NCRC
National Community Reinvestment Coalition

July 12, 2024

To Whom it May Concern:

NCRC appreciates this opportunity to comment on the Federal Housing Finance Agency's (FHFA's) request for information (RFI) regarding the mission of the Federal Home Loan Banks (FHLB) and their support of affordable housing and community development. The FHFA must sharpen the FHLBank mission statement and performance measures assessing compliance with the mission in order to increase desperately needed affordable housing and community development in our county.

A shortage of affordable housing has contributed to dramatic rent increases and home prices in recent years. According to the National Low Income Housing Coalition, the United States has a shortage of 7.3 million rental units for very low-income renters, contributing to 60 percent or more of these renters at a state level paying more than 50 percent of their income on rent.[1] Since the 1960s, home prices have increased more than 2.4 times faster than inflation, according to recent research.[2] These price hikes are particularly difficult for households seeking to become first-generation homeowners and people of color. NCRC has found that over the past 60 years, the Black-White homeownership divide has not narrowed.[3]

NCRC is a network of more than 700 community-based organizations dedicated to creating a nation that not only promises but delivers opportunities for all Americans to build wealth and attain a high quality of life. We work with community leaders and policymakers to advance solutions and build the will to solve America's persistent racial and socio-economic wealth, income, and opportunity divides, and to make a Just Economy a national priority and a local reality. Secondary market institutions including the Federal Home Loan Banks (FHLBanks) are vital partners in our Just Economy endeavors.

This comment answers most of the questions posed by the FHFA's RFI and is organized by the topics discussed in the RFI, namely, Mission of the FHLBanks, Performance Measures and Examination, and Member Incentive Program.

Mission of FHLBanks

The mission of the FHLBanks must be clear regarding the need to support affordable housing and community development. The FHFA suggests that "a public policy goal could be expressed as 'supporting affordable, equitable, sustainable, and resilient housing markets,' and achievement of that goal could be stated as 'by providing financial products and services to their members and

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[1] National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, https://www.nlihc.org/gap
[2] Ana Teresa Solá, *Home prices rose 2.4 times faster than inflation since 1960s, study finds. What that means for homebuyers,* CNBC, March 19, 2024, https://www.cnbc.com/2024/03/19/why-home-prices-have-risen-faster-than-inflation-since-the-1960s.html
[3] Dedrick Asante-Muhammad, Chuck Collins, Omar Ocampo, Sally Sim, *Still a Dream, Over 500 Years To Black Economic Equity*, NCRC, August 2023, https://ncrc.org/still-a-dream-over-500-years-to-black-economic-equality/

housing associates that support financing of affordable, equitable, sustainable, and resilient residential housing and community development.'"[4]

NCRC is strongly supportive of components of the mission statement that emphasize affordability, resiliency, equity, and sustainability. It is not enough for the FHLBanks to support member banks' home lending activities if the loans are not affordable and sustainable, leading to increases in borrower delinquency and defaults. Likewise, the mere provision of home loans would not be sufficient if they are not equitably provided to emphasize increased lending to traditionally underserved populations including people of color, low- and moderate-income (LMI) borrowers, people with disabilities, and the LGBTQ population. Finally, while adding resiliency is appreciated, the mission statement should explicitly mention climate resiliency so that the FHLBanks have a priority of financing weatherization, energy efficiency, and added protections against flooding and other natural disasters.

The mission statement must include phrasing that requires strict adherence to fair housing and consumer protection laws by the FHLBanks and the institutions they help finance. Violations of the Fair Housing Act, the Equal Credit Opportunity Act, Americans with Disabilities Act, the Unfair or Deceptive Acts or Practices (UDAP) standard under Section 5 of the Federal Trade Commission Act (FTC Act), and other consumer protection laws must result in penalties for the FHLBanks and their member institutions.

Fair housing requirements must not only entail the avoidance of discriminatory and abusive practices. As the Coalition for Federal Home Loan Bank Reform (CFR) points out in their comment letter, the FHLBanks must also affirmatively further fair housing. The FHFA must require the FHLBanks to submit equitable housing plans similar to the ones that Fannie Mae and Freddie Mac must submit that describe goals and programs for serving underserved populations including people and communities of color.

The description of community development in a mission statement must be sufficient to explain its importance. Neighborhoods cannot thrive if they do not have access to small businesses, food, childcare and health care facilities. The FHLBanks have an important role to play through their Community Investment Programs (CIP) and in offering advances to finance small business lending of smaller community financial institutions (CFIs).[5] Neither community development loans nor small business loans have regular access to the secondary market. Thus, FHLBank financing of community development and small business lending takes on an important role, which must be reflected in the mission statement.

