Federal Home Loan Bank of New York

November 25, 2014

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA39
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20024

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

Dear Mr. Pollard:

Thank you for the opportunity to submit comments on the notice of proposed rulemaking ("NPR") whereby the Federal Housing Finance Agency (the "FHFA") would revise its regulations governing eligibility for Federal Home Loan Bank membership. The Federal Home Loan Bank of New York ("FHLBNY") has spent a significant amount of time analyzing the NPR. Our main concern is that making access to Federal Home Loan Bank advances and mortgage purchase programs contingent upon ongoing asset tests as currently proposed in the NPR – let alone at potentially higher levels as proffered in the proposed rule – injects "uncertainty of access" to the Federal Home Loan Bank System for reasons that are not clearly defined in the NPR. The NPR states only that the proposed changes are contemplated to avoid the possibility that a member might reduce or eliminate its holdings after becoming a member. Yet no qualitative and very limited quantitative analysis is provided in the NPR to support this assertion. Lacking evidence for such sweeping action, we question the need for this proposal.

The importance of certainty of access to Federal Home Loan Bank liquidity is a central matter – both to our members and to the nation's overall economy. This was demonstrated, for instance, during the financial crisis that began in 2007. In support, we note that a comprehensive Staff Report issued by the Federal Reserve Bank of New York in November 2008 stated that "The FHLB System took the early lead, and it was not until March 2008 that the Federal Reserve became the largest government-sponsored liquidity facility in terms of crisis-related lending to the financial system. Hence, we view the FHLB system as the lender of next to last resort." Altering the Federal Home Loan Bank System's ability to serve "as the lender of next to last resort" might run counter to the future safety and soundness of the financial system. We also note that access to Federal Home Loan Bank advances is something regulators consider when reviewing our members' liquidity positions. Creating uncertainty around this access may negatively affect regulators' views of the liquidity available to our members – especially under newly developing regulatory standards – creating the potential for major safety and soundness issues for the nation's community banking industry.

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Moreover, in imposing a two-tiered continuing membership test, the NPR seems to run counter to decades of legislative actions by Congress aimed at ensuring that our members have reliable access to Federal Home Loan Bank liquidity. Rather than constricting access to the liquidity and credit offered through Federal Home Loan Bank membership, successive Congresses have, in fact, expanded eligibility rules for membership and access to services. For example, in 1989, the Financial Institutions Reform, Recovery and Enforcement Act opened membership in the Federal Home Loan Bank System beyond savings banks, thrifts and insurance companies to other federally insured depository institutions, including eligible commercial banks and credit unions.

Ten years later, the Gramm-Leach-Bliley Act of 1999 expanded the Federal Home Loan Banks' mission by allowing Community Financial Institutions ("CFIs") to pledge small business, agribusiness and agricultural loans as collateral for advances. This Act also lessened the Federal Home Loan Banks' emphasis on housing finance by eliminating (i) the statutory priority for advances to Qualified Thrift Lenders ("QTLs"); (ii) the 30 percent Federal Home Loan Bank Systemwide cap on advances to non-QTL members; and (iii) the advance-based stock purchase requirement for non-QTL members.

Then, nearly a decade after Gramm-Leach-Bliley, the Housing and Economic Recovery Act of 2008 ("HERA") repealed the constricting language on the System's "housing finance mission"; made clear that providing liquidity – without reference to a housing component – was the System's primary mission; and recognized the importance of the Federal Home Loan Banks' mission of providing assistance in affordable housing and community development – including extending membership eligibility to non-depository Community Development Financial Institutions. HERA also raised the asset cap for CFIs from $500 million to $1 billion, and expanded the purposes of long term advances to CFIs, as well as eligible collateral, to include community development activities.

The statutory changes implemented by Congress over the past 25 years described above have expanded the role and mission of the Federal Home Loan Banks from providing funding, primarily to savings and loans and savings banks, to being one of the key sources of collateralized liquidity to virtually every regulated depository institution in the nation. And the 12 Federal Home Loan Banks have met the needs of this expanded role each and every day, through all economic cycles. Membership has grown exponentially, from 3,624 in 1992 to 7,400 member-lenders today. In that same time period, Systemwide advances have grown from $80 billion to $544.6 billion at the end of the third quarter of 2014.

The breadth of the System's membership allows the Federal Home Loan Banks to offer reliable access to credit to virtually every community across the nation. However, the NPR, if adopted as proposed, would force members to continually maintain a certain percentage of their balance sheet in housing-related assets. This requirement could severely undermine the reliability of the Federal Home Loan Banks as sources of liquidity, particularly during times of economic distress. Further, by stipulating that certain levels of mortgage assets are to be held in portfolio, as a cost of membership, a member's ability to manage interest rate risk or negotiate changing market conditions will be diminished.

Further, adoption of the NPR may eliminate a number of existing System members and thereby reduce advances. Such a loss in advances may lead to a decline in System earnings, which may diminish the funding set aside for the Affordable Housing Program – a source of grant funding that countless non-profit agencies across the country have come to rely on to help finance affordable housing initiatives nationwide.

While the Federal Home Loan Banks' support role has expanded, housing is still at the core of the Federal Home Loan Bank System. In this regard, we note that collateralized wholesale advances already ensure mission-aligned lending. When a member takes an advance from its Federal Home Loan Bank cooperative, the member must provide eligible collateral. This collateral-for-liquidity exchange is the very heart of the cooperative structure of the Federal Home Loan Banks. Additionally, each member must hold capital stock sufficient to support its advance activity with its Federal Home Loan Bank. These requirements serve as a self-governing, self-reinforcing mechanism that ensures adherence to the Federal Home Loan Banks' housing finance mission, promotes safety and soundness within each cooperative, requires members to have "skin in the game", and provides the foundation for a strong and stable System.

Each of the 7,400 members of the Federal Home Loan Bank System has made a voluntary decision to belong to a Federal Home Loan Bank. That means that the Federal Home Loan Banks must offer, and continue to provide, a membership value proposition that members perceive as attractive to their institutions. This value is provided in many ways, from the availability of short- and long-term funds at competitive rates, to access to other products that make a community lending institution better able to profitably serve the credit needs of its community, and from the dividends paid on the members' capital stock investment to the Mortgage Partnership Finance® Program, which provides a competitive secondary market alternative for members. But the most significant value each of the 12 Federal Home Loan Banks provides to each of its members is the certain knowledge that Federal Home Loan Bank membership means access to liquidity that is constant and reliable. The NPR, if adopted as proposed, has the potential to fundamentally alter this reliability, and thereby the relationship each Federal Home Loan Bank has with its members and, potentially, the way that members are viewed by their regulators. This would significantly impair the System's ability to advance its Congressionally-mandated mission of providing liquidity to support both the housing finance market and the broader U.S. financial market. Therefore, I respectfully request that the FHFA consider withdrawing the NPR.

Very truly yours,

José R. González

José R. González
President and Chief Executive Officer