

June 23, 2020

Federal Housing Finance Agency
Division of Federal Home Loan Bank Regulation
400 7th Street SW, 7th Floor
Washington, D.C. 20219

RE: Request for Information on FHLBank Membership

On behalf of the 2.2 million credit union members we represent, the Heartland Credit Union Association (HCUA) appreciates the opportunity to comment on the Federal Housing Finance Association's (FHFA) Request for Information (RFI) on issues relating to Federal Home Loan Bank (FHLBank) membership.

As member-owned, not-for-profit financial cooperatives, credit unions have become an increasingly prominent provider of mortgage credit in the United States. Accordingly, a fast-growing number of the millions of consumers rely upon their credit union to help them purchase, renovate, or refinance their home, especially in these uncertain times.

1. *In addition to the statutory requirements of the FHLBank Act, what are the most important general principles and factors FHFA should consider in achieving the objectives of FHLBank membership?*

HCUA understands that FHFA is seeking to develop requirements to address consistent membership eligibility and ensure that the system remains safe and sound and able to provide liquidity for housing finance. We appreciate the FHLB's mission to provide reliable liquidity to its member institutions to support housing finance and community investment.

The most important objective of the FHLBank system is that its safety and soundness be preserved to protect its members. FHLBanks should not place too much risk in its membership base and members, with rare exception, should be well regulated with a regulatory infrastructure in place. Allowing loosely regulated financial entities to become members of the FHLBanks could negatively affect the lending of community financial institutions such as credit unions.

One of our member credit unions shared that allowing outside entities that are not regulated to the extent that banks and credit unions are does present a risk to the FHLB system. The credit union is not required to have that large of an amount of membership capital with the FHLB, so the monetary is minimal for this credit union. However, losing their source for offering 1st mortgage loans that the credit union is not required to keep on their books would present a major change in their product offering and a source of good revenue for the Credit Union.

2. *Are there classes or types of institutions not currently eligible for FHLBank membership under FHFA's current regulation whose eligibility would simultaneously further both of those objectives and, if so, how?*

HCUA strongly encourages FHFA to allow Credit Union Service Organizations (CUSOs) to be eligible for membership to FHLBanks, as this will help them better assist their member credit unions' community lending activities. CUSO membership would further FHFA's duty to ensure the operations and activities of FHLBanks foster liquidity and efficient, competitive, and resilient national housing finance markets.

CUSOs are not currently eligible to join the FHLBanks, and credit unions would greatly benefit from their membership. A CUSO is an organization formed and/or owned by one or more credit union to provide a specific product or service within the credit union industry. CUSOs help credit unions provide innovative products and services, increase efficiencies, and gain economies of scale. CUSOs would not pose any risk to the FHLBanks, as other non-depository financial institutions might. CUSOs are owned by credit unions, which are financial cooperatives owned by the members they serve. While CUSOs are not independently examined by the National Credit Union Administration (NCUA), their credit union members are subject to examination by state and/or federal regulators. NCUA actively communicates with and conducts periodic reviews of large CUSOs and evaluates any risks that CUSOs may expose credit unions to in credit union supervisory examinations. In addition, CUSOs are licensed at the state level for mortgage activity.

3. *Financial Condition Requirement. Would there be benefits to establishing financial condition review requirements that are substantially similar for all applicants, regardless of whether they are organized as an insured depository institution, insurance company, or Community Development Financial Institution (CDFI)?*

A financial condition review requirement should be based on the risk the institutions may provide and should not be substantially similar for all applicants. HCUA believes that any financial condition review requirements should not place credit unions at a disadvantage. Credit unions are not-for-profit financial cooperatives examined by the NCUA and as such are low risk financial institutions. We understand the FHLBanks may want to consider additional review requirements for applicants that, unlike credit unions, are higher risk.

4. *Unsupervised members and affiliates. a) What are the principal risks to the FHLBanks from doing business with members that are not subject to supervision by a prudential safety and soundness regulator, and are those risks materially greater than those associated with doing business with members subject to such oversight?*

HCUA believes that preserving the integrity of the FHLBank system is very important to all of its members. We also acknowledge that generally there is greater risk to the FHLBanks in doing business with members that are not subject to supervision by a prudential safety and soundness regulator. Regulators, with ongoing and frequent supervisory examinations, can monitor the lending practices, portfolios, policies and procedures, and safety and soundness practices of depository institutions, ensuring they do not impose a great risk to the FHLB system.

CUSOs are not generally examined by the NCUA as credit unions are, but they are monitored by the agency and their credit union members are regularly examined. NCUA actively evaluates the risk exposure CUSOs could bring to credit unions, even though the agency is not conducting a full examination. Furthermore, CUSOs are licensed at the state level for mortgage activity. In this instance, they would provide no greater risk to the FHLBanks than depository institutions would.

5. *Should FHFA require FHLBank members to demonstrate an ongoing commitment to housing finance in order to remain eligible for membership? If so, how should that commitment be measured and monitored?*

The objective and mission of the FHLBanks is to serve communities that need housing. Therefore, maintaining an ongoing commitment to housing finance should be the top goal for FHLB membership. But, the question for consideration is how that commitment should be measured and monitored. HCUA strongly believes that any requirements be flexible so that credit unions are not unintentionally excluded. The economic and housing market of individual communities is fluid, especially in current times.

Community needs change, particularly in the current environment. Credit unions must be flexible enough to address these needs. Therefore, any regulatory provisions should be illustrative with few mandatory requirements. There should be consideration and additional flexibility given to non-profit cooperatives, such as credit unions, that are owned by the members they serve. These institutions are automatically vested in their members' financial wellbeing, as well as the financial health of their communities.

6. *Rebuttable presumption approach of regulation. As discussed above, an applicant's failure to meet the specific standards by which compliance with a membership eligibility requirement is determined may, in some cases (specifically, with respect to the "subject to inspection and regulation," "financial condition," "character of management," and "home financing policy" requirements), raise a mere presumption of non-compliance that the applicant may rebut by meeting additional criteria. The intent behind this approach is to facilitate the processing of membership applications by the FHLBanks by allowing them to exercise a degree of judgment in assessing the unique facts that may be presented by some applicants. Because those additional criteria allow the FHLBanks considerably more discretion than do the primary standards, however, they also are more subject to misinterpretation and misapplication, particularly when the FHLBanks are considering cases of first impression.*

Would the safety and soundness of the FHLBanks be enhanced if FHFA were to establish new standards that provided less discretion to the FHLBanks, and all of which must be met for an applicant to be admitted to membership? If so, what should those standards be? Please explain in detail.

HCUA supports standards that provide individual FHLBanks discretion, given that individual banks and their Boards of Directors have a more comprehensive understanding of the communities within their jurisdictions. We support the ability of FHLBanks to exercise judgment in assessing individual applicants' unique characteristics. Furthermore, we do not believe the safety and soundness of the FHLBanks would be necessarily enhanced if FHFA were to establish new standards that provide less discretion to the FHLBanks. If the FHFA is concerned with the safety and soundness of the FHLBank System, it should address non-depository financial institutions seeking membership that do not have any oversight from state or federal regulators.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,



Brad Douglas
President/CEO