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National Association of Federally-Insured Credit Unions

January 31, 2019

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., SW, 8th Floor
Washington, D.C. 20219

RE: Federal Home Loan Bank Housing Goals Amendments (RIN 2590-AA82)

Dear Mr. Pollard:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Federal Housing Finance Agency's (FHFA) proposal to amend the existing Federal Home Loan Bank (FHLB or Bank) housing goals regulation. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 115 million consumers with personal and small business financial service products. Many of NAFCU's member credit unions rely on the FHLBs for liquidity purposes so that they may properly serve the needs of their communities. This includes selling mortgage loans to the FHLBs under the Acquired Member Assets (AMA) programs. Above all, NAFCU wants to ensure that credit unions continue to be able to participate in the AMA programs in a meaningful way, particularly in the new small member participation housing goal. NAFCU supports the overall simplification of the housing goals regulation, as well as the additional flexibility granted to the FHLBs and the phase-in period that the FHFA has provided in the proposal. However, NAFCU wants to ensure that the changes do not reduce the FHLBs' ability to purchase mortgages. As such, NAFCU recommends that the FHFA set initial housing goal targets so that all FHLBs are in compliance from the start, and then incrementally increase the targets as appropriate. NAFCU would also like to see more data on the overall mortgage market to better understand the justification for the thresholds in the proposal.

General Comments

Section 10C(a) of the *Federal Home Loan Bank Act* (Bank Act) requires the Director of the FHFA to "establish housing goals with respect to the purchase of mortgages, if any, by the [Banks]" and section 10C(b) requires those goals to be consistent with the housing goals established by the FHFA for Fannie Mae and Freddie Mac, while also taking into account the unique structure of the FHLBs. The existing FHLB housing goals regulation, which has been in effect since 2011, only applies to FHLBs whose AMA purchases exceed a volume threshold of $2.5 billion in a given year. For those FHLBs that exceed the threshold, there are three separate goals for single-family owner-occupied purchase money mortgages, which are for: (1) low-income families, (2) families in low-income areas, and (3) very low-income families. There is also a goal for single-family refinancing mortgages for low-income families. Currently, goal levels are set retrospectively using

Home Mortgage Disclosure Act (HMDA) data to calculate the percentage of originations in a FHLB's district in each category. A FHLB meets the performance goals if the percentage share of its AMA mortgage purchases matches or exceeds the percentage of that category of mortgages originated in its district, as measured by HMDA data.

The FHFA's proposal aims to streamline the FHLB housing goals by replacing the separate goals with a single, overall measurement of performance. Under the proposed rule, which would apply to all single-family, first lien AMA mortgages purchased by a FHLB, 20 percent of mortgage purchases would need to be for low- or very low-income borrowers, or borrowers living in low-income areas. In addition, no more than 25 percent of the loans counted towards this goal could be mortgages for higher-income borrowers in low-income areas. Furthermore, the proposal establishes an entirely new goal requiring small members to be at least 50 percent of participants in a FHLB's AMA program, where small members are Community Financial Institutions (CFIs) as defined by the Bank Act. For both goals, a FHLB would be able to request FHFA approval for a different target level. Finally, the proposal would eliminate the $2.5 billion threshold for housing goals applicability, so the goals would apply to all FHLBs with AMA mortgage purchases.

Overall, NAFCU supports the FHFA's efforts to simplify and streamline the housing goals regulation, as well as to provide flexibility to the FHLBs and a three-year phase-in period. The FHLBs play an important role in supporting affordable home lending, but more can and should be done to encourage it. As the FHFA noted in its proposal, the $2.5 billion threshold for applicability of the affordable housing goals has, in effect, operated as an upper limit on FHLB AMA programs. Since the current rules were implemented, a FHLB has only exceeded the threshold three times and consequently been subject to the goals. NAFCU supports the elimination of the threshold and applicability of the new affordable housing goals to all FHLBs with AMA programs; however, as a corollary, NAFCU supports gradual, phased-in goals that do not hamper the FHLBs' ability to purchase mortgages in the first place.

