



The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
Office of the Director
400 7th Street, SW, 9th Floor
Washington, DC 20219

July 11, 2024

Re: **Federal Home Loan Bank Mission RFI**
(<https://www.fhfa.gov/sites/default/files/2024-05/FHLBank-Mission-RFI-2024.pdf>)

Dear Director Thompson,

The National Association of Industrial Bankers (NAIB), the Utah Association of Bankers (UBA) and the Nevada Bankers Association (NBA), appreciate the opportunity to submit comments from our member banks regarding Request for Input published by the Federal Housing Finance Agency (FHFA) regarding the Federal Home Loan Banks' Core Mission Activities and Mission Achievement.

NAIB is an association of industrial banks (IBs). Industrial banks, first chartered in 1910, operate under a number of titles, including industrial loan banks, industrial loan corporations, or thrift and loan companies. These banks engage in consumer and commercial lending on both a secured and unsecured basis. They do not offer demand checking accounts but do accept time deposits, savings deposit money market accounts and NOW accounts.

Industrial banks provide a broad array of products and services to customers and small businesses nationwide, including in some of the most underserved segments of the US economy. Industrial banks are state chartered FDIC-insured depository institutions that comply with the same state and federal laws and regulations that apply equally to all FDIC-insured banks. These same institutions are also commonly referred to as Industrial Loan Companies (ILCs).

The Utah Bankers Association (UBA) is the professional trade association for Utah's commercial banks, savings banks and industrial banks. Established in 1908, the UBA serves, represents and advocates for the interests of its members, enhancing their ability to be preeminent providers of financial services.

Nevada Bankers Association (NBA) is the united voice of Nevada's diverse banking industry: its members are dedicated to providing the best financial products, services and resources to drive and support economic growth, job creation and prosperity throughout the state of Nevada.

[The undersigned signatories to this RFI are collectively entitled “NAIB/UBA/NBA”]

Important Considerations Regarding Industrial Banks and Commercial Banks

America's industrial banks are among the safest and soundest financial institutions in the country. This is consistently documented by FDIC call reports which are released on a quarterly basis. [stena.utah.edu/industrial-bank-reportyear-end-2023/]. The NAIB/UBA/NBA members believe in strong, consistent and practical regulations that ensure this tremendous track record which ultimately benefits consumers and the American economy.

Industrial banks are state chartered institutions which are regulated by the FDIC and the relevant state financial institutions departments. They are subject to the same federal and state rules as any other state-chartered bank. However, because of their history and characteristics including niche lending, industrial banks have become the most innovative and most receptive financial service organizations towards the use of safe technology in providing credit to Americans. Therefore, NAIB/UBA/NBA and its industrial bank members are qualified to offer advice and recommendations on regulations impacting lending to small businesses, meeting community needs through the Community Reinvestment Act, and assist Americans in their credit needs.

Local and regional banks continue to play an important part of America’s economy, especially meeting the credit needs of small businesses and families. UBA and NBA commercial bank members are strong and sound financial institutions, who serve so many needs especially in rural areas.

Recommendations

NAIB/UBA/NBA gathered responses to the Federal Home Loan Bank Mission RFI from multiple members. However, many of our members have submitted independent letters, or provided information to other trade associations which in turn provided letters, all which contain extraordinary detail to substantiate their responses. NAIB/UBA/NBA suggests the agency refer to those many letters for any documentation of the items detailed below.

Thus, the purpose of this letter is to provide a general overview of the perceptions, experiences and recommendations of our members. NAIB/UBA/NBA offers the following recommendations regarding Federal Home Loan Bank Mission RFI:

I. Responses to the Mission Section

The FHLBank mission is articulated throughout the FHLBank Act. This statute details the authorization and requirements of FHLBanks. Further this legislation describes who may be members of a FHLBank, and how members can access the FHLBank. Equally important, the Act declares the “mission” is providing liquidity to members and supporting affordable housing and community development. Congress, not FHFA, has the authority to change the FHLBanks’ mission.

NAIB/UBA/NBA members have experience interacting with various federal regulators. We believe the interests of consumers, financial institutions, and the economy are best served by regulators who supervise entities pursuant to the mission of their respective agency. Attempts to alter or modify the mission without Congressional approval is contrary to this objective.

