

N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

March 28, 2011

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552
RegComments@fhfa.gov

Dear Mr. Pollard:

The nation's conventional lenders play a significant role in financing affordable rental housing in the United States, helping to revitalize low- and moderate-income (LMI) communities, and providing apartments that families are proud to call home. The National Association of Affordable Housing Lenders (NAAHL), a national network of for-profit and non-profit lenders committed to increasing the supply of private capital in underserved areas, appreciates the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) concerning Federal Home Loan Bank (FHLB) membership.

Our vanguard of certified CDFIs range in size from \$1.6 billion in assets to \$150 million; some have applied for, and received CDFI grants, while many others have received the certification, but rely solely on private capital to fund their operations. CDFI investors include banks, public and private pension funds, insurance companies, and faith-based institutions. Our non-profit multifamily mortgage lenders have very successful track records of pooling private capital to finance affordable rental housing. Below are NAAHL's answers to selected questions posed in the ANPR.

1. Should FHFA revise § 1263.10 of its regulations so that an insured depository institution that is subject to the 10 percent residential mortgage loans requirement when it is admitted for membership must also comply with that requirement for the duration of the time that it remains a member?

While a one-time entry threshold is not compatible with the Federal Home Loan Banks' long-standing commitment to a community economic development and affordable housing mission, a residential mortgage loan requirement is not appropriate to all members. FHFA may wish to offer a variety of thresholds including multi-family rental housing, cooperatives and community economic development investments in distressed communities or for projects that hire low-income people. An expanded definition of community financial institution (CFI) is appropriate for institutions that are meeting a community's broader financing needs. That requirement should continue to be met consistently over time, not just at entry. This is especially important now that many financial institutions have merged, been sold or found new leadership.

We cannot continue to assume that every financial institution continues to meet the affordable housing and community economic development needs of a community. The state of many local economies demonstrates that capital is not available.

2. Should FHFA amend §§ 1263.6(b) and 1263.10 of its regulations to subject insurance company and CDFI applicants to the 10 percent residential mortgage loans requirement?

Some CDFIs are wholly focused on multi-family rental housing, small business, health and educational facilities or community economic development projects. Thus, a 10 percent residential mortgage requirement would not be appropriate. Such a requirement should be able to be waived as long as CDFIs meet the community support requirements for CFIs. FHFA should take steps to allow their regulatory treatment as such. Classification of CDFIs as community financial institutions would enhance their ability to access and use FHLBank member services.

Currently, only five CDFI loan funds had been admitted as members into the System. Some FHLBs have not yet considered a single CDFI membership application. The FHFA should direct any changes in the System's partnership with CDFIs toward facilitating CDFIs' participation in the FHLBs' financial services and products, rather than toward revisiting membership regulations.

3. If FHFA does not subject insurance company and CDFI applicants to the 10 percent requirement, should FHFA amend § 1263.6(c) of its regulations, which currently requires all such applicants to have mortgage related assets that reflect a commitment to housing finance, to establish levels of mortgage-related assets that may be deemed to constitute a sufficient commitment to housing finance?

Any Treasury-certified CDFI has strict requirements ensure that it meets the affordable housing and community economic development financing needs of the community. Maintaining the CDFI certification at the CDFI Fund should be all that is needed to demonstrate the commitment to mission-related investing that FHFA seeks.

4. Should FHFA revise § 1263.9 of its regulations to require that an institution that is admitted to membership must comply with the "makes long-term home mortgage loans" requirement both at the time that it is admitted for membership and for the duration of the time that it remains a member?

While a one-time entry threshold is not compatible with the Federal Home Loan Banks' long-standing commitment to a community economic development and affordable housing mission, a residential mortgage loan requirement is not appropriate to all members. FHFA may wish to offer a variety of thresholds including multi-family rental housing, cooperatives and community economic development investments in distressed communities or for projects that hire low-income people. An expanded definition of CFI is appropriate for institutions that are meeting a community's broader financing needs. That requirement should continue to be met consistently over time, not just at entry. This is especially important now that many financial institutions have merged, been sold or found new leadership.

9. Should FHFA revise § 1263.13 of its regulations to require that an institution that is admitted to membership must comply with the "home financing policy" requirement both at the time that it is admitted for membership and for the duration of the time that it remains a member?

While a one-time entry threshold is not compatible with the Federal Home Loan Banks' long-standing commitment to a community economic development and affordable housing mission, a residential mortgage loan requirement is not appropriate to all members. FHFA may wish to offer a variety of thresholds including multi-family rental housing, cooperatives and community economic development investments in distressed communities or for projects that hire low-income people. An expanded definition of CFI is appropriate for institutions that are meeting a community's broader financing needs. That requirement should continue to be met consistently over time, not just at entry. This is especially important now that many financial

institutions have merged, been sold or found new leadership.

14. Should FHFA amend the membership regulations to address the possibility that a member might not comply with, or might later fall out of compliance with, one or more of the new ongoing membership requirements after a transition period has expired, and if so, should FHFA require the Banks to terminate that institution's membership, either with or without a grace period, or should FHFA consider lesser sanctions, such as prohibiting further access to Bank services during a specified grace period, before requiring the Banks to terminate the membership of the noncompliant members?

Financial institutions that do not meet the affordable housing and community economic development needs of their communities should not have the privilege of membership. If they are found to be out of compliance, their membership should be terminated after an appropriate grace period. The grace period should prohibit access to Bank services while the institution works to get back in compliance. However, flexibility should be allowed. For example, if it was the use of advances that resulted in an organization falling out of compliance, not a lack of commitment to affordable housing and community economic development, the organization should not be sanctioned.

15. Should FHFA retain the existing structure of its membership regulations, under which the regulations establish certain standards of "presumptive compliance" and allow an opportunity for institutions that do not meet those standards to rebut the presumption of noncompliance, or should FHFA devise an alternative structure, such as one that incorporates "bright line" tests for each of the various eligibility requirements and does not create presumptions that an institution would be permitted to rebut?

Maintaining the financial standards as a “rebuttable presumption” is critical. At least one new CDFI member of the FHLBank System did not meet the financial ratios on their face, and would not have been able to become a member if not for the “rebuttable” presumptions and the opportunity to provide additional or different indicators of its financial condition.

Conclusion

NAAHL supports regulatory action to strengthen the investments of the members of the FHLBank System in affordable housing and community economic development. This ANPR is a good step to investigate whether the FHLBank System is meeting this goal.

We look forward to working with you to increase the flow of private capital to financing affordable rental housing.

Sincerely,

Judith A. Kennedy
President and CEO



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