Credit unions play an important role in providing affordable home lending to their communities, and many rely on the FHLBs to provide liquidity through purchasing some of their mortgages. From 2006 to 2017, the quantity of credit unions at the FHLBs increased by 53% and now make up nearly a fifth of all FHLB members. Accordingly, credit unions need certainty that the FHLBs will continue to purchase their mortgage loans. Making the new housing goals applicable to all FHLB AMA programs, regardless of volume, does nothing to support affordable housing if the unintended consequence is FHLBs decreasing or ceasing mortgage purchases altogether. As such, NAFCU recommends that the FHFA set goals for affordable housing and small member participation such that all FHLBs are in compliance from the effective date. Following the initial three-year period at these lower levels, the FHFA could determine reasonable levels at which to set the goals, and proceed in an incremental manner. NAFCU strongly believes it is worthwhile to see what impact the lifting of the $2.5 billion threshold has on the volume of FHLB AMA mortgage purchases, including any changes to the percent of loans meeting the prospective mortgage purchasing goal, before setting aspirational affordable housing goals.

Prospective Mortgage Purchase Housing Goal

NAFCU supports the simplification of the affordable housing goals from four separate metrics to a single overall goal. Considering the unique characteristics of each FHLB district, this allows the FHLBs the flexibility to meet the affordable housing goals in a way that makes the most sense for their district. Furthermore, NAFCU supports setting a prospective target, rather than determining goals retrospectively with HMDA data. Although using HMDA data has the benefit of setting goals customized for each district, such a backward-looking approach is ineffective in incentivizing more affordable housing activity. A prospective target would allow the FHLBs to proactively work towards meeting the mortgage purchase housing goal. Furthermore, the change from four metrics to one unified goal would allow the FHLBs the flexibility to adapt their approach based on the needs of their districts.

As for the appropriate level at which to set the prospective mortgage purchase housing goal, as previously indicated, NAFCU strongly supports setting a goal for the initial three-year period at a level such that all FHLBs are in compliance from the regulation's effective date. Even though the FHFA's proposed rule does provide for a phased-in approach, whereby in the first two years of the rule being in effect, the FHLBs would be notified by the FHFA as to whether they are meeting the goal, but would not be required to produce a housing plan, the Banks would still be subject to supervisory criticism and would need to focus on meeting the 20 percent goal. By setting a goal that all FHLBs already meet, along with providing for a phased-in approach, the FHLBs could focus on building the volume of their AMA mortgage purchases overall without fear of inadvertently violating the regulation. At the end of the initial three-year period, the FHFA could evaluate the data and set a new incremental goal. Although the proposal provides for a means by which the FHLBs may submit an alternate goal for FHFA approval, a provision which NAFCU supports, NAFCU still believes it is beneficial to set a uniformly lower target to start in order to fully assess the impact of lifting the functional $2.5 billion cap on FHLB AMA programs.

Regarding the prospective mortgage purchase housing goal for the purchase and refinance of loans to low-income borrowers, very low-income borrowers, and families in low-income areas, NAFCU is generally supportive but is concerned that this may increase burdens on credit unions. Although credit unions work to provide exceptional financial services to all of their members, the *Federal Credit Union Act* establishes defined fields of membership, which limit the scope of localities and persons a credit union may serve. As the FHLBs work to meet this low-income housing goal, they would necessarily pass along the burden of compliance to Participating Financial Institutions (PFIs), which would create difficulties for credit unions. Even though NAFCU wants to ensure that credit unions continue to participate in the AMA programs in a meaningful way, if all PFIs must individually meet the prospective mortgage purchase housing goal, some credit unions might not be able to participate. NAFCU asks that the FHFA more closely consider the potential negative impacts of this housing goal on community-based financial institutions like credit unions, who are already committed to serving the underbanked.

