PATRICK MCHENRY, NC
CHAIR

MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

July 24, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Dear Director Thompson:

I write to express my support for the Federal Housing Finance Agency's (FHFA) comprehensive review of the Federal Home Loan Bank (FHLBank) System as the FHLBanks approach their centennial year. In its review of the FHLBank System (System), FHFA has an opportunity to address today's most pressing housing needs, especially the affordable housing needs of communities that have long been underserved by our nation's housing and financial services system.

The FHLBanks were originally created in 1932 to support the nation's housing finance needs, and importantly, helped spur the development of the 30-year fixed-rate mortgage.[1] While FHLBanks have provided a critical source of liquidity to member institutions for the past 90 years, significant changes have taken place in the financial services sector, including the types of entities engaging in housing finance, as well as changes in the System. Our nation's housing needs have also drastically changed since 1932 as we continue to face a worsening affordable housing crisis. In FHFA's review of the System, I urge you to assess the System's mission, its support for affordable housing and community development needs, its response to emerging risks in the financial services sector, as well as the diversity of individual FHLBank boards. In addition, FHFA should develop recommendations for the FHLBanks to ensure that the System is prepared to mitigate those risks, and ensure that FHLBanks' advances to member institutions and voluntary affordable housing contributions are affirmatively meeting the unique needs of communities today, especially communities of color and other underserved communities.

FHFA should ensure that FHLBank members advance the system's housing mission, and that the System is prepared to mitigate certain risks posed by members' evolving activities.

The mission of the System is to "[provide] liquidity to support housing finance and [further] affordable housing and community development."[2] Highlighting Congress' intended housing mission for the System, federal statute requires that most its members must have at least 10% of their total assets in residential mortgage loans.[3] Additionally, each FHLBank must contribute the greater of 10% or $100 million of their annual net income toward an Affordable Housing Program (AHP).[4] While the System's statutory purpose has remained unchanged, there have been shifts over the years in the housing and financial market and expansion of FHLBank membership to include institutions with more diverse business lines.

---

[1] Federal Reserve of St. Louis, *Annual Report of the Federal Home Loan Bank Board, Final Report to the Congress of the United States Relating to the Home Owners' Loan Corporation* (Mar. 1952).
[2] FHFA, *FHLBank Membership Request For Input* (Feb. 2020).
[3] *Public Law 72-304* (1932)
[4] *Public Law 72-304* (1932); *See also* Council of Federal Home Loan Banks, *Housing Mission* (Last accessed Mar. 21, 2023).

Evolution and expansion of the System's membership. The System was established in 1932 as a government-sponsored enterprise (GSE) to help provide liquidity to the housing and mortgage industry during the era of the Great Depression, and its membership largely reflected that. Since then, often as a result of subsequent periods of economic distress,[5] there have been changes in the activities and types of institutions that qualify for FHLBank membership. I am concerned that, over time, these shifts in membership have affected the System's ability to fully meet its mission.

Under the Federal Home Loan Bank Act of 1932 (FHLBank Act), insurance companies, building and loan associations, savings and loan associations, cooperative banks, homestead associations, and savings banks, were the institutions eligible for membership. Congress subsequently expanded membership eligibility to include federally insured commercial banks and credit unions in 1989,[6] non-depository Community Development Financial Institutions (CDFIs) in 2008,[7] and non-federally insured credit unions in 2015.[8] As of the fourth quarter of 2022, nearly 6,500 financial institutions were members, with commercial banks (3,711) and credit unions (1,571) making up the majority of member institutions.[9] Consequently, financial institutions no longer need to be principally engaged in mortgage financing to be eligible for FHLBank membership or to receive advances from the System. FHFA should recommend that the FHLBanks monitor the share of members' activities that are aligned with the housing finance mission as well as those that are not and report any significant reduction in housing and community development activities to FHFA.

