



Missouri Bankers Association

July 12, 2024

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

Submitted via email: <https://www.fhfa.gov/public-input/fhlbank-mission>
RE: FHLBank Mission – Request for Input

Dear Regulators:

The Missouri Bankers Association (MBA) is pleased to submit this comment letter in response to your Request for Input (RFI) dated May 16, 2024, regarding the Federal Home Loan Bank Core Mission Activities and Mission Achievement. On behalf of our members and the Missouri communities they serve, the MBA is opposed to any regulatory action or maneuver by the FHFA to change or re-define core mission activities of the FHLBs.¹

The FHLBs are member owned cooperatives. MBA members value the services of the Federal Home Loan Bank of Des Moines, and we hold our FHLB in high regard. The MBA represents 220 banks that maintain a presence in Missouri. The FDIC's Quarterly Missouri Banking profile shows Missouri headquartered banks held \$250 billion in assets at the end 1Q 2024. Missouri consistently ranks in the top five states for total bank charters. Many of our Missouri banks are members and customers of the FHLB Des Moines. The FHLBs have been extraordinarily successful throughout their first 100 years in meeting the needs of members – in good times and in bad times. Our FHLB fully fulfills its mission and this in turn serves our banks, communities and the State of Missouri.

As a regulator, the FHFA is tasked to examine and report on the FHLBs. While safety and soundness are the primary objectives of FHFA supervision of the FHLBs, Congress has directed the FHFA to examine and report the mission achievement of the FHLBs including authorizing the director to appoint a deputy director of housing mission and goals to assure that the authorizing statutes are carried out only through the activities authorized by statute. 12 USC 4511; 4512; 4513.

The mission of the FHLBs is defined by Congress under the charter powers and duties of the banks in 12 USC sections 1430 and 1431 and under the Duties of the Directors of the

¹ The MBA is also a signatory with the American Bankers Association and our sister associations in a joint comment letter for the current RFI.

FHLBs under 12 USC 1427. The current Core Mission Activities (CMA) rule of the FHFA properly reflects and is properly limited to the Congressional mandate for the FHLBs. See 12 CFR 1265.3. Furthermore, the director is required to account for and distinguish the FHLBs from the housing enterprises - due to their *cooperative ownership structure, mission of providing liquidity to members, and mission to support affordable housing and community development*. 12 USC 4513. The RFI addresses matters beyond what Congress has directed.

An alarming aspect of the RFI is consideration that the FHLBs should discriminate among members based upon potential housing and community objectives determined by the FHFA. *Any member* is eligible to apply for and secure advances under 12 USC 1429. Under 12 USC 1427(j), the directors of the FHLBs are required to administer the affairs of the bank fairly and impartially and without discrimination in favor for or against any member.

Recent US Supreme Court opinions have re-affirmed separation of powers under the Constitution. Importantly *Loper Bright Enterprises v. Raimondo* (2024) establishes that the judiciary can no longer defer to administrative agency actions that effectively make the law rather than apply or execute the laws as enacted by Congress. The 2022 decision in *West Virginia v. EPA* established the major question canon of construction to bar agencies from taking actions of vast economic and political significance without clear statutory authorization. The FHLBs and their members are critical housing finance infrastructure in the United States affecting millions of citizens and billions (if not trillions) of dollars in housing and community development.

FHFA is not authorized to define or redefine the mission of the FHLBs. Congress has determined the mission and has not delegated this power to the FHFA. The FHFA is a regulator who is authorized to examine and report on the condition of the FHLBs to assure safety and soundness and to report the performance of the FHLBs in attainment of mission activities.

FHFA reports, Congress decides.

Sincerely,



Jackson Hataway
President and CEO