American Bankers Association

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SENT VIA ELECTRONIC MAIL

July 15, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

Re: Federal Home Loan Bank Mission RFI (https://www.fhfa.gov/sites/default/files/2024-05/FHLBank-Mission-RFI-2024.pdf)

Dear Director Thompson

The American Bankers Association[1] and the undersigned state bankers' associations are pleased to offer comments on the Request for Input published by the Federal Housing Finance Agency (FHFA) regarding the Federal Home Loan Banks' Core Mission Activities and Mission Achievement.

We continue to welcome the thoughtful and inclusive process that FHFA has followed since announcing the Comprehensive Review of the Federal Home Loan Banks. The multiple opportunities for stakeholders to engage should promote understanding among interested parties about the strengths of the FHLB System and encourage feedback on potential areas for improvement and innovation. In particular, we believe that this request for input (RFI), as well as the recently published RFI regarding the Affordable Housing Program (AHP) will help to guide FHFA to the right approaches toward rulemaking and other policy changes.

As noted by FHFA, the RFI is an outgrowth of the Comprehensive Review of the Federal Home Loan Banks conducted in 2023. The RFI reviews the statutory background and regulatory provisions in FHFA's Core Mission Activities (CMA) regulation related to the mission of the FHLBanks, and it requests input on updates to the mission statement, methods for measuring and evaluating mission achievement, and financial incentives for members with a strong and demonstrable connection to the mission of the FHLBank System.

While we do not take issue with FHFA's authority to review and update regulations (either those promulgated by the FHFA or a predecessor agency), we caution that any regulatory agency, including FHFA, must remain within boundaries set by statute. A troubling aspect of the FHFA's comprehensive review of the FHLBs was the premise, asserted frequently, that it was the first comprehensive review of the FHLBs since the founding of the System in

[1] The American Bankers Association is the voice of the nation's $24 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $19 trillion in deposits and extend $12.4 trillion in loans.

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1932. That assertion ignores the fact that there have been numerous legislative and regulatory changes to the System over its 92 years of operation.

It is important to recognize that the evolution of the System has been the result of statutory changes mandated by Congress. The RFI, in contrast, appears to contemplate significant regulatory action not undertaken at Congress' direction. FHFA correctly notes that the current regulations related to mission were codified under the Core Mission Activities regulation in 2000.[2] Those regulatory changes were undertaken to implement changes mandated by statute in the Federal Home Loan Bank System Modernization Act which was included as Title VI of the Financial Services Modernization Act of 1999, also known as the Gramm-Leach-Bliley Act.[3] While FHFA has authority to update regulation and ensure mission adherence, if FHFA believes that changes need to be made to the mission of the FHLBs, the agency can make recommendations to Congress for legislative changes, but absent such action by Congress, the agency should not seek to effectuate changes to the FHLBs mission. With that caution, we offer the following answers to select questions posed in the RFI. We hope that these are helpful to FHFA in charting a productive path forward.

Mission Statement for the FHLBank System

Mission Question 1. How should the mission statement for the FHLBanks reflect the connection between the liquidity provided by the FHLBanks and their support for housing and community development?

While the FHLBs have a dual mission to provide liquidity and support affordable housing, it is the provision of liquidity that makes it possible to meet the affordable housing mission. Greater demand for advances increases income to the Banks and increases their capacity to support housing and community development. FHLBank liquidity and products enable member banks to offer more credit at a lower cost to their customers, including competitively priced mortgages, as well as funding for other community and economic development projects.

Congress has mandated that the Banks contribute ten percent of their net income to affordable housing programs, and the Banks have voluntarily increased that contribution to fifteen percent. While the FHFA may wish to incentivize the FHLBs to make greater contributions or to undertake efforts to increase income to increase the amounts that constitute the voluntary fifteen percent of income, such efforts must be undertaken with caution if at all. Incentives should not skew the System in ways that might put some members or FHLBs at a disadvantage to others or incentivize the Banks to undertake actions that jeopardize safety and soundness in an effort to increase income. The FHFA's stated interest in increasing the FHLBs' efforts toward affordable housing should not come

[2] *See* 65 FR 25267 (May 1, 2000) and 65 FR 43969, 43981 (July 17, 2000).
[3] Pub. L. 106–102, title VI, §601

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at the expense of any individual member's ability to access FHLB liquidity as long as they meet the collateral and membership requirements.

We commend FHFA for the recent additional Request for Input on improvements to the processes for FHLB members and project sponsors to apply for Affordable Housing Program (AHP) funding. Improvements to processes and refinement to proven (and clearly authorized) programs will yield better outcomes than seeking to redefine the mission of the FHLBs or to tilt the focus of the FHLBs away from their primary liquidity function.

Mission Question 2. Are there components in addition to providing liquidity and supporting housing and community development that should be included in the mission statement?

No. The dual mission of the FHLBs is clear: to provide liquidity and to support housing and community development as delineated in statute. It is not the role of the regulator to add elements or components.

Measurement of Mission Achievement

Measurement Question 1. Are there characteristics other than those listed on pp. 9-10 that FHFA should consider in developing measures of mission achievement? Please provide the rationale for consideration of any other characteristics.

We believe the existing characteristics are sufficient, but FHFA should consider any input from the FHLBs when considering potential updates. Under no circumstances should any metrics developed by FHFA impose reporting requirements on FHLB members or lead to a restriction on advances to members. Neither the FHFA nor the FHLBs should become de facto additional regulators for FHLB members by imposing reporting requirements tied to use of the System. In no way should any metrics that are developed involve tracking advances. The existing requirement for eligible collateral to continue to borrow ensures that advances are used for mission related purposes.