The mission statement should make a connection between liquidity and neighborhood revitalization by emphasizing that the FHLBanks' provision of liquidity is intended to facilitate

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[4] FHFA, Request for Input (RFI) – Federal Home Loan Bank Core Mission Activities and Mission Achievement, May 16, 2024, p. 7, https://www.fhfa.gov/news/news-release/fhfa-requests-input-on-fhlbank-system-mission

[5] FHFA, *FHLBank at 100: Focusing on the Future*, p. 44, https://www.fhfa.gov/programs/fhlbank-system-100

the provision of affordable housing and community development. In the 1930s, the administration of Franklin Delano Roosevelt and Congress created the FHLBank system as a means to rescue housing markets and communities from the depths of the depression by providing a stable source of financing for the nation's banks.[6] In recent years, some member banks of the FHLB system have strayed from this mission and have used the FHLBanks to secure advances that sought to rescue them from their risky and speculative lending activities.[7] Thus, all stakeholders need to be reminded by a mission statement that the purpose of the FHLBank system is to channel its liquidity activities towards promoting healthy and equitable housing markets and community development resulting in vibrant and revitalized neighborhoods.

Performance Measures and Examinations

NCRC urges the FHFA to conduct separate examinations of the affordable housing and community development activities of the FHLBanks and to develop ratings for publicly available examinations. The Community Reinvestment Act (CRA) experience over the last four decades suggests that publicly available exams and ratings have increased the accountability and performance of banks in making loans, investments, and services available to low- and moderate-income communities. In contrast, the FHFA indicates that assessments of FHLBanks' mission performance are not public and are folded into overall compliance exams of the FHLBanks.[8]

The FHFA's RFI describes a quantitative measure of FHLBank performance in providing liquidity for housing and community development. An informal and preferred ratio is 70 percent for the FHLBanks; this ratio consists of a numerator of advances plus acquired member assets (AMA) and a denominator of FHLBank debt issued to fund their liquidity activities.[9] The FHFA should continue to employ a ratio of this type since it measures FHLBank housing and community activity compared to the funds it has for those activities. Yet, the FHFA may need to adjust the target of 70 percent depending on the categories described in the RFI that the FHFA is considering for the numerator.

NCRC is supportive of including most financial instruments listed in the current Core Mission Activities (CMA) regulation and considered for the numerator of the ratio. In particular, we support inclusion of investments in small businesses and those that benefit Native Americans and tribal areas. These are critical for community development as are the additional place-based investments subsidized by the Federal government that the FHFA is considering.[10] In contrast, NCRC is skeptical regarding "intermediary derivative contracts." The FHFA does not describe how these instruments contribute to the financing of affordable housing and community

[6] FHLB at 100, p. 11.
[7] FHLB at 100, p. 21.
[8] FHFA, Request for Input (RFI) – Federal Home Loan Bank Core Mission Activities and Mission Achievement, May 16, 2024, p. 11, https://www.fhfa.gov/news/news-release/fhfa-requests-input-on-fhlbank-system-mission
[9] RFI, p. 6.
[10] RFI, pp. 9-10.

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development, nor does it do so in the case of standby letters of credit it is also listing for consideration. At the very least, as the Coalition for Federal Home Loan Bank Reform (CFR) suggests, more credit should be awarded to standby letters of credit that support affordable housing and community development.

If the FHFA implements a stand-alone exam for FHLBank mission performance, it should consider separate quantitative and qualitative sections. The quantitative section can consist of the dollar amounts of affordable and community development financing. It can include the ratio measure discussed above of mission-related financing divided by debt. The FHLBanks can be compared against a threshold like 70 percent and/or compared against each other. A comparative measure would result in the lowest scores for the FHLBanks with the lowest ratios compared to the peers while the best scores would be for those with the highest ratios.

The FHFA should consider weights that elevate the importance of the Affordable Housing Program (AHP), the Community Investment Program (CIP), and the Community Investment Cash Advance (CICA) program. First, these programs are targeted to low- and moderate-income (LMI) borrowers and communities whereas the other activities including advances and AMA are less targeted. For example, the AMA regulation requires each FHLBank to ensure that at least 20 percent of its loan purchases are for LMI populations in contrast to the AHP and CIP program that are targeted to those with incomes generally at or below area median income.[11] Second, the financing levels of the AHP and CIP are relatively low. Providing them with greater weight in examinations would motivate the FHLBanks to increase their funding of them. The FHFA reports that approximately $3.5 billion and $1.4 billion in CIP and CICA advances, respectively, were offered in 2022. This amounts to only about 0.1 percent of total advances. Furthermore, only 175 of the 6,500 FHLBank members utilized either CIP or CICA advances in 2022.[12] Similarly, in 2022, the FHLBanks awarded about $266.9 million in AHP funding.[13] In contrast to the AHP and CIP, CRA-related community development lending totaled more than $151.2 billion in 2022.[14]

