

Regulatory Compliance Bulletin

November 16, 2023

To: All Credit Unions
Subject: **FHFA's FHLBank System at 100 Report**

On November 7, the Federal Housing Finance Agency (FHFA) released its [long-awaited report](#), which contains the FHFA's comprehensive review of the Federal Home Loan Bank (FHLBank) system. Also stated in the report is a series of proposed regulatory and legislative reforms.

Below are key takeaways of the report and its legislative and regulatory recommendations.

Key Summary of the FHFA's Report

Starting in August 2022, the FHFA launched a comprehensive review of the FHLB system, the [FHLBank System at 100: Focusing on the Future](#) initiative through several public listening sessions, roundtables, and solicitations for written comments. The Leagues provided a [comment letter](#) to the FHFA to help inform its report.

In the anticipation of the FHFA's centennial, the report outlines the FHFA's vision for the future of the FHLB system and also incorporates lessons learned from periods of market stress, including events in March 2023¹, and FHFA's proposed actions to ensure the system remains safe and sound while the FHLBanks serve their mission.

In the FHFA's vision, the report categorizes the actions under four broad themes. These themes are:

- 1. Mission of the FHLB System** – Under this objective, the FHFA plans to update and clarify its regulatory statement of the mission of the system to reflect the FHLBanks' two core objectives: 1) providing stable and reliable liquidity to their members; and 2) supporting housing and community development.
- 2. Stable and Reliable Source of Liquidity** – The FHFA emphasizes in the report that the FHLB system was created to provide liquidity to its members and support the housing market. In line with this, the FHFA expresses its intention to enhance the FHLB's capability to fulfill this fundamental goal. The report highlights the FHFA's intention to guarantee that FHLB funding remains low-cost, stable, and dependable for creditworthy members. However, it clarifies that FHLBanks should not be viewed as lenders of last resort for troubled members with substantial short-term borrowing needs. The FHFA suggests additional measures to enhance FHLBanks' capacity in fulfilling their liquidity function. These measures include: (i) enhancing the ability of the FHLBanks to maintain interest-bearing deposits with commercial banks to manage intra-day liquidity requests; (ii) limiting the potential for an increase in debt issuance costs for all members following a large liquidity request from a single member; and (iii) strengthening capital management and stress testing to ensure the FHLBanks remain well positioned to serve their members through all economic environments.

¹ Appendix 5 is responsive to a request from Sen. Sherrod Brown, Chairman of the Senate Committee on Banking, Housing, and Urban Affairs, dated April 20, 2023, requesting a detailed review in the FHLBank System at 100: Focusing on the Future report on the FHLBank System's role in providing liquidity in the months and days leading up to recent bank failures; and whether all actions were consistent with safety and soundness, financial stability, and the FHLBank System's mission.

- 3. Housing and Community Development** – The report indicates that the FHFA wants to take additional steps to ensure that collateral securing FHLBank advances further the objective of strengthening the FHLB system’s role as a facilitator of affordable housing and community development. To do this, the FHFA intends to expand the FHLBanks’ housing and community development focus by: (i) requiring the FHLBanks to establish mission-oriented collateral programs that could improve their support of sustainable housing finance and community development products that lack a reliable secondary market outlet; (ii) increasing the FHLBanks’ engagement with mission-oriented members such as community development financial institutions; and (iii) re-evaluating the definition of long-term advances, which are required by statute to be used to fund residential housing finance. Moreover, the FHFA will be reevaluating the FHLBanks’ Affordable Housing Programs (AHP), Community Investment Programs, and Community Investment Cash Advance Programs.
- 4. FHLB System Operational Efficiency, Structure, and Governance** – The FHFA indicates that there are several actions under consideration by the agency related to the organization and operations of the system as a whole, the composition of the FHLBanks’ membership base, the size and composition of the FHLBanks’ boards of directors, and the appropriate compensation and incentives for FHLBank executives.

Additional Key Takeaways

The report outlines a set of anticipated rulemaking activities that the FHFA is expected to release in the coming year. The FHFA’s statutory and regulatory recommendations are listed below.