Measurement Question 3. In developing multiple measurements, what additional aspects of mission achievement should FHFA assess? What additional measurements should FHFA adopt to assess support for housing and community development, including support for lower income households or other groups with identified needs?

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FHFA should prioritize the underlying purpose of the FHLB System – the provision of liquidity to member institutions. Additional metrics should not encourage, incentivize, or adversely impact FHLB's ability to meet that core mission of providing reliable liquidity to member institutions. Within the boundaries of a proper framework that does not impose reporting or tracking requirements, and which ensures that all FHLB members are able to access liquidity and programs on an equitable basis, measurements that recognize and reward the fundamental role that small institutions play in sustaining and developing communities should be considered. Elements to be included in such a measurement might include information on the number of other institutions serving a particular community and publicly available information on the member's activity in that community, such as a CRA rating. In any event, no additional reporting requirements should be imposed beyond what is already publicly available.

a. Should some core mission activities be weighted differently from others? For example, in assessing support for housing and community development, should advances or other activities involving members with a stronger mission focus be given greater weight?

We strongly oppose differentiating among members' activities through weighting of core activities. Members have different needs reflecting their individual markets, community and customer needs. Eligible members should not be treated differently and eligible activities should not be weighed differently. Doing so would run counter to the primary function of the FHLBs to provide liquidity to all eligible members. So long as members have collateral to support their borrowing from the System, they should be able to borrow on equitable terms. Distinctions should not be made based upon a "focus" that is arbitrarily determined by FHFA.

b. Should all FHLBank advances count as core mission activities, or should there be limits or exclusions for advances (or other activity) involving members that have only a limited connection to housing and community development? How might this be measured? Should the type of collateral securing an advance be considered in evaluating advances? (Alternatively, this type of approach could be used for calculating one or more additional measurements.)

FHFA should not treat members differently or make artificial distinctions among members. All eligible members should be treated equally. The existing requirement that members have eligible collateral to pledge for advances is an elegant and effective measure of mission adherence. If a member does not lend for mission related purposes, they will have less eligible collateral to pledge for further borrowing. Limiting or excluding advances to eligible members with collateral to back their borrowing would be an improper exercise of power by the regulator that would run counter to the statute.

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c. How should an FHLBank's AHP contributions that exceed the statutorily required minimum or voluntary program contributions be reflected in the mission achievement measures?

While we do not dispute that contributions that exceed the statutory minimums are laudatory, we are concerned that developing metrics to reward excess contributions may lead to ever increasing expectations from the FHFA that the FHLBs continue to increase their "voluntary" contributions. This risks shifting the focus away from the main liquidity mission of the System or incentivizing the FHLBs to take greater risk to the detriment of safety and soundness to increase income to further their contribution levels.

Measurement Question 4. As discussed in the System at 100 Report, the FHLBanks receive certain advantages from their status as GSEs. Another approach to assessing mission achievement could tie measurement to the value of GSE status. If FHFA were to pursue this approach, how might the value of the GSE status be measured and how should mission achievement be compared to that value?

We oppose this concept. The FHLBs (as well as Fannie Mae and Freddie Mac) were granted their GSE status through statute. It does not need to be valued by the regulator. The FHFA's role is to ensure that the GSEs are safely and soundly carrying out the roles assigned to them, not valuing their worth. That is a determination for Congress to make and which can be addressed through statutory changes if the value is found wanting. We also note that applying such a concept to the FHLBs without applying something similar to Fannie and Freddie could create an unlevel playing field. Furthermore, we do not believe that the FHFA's report adequately captures or articulates the full benefits of the FHLB System to the taxpayer. The aggregate sum of dividends, the value of the FHLBs to act as a "circuit breaker" in times of financial stress, and the value of the stability to the broader financial system that the FHLBs provide even in times of stress all give significant value to the taxpayer. These are not reflected or acknowledged by FHFA.

Member Incentive Program

Member Incentive Program Question 1. What factors should FHFA and the FHLBanks consider in determining each member's commitment to housing finance and community development under a member incentive program?

FHFA needs to provide more detail on why additional incentive programs would be needed or are justified from a public policy standpoint. The Affordable Housing Program (AHP) is a Congressionally mandated incentive program. Creating other incentive programs that are not mandated by statute, but instead are reflective of the desires of any current FHFA leadership, opens the door to the politicization of the FHLBs. The incentives could change

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depending upon leadership agendas in ways that are not good for the System or its members or reflective of the statutory purpose delineated by Congress.

The RFI states that the purpose of establishing a member incentive program would be to allow the FHLBanks to provide increased benefits to those members that demonstrate a meaningful commitment to housing and community development activity. Such action by FHFA goes beyond its statutory mandate. The statutory mission of the FHLBs is to provide members with liquidity to support affordable housing and community development. As long as members meet the requirements for membership and are able to provide the eligible collateral to borrow from the System, they should be able to access FHLB liquidity on an equal basis. The FHFA has no mandate to create for itself a role of arbiter of what is "meaningful" with regard to housing and community development. Doing so creates tiers of membership not contemplated in the statute which would be detrimental to the efficacy and efficiency of the System.

Conclusion

We appreciate the opportunities that FHFA has provided for input and that FHFA is seeking this input before proceeding with any potential regulatory proposals. We differ with FHFA's assessment that the FHLBs have escaped significant review, noting that Congress has reviewed the role of the FHLBs and expanded that role through legislation on multiple occasions. Absent clear directive from Congress that changes are needed to the mission of or incentives provided to the System, the FHFA should exercise extreme caution that it does not exceed its regulatory mandate when proposing changes. Please contact Joseph Pigg, SVP and Sr. Counsel at the American Bankers Association at JPigg@aba.com if you would like to discuss any of these issues in more detail.

Thank you.

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