NCRC recommends weights of between 60 to 70 percent for the AHP, CIP, CICA programs, and other small business and community developments investments. We recommend weights of between 30 to 40 percent for the advances, AMA, and other forms of liquidity for the member banks. The greatest weights are applied to the activities most targeted at underserved populations which are currently funded at relatively low levels. It is probably most feasible to apply the weights to the qualitative section of the exam, but the FHFA should consider whether weights can be applied to the quantitative section of the exam. For example, the quantitative section can have two subsections: the most weighted one considering AHP, CIP and CICA programs and the least weighted one considering the other advances and investments.

[11] FHLB at 100, p. 56.
[12] FHLB at 100, p. 46.
[13] FLHB at 100, p. 48.
[14] FFIEC national aggregates, Table 3, https://www.ffiec.gov/craadweb/national.aspx

The qualitative section of the exam would consider the responsiveness, innovation, and flexibility of the FHLBanks mission-related activities. It would consider the extent to which they are responsive to the affordable housing and community development needs described in the Targeted Community Lending Plans developed by the FHLBanks.[15] It would also consider responsiveness to needs identified by the Affordable Hosing Councils of each FHLBank and to public comments submitted to the FHFA or the FHLBanks.[16]

The qualitative section of the exam should also promote membership of Community Development Financial Institutions (CDFIs) in the FHLBanks. The FHFA reports that relatively few CDFIs, or just about 70, are members of FHLBanks. Furthermore, the FHLBanks have extended only 28 advances to CDFIs.[17] According to the FHFA, barriers to CDFI membership include collateral requirements. If a FHLBank is successful in helping CDFIs overcome these barriers and extends more advances to them than their peer banks, it should garner additional points on the qualitative part of its exam.

Questions that the qualitative section of the exam should answer include to what extent did the affordable housing finance relieve housing cost burdens of subgroups of renters and owners, to what extent did it address physical inadequacy in housing in distressed geographical areas, and to what extent did the housing serve people of color, the elderly, people with disabilities and other underserved segments of the population. Questions regarding community development would include to what extent did the financing address critical needs such as food scarcity or lack of health and childcare facilities in various geographical areas.

The exams should probe for violations of fair housing, fair lending, and consumer compliance law. The FHFA reports that compliance with fair lending and fair housing laws are not currently assessed in supervisory ratings.[18] This must change. Ratings should be downgraded depending on the extent of noncompliance at any FHLBank or if a FHLBank is financing a high number of member banks with violations.

Member Incentive Program

The FHLBanks offer advances at discounted rates because of their status as Government-Sponsored Enterprises (GSEs).[19] Accordingly, the FHFA hints that the FHLBanks could use their ability to offer discounts in a manner that encourages members to increase their lending and investments in affordable housing and community development. In other words, the FHLBanks could offer higher discounts to member banks that offer higher levels of community development financing and affordable housing.

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[15] FHLB at 100, pp. 28-29
[16] Ibid.
[17] FHLB at 100, p. 41.
[18] FHLB at 100, p. 28.
[19] FHLB at 100, p. 49.

A straightforward and effective means to measure member bank performance in determining discounts offered is to utilize CRA exams. The 2023 final CRA rule, when implemented, would more rigorously rate banks on their lending, investments, and services related to affordable housing and community development. For example, NCRC would encourage the FHLBanks to offer the highest levels of discounts to banks that not only receive an Outstanding rating overall but Outstanding ratings on each of the component tests such are retail lending and community development financing. These tests will have more precise measurements than currently. For example, if a bank's percentage of home loans to moderate-income borrowers is 115% greater than its peers, it would have an Outstanding on the performance measure of home loans to moderate-income borrowers.[20]

The other CRA tests do not have thresholds yet, but hopefully will in future years. For example, the community development finance test has a ratio comparing the dollar amount of community development finance divided by deposits. After a few years, thresholds could be developed that sort banks into various ratings on the ratio. This ratio is like a FHLBank's ratio of advances divided by debt described above and should therefore be readily understandable and accepted by stakeholders in the FHLB system.

