

**FEDERAL ELECTION COMMISSION**

[Notice 2013–14]

**Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission****AGENCY:** Federal Election Commission.**ACTION:** Policy statement.

**SUMMARY:** The Federal Election Commission (“Commission”) adopted a program on August 1, 2011, providing for a means by which persons and entities may have a legal question considered by the Commission earlier in both the report review process and the audit process. This new policy is identical to that August 1, 2011 program, except that it provides an alternative electronic means to file a request with the Commission.

**DATES:** Effective October 23, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lorenzo Holloway, Assistant General Counsel, or Margaret Forman, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** On August 1, 2011, the Commission adopted a program providing for a means by which persons and entities may have a legal question considered by the Commission earlier in both the report review process and the audit process. Specifically, when the Office of Compliance (“OC”) (which includes the Reports Analysis Division and the Audit Division) requests that a person or entity take corrective action during the report review or audit process, if the person or entity disagrees with the request based upon a material dispute on a question of law, the person or entity may seek Commission consideration of the issue pursuant to this procedure. This Commission is now revising this program. As revised, the program is identical to that August 1, 2011 program, except that it provides alternative means to file a request with the Commission. This change was made to address and clarify timeliness issues due to delays in the processing and receipt of requests mailed to the Commission, by encouraging requests to be filed electronically by email. Processing delays can result in an untimely submission of a request under the program. Persons and entities making such a request may not be aware that these processing delays can occur when documents are sent via first class mail to a federal government agency. The policy statement regarding this program is reprinted in its entirety, below. It includes the revisions outlined

above, which appear in the third paragraph of the “Procedures” section, below.

**I. Procedures**

Within 15 business days of a determination by the Reports Analysis Division or Audit Division that a person or entity remains obligated to take corrective action to resolve an issue that has arisen during the report review or audit process, the person or entity may seek Commission consideration if a material dispute on a question of law exists with respect to the recommended corrective action.<sup>1</sup> A “determination” for purposes of triggering the 15 business days is either: (1) Notification to the person or entity of legal guidance prepared by the Office of General Counsel (“OGC”) at the request of the Reports Analysis Division recommending the corrective action; or (2) the end of the Committee’s Audit Exit Conference response period.

Any request for consideration by a Committee during the report review process or the audit process shall be limited to questions of law on material issues, when: (1) The legal issue is novel, complex, or pertains to an unsettled question of law; (2) there has been intervening legislation, rulemaking, or litigation since the Commission last considered the issue; or (3) the request to take corrective action is contrary to or otherwise inconsistent with prior Commission matters dealing with the same issue. The request must specify the question of law at issue and why it is subject to Commission consideration. It should discuss, when appropriate, prior Commission matters raising the same issue, relevant court decisions, and any other analysis of the issue that may assist the Commission in its decision making. The Commission will not consider factual disputes under this procedure, and any requests for consideration other than on questions of law on material issues will not be granted.

All requests, including any extension requests, must be received by the Commission within 15 business days of the determination of corrective action. All requests should be directed to the attention of the Commission Secretary. Requestors may submit requests electronically via email to [LegalRequestProgram@fec.gov](mailto:LegalRequestProgram@fec.gov). Requestors are encouraged to submit comments electronically to ensure

<sup>1</sup> Many disputes involving corrective action requests hinge on questions of fact rather than questions of law, and thus are not appropriate for this procedure.

timely receipt and consideration. Alternatively, requests may be submitted in paper form. Paper requests must be sent to the Federal Election Commission, Attn.: Commission Secretary, 999 E Street NW., Washington, DC, 20463. Upon receipt of a request, the Commission Secretary shall forward a copy of any request to each Commissioner, the General Counsel, and the Staff Director.

Any request for an extension of time to file will be considered on a case-by-case basis and will only be granted if good cause is shown, and the Commission approves the extension request by four affirmative votes within five business days of receipt of the extension request. Within five business days of notification to the Commissioners of a request for consideration of a legal question, if two or more Commissioners agree that the Commission should consider the request, OGC will prepare a recommendation and, within 15 business days thereafter, circulate the recommendation in accordance with all applicable Commission directives.

After the recommendation is circulated for a Commission vote, in the event of an objection, the matter shall be automatically placed on the next meeting agenda consistent with the Sunshine Act, 5 U.S.C. 552b(g), and applicable Commission regulations, 11 CFR part 2. However, if within 60 business days of the filing of a request for consideration, the Commission has not resolved the issue or provided guidance on how to proceed with the matter by the affirmative vote of four or more Commissioners, the OC may proceed with the matter. After the 60 business days has elapsed, any requestor will be provided a copy of OGC’s recommendation memorandum and an accompanying vote certification, or if no such certification exists, a cover page stating the disposition of the memoranda. Confidential information will be redacted as necessary.

After the request review process has concluded, or a Final Audit Report has been approved, a copy of the request for consideration, as well as the recommendation memorandum and accompanying vote certification or disposition memorandum, will be placed with the Committee’s filings or audit documents on the Commission’s Web site within 30 days. These materials will also be placed on the Commission’s Web page dedicated to legal questions considered by the Commission under this program.

