



July 15, 2024

Division of Bank Regulation
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20219

RE: Federal Home Loan Bank Mission Activities and Mission Achievement – Request for Input

Dear Federal Housing Finance Agency Staff:

The Local Initiatives Support Corporation (LISC) is pleased to offer comments in response to the Federal Housing Finance Agency's (FHFA) request for input on the Federal Home Loan Banks (FHLBanks) mission activities and achievement.

LISC is a national nonprofit housing and community development organization and certified community development financial institution (CDFI) dedicated to working with residents and partners to forge resilient and inclusive communities of opportunity across America – great places to live, work, visit, do business and raise families. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations, nonprofits, and small businesses with loans, grants, and equity investments, as well as technical and management assistance. Our organization has a nationwide footprint with offices in 37 cities throughout the country, and a rural network encompassing over 140 partners serving 49 different states. In 2023, LISC and its affiliates raised and deployed over \$2.8 billion in grants, loans and equity capital into distressed urban and rural communities.

General Comments

Before we address specific questions posed in the Notice, we offer general comments about the FHFA's efforts to ensure the FHLBanks are meeting our nation's increasing affordable housing and community development needs.

LISC supports FHFA's multiyear effort to review the FHLBank system to identify what more can be done to increase support for affordable housing and community development. As FHFA notes, the FHLBank system has a statutory responsibility to meet housing and community development needs. Currently, the FHLBanks primarily engage in mission related activities through the Affordable Housing Program (AHP), community investment cash advance programs, and voluntary programs. These programs, while important, are not a substantial portion of the FHLBank system's activities. In addition, as the FHLBank system has grown and changed over time, its connection to housing and community development has become less direct.

The evolution of the banking ecosystem has raised questions about how the FHLBanks are currently supporting affordable housing and community development and fulfilling its public purpose. The FHLBanks receive billions in subsidies through their status as a Government Sponsored Entities (GSE), although are only required to provide 10 percent of net income for the Affordable Housing Program (AHP). The Banks have voluntarily increased this amount in recent years although this is still relatively little support when compared to the discounted advances

and dividends provided to members. Even more concerning is that many FHLBank members are no longer providing residential financing, including insurance members. A recent investigation found that 42 percent of FHLBank members had not originated one single mortgage in the last five years.¹

One of the themes throughout the FHLBank System at 100 Report is that there are two core objectives to the FHLBanks' mission: providing stable and reliable liquidity to their members and supporting housing and community development. As FHFA states in this request for input, these objectives are not separate, and are instead related and overlapping.

FHFA notes and LISC agrees that the FHLBanks should support housing and community development needs beyond their targeted programs such as AHP, community investment cash advance programs, and voluntary initiatives. Specifically, this means ensuring there's a greater connection between the FHLBank system's day to day activities, including providing advances to members, and mission-based activities. It's critically important that FHFA modernize and strengthen the FHLBank system's mission statement and activities so the FHLBanks know their responsibilities with respect to mission-based activities and can design products and practices to meet them.

LISC is also a member of the Coalition for Federal Home Loan Bank Reform and supports their recommendations in response to this request for input (RFI), which includes both a general response to this notice, as well as a separate response specifically focused on the role of FHLB members that are insurance companies.

Specific Comments

LISC offers the following specific recommendations based on questions posed in the Notice.

I. Mission Statement for the FHLB System

Question One. 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?

Recommendation: LISC recommends that the FHLBanks mission statement reflect their public purpose goals while also providing a means for measurement. We specifically recommend the mission statement tie their liquidity function with the FHLB system's affordable housing and community development requirements, instead of keeping them separate. We recommend the following mission statement: "The Federal Home Loan Bank system's mission is to provide financial products and services to their members and housing associates that support the financing of fair, sustainable, affordable, and resilient residential housing and related community development activities."

In practice, the FHLBs should meet this mission by providing advances for affordable housing and community development; utilizing excess capital beyond regulatory requirements to support underserved mortgage markets, such as affordable housing; and making direct investments in affordable housing and community development projects. It's important to note that the system can achieve these more aggressive public purpose goals as evidenced in the past when it contributed 30 percent of net income for AHP and to pay back costs from the savings and loans crisis. In addition, the FHLBank system is holding over \$23 billion in excess capital, which is currently utilized to generate profits versus supporting our nation's growing affordable housing and community development needs.

