

March 27, 2011

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

RE: Comments: RIN 2590-AA39

Dear Mr. Pollard:

The Captive Insurance Company Association (CICA) appreciates the opportunity to comment on the advance notice of proposed rulemaking regarding the membership criteria of Federal Home Loan Banks (FHLB).

CICA is a domicile-neutral captive insurance company trade association. Our comments are accordingly limited to the Advance Notice of Proposed Rulemaking's (ANPR) discussion of captive insurance companies and related Question Thirteen. CICA has particular concerns about the proposals that would expand eligibility requirements and impose heightened restrictions on captive insurers that, in essence, would prevent captive insurance companies from attaining FHLB membership.

Degree of Underwriting, Supervision and Examination

Insurance companies are explicitly eligible to become FHLB members under 12 U.S.C. § 1424 (a) (1). CICA is very concerned about the implications in the proposal that captive insurance companies are not actively supervised and that unless they insure third parties, they should not be eligible for membership in the FHLB. With respect to insuring third parties, it is inappropriate for FHFA to discriminate against captive insurance companies based upon who they insure. The FHLB Act permits all insurance companies to become FHLB members and does not contemplate classifications based on insuring third parties.

Regarding active supervision, captives are authorized insurance companies and are substantially regulated in over 30 states and US territories. In fact, many states have staff dedicated solely to supervising and regulating their domiciliary captive insurance companies. The state captive laws contain requirements that should satisfy FHFA's supervisory concerns by addressing:

- Licensing requirements;
- Capital and surplus standards;
- Annual financial reporting requirements;
- Regular insurance department inspections and examinations; and
- Investment restrictions.

Of particular concern is the ANPR's contemplated restriction of captive insurance companies from FHLB membership due to "inadequate supervision." As stated above, captive insurance companies are highly regulated by the state insurance departments, many with staffs who specialize in captive insurance regulation. In some states, such as Vermont, banking regulation and insurance regulation are in the same department. Restricting membership based on cursory supervisory concerns, without more, conflicts with the FHLB statute. In particular, 12 USC § 1428 requires the FHLB Director to periodically conduct examinations of state laws governing institutions permitted to become members of FHLBs. Only if the Director's "examination shall indicate . . . that under the laws of any such State or the regulations or procedures thereunder there would be inadequate protection [may the Director] withhold or limit the operations of any Federal Home Loan Bank in such State *until* satisfactory conditions of law, regulation, or procedure shall be established." (Emphasis added.)

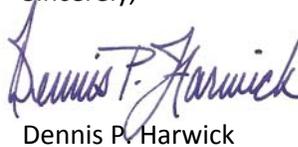
The FHFA is explicitly given the burden of determining if a State's regulatory system governing FHLB member institutions is adequate: "the Director shall establish such examination, all or part of the cost of which may be considered as part of the cost of making advance in such state." The law only permits withholding or limiting the FHLB's operations if, following an examination, the FHFA board determines there are "inadequate protections." Moreover, that determination is only temporary. The withheld or limited operations may only last "until satisfactory conditions of law, regulation, or procedure [are] established."

Bona Fide Involvement in Supporting Housing Finance

CICA supports initiatives that ensure FHLB members engage in activities that enhance housing finance. However, CICA believes the existing requirements that insurance companies, at the time of application for FLHB membership, "have mortgage-related assets that reflect a commitment to housing finance" and "originate or purchase long-term home mortgage loans" are sufficient in their current form. Imposing a continuing requirement beyond this would limit a captive insurance company's ability to adjust its asset base as necessary in the course of its business. Moreover, FHFA has not identified any tangible benefits from, or existing harms that would be remedied by, imposing a continuous obligation. Any rules that impose additional burdens on FHLB members should yield substantial, identifiable benefits and be based on objective facts, not merely subjective views of "sound regulatory policy." The proposed rule would change membership requirements by regulation without a statutory basis.

CICA respectfully requests that the FHFA not adopt the proposed additional membership requirements and the changes that would prevent captive insurance companies from being members of FHLB.

Sincerely,



Dennis P. Harwick
President