This procedure is not intended to circumvent or supplant the Advisory Opinion process provided under 2

U.S.C. 437f and 11 CFR part 112. Accordingly, any legal issues that qualify for consideration under the Advisory Opinion process are not appropriate for consideration under this new procedure. Additionally, this policy statement does not supersede the procedures regarding eligibility and entitlement to public funds set forth in Commission Directive 24 and 11 CFR 9005.1, 9033.4, 9033.6 or 9033.10.

## II. Annual Review

No later than July 1 of each year, the OC and OGC shall jointly prepare and distribute to the Commission a written report containing a summary of the requests made under the program over the previous year and a summary of the Commission's consideration of those requests and any action taken thereon. The annual report shall also include the Chief Compliance Officer's and the General Counsel's assessment of whether, and to what extent, the program has promoted efficiency and fairness in both the Commission's report review process and in the audit process, as well as their recommendations, if any, for modifications to the program.

The Commission may terminate or modify this program through additional policy statements at any time by an affirmative vote of four of its members.

On behalf of the Commission,

Dated: September 30, 2013.

**Ellen L. Weintraub,**

*Chair, Federal Election Commission.*

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## FEDERAL HOUSING FINANCE AGENCY

[No. 2013-N-12]

### Proposed Collection; Comment Request

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** 30-day Notice of Submission of Information Collection for Approval from the Office of Management and Budget.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is seeking public comments concerning the information collection known as "Capital Requirements for the Federal Home Loan Banks," which has been assigned control number 2590-0002 by the Office of Management and Budget (OMB). FHFA will submit the information collection to OMB for

review and approval of a three-year extension of the control number, which is due to expire on October 31, 2013.

**DATES:** Interested persons may submit comments on or before November 22, 2013.

*Comments:* Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: 202-395-6974, Email: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov). Please also submit comments to FHFA using any one of the following methods:

- *Email:* [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov). Please include Proposed Collection; Comment Request: "Capital Requirements for the Federal Home Loan Banks, (No. 2013-N-12)" in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal*, please also send it by email to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by the agency.

- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024, ATTENTION: Public Comments/Proposed Collection; Comment Request: "Capital Requirements for the Federal Home Loan Banks, (No. 2013-N-12)."

We will post all public comments we receive without change, including any personal information you provide, such as your name, address, email address, and telephone number, on the FHFA Web site at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at 202-649-3804.

**FOR FURTHER INFORMATION CONTACT:** Jonathan F. Curtis, Financial Analyst, Division of Federal Home Loan Bank Regulation, at 202-649-3321 (not a toll free number), [Jonathan.Curtis@fhfa.gov](mailto:Jonathan.Curtis@fhfa.gov), or by regular mail at the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is 800-877-8339.

### SUPPLEMENTARY INFORMATION:

## A. Need For and Use of the Information Collection

Each of the twelve regional Federal Home Loan Banks (Banks) is structured as a member-owned cooperative. An institution that is eligible for membership in a particular Bank must purchase and hold a prescribed minimum amount of the Bank's capital stock in order to become and remain a member of that Bank.<sup>1</sup> With few exceptions, only an institution that is a member of a Bank may obtain access to secured loans, known as advances, or other products provided by that Bank.

Section 6 of the Federal Home Loan Bank Act (Bank Act) establishes the capital structure for the Banks and requires FHFA to issue regulations prescribing uniform capital standards applicable to all of the Banks.<sup>2</sup> These implementing regulations are set forth in 12 CFR parts 930, 931, 932, and 933: part 930 contains definitions applicable to the capital regulations; part 931 establishes the requirements for the Banks' capital stock; part 932 establishes risk-based and total capital requirements for the Banks; and part 933 sets forth the requirements for the Banks' "capital structure plans" under which each Bank establishes its own capital structure within the parameters of the statute and FHFA's implementing regulations.

Both the Bank Act and FHFA's regulations state that a Bank's capital structure plan must require its members to maintain a minimum investment in the Bank's capital stock, which is to be determined for each member in a manner prescribed by the board of directors of the Bank and reflected in the Bank's capital structure plan.<sup>3</sup> Although each Bank's capital structure plan establishes a slightly different method for calculating the required minimum stock investment for its members, each Bank's method is tied to some degree to both the level of assets held by the member institution (typically referred to as a "membership stock purchase requirement") and the amount of advances or other business engaged in between the member and the Bank (typically referred to as an "activity-based stock purchase requirement").

The Banks use this information collection to determine the amount of capital stock a member must purchase to maintain membership in and to obtain services from the Bank under its capital structure plan, and to confirm that its members are complying with the

<sup>1</sup> See 12 U.S.C. 1426(c)(1); 12 CFR 931.3, 1263.20.

<sup>2</sup> See 12 U.S.C. 1426.

<sup>3</sup> See 12 U.S.C. 1426(c)(1); 12 CFR 933.2(a).