AMERICAN BANKERS ASSOCIATION

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Mr. Alfred M. Pollard, General Counsel
Mr. Christopher T. Curtis, Senior Deputy General Counsel
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, DC 20552

Attention: Comments/RIN 2590-AA21

Re: Capital Classification and Critical Capital Levels for the Federal Home Loan Banks

Dear Sirs:

The American Bankers Association is pleased to offer the following comments on the Federal Housing Finance Agency's ("FHFA") interim final rule on Capital Classifications and Critical Capital Levels for the Federal Home Loan Banks.

The Housing and Economic Recovery Act of 2008 ("HERA") sets forth criteria for the amount and type of capital held by Federal Home Loan Banks based on certain capital classifications. These classifications, as set forth in HERA are: adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized.

ABA supported the passage of HERA, and also supports the capital classifications set forth in the interim rule. We offer the following comments on the interim rule.

Quarterly Asset Growth Cap:
Section 1229.6(a)(4) of the regulation provides that an undercapitalized Federal Home Loan Bank may not permit its average total assets in any calendar quarter to exceed its average total assets during the preceding quarters, unless certain requirements are met. ABA is concerned that this cap on quarterly asset growth may have the effect of limiting advance growth by the Banks in counterproductive ways. Advances are the Banks' primary business and the main mechanism for them to meet their public purpose of providing liquidity to their members. It is especially important not to overly restrict the functionality of the Banks in a time of limited liquidity and economic turmoil. We strongly urge the FHFA to permit exceptions at the Director's discretion for growth in advances from the quarterly asset cap.

Answers to Questions Set Forth in the Rule:
In the preamble to the interim rule, the FHFA posed several specific questions. We offer our answers here:

1. **Would a "well capitalized" classification category provide incentives to the Banks to hold more than the minimum amounts of capital and increase retained earnings as a percentage of capital?**

HERA sets forth four required categories which we feel are sufficient. We believe that there are likely benefits to the Banks and to the System overall from a regime that both recognizes and rewards stronger capital positions, including from increased retained earnings. We encourage the FHFA to explore methods for achieving those goals, but to address those methods in a separate proposed rulemaking.

2. **What restrictions on adequately capitalized Banks may be appropriate to create an incentive to Banks to achieve and maintain a well-capitalized rating?**

Again, we believe this is a consideration which is best explored in a separate, distinct rulemaking. Because HERA provides only for four classifications, with the highest being "Adequately Capitalized," we do not believe that there should be any restrictions placed on a Bank that is so categorized.

3. **Alternatively, should the FHFA adopt a MVE/PVCS and/or retained earnings requirement as a separate risk-based capital rule that would be applied to the FHLBanks in addition to the current risk-based capital requirement in 12 CFR 932.3, and incorporate this new requirement into the criteria for defining either the adequately capitalized category or a new well-capitalized category? Should MVE/PVCS or retained earnings targets be adopted other than as part of the risk-based capital structure?**

MVE/PVCS measurements are not focused on going concern values, but instead are the results of application of exit prices to assets and liabilities. As such, they can be a poor measure for defining capital levels. Recent experience with current formulations of Fair Value Accounting rules has demonstrated the distortions which can arise when using exit prices applied to going concerns. We strongly urge the FHFA not to use such measurements. As to retained earnings goals, again, we urge a separate proposed rulemaking which considers both the targets for retained earnings in relation to risk and the methods for measuring and achieving those targets.

4. **Are there any changes that should be made to the RBC framework?**

We believe that the current risk based capital structure is sufficient. However, as the FHFA considers possible retained earnings goals, and/or other factors which could impact the capital positions of the Banks, we believe that a review will be in order. Particularly given the volatility facing the entire financial industry, we urge the FHFA to methodically review the capital requirements for the Banks on a continuing basis, taking into account changing conditions, potential distortions caused by accounting standards in need of repair, economic needs of the Banks and their members, and the consistency of proposed actions with those being developed or under consideration at other financial regulatory agencies and at the Financial Accounting Standards Board.

The ABA greatly appreciates this opportunity to comment on this important matter. If you have any questions or would like to discuss any of these issues further, please contact the undersigned.

Sincerely,

Robert R. Davis

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