FHLBANKS
OFFICE OF FINANCE

VIA EMAIL

December 3, 2010

Mr. David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

RE: RIN 3038-AC15; Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions (Proposed Rule)

Dear Mr. Stawick,

The Office of Finance of the Federal Home Loan Banks (FHLBanks) appreciates the opportunity to comment on the above-referenced proposed rule. We believe the Commission's proposal to amend paragraph (a)(1)(iii) of Regulation 1.25 by removing government-sponsored enterprise ("GSE") securities that are not backed by the full faith and credit of the United States may have the unintended consequence of harming the intended beneficiaries of the rule by prohibiting investments in safe and liquid FHLBank debt securities. Although the Commission's discussion of the proposed rule states that "safety of a particular instrument or transaction must be viewed through the lens of its likely performance during a period of market volatility and financial instability," this proposed amendment does not take into account the fact that the FHLBanks and FHLBank debt securities performed well throughout the recent credit crisis and recession. We recommend that the proposed rule be amended to retain FHLBank consolidated obligations ("COs") as permissible investments for customer funds under rule 1.25 and the related rules.

FHLBank Performance During the Credit Crisis

As noted above, the FHLBanks were able to perform well throughout the recent credit crisis and recession. During the period of rapidly deteriorating market conditions from June 30, 2007 to September 30, 2008, total loans to FHLBank members rose sharply by $372 billion, a 58% increase. The FHLBanks performed as designed during this period, quickly and efficiently delivering liquidity to the banking sector despite an overall severe, systemic contraction of the credit markets. Due to the fact that FHLBank debt—particularly discount notes and floating rate notes—has consistently been favored by investors who view it as providing safety and liquidity during the credit crisis, the FHLBanks were able to maintain funding capabilities even during the most severe periods of market stress in September and October of 2008. This continual market access allowed the FHLBanks to meet our members' needs for liquidity during a period when alternative sources became unavailable or prohibitively expensive, and helped the United States weather the crisis. The FHLBank business

model worked exactly as designed with all the moving parts falling into nearly perfect synchronization: strong investor demand for safe and liquid FHLBank debt securities enabled us to continue to obtain financing through the debt markets, while the collateral and capital provided by our membership enabled us to immediately transfer that financing directly into the banking sector. Excluding FHLBank debt securities from the list of permitted investments under rule 1.25 as proposed may have the unintended consequence of harming the intended beneficiaries of the rule as well as adversely affecting the FHLBanks' ability to fulfill their mission during any future crisis as well as they fulfilled it during the last one.

In the discussion of the proposed amendments to rule 1.25, the Commission stated that it seeks to impose requirements that can better ensure the preservation of principal and maintenance of liquidity. More specifically, the proposed amendment to paragraph (a)(1)(iii) cites the failure of Fannie Mae and Freddie Mac as the reason for the amended requirement for explicit government guarantee of a GSE investment. We believe the proposed amendment incorrectly assumes that all GSEs are created equal and does not consider the substantial differences between the FHLBank business model and those of Fannie Mae and Freddie Mac.

Summary of the FHLBank Business Model

The FHLBanks are 12 independently-chartered, regional cooperative banks created by Congress to provide support for housing finance and community development through our member financial institutions. The FHLBanks are organized under the Federal Home Loan Bank Act of 1932 ("FHLBank Act"), as amended. The FHLBanks are supervised and regulated by the Federal Housing Finance Agency ("FHFA"). The FHFA is charged with ensuring the FHLBanks carry out their housing finance mission, remain adequately capitalized, and operate in a safe and sound manner. The FHFA also established regulations governing the operations of the FHLBanks. With our cooperative ownership structure, eligible financial institutions are approved for membership and purchase capital stock in their FHLBank. FHLBank stock is issued, redeemed, and repurchased at a stated par value of $100 per share and is not publicly traded.