Emerging Concentration of Risk and Cryptocurrency Activity. In particular, I am concerned that a number of financial institutions that have gained FHLBank membership are now engaged in, and exposed to, the cryptocurrency (crypto) market. I urge the FHFA to carefully monitor the advances that FHLBanks make to those members. Federal banking agencies including the FDIC and OCC have warned their regulated entities about the risks of engaging in crypto assets,[10] including safety and soundness and financial stability risks, and have instructed banks to notify them if the banks plan to engage in, or are currently engaged in, any activities involving or related to crypto assets.[11] As FHFA conducts its supervision of the System, it should issue a similar warning to the FHLBanks, and require that the FHLBanks notify FHFA when their members are shifting away from core housing market activity and increasingly engaged or intend to engage in crypto assets, including the extent to which members' business models rely on cryptocurrencies.

My concerns about crypto market exposure were multiplied after the recent failures of FHLBank members, including Silvergate Bank and Signature Bank. Silvergate was one of the nation's primary banks that serviced crypto businesses. In January, Signature Bank announced it had planned to decrease its deposits in the digital asset banking space and replace those deposits "primarily with advances from the [FHLBank] of New York in the short-term."[12] On March 12th, the bank failed.[13] FHFA should monitor for these risks, and provide guidance to FHLBanks so they are prepared to mitigate risks posed by member institutions which engage in crypto and other emerging technologies.

FHFA should ensure the System is addressing the concentration of risk and advances in the wake of recent bank failures.

In light of the recent failures of FHLBank members like Silicon Valley Bank (SVB), Signature Bank, and Silvergate Bank, I also urge FHFA to have a more proactive role in monitoring the advances issued by FHLBanks

[5] CRS, *The Federal Home Loan Bank (FHLB) System and Selected Policy Issues* (Aug. 2020).
[6] *See* Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, § 704, 103 Stat. 183, 415 (1989).
[7] *See* Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, § 1206, 122 Stat. 2654, 2787 (2008).
[8] *See* Fixing America's Surface Transportation Act, Pub. L. No. 114-94, § 82001, 129 Stat. 1312, 1795 (2015).
[9] FHFA, Federal Home Loan Bank Member Data (Last accessed Mar. 21, 2023).
[10] FDIC, *Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities* (Feb. 23, 2023).
[11] FDIC, Notification of Engaging in Crypto-Related Activities (Apr. 2022).
[12] Signature Bank, *Signature Bank Responds to Inaccuracies in Wall Street Journal Article* (Jan. 23, 2023).
[13] FDIC, *FDIC Establishes Signature Bridge Bank, N.A., as Successor to Signature Bank, New York, NY* (Mar. 12, 2023).

to member institutions, including by issuing guidance. This is especially important as it relates to FHLBank members with diminishing roles in the housing finance and community investment sectors and growing cryptocurrency-based business lines. These recent bank failures shed light on the risks posed to the entire System when advances are concentrated among a smaller number of members. It also raises concerns as to whether resources are being shifted away from the housing mission of the FHLBanks. According to the Office of Finance, when "advances are concentrated in a smaller number of members, an FHLBank's risk of loss resulting from a single event could become greater."[14] In March, FHFA's Office of Inspector General also noted that by the end of 2022, 5 of the 11 FHLBanks had at least 50% of advances concentrated among their top five borrowers, and at one FHLBank, the top five borrowers held 78% of its advances.[15]

The banks that failed in March 2023 relied on the FHLBanks for long-term and short-term liquidity needs and were either top borrowers of their FHLBank or had a concentration of deposits from certain industries. SVB was the largest borrower of the San Francisco FHLBank (FHLBank-SF), borrowing $13.5 billion in the third quarter of 2022, making up 20% of FHLBank-SF's total borrowings at the time.[16] SVB had a concentration of deposits from venture capital and startup firms, which flowed out quickly, contributing to the bank's closure on March 10, 2023.[17] Shortly before Silvergate Bank announced it would voluntarily wind down its operations, the bank received a $4.3 billion advance from FHLBank-SF in late 2022,[18] while it was experiencing an outflow of deposits – 90% of which were connected in crypto – leading to concern that the bank had relied on this advance to cover its potential losses.[19] By early March, Silvergate reported that it had paid back its advances to FHLBank-SF and experienced significant losses. Silvergate announced plans to voluntarily wind down its operations on March 9, 2023.[20] Moreover, we learned from reports by the Fed and FDIC that both SVB and Signature Bank ran into challenges, just before they failed, with drawing down credit available from a FHLBank or moving collateral from a FHLBank to the Fed's discount window.[21]