II. Measurement of Mission Achievement

¹ Buhayar, N., Perlberg, H., & Schoenberg, T., "How a Vegas Whale, and Many More, Tap Billions Meant for US Housing." (Bloomberg, October 20, 2023), <https://www.bloomberg.com/news/articles/2023-10-20/savvy-financiers-tap-billions-meant-for-mortgages-from-1-4-trillion-fhlb-system>

FHFA states that it intends to propose metrics and establish thresholds for measuring and assessing mission achievement. To the greatest extent possible, the measures would reflect the following characteristics:

- Measures should be objective and clearly defined, rather than subjective assessments;
- Data required to produce the measures should be readily obtainable;
- Measures used should be reasonably comparable over time and across FHLBanks; and
- For transparency, the measures themselves should be shared publicly.

Question One: Are there characteristics other than those listed above that FHFA should consider in developing measures of mission achievement? Please provide the rationale for consideration of any other characteristics.

Recommendation: LISC supports the measurement characteristics provided in the RFI and recommends that FHFA require the FHLB system to produce a three year plan of goals and anticipated activities and annually disclose their progress in meeting them. In practice, this could work similarly to the reporting required to FHFA by Fannie Mae and Freddie Mac for their Duty to Serve requirements. Currently, very little data is provided by the FHLB system and additional information on how they are meeting or not meeting housing and community development needs is critical to informing the public on their performance and for investment opportunities.

Question Two: Should all activities in the Core Mission Activity (CMA) regulation qualify as core mission activities? Are there items that should be added to or removed from the list of core mission activities? Please provide the rationale for any additions or deletions.

Recommendation: LISC recommends that the list of Core Mission Activities be updated to include investments in Low-Income Housing Tax Credits (LIHTC), New Markets Tax Credits (NMTC), certified community development financial institutions, and other activities identified in the 2023 Community Reinvestment Act rule's impact and performance metrics on lending, investments, and services related to affordable housing and community development. LIHTC should currently qualify under the equity investments that primarily benefit households at a targeted income level, although making it explicit could help incentivize investments from FHLB system members. This is also true for NMTCs, which must support projects in low-income or high poverty census tracts. The current CMA regulation allows housing and community economic development activities in areas targeted for redevelopment and we recommend any NMTC investment be eligible, since by law they must be in economically distressed communities.

Investments in CDFIs would help provide additional resources for their lending activities, which must primarily benefit low-income people and/or communities. While there are 70 CDFI FHLB members, only 28 had advances due to lending and collateral policies that make it difficult for unregulated mission-based members to access funding.

We recommend non-mission based activities be removed from the CMA regulation. If ones that aren't mission focused are retained in the regulation, then those that provide support to affordable housing and community development projects should receive more consideration. This should include advances and collateral utilized for mission activities, including for CDFIs; debt or equity for affordable housing and community development; and other similar investment activities.

We agree with the Coalition for Federal Home Loan Bank Reform that collateral backing advances be bifurcated to ensure mission use of advance proceeds: (1) "mission collateral" equal to the amount of advances (excluding mortgage-backed securities (MBS)), and (2) "risk collateral," such as commercial and residential MBS or other real estate and government loans providing liquid security to satisfy FHLBank's risk and liquidity needs. The use

of whole, single-family and multifamily mortgages should be counted more heavily, and residential and commercial MBS, government or other real estate debt less heavily. This is because MBS securities used as collateral do not offer sufficient support for housing and community development and is an overall highly liquid market.

Question Three: 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?

Recommendation: LISC recommends that FHFA develop separate standards and measurements for mission achievement. This is necessary since the current CMA regulation includes both mission and non-mission based activities. Creating separate standards for mission-based work would help ensure that these activities are being met on an annual basis. For housing related mission-based standards, FHFA could utilize a Duty to Serve framework as mentioned or an Affordable Housing Goals standard, where FHFA sets numeric target on the percentage of activities benefitting lower income people. This should include an overall lower-income goal which shows activities serving families at 80 percent or less of area median income. In addition, there should be a separate goal for activities primarily benefitting very-low income people at 50 percent or less of area median income. For non-housing projects, we recommend that the standard continue to be primarily serving low-income households at 80 percent or less of area media income or through economically distressed geographic criteria, such as a poverty rate of 20 percent or higher at the census tract level.