The FHFA could create tiered levels of discounts using a combination of overall CRA ratings and component test ratings. The highest to lowest levels of discounts could be structured in the following manner corresponding to CRA exam results:

Discount level	**Overall rating**	**Component test ratings**
Highest	Outstanding	All tests are Outstanding
Second Highest	Outstanding	At least half the tests Outstanding
Third Highest	Satisfactory	All tests are Outstanding or Satisfactory
Fourth Highest	Satisfactory	No specific ratings on subtests required
No advances	Needs to Improve	
No advances	Substantial Compliance	
No advances	Fair lending violations	

Banks that have overall Outstanding and Satisfactory ratings would be eligible for discounts, the level of which depends on their component tests. Higher discounts for top CRA performance would encourage banks to perform better on CRA exams. The differences in discount levels awarded to banks with different ratings on CRA exams must be meaningful in order to provide

[20] Kevin Hill, *NCRC's Guide To The 2023 Community Reinvestment Act Final Rule*, December 2023, https://ncrc.org/ncrcs-guide-to-the-2023-community-reinvestment-act-final-rule/

effective incentives for improving performance. This would also be a significant policy advance since there are currently no financial incentives offered on a federal level for banks to perform well on CRA exams. On the other end of the scale, banks that fail their CRA exams and receive either Needs-to-Improve or Substantial Noncompliance overall would not be eligible for advances until they pass their next CRA exams.

Any bank with a fair lending or consumer protection law violation, regardless of its CRA rating, would not be eligible for advances. The ineligibility for advances would be triggered if the violations were cited on the CRA exam or caught by the Consumer Financial Protection Bureau, a state regulatory agency, or in a private right of action. The bank would be reinstated for eligibility for advances after it has successfully reformed and remediated its fair lending or consumer law violation as stipulated in a settlement agreement or court order.

The 2023 final CRA regulation would inform enhancements to the FHFA's community support requirements (CSR) that establish eligibility for member banks to access FHLBanks advances. As stated above, failed CRA ratings and violations of fair lending and consumer protection law would suspend eligibility to advances. The FHFA could also use the ratios in the new CRA exams such as the ratio of community development financing divided by deposits to establish floors below which banks under CSR would lose eligibility to advances.

In addition, CSR reviews could be bolstered by the submission of data on Special Purpose Credit Programs (SPCPs). SPCPs are lending programs targeted to underserved populations that are identified via data analysis. As the FHFA has encouraged, Fannie Mae and Freddie Mac supports SPCPs established by banks through the purchase of thousands of SPCP loans annually. The FHLBanks could further increase the use of SPCPs by asking members banks with SPCPs to report SPCP data as part of CSRs.

Reported demographic borrower data should include race/ethnicity, gender, and first-generation and/or first-time homebuyer status. A high volume of SPCP lending could be used to adjust discount levels described in the table above. For example, if a bank qualified for the second highest level of discounts, a robust SPCP program could elevate it to the highest level of discounts. However, to be eligible for an upgrade, the bank's SPCP program should have detailed demographic data and should be on high end in terms of loan volume for banks in its asset level (asset categories could be the same or similar to the ones used in CRA exams). The FHLBank should describe any adjustment to a discount level of a bank due to a SPCP program. Discount levels and justification for discount levels for member banks should be publicly available.

Increase Mandatory FHLBanks' Contribution to the Affordable Housing Program

The FHLBanks are legally required to contribute 10 percent of their annual net earnings to their Affordable Housing Program (AHP) funding. We ask the FHFA to support a significant increase of this requirement to 50 percent of net earnings. The FHFA documents that in 2022 the FHLBanks contributed about $266 million to the AHP program while the value of its tax exemptions is about $800 million or about triple their annual AHP funding. Meanwhile, the FHLBanks pay more than $1 billion annually in dividends.[21]

Not only do FHLBanks have the capacity to significantly increase their annual AHP funding, but they also have an obligation to do so. They are government sponsored enterprises (GSEs) that were established to support liquidity of the financial system and to support housing and community development. In return for the advantages conferred upon their status as GSEs, they have an obligation to fulfill their mission and support taxpaying citizens and the communities in which they reside.

Conclusion

The FHFA has an opportunity to propose a robust rule regarding the oversight of FHLBanks to ensure that they support a high level of affordable housing and community development. The mission statement of the FHLBank system should more explicitly affirm the affordable housing and community development mission and should insist that lending activity must be equitable, non-discriminatory, affordable, sustainable and conducted in a manner to increase climate resilience.

NCRC recommends the creation of publicly available exams of the FHLBanks that rate mission performance in quantitative and qualitative sections. Furthermore, the FHLBanks can use their discounts on advances in a more creative manner to reward good CRA performing banks that also offer a high level of SPCP loans. The FHFA could set a precedent of offering financial incentives for commendable CRA performance, a practice that should be replicated elsewhere, in order to bolster access to responsible credit and capital for traditionally underserved communities.

NCRC appreciates this opportunity to offer input on this important manner. If you have any questions, please contact me at jvantol@ncrc.org or Josh Silver, Senior Fellow, at jsilver97@gmail.com.

Sincerely,

Jesse Van Tol
President and CEO

[21] FHLB at 100, pp. 48-49.