Accordingly, I would ask that you review these circumstances to see if there are improvements that can be made in terms of how and when banks are able to access available credit from a FHLBank and to the extent coordination with the Fed can be improved in similar emergency situations in the future. In addition to monitoring how advances are utilized by FHLBank members, I also recommend that FHFA closely consider the assets of potential new members when determining their eligibility, and examine the assets and activities of existing members on a regular basis to determine whether or not the member's assets and activities continue to be aligned with the System's housing finance mission. The System was not created to serve as a personal bank of second-to-last-resort for banks that are participating in high-risk activities that do nothing to advance affordable housing and community investment.

FHFA must ensure that FHLBank System activities are meeting today's housing and community development needs in an equitable manner.

As part of its review, FHFA should assess the FHLBanks' programs, including their advances to member institutions and contributions to the AHP, and provide recommendations that ensure the System's investments are meeting the needs of today's evolving housing market in an equitable manner. First, it is critical to measure the impact of the System's capital advances as they represent the system's largest line of investments. In 2021,

---

14 FHFA Office of Inspector General, *An Overview of the Federal Home Loan Bank System* (Mar. 13, 2023).
15 FHFA Office of Inspector General, *An Overview of the Federal Home Loan Bank System* (Mar. 13, 2023).
16 American Banker, *After big bank failure, renewed questions about Home Loan Bank System* (Mar. 10, 2023).
17 FDIC, *Failed Bank Information for Silicon Valley Bank, Santa Clara, CA* (Last Accessed Mar. 21, 2023).
18 Protos, *Federal Home Loan Banks are bailing out crypto* (Jan. 19, 2023); *See also* American Banker, *Silvergate Bank loaded up on $4.3 billion in Home Loan bank advances* (Jan. 10, 2023).
19 Silvergate, *Silvergate Announces Select Preliminary Fourth Quarter 2022 Financial Metrics and Provides Business Update* (Jan. 5, 2023).
20 Silvergate Capital Corporation, *FORM 12b-25: Notice of Late Filing* (Last accessed Mar. 21, 2023); *See also* Silvergate, *Silvergate Capital Corporation Announces Intent to Wind Down Operations and Voluntarily Liquidate Silvergate Bank* (Mar. 8, 2023).
21 FDIC, *FDIC's Supervision of Signature Bank* (Apr. 28, 2023); *See also* The Fed, *Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank* (Apr. 28, 2023).

the System provided more than $350 billion in advances.[22] Yet, FHLBanks are not required to, and therefore do not, track the impact of those advances to determine who is benefitting from such advances and to ensure federally-backed advances are not perpetuating long-standing inequities in the housing, finance, and community development sectors.

As written, the FHLBank Act defines the purpose of long-term advances but does not specify whether receiving member institutions should be prioritizing those advances to meet the unique needs of communities that have long been underserved by traditional financial institutions. For example, FHLBanks' long-term advances must "[provide] funds to any member for residential housing finance" and "to any community financial institution for small businesses, small farms, small agri-businesses, and community development activities." Neither the purpose nor targeting of short-term advances made by FHLBanks, like those made to Silvergate Bank and SVB earlier this year, are stipulated in statute, except that such advances may be made to financially solvent members with "poor financial condition" that have "prospects of returning to a satisfactory financial condition."[23]

On the other hand, the only FHLBank programs that have a statutorily defined purpose and targeted focus are the AHP and Community Investment Fund, to which the FHLBanks are required to make annual contributions, as previously mentioned. These investments are significantly smaller than the volume of FHLBanks' advances. For example, in 2021, FHLBanks awarded over $350 million in AHP funds nationwide, as compared with $350 billion in total advances that the System provided in the same year.[24] FHLBanks make AHP funds available on a competitive basis to their members that work with affordable housing providers. The funds are used to subsidize the cost of affordable housing for renter households with incomes up to 50% of area median income (AMI) and owner-occupied housing for households with incomes of up to 80% of AMI. FHLBanks' Community Investment Funds support the purchase, construction, rehabilitation, refinance, and pre-development costs of owner-occupied and rental housing that is affordable to households with higher incomes of up to 115% of AMI. Accordingly, FHFA should recommend steps for the System to ensure FHLBanks are meeting their obligations to affirmatively further fair housing and that the System increases its voluntary affordable housing contributions.