As stated, we support recommendations that collateral that supports advances should be designated as “mission-based collateral” and “risk based collateral.” This is needed since it’s difficult to understand how all FHLB advances count as CMA since there’s not an understanding of what these funds are used for by members. All CMA that’s directed towards lower income households should be weighted more heavily, including AHP and other voluntary mission-based initiatives.

Member Incentive Program

FHFA proposes establishing a member incentive program to provide increased benefits to those members that demonstrate a meaningful commitment to affordable housing and community development activity. FHFA states this could occur through rulemaking and proposes at least three categories of incentives, with a base category for those engaging in the baseline level of mission-based activity, and the two remaining categories providing increasingly more attractive benefits, such as discounted advance rates or differential dividends on capital stock, to reflect greater levels of engagement in housing and community development.

Question One: 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?

Recommendation: LISC agrees with the Coalition for Federal Home Loan Bank Reform that each member should be required to show an ongoing connection to housing or community development activities. FHFA should require a minimum 10% residential asset test to all members on an ongoing basis, not just when they enter the system, under which at least 10% of a member’s activities must be in residential mortgage loans or equivalent mission assets. With a revised and strengthened CMA, this would be the baseline level of mission-based activity and we recommend that bank members must also have at least a rating of Satisfactory on their most recent Community Reinvestment Act examination.

Question Two: What metrics and activities should be used to determine each membership category threshold? Are there housing- or community development-related activities that should not count or should be discounted

in the calculation? Are there some that should count for a greater amount? How would flow business that might not be reflected on the member's balance sheet be reasonably considered?

Recommendation: FHFA should reward members that provide higher levels of mission-based activities. FHFA should utilize the 2023 CRA rule's impact and performance metrics on lending, investments, and services related to affordable housing and community development to structure member incentive mission-based activity factors. For example, investments by FHLB members into LIHTC, NMTC, and CDFIs, along with project level investments serving the lowest income populations and most distressed communities, would count the highest for FHFA's scoring and evaluation framework, consistent with their treatment under the CRA regulations.

We recommend additional factors for insurance members, including whether property and casualty companies provide flexible and subsidized coverage for affordable rental housing. Life insurance companies should also demonstrate substantial investments in affordable housing projects and other high impact projects in distressed communities, as noted above. It's critically important that insurance members, which are a growing part of the FHLB membership, have public purpose requirements if they want to secure additional benefits; since unlike regulated financial institutions and certified CDFIs, there are no independent agency reviews of their community development performance.

Question Six: Should there be requirements that ensure members who obtain the benefits of such programs are not engaged in conduct inconsistent with the public interest, such as predatory, discriminatory, or unfair practices?

Recommendation: LISC recommends that all FHLB members be subject to Fair Housing Act and Equal Credit Opportunity Act standards. Those members in violation of those requirements or which have an Unsatisfactory CRA rating should not be able to obtain advances or member benefits. We also support recommendations to require FHLBanks to ensure that member advances utilized for multifamily housing include source of income protections. This is critical to ensuring that tenants with rental assistance are not discriminated against by owners receiving FHLB financing.

LISC also recommends that the FHFA provide guidance to the FHLBs that prohibit them from providing AHP, advances, or other financing for LIHTC properties unless the owner has agreed to waive its Qualified Contract (QC) rights. In recent years, there has been increasing abuse of the QC provision, which can allow LIHTC owners to exit affordability restrictions after 15 years. There is precedent for utilizing other federal financing sources to preclude QC options since the U.S. Department of the Treasury stated that State and Local Fiscal Recovery Fund cannot be utilized to fill financing gaps for Housing Credit properties unless the owner has waived their QC rights.²

We thank FHFA for the opportunity to offer suggestions. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Senior Director of Policy, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,



Matt Josephs
Senior Vice President for Policy

² *Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions*, Page 35.
<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>