The Federal Home Loan Bank System ("System") is comprised of the FHLBanks and the Office of Finance, a joint office of the FHLBanks established to facilitate the issuance and servicing of FHLBank debt securities called COs. One goal of the Commission's proposed rule is to increase safety by promoting diversification. Within a single issuer, the decentralized management and operating structure of the FHLBanks diversifies risk, which helps to ensure the safety and soundness of the System as a whole. Moreover, the FHLBanks have more than 7,900 member financial institutions, which further facilitate the diversification of risk in our core lending business. This diversification supports the strength of our debt because all senior unsecured debt issued through the Office of Finance is the joint and several obligation of all FHLBanks, regardless of which individual FHLBank may have received proceeds from a given bond issuance. If an FHLBank was unable to repay principal and interest on debt issued on its behalf, the other FHLBanks share liability for the payment, although this has never been required. While the FHLBanks were included in Treasury's temporary GSE Credit Facility and the Federal Reserve's open market purchases of GSE direct obligations, the FHLBanks did not require a government bailout and did not access the temporary credit facility prior to its expiration.

The FHLBanks' primary business is to provide liquidity to members though our collateralized loans, known as advances. All advances are secured by eligible collateral and are subject to activity-based capitalization requirements by the borrowing institutions. This member-provided collateral and capital represents significant "skin in the game" that our members have as owners of the cooperatives. The more members use the products and services of the cooperative, the more collateral and capital they contribute to support their activity. Each FHLBank mitigates the credit risk from advances by using an integrated approach that relies on ongoing reviews of members' financial conditions and the FHLBanks' conservative collateral policies. In addition, the FHLBanks have the authority to require additional or substitute collateral during the life of an advance. Furthermore, the FHLBank Act grants the FHLBanks a priority over the claims and rights of any party, including any receiver, conservator, trustee or similar lien creditor.[1] The FHLBanks' conservative collateral policies have protected the FHLBanks from incurring losses on advances throughout the history of the System while the activity-based capital supports lending and fosters a long-term view of financial performance.

This process continues to work as designed. During the course of 2009 and through October 31, 2010, 254 of the 279 FDIC-insured institutions that failed were members of the FHLBanks. The total amount of advances outstanding to these 254 members at the time of their failure was approximately $30 billion, all of which was either assumed by an acquiring institution or otherwise fully repaid. The FHLBanks regularly monitor the financial condition of all borrowers and actively manage the terms of credit availability. For members experiencing financial distress, actions taken by the FHLBanks may include imposition of borrowing limitations or adjustments to collateral requirements. Since inception of the System, no FHLBank has ever sustained a credit loss on an advance. The relationship of collateral and capital working together in support of member borrowing activity is a key difference between the FHLBanks and other housing GSEs, and has provided the FHLBanks with a higher degree of stability, allowing us to continue to operate nearly seamlessly during the height of the credit crisis.

Under the proposed rule, exclusion of high quality and liquid FHLBank debt securities from the list of permitted investments appears to be at odds with the Commission's goal of having customer funds invested in a manner that ensures the preservation of principal and maintenance of liquidity and is inconsistent with other post-crisis regulatory action relating to GSE debt. In fact, the SEC's recent revision to its Rule 2a-7 recognized the safety and deep liquidity of short-term GSE securities by including debt securities that mature in 60 days or less in the weekly liquid asset bucket for money market mutual funds. GSE discount notes, including those issued by the FHLBanks, were instrumental to money funds satisfying investor redemption requests following the Reserve Primary Fund breaking the buck situation in September 2008.

In conclusion, FHLBank debt securities are used extensively by a variety of investors seeking to hold readily marketable securities consistent with the objectives of preserving principal and maintaining liquidity. Recent events proved short-term FHLBank COs are readily convertible to cash, even during periods of severe market stress. The FHLBanks have never incurred a credit loss on advances, are protected through collateral and capital provided by our members, and all

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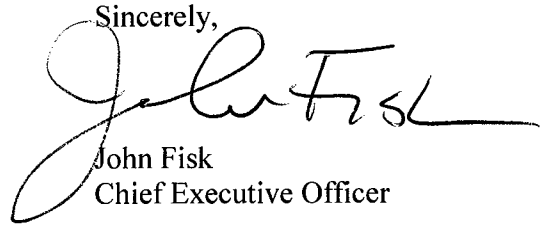
[1] An exception exists for the claims and rