

November 11, 2016

The Honorable Melvin L. Watt
Director
Federal Housing Finance Agency
500 7th Street, SW
Washington, DC 20024

Dear Director Watt:

We are writing to express our significant concerns with the final rule issued by the Federal Housing Finance Agency (“FHFA”) amending its regulation on Federal Home Loan Bank (“FHLB”) membership eligibility. As you know, the final rule, among other things, prohibits all captive insurance companies from membership in the FHLB System (the “System”). The rule also limits or altogether bars captive insurance companies that are currently members from taking new advances and establishes an expedited timeline by which they are forced to exit the System. This rule has had a clear, negative impact on these companies and the communities they serve, as well as residential home financing and development across the broader housing market.

The Federal Home Loan Bank Act (the “Act”) affords membership in the System to insurance companies of all types, consistent with the long-standing congressional intent to broaden the FHLB’s positive impact on the housing markets in their regions. Captive insurance companies have long been recognized as successful risk management vehicles and are themselves chartered as insurance companies under State law. That is why captive insurance companies have for more than two decades functioned as valuable members of the System. Their membership has been a stabilizing force in the housing finance market and created a reliable source of capital for promoting residential lending and development across the country.

Understanding the contribution that captive insurance companies have made toward advancing the mission of the System and the clear wording of the Act, we believe that FHFA should take a more tailored approach to addressing any concerns regarding their membership. In fact, in recent years, many captive insurance companies that became members in the System were required by the FHLB to evince the captive’s affiliation with a business that advances the mission of the System. Through more fine-tuned regulations, FHFA can institute eligibility criteria and safeguards whereby only captive insurance companies that are advancing the mission of the System and do not pose a risk to its financial wellbeing would continue to be eligible for membership. A similar approach is currently underway for uninsured credit unions.

However, we understand that FHFA has largely left this task to Congress, which has responded by working in a bipartisan fashion toward that end. In light of the unique legislative calendar during this election year, it is important that FHFA err on the side of caution when interpreting the Act and modifying membership eligibility. FHLB access for captive insurers active in the housing market mitigates risk and encourages investment in communities, and their positive impact should not be undone until Congress has had adequate time to fully weigh the issue. At the very least, we would encourage FHFA to mitigate the impact of the sudden withdrawal of

liquidity by providing for an extended transition period and the opportunity to continue accessing FHLB funding during the transition. We have already seen captive members halt hundreds of millions of dollars in investment as a result of the final rule and such a change in the regulation will prevent further burdening the residential housing market while providing Congress adequate time to consider an appropriate legislative remedy.

Since its creation more than 80 years ago, the System has been a stabilizing force in the housing finance market, providing a reliable source of capital for lenders and investors. Throughout this time, Congress has repeatedly retained for itself the authority to determine the scope and nature of eligibility for membership in the System. FHFA should allow Congress adequate time to consider legislation in light of FHFA's final rule so that we can continue to foster a stable, liquid, resilient national housing market.

Sincerely,

Habitat for Humanity International
Mortgage Bankers Association
National Association of Home Builders
National Association of Real Estate Investment Trusts
National Association of Realtors
Real Estate Board of New York
The Real Estate Roundtable



cc: All Members, House Committee on Financial Services
All Member, Senate Committee on Banking, Housing and Urban Development