Meeting Its Obligations to Affirmatively Furthering Fair Housing. As all federal agencies do, FHFA has an obligation to affirmatively further fair housing (AFFH) under the Fair Housing Act of 1968 (FHAct), as amended. This means that, as regulator of the FHLBanks, FHFA has an obligation to ensure the System is taking proactive measures to eliminate barriers to equitable access to housing opportunities and equitably serve all segments of the market, including protected classes under relevant civil rights laws. In the 1930s, the FHLBanks provided liquidity to home lenders and insurers that knowingly redlined neighborhoods of color, which unfairly blocked Black individuals and communities, immigrants, and other people of color from accessing home financing, community investments, and building wealth.[25] Therefore, the FHLBanks should regularly assess their statutorily required and voluntary programs and products and ensure that members are utilizing advances to eliminate segregation and other barriers to housing and credit for underserved communities, including protected classes under both the FHAct and the Equal Credit Opportunity Act.

As part of this obligation, FHFA should evaluate the System based on certain measures, including the extent to which the liquidity provided to member institutions is responding meaningfully to the needs of low-income renters, addressing the housing shortage in geographies with steep affordability challenges, and addressing racial and ethnic disparities in housing and community development. The System should track the outcomes of their programs and activities, including by collecting demographic information about the people and communities that benefit from the capital, credit, and investments that member institutions make with the support of FHLBanks and their federal backstop. FHFA should consider requiring the FHLBanks to develop their own equity plans, similar to those developed by Fannie Mae and Freddie Mac (the Enterprises), that include

---

[22] *Supra note* 26.
[23] 12 USC § 1421.
[24] Council of Federal Home Loan Banks, *Combined Financial Report for the Year Ended December 31, 2021* (Mar. 25, 2022).
[25] FHFA Inspector General, *–A Brief History of the Housing Government-Sponsored Enterprises* (Last accessed Mar. 21, 2023).

benchmarks, goals, and concrete outcomes.[26] Any such evaluations of impact should be made available to the public. Additionally, similar to the Enterprises' Affordable Housing Goals and Duty to Serve charter requirements, FHFA should require that FHLBanks develop plans to ensure they are supporting the housing needs of very-low, low-, and moderate-income communities, as well as the unmet housing and community development needs in rural areas and areas with high and persistent poverty, such as Appalachia, colonias, the Southern Black Belt, and the U.S. territories.[27]

Increasing Affordable Housing Program Contributions. Since 1990, when the FHLBanks began making AHP contributions, affordable housing needs have changed with notable housing supply and affordability challenges in today's market, especially among the lowest income families. Furthermore, while the System made approximately $1 billion in statutorily required and voluntary AHP and community investment contributions in recent years, there is room for the System to go further to support growing need across the nation. To address affordability needs, FHLBank contributions to AHP should adjust to rising U.S. home prices, which have skyrocketed by nearly 40% since May 2020, and rising rents, since the average renter is now paying 30% or more of their income on housing costs—the highest rate in recent history.[28] Additionally, the seasonally adjusted annual rate of U.S. home sales declined by 8% in 2021, compared to 2020, driven by higher home prices and a lower inventory of homes.[29] Studies show that in no state, metropolitan area, or county can a full-time, minimum-wage worker afford a modest two-bedroom rental home.[30] The brunt of today's negative housing trends is falling on people of color, single-parent households with children, people with disabilities, and other members of protected classes.[31] To address the affordable housing challenges in communities today, FHLBanks should increase their contributions to a minimum of 15%, and consider voluntary contributions that bring their total contributions to at least 25%. As former Chairwoman of the House Financial Services Committee, I worked with my Democratic colleagues to include an increase to FHLBanks' AHP contributions in Title IV of the Build Back Better Act[32] to specifically "require the FHLBanks to contribute 15% of their net income to their AHP, which would lead to the creation, rehabilitation or purchase of 98,000 affordable rental or homeownership units."[33]