- **Statutory Proposals**
 - Amend the Federal Home Loan Bank Act (Bank Act) to require each FHLBank to at least double its contributions to its Affordable Housing Program (AHP).
 - FHFA defers to Congress to potentially amend the Bank Act to lower the minimum number of FHLBanks to a number of eight.
 - Potentially remove statutory “grandfather provision” requiring the FHFA to allocate to each state in the each FHLBank district at least as many member directorships as the state held in 1960.
 - Amend the Federal Housing Financial Safety and Soundness Act of 1992 to eliminate the restrictions on the FHFA’s authority to prescribe levels or ranges for the compensation of executive officers of the FHLBanks.
 - The FHFA wants the FHLBanks to establish “mission-oriented” collateral programs, and seeks to support this initiative by allowing all CDFI and credit union members with assets below the statutory cap to pledge Community Financial Institution (CFI) collateral to secure FHLBank advances (a benefit currently only available to FDIC-insured depository institutions). *CFI collateral includes small business loans, small farm loans, small agri-business loans, community development loans, and certain related securities.*
 - Recommends that Congress amend the Bank Act to provide the flexibility to permit individuals with technical subject matter expertise to serve on FHLBank boards, even if they do not reside in the district as is currently required to help attract directors with specialized knowledge and skills.
 - Currently, non-bank mortgage or mortgage REIT entities are ineligible under existing laws. Should Congress expand FHLBank membership to these certain entities, they would be subject to membership requirements that currently apply to most members including: (i) inspection and regulation; (ii) community support or service requirements; and (iii) the requirement of the 10% of their assets be in residential mortgage loans or an equivalent mission asset or activity requirement.
- **Regulatory Proposals**

- Clarify the mission of the FHLBanks and provide metrics and thresholds for measuring mission achievement.
- Undertake a rulemaking and issue related guidance, as appropriate, whereby each FHLBank would provide added benefits—such as discounted advance rates or differential dividends on capital stock—to members with a strong and demonstrable connection to the FHLBanks’ overall mission.
- Enhance the scope of the Targeted Community Lending Plans while amending the regulation governing Community Support Requirements and providing additional guidance to the FHLBanks.
- Require that certain members have at least 10 percent of their assets in residential mortgage loans or equivalent mission assets (including assets that qualify as CFI collateral where appropriate) on an ongoing basis to remain eligible for FHLBank financing.
- Require the FHLBanks to publish more comprehensive annual reports on their affordable housing and community development activities that include evaluation of outcomes and assessments of program effectiveness.
- Require certain stress testing protocols for the FHLBanks. Further, adjust the scenarios published by the Federal Reserve, as warranted, to reflect the risks present in the FHLB system, which may differ in some ways from the risks faced by financial institutions that are subject to stress testing under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd Frank Act).
- Amend limits on unsecured extensions of credit to provide deposits held in interest-bearing deposit accounts (IBDAs) at highly-rated banks with the higher limit that currently applies only to overnight fed funds.
- Amend the advances regulation to make the FHLBank, or the FHLBank system, responsible for prepayment fees due from a failed member on long-term advances provided shortly before the member fails and without consultation with the primary federal regulator.
- Issue guidance for the FHLBanks to begin incorporating climate resiliency efforts into their core businesses, as well as in their AHP and voluntary and pilot programs.
- Amend the AHP regulation to streamline certain requirements and expand access to AHP programs. Some of the revisions FHFA is considering include updating AHP regulatory provisions for revolving loan funds, assessing options for AMI flexibility in high-cost areas, increasing per household homeownership set-aside grants in high-cost areas, and revising certain project compliance and monitoring requirements to increase programmatic efficiency.
- Expects each FHLBank to develop, in a safe and sound manner, a Mission-Oriented Collateral (MOC) program that incentivizes the use of collateral with a strong connection to the mission of the FHLBank system.
- The FHFA will conduct a thorough review before undertaking a proposed rulemaking to enhance the community support standards in its Community Support Requirements (CSR) regulation to promote use of FHLBank advances for purposes consistent with the mission of the FHLB system.
- Amend the Community Investment Cash Advance (CICA) regulation to promote increased use of the Community Investment Programs (CIP) and CICA programs and enhance the FHLBanks’ ability to respond to an evolving economic landscape.
- Enhance community support standards set out in the CSR regulation, potentially to require more detail from members about their lending or activities to support first-time homebuyers, and establishing additional standards that demonstrate support for multifamily housing or community development.
- Expand affordable housing goal categories for Acquired Member Asset (AMA) purchases that support housing finance in minority census tracts.
- Considering harmonizing the manner in which membership eligibility requirements are applied to the different membership types and ensuring that advance terms and pricing are not manipulated by members with access to multiple FHLBanks.

The Leagues will actively monitor the mentioned issue and provide credit unions with updates on all developments. As the FHFA progresses in rulemaking and guidance activities, the Leagues advise the FHFA to exercise caution in implementing any broad changes to the FHLBanks that may have negative repercussions for credit unions who are members of the FHLBank San Francisco.

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