- Conflicts of Interest Rules. The Rule creates ambiguity about a director's ability to accept reasonable and customary entertainment and ordinary-course business gifts

by deleting the prior rule's safe harbor for non-substantial gifts. Under the prior rule, prohibited "substantial gifts" are defined as gifts of more than token value, entertainment the cost of which is unreasonable, non-customary and not accepted business practice, and any item or service for which the director pays less than market value. Any gift may have the appearance of influencing a director's actions, but only substantial gifts (as defined in the prior rule) are likely to do so. We believe that the intent of prohibiting inappropriate gifts is better served by adopting a rule with a workable standard, rather than one that will be violated automatically by the acceptance of any gift or entertainment. The Rule also should be revised to permit explicitly member directors' receipt of gifts that are customarily given to other members as such gifts by their nature are not intended to influence a director's actions as a member of the board.

- Technical Changes. The Bank notes the following technical changes for the FHFA's consideration:
 - The Bank requests that section 1261.9(b) of the Rule be clarified to permit individual Advisory Council members to support the candidacy of the Bank's nominees for public interest directorships; as currently written, the Rule implies that only the Advisory Council as a whole may do so.
 - The Bank requests that the last reference to "director" in section 1261.9(b)(1) be expanded to include officers, attorneys, employees and agents of the FHLBanks, so that they too are prohibited from stating that the FHLBank or its board supports the nomination or election of any member director.
 - Section 1261.14(a), like section 7(f)(2) of the Bank Act, could be read to produce an odd result with respect to the application of the provision requiring that any person elected to fill a vacancy must meet the eligibility and qualification requirements applicable to his predecessor in office. The Bank requests that the FHFA clarify the Rule to permit the Bank to fill such vacancies with an officer or director of an institution that is a member at the time of the board's election to fill the vacancy and to apply the four-years' experience requirement to public interest directors elected in this manner by the board.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Dana A. Yealy". The signature is written in a cursive style with a large, looping initial "D".