Finally, NAFCU understands the FHFA's reasoning in limiting the number of mortgages from high-income families in low-income areas that count toward the affordable housing goals, as it helps to balance the benefit from investing in communities that have lacked consistent homeownership investment with the potential impact of high-income households on existing residents of low-income areas. However, NAFCU questions the FHFA's reasoning in setting a 25 percent cap on how much of the overall affordable housing goal target can be met by these loans. In the proposal, the FHFA notes that this is a growing segment of loans in low-income areas, accounting for 33.4 percent of all borrowers in low-income areas in 2016. But, the FHFA does not provide data on the impact of these mortgages on low-income areas. NAFCU would like to see further analysis of the impact of these investments, and further rationale of the 25 percent cap. As presented in the proposal, the 25 percent cap seems arbitrary and requires additional justification.

New Housing Goal for Small Member Participation

NAFCU applauds the FHFA for recognizing the importance of encouraging small member participation in the AMA programs, but cautions the agency to ensure that credit unions are, in fact, included in the small member participation housing goal. Under the Bank Act, a CFI is defined as an institution with deposits insured under the *Federal Deposit Insurance Act* **and** total assets less than the CFI asset cap, which is currently $1.173 billion. NAFCU is optimistic that the FHFA did not intend to exclude credit unions as 5,185 credit unions, or 95 percent of the credit union industry, have assets under $1.173 billion. NAFCU strongly urges the FHFA to clarify that this proposed new housing goal does not exclude credit unions. If the FHFA did intend to exclude credit unions from this new housing goal, then NAFCU must vehemently oppose this portion of the rule.

Credit unions should be included in the proposed rule because they provide vital financial services, including mortgages, to underserved low-income communities. Based on FHLB data, close to 200 credit unions delivered a loan through the Mortgage Partnership Finance (MPF) Program, one of the two AMA programs, in 2017 or 2018. This amounts to 20 percent of PFIs in the MPF Program. NAFCU wants to ensure that these credit unions continue to have access to the FHLB AMA programs, allowing them to actively participate in the secondary market through the MPF program as well as free up more capital to further serve their communities. NAFCU also recognizes that a substantial number of smaller credit unions are not currently participating in the AMA programs and, therefore, strongly supports efforts to improve outreach and encourage increased participation. It is unclear that the FHFA's proposed 50 percent target for small member participation is the best way to achieve this aim.

NAFCU would like to better understand the FHFA's proposed 50 percent target for small member participation. Although nine of the eleven Banks are already above the 50 percent target, and the FHFA would allow the other two Banks to comply by increasing the percentage of small member participants by 300 basis points each year until reaching 50 percent, NAFCU would still like to see further data on the market as a whole. NAFCU suggests that the FHFA provide additional background on trends in the mortgage market, including overall small member participation in the market, so as to better justify this target.

Additionally, NAFCU suggests the FHFA encourage FHLB outreach to its small members through means other than a quantifiable small member participation goal. NAFCU expects that lifting the $2.5 billion threshold will result in not only more AMA mortgage purchases by the FHLBs, but also more small member participants and more participants overall. NAFCU's concern with a set percentage small member participation goal is that it may force the FHLBs to actually turn away non-small member participants due to concerns about meeting the goal. To that end, NAFCU suggests the FHFA delay setting an aspirational small member participation goal for the initial three-year period so that the FHFA can fully assess the impact of lifting the threshold on small member participation in both absolute and percentage terms.

Conclusion

NAFCU appreciates the opportunity to provide comments on this proposal to amend the FHLB housing goals. Above all, NAFCU wants to ensure that any changes to the goals do not deter the FHLBs from purchasing credit union mortgages and thus allowing credit unions to continue to provide exceptional, consumer-friendly financial services to their communities. If you have any questions or concerns, please do not hesitate to contact me or Sarah Jacobs, NAFCU's Regulatory and Legislative Assistant, at (703) 842-2231 or sjacobs@nafcu.org.

Sincerely,

Ann C. Kossachev

Ann Kossachev
Director of Regulatory Affairs