

Federal Housing Finance Board

Memorandum

July 22, 1991

TO: J. Stephen Britt
Executive Director

FROM: Beth L. Climo
General Counsel

SUBJECT: Cash Collateral For Letters of Credit

You have asked us to address the issue of whether cash may be used as collateral for standby letters of credit.

ISSUE: Whether standby letters of credit issued by a FHLBank on behalf of a member may be collateralized with cash rather than mortgages.

CONCLUSION: A FHLBank may accept cash placed on deposit with the FHLBank as collateral for standby letters of credit.

DISCUSSION:

The Federal Home Loan Banks' ("FHLBanks") existing authority to issue standby letters of credit is derived from their lending authority.¹ Since standby letters of credit are considered the functional equivalent of advances, the parameters of the FHLBanks' authority to issue standby letters of credit may be only as broad as their advances authority. Thus, standby letters of credit may only be secured by assets that are considered eligible collateral for advances.

Section 714 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") amended section 10(a) of the Federal Home Loan Bank Act ("Bank Act").² The section now enumerates four categories of eligible collateral for advances. The four categories consist of low risk assets: (1) current first residential mortgage loans and securities representing a whole interest in such loans; (2) marketable Federal agency securities; (3) deposits at a FHLBank; and (4) a limited basket of other real estate-related collateral that is sufficiently liquid to have a

1. See Opin. Gen. Couns., FHLBB, (May 27, 1983) and Opin. Gen. Couns. Finance Board, (May 3, 1991).

2. Rub. L. No. 101-73, 103 Stat. 183 (August 9, 1989).

readily ascertainable value.³ Thus, a FHLBank member may place cash on deposit with a FHLBank, which may be used by the FHLBank as collateral for advances. Since deposits with a FHLBank are eligible collateral for advances, they also may be used as collateral for standby letters of credit, which are the functional equivalent of advances.

In sum, it is our opinion that a FHLBank may accept cash from a member as collateral for standby letters of credit issued by the FHLBank on behalf of such member, as long as such cash is placed on deposit with the FHLBank.


Beth L. Climo
General Counsel

3. Specifically, the four categories of eligible collateral for advances under section 10(a) of the Bank Act are:

(1) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages;

(2) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Corporation).

(3) Deposits of a Federal Home Loan Bank.

(4) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral. The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.

12 U.S.C.A. § 1430(a)(1-4) (West Supp.)