In addition, the FHLBanks' AHP contributions represent a small share of their overall revenue, meaning they have room to expand their contributions. For example, between 2019 and 2021, the FHLBanks contributed $885 million in AHP,[34] and collectively contributed $190 million to voluntary programs that supported housing development, homeownership, small businesses, and disaster relief related to the COVID-19 pandemic.[35]

During the same three-year period, the FHLBanks received a combined total net income of more than $6.5 billion.[36] Given that the System's net income over a three-year period was six times that of its combined contributions, it is clear that FHLBanks can and should provide more support for today's most urgent housing needs, including the needs of low-income families and affordable homeownership opportunities in communities underserved in today's housing market.

Scale Investments in Affordable Multifamily Housing. As communities look to address the worsening housing and homelessness crisis, there are efforts across the country to scale the preservation and development of housing beyond single-family construction and toward types of developments that offer affordable options at

---

[26] FHFA, *FHFA Announces Equitable Housing Finance Plans for Fannie Mae and Freddie Mac* (Jun. 8, 2022).
[27] FHFA, *Duty to Serve Program* (Last accessed Mar. 21, 2023); *See also* FSC, *Persistent Poverty in America: Addressing Chronic Disinvestment in Colonias, the Southern Black Belt, and the U.S. Territories* (Nov. 15, 2022).
[28] Federal Housing Finance Agency, *House Price Index* (Q1 2023); *See also* Moody's Analytics, *Key Takeaways from the 4th Quarter Housing Affordability Update* (Jan. 19, 2023).
[29] Council of Federal Home Loan Banks, *Combined Financial Report for the Year Ended December 31, 2021* (Last accessed Mar. 21, 2023).
[30] National Low Income Housing Coalition, *NLIHC Releases Out of Reach 2021* (Jul. 19, 2021).
[31] Financial Services Committee (FSC), *A Strong Foundation: How Housing is the Key to Building Back a Better America* (Oct. 18, 2021); See also FSC, *Boom and Bust: Inequality, Homeownership, and the Long-Term Impacts of the Hot Housing Market* (Jun. 29, 2022).
[32] H.R. 5376, 117th Cong. (2021).
[33] House Financial Services Committee Democrats, *Summary of Title IV of H.R. 5376* (Nov. 2021).
[34] Council of Federal Home Loan Banks, *Comment Letter: FHLBank System at 100* (Oct. 2022).
[35] *Supra note* 31.
[36] Council of Federal Home Loan Banks, FHLBank Financial Data (Last accessed Mar. 21, 2023).

scale. For example, many communities are eliminating single-family zoning to allow for denser, more inclusive, and sustainable housing developments.[37] However, there is a need for more affordable capital within the affordable multifamily housing sector to provide gap financing to nonprofit developers, offset rising interest rates, and to make development deals financially feasible to serve lower income families.[38] These targeted investments could also help reduce lending gaps among Black and Latinx developers whose mission it is to preserve and increase the supply of affordable housing in underserved communities.[39] While FHLBank AHP investments are often focused on advancing homeownership through downpayment assistance, I am concerned that the pressures of skyrocketing rents continue to lock millions of qualified homebuyers out of the dream of homeownership. In fact, housing cost burdens are driving rising eviction rates that force many families into homelessness.[40] Therefore, the System should be given flexibility to focus FHLBank's AHP investments on affordable and mixed-income multifamily housing. These investments would not only help address the U.S. housing shortage at-scale but can also provide more affordable homeownership options through condominiums and cooperatives, can help lower rents, and allow more families to plan toward their future financial goals.

Improve support for community and economic development. Communities nationwide have struggled to recover from the financial impacts of the COVID-19 pandemic, especially since the end of the national emergency declaration, and many federal relief programs.[41] The lessons of the COVID-19 pandemic are very clear: communities underserved or entirely ignored by traditional financial institutions, including low-income communities and communities of color, were also hardest hit by the economic impacts of the pandemic; and community financial institutions such as CDFIs and MDIs, which have a long track record of serving those very communities, were critical to ensuring underserved communities and small businesses received the relief they needed.[42] While I led efforts in Congress to secure an unprecedented $12 billion in capital infusions and grants for CDFIs and MDIs in the December 2020 COVID-19 relief package,[43] the need to continue supporting community financial institutions remains urgent. For example, the majority of new small businesses, especially those owned by people of color, are seeking start-up capital, and financing.[44] Furthermore, businesses owned by people of color still struggle to get the financing they need. One study found that between 2019 and 2021, the share of Black-owned businesses whose financing needs were met *dropped* 8.8 percentage points, from 24.9% to 16.1%.[45] FHFA should ensure that the System is supporting CDFIs and other community financial institutions by increasing investments to CDFI and MDI members through the Community Investment Program and community development cash advances to support these institutions' economic development efforts.

FHFA should ensure that FHLBank boards are diverse.

In 2019, the Government Accountability Office (GAO) published a report that I had requested in 2018, which found that while the FHLBanks had taken steps to promote diversity, they reported challenges, including balancing the addition of new women or directors of color with retaining the institutional knowledge of existing directors; and competing with other organizations for qualified board candidates who were women or persons of

[37] New York Times, *Cities Start to Question an American Ideal: A House With a Yard on Every Lot* (Jun. 18, 2019).
[38] Enterprise, *White Paper: Barriers and Opportunities to Creating Low-Density Multifamily Housing* (Jan. 2022).
[39] New York Times, *'Excuse After Excuse': Black and Latino Developers Face Barriers to Success* (Mar. 3, 2023).
[40] NPR, *Rents across the U.S. rise above $2,000 a month for the first time ever* (Jun. 9, 2022).
[41] CNN, *Covid relief programs are starting to expire for millions of Americans* (Jul. 2021); *See also* CNN, *Child care subsidies: Biden administration proposes making child care more affordable for working families* (Jul. 2023); *See also* CNBC, *PPP has run out of money for most borrowers. What to know* (May 2021).
[42] Senate Committee on Banking Housing and Urban Affairs, Testimony of John Holdsclaw IV, at the hearing entitled, *Exploring How Community Development Financial Institutions Support Underserved Communities* (Jan. 2021); *See also* House Financial Services Committee, Testimony of William J. (Bill) Bynum, at the hearing entitled, *An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities* (Feb. 2022).
[43] House Financial Services Committee, *Waters Secures Emergency Rental Assistance and Support for CDFIs and MDIs in Bipartisan COVID-19 Relief Bill* (Dec. 2020).
[44] Kauffman Foundation, *Access to Capital for Entrepreneurs Report* (Jun. 2023).
[45] Kauffman Foundation, *Access to Capital for Entrepreneurs: Removing Barriers (2023)* (Jun. 2023).

color.[46] I urge FHFA to review current trends in the diversity composition for the individual FHLBank boards, the challenges they face in recruiting and maintaining board diversity, and FHLBank's recruitment practices and processes. This review should focus not only on race and gender, but to the extent to which data is available, disability status, sexual orientation, and gender identity and expression. Finally, I encourage recommendations on steps to improve individual FHLBanks' board diversity.

In its review of the System, FHFA has a tremendous opportunity to address today's most pressing housing and community development needs, especially those of communities that have long been, and continue to be, underserved by our nation's housing and financial services system. I look forward to reviewing FHFA's concluding report in its 100-year review of the FHLBanks, including any recommendations for improving the System for generations to come.

Sincerely,

Maxine Waters

Maxine Waters
Ranking Member

CC: Patrick McHenry, Chair, Committee on Financial Services, U.S. House of Representatives

[46] GAO, *Federal Home Loan Banks: Steps Have Been Taken to Promote Board Diversity, but Challenges Remain* (Mar. 2019).