Indeed, the issue regarding the ability of federal agencies pursuing interpretations of their respective governing statutes was recently defined in the United States Supreme Court decision of Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al. 603 U.S. ____ (2024). In Loper, the Court ruled that courts need not - under the Administrative Procedure Act - defer to an agency interpretation of the law simply because a statute is ambiguous. Therefore, the Chevron Doctrine was overruled. We believe an attempt by FHFA to alter or modify its mission - which was clearly articulated by Congress - would be subject to judicial scrutiny.

FHFA is a safety and soundness regulator and should evaluate how the FHLBanks are performing in pursuing the mission, but should not have the authority to change this mandate. History documents this is a sound policy.

The FHLBanks have delivered on their mission for over 90 years and achieved many successes in the existing structure, including:

- Providing stable, reliable liquidity to their members through advances and letters of credit.
- Supporting housing by purchasing mortgage loans from members who originate mortgages. These sales to the FHLBanks frees capital while maintaining customer relationships.
- Resolving regional housing and community development needs through FHLBanks Affordable Housing Program and the affiliated voluntary programs.

II. Responses to Measurement Section

FHLBanks pursue activities in accordance with the mission detailed by Congress. Since the FHLBanks can only do what Congress has authorized and required them to do, then everything a

FHLBank does is in fulfillment of its mission. All FHLBank liquidity, affordable housing and community investment activity should be factored into how the banks fulfill their mission. Further, these activities in fulfillment of the mission are thoroughly regulated.

III. Member Incentives Section

The FHLBank Act requires the FHLBanks to treat all members fairly and impartially. This includes consideration of creditworthiness of members and the safety and soundness of the FHLBank.

Congress provides “incentives” by allowing community financial institutions to pledge a broader range of collateral and by allowing members to obtain discounted advances through the Community Investment Cash Advance (CICA) and Community Investment Program (CIP) programs.

NAIB/UBA/NBA respectfully suggest FHFA offer information as to the need of additional incentive programs. Otherwise, implementing incentive programs carries a serious risk of the FHFA exceeding the statutory mandate developed by Congress (providing members with liquidity to support affordable housing and community development). The mission is clear: if members satisfy requirements for membership and provide the eligible collateral to borrow from the System, they can access FHLB liquidity on an equal basis.

IV. Other Considerations

The FHLB provides NAIB/UBA/NBA members -especially those providing SBA loans - with an important liquidity tool of a contingency funding secured line of credit. Potential regulations that limit FHLB membership, or modify eligible assets, will impact the origination of SBA and other small business loans. This is clearly contrary to the mission articulated by Congress.

NAIB/UBA/NBA members are especially confused as to the purpose of this RFI. Since its inception, there has never been a loss from an advance in the FHLB system. Therefore, we are concerned that an unjustifiable disruption to the current regulatory scheme could hamper FHLBanks providing a valuable liquidity tool to community banks.

Also, NAIB/UBA/NBA members are proud of the important contributions they make to their communities through multiple CRA activities. This is not just an element of our supervision by federal and state agencies but is an element that is critical to our respective missions. FHLB’s innovative programs continue to assist NAIB/UBA/NBA members meet our objectives for

CRA. Unfortunately, the proposed actions through the RFI could hamper this important endeavor.

Conclusion

NAIB/UBA/NBA are concerned changes contemplated by the RFI will have a negative impact on our current members. The FHLB system directly and indirectly provides support for affordable housing and community development.

Regulatory changes must not come at the expense of members' ability to access FHLB liquidity if they meet the existing collateral and membership requirements.

NAIB/UBA/NBA respects and appreciates the efforts of FHFA in protecting Americans. We respectfully, but strongly, reaffirm the potential contained in the Federal Home Loan Bank Mission RFI is an unfortunate deviation from their mission developed by Congress. As outlined above, and provided in greater detail through many other comments, the goals of the agency can continue to be achieved through existing structure.

On behalf of our members, we hope you find these comments helpful.

Thank you for the opportunity to respond.

Sincerely,



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