California CREDIT UNION LEAGUE NEVADA CREDIT UNION LEAGUE

July 15, 2024

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Agency
Constitution Center
400 7th Street, SW
Washington, D.C. 20219

RE: FHLB Core Mission Activities and Mission Achievement

Dear Director Thompson:

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), whose combined strength makes up one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 230 credit unions and their more than 11.6 million members.

The Leagues appreciate the opportunity to comment on the Federal Housing Finance Agency's (FHFA) Request for Input (RFI) regarding the Federal Home Loan Bank (FHLBank) core mission activities and mission achievement. We strongly support the FHLBanks' mission to provide reliable liquidity to its member institutions to support housing finance, affordable housing, and community investment. Maintaining an ongoing commitment to housing finance should be the top goal for FHLBanks and their respective members.

To maintain the FHLBank system access for California and Nevada credit unions and encourage further participation and stronger community impact, we respectfully offer our following comments.

I. General Comments

- **FHLBanks and Credit Unions; Cooperative Structures**

As member-owned, not-for-profit financial cooperatives, California and Nevada credit unions are at the heart of FHLBanks' mission. The FHLBank system is comparable to credit unions in that both: (i) are mission-driven cooperatives; (ii) have assets of approximately the same proportion; and (iii) have tax-exempt status. Given this shared cooperative structure, the Leagues strongly encourage the FHFA to consider these similarities when making any regulatory changes.

- **California and Nevada Credit Unions as FHLBank Members**

There are currently 11 regional FHLBanks supporting more than 6,000 credit unions, banks, insurance companies, and community development financial institutions (CDFIs) with essential lending services to serve people, families, businesses, and communities. Among these, nearly 145 California and Nevada credit unions proudly partner with the Federal Home Loan Bank of San Francisco (FHLBank San Francisco) to access liquidity and advance local communities through affordable lending resources.

California holds the largest concentration of larger credit unions, i.e., those with assets of $1 billion or more, within the FHLBank San Francisco region. Almost 49% of these larger California credit unions are members of the FHLBank San Francisco. In fact, the FHLBank San Francisco has more credit union members than any other FHLBank in the system. This significant presence underscores the vital role that California credit unions, and credit unions in general, play in the FHLBank San Francisco network.

The FHLBank San Francisco recognizes the importance of credit unions in its governance, which includes three credit union directors on its board. This inclusion ensures that the interests and needs of credit unions are effectively represented and addressed within the system.

The FHLBank San Francisco, with its robust support from California and Nevada credit unions, is crucial for providing much needed liquidity and flexibility, particularly in serving underserved and low-income members. The current structure of the FHLBank system is instrumental for credit unions, reinforcing their ability to contribute to their communities effectively.

II. Mission Statement for the FHLBank System

- **FHFA's plan to clarify the FHLBanks' mission exceeds statutory authority**

According to the RFI, the FHFA plans to issue a proposed rule to clarify the FHLBanks' mission of providing liquidity to members and supporting housing and community development, as well as providing additional metrics and thresholds for measuring mission achievement. The Leagues believe that Congress adequately defined the FHLBank mission in 12 USC §1430(a)(2) (purposes of advances to members) and §1431 (powers and duties of FHLBanks), and therefore did not intend for the FHFA to further define or modify the mission. 12 CFR §1265.3 identities a list of activities that qualify as core mission activities (CMAs). While CMA regulation is in furtherance of the mission, it is not itself the mission, which is established by Congress. We are concerned that any efforts by the FHFA to impose regulations that attempt to redefine or change the mission of the FHLBanks would be found to exceed the FHFA's authority.

III. Measurement of Mission Achievement

- **FHLBanks' Core Mission Activities**

As noted above, 12 CFR §1265.3 includes a list of the FHLBanks' core mission activities (CMAs). The RFI indicates that the FHFA is considering several approaches to measuring the FHLBanks' mission achievement, including one that would draw on the CMA regulations and guidance. The FHFA indicates that its current approach takes into account the provision of liquidity to members and housing associates but does not assess support for housing and community development activities. However, the FHFA is considering updating the CMA regulation and creating multiple measurements of mission achievement.

It is crucial for the FHFA to understand the unique field of membership structure of credit unions, particularly those in California and Nevada, and the limitations attendant thereto. Credit unions operate under a structure of defined fields of membership that allows them, with limited exceptions, to provide services to persons meeting distinct membership criteria. The field of membership may include specific communities, professions, or other associations, which significantly influences their mortgage loan originations and overall lending practices. Any changes to the FHLB's core mission could disproportionately impact these credit unions, hindering their ability to provide essential financial services to their members. Therefore, the FHFA should proceed with caution, ensuring that policy modifications do not disrupt the vital support credit unions receive from the FHLB system, which is fundamental to their role in fostering community development and financial inclusion across all fields of membership.

FHLBanks play a pivotal role in helping credit unions lower mortgage and general lending rates by providing crucial access to liquidity. This liquidity is not only affordable but also fungible, enabling credit unions to manage their cash flow needs efficiently. By borrowing from FHLBs at low costs, credit unions can offer competitive loan rates to their members, making homeownership and other financial needs more accessible and affordable. This advantage is especially critical in times of fluctuating demand or economic uncertainty, where maintaining stable and sufficient cash reserves can be challenging.

Moreover, credit unions accessing liquidity through the FHLBanks are complying with key National Credit Union Administration (NCUA) and state regulator stringent asset-liability management (ALM) requirements. The flexibility provided by FHLB funding allows credit unions to meet the diverse needs of their members while adhering to sound financial practices. Consequently, the FHLB system is instrumental in empowering credit unions to serve their communities effectively, particularly by extending affordable lending options to underserved and low-income members.

Should the FHFA make any policy changes – including changes to the FHLBanks' ability to provide advances to members – it would have a significant impact on credit unions' ability to meet short- and long-term needs. This would place credit unions, especially those in California (which hosts over 50 credit unions with assets exceeding $1 billion), at a strategic disadvantage. Policy changes, such as altering the valuation of collateral used for FHLB advances, could reduce the number of consumers served in California, thereby undermining the mission of providing reliable liquidity for housing and community development.

Further, credit unions within California and Nevada are under the oversight of federal and/or state regulators and must adhere to numerous fair and equitable lending rules that support affordable housing in low-to-moderate income communities. The Leagues recommend that the FHFA conduct a comprehensive analysis of existing regulations that further core mission activities, comparing them against any potential policy changes to ensure reasonable parity.

IV. Member Incentive Program

The RFI suggests that the FHFA may introduce a proposed rule requiring each FHLBank to establish a member incentive program, subject to FHFA approval, that would provide added benefits to members with a demonstrable connection to the FHLBanks' housing finance and community development mission. The RFI indicates that the potential proposed rule could outline a framework and parameters for each FHLBank's program.

According to the RFI, each FHLBank program would include at least three categories of incentives:

- Base Category: For members that engage in the baseline level of housing and community development activity.
- Two Higher Categories: Providing increasingly attractive benefits, such as discounted advance rates or differential dividends on capital stock, reflecting greater levels of engagement in housing and community development activities.

However, 12 USC §1427(j) states:

> "[S]uch board of directors shall administer the affairs of the bank fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions hereof, extend to each institution authorized to secure advances such advances as may be made safely and reasonably with due regard for the claims and demands of other institutions, and with due regard to the maintenance of adequate credit standing for the Federal Home Loan Bank and its obligations."

The approach proposed in the RFI would conflict with the principles of §1427(j), which mandate that the FHLB board administer its affairs fairly and impartially, without discrimination in favor of or against any member. The proposed incentive program could create disparities among members by offering added benefits to those with stronger connections to FHLBanks' mission.

For credit unions in California and Nevada, particularly larger ones with $1 billion or more in assets, this proposed concept is very concerning. Expecting them to engage in "mission-related activities" beyond their traditional models, such as member business loans (MBLs) and Small Business Administration (SBA) lending, in order to access reliable liquidity would be challenging. For example, multi-family development investments, commonly discussed among banks, are not typically a focus for credit unions.

This concept would also be challenging for low-income designated and community development financial institution (CDFI) credit unions. In California and Nevada, there are nearly 124 low-income designated and 58 CDFI credit unions. Any policy changes requiring these credit unions to do more to obtain advances would be problematic.

Due to credit unions' democratic governance, cooperative structure, and unique legal framework, they often do not fit well into other types of tiering criteria intended for banks or loan funds. Therefore, the FHFA must proceed cautiously to avoid unintended adverse consequences for credit unions.

V. Other Considerations

- **Coordination with federal and state regulatory agencies is crucial**

The FHLBanks do not have regulatory or supervisory authority over their members. They rely on the primary regulators of their members to provide the necessary oversight and ensure safety and soundness. This is appropriate, as the FHLBanks are not nearly as well-positioned as these regulators to monitor the safety and soundness of thousands of members of different sizes and business models. Instead, FHLBanks focus on managing the risk posed by the liquidity they provide.

The historic collapses of Silicon Valley Bank and Signature Bank in March 2023, following the liquidation of Silvergate Bank, highlighted the importance of liquidity, particularly for smaller financial institutions. During these uncertain times, many institutions turned to the FHLBank system for support, just as they did during the pandemic.

The FHFA may be attempting to regulate to avoid large advances to lenders in critical condition. However, in doing so, the FHFA may inadvertently harm community-based lenders—such as credit unions—the very institutions they aim to support.

Moreover, credit unions often utilize community investment cash advances but are less likely to engage in large-scale housing or community development projects.

The Leagues recommend that the FHFA collaborate with the NCUA and state regulators to accurately tailor Community Investment Program (CIP) advances to the credit union model. It is important to understand the role credit unions play in meeting their members' needs for housing and community development before holding credit union members or the FHLBanks accountable.

VI. Conclusion

While we understand the FHFA's intent to enhance the mission achievement of the FHLBank system, it is crucial to ensure that these changes do not inadvertently harm the ability of credit unions to serve their members effectively. We urge the FHFA to consider the unique nature of credit unions, their diverse models, and the essential services they provide to their communities.

Thank you for considering our comments. We look forward to engaging further on this important issue.

Sincerely,

Scott Simpson
President and CEO
California and Nevada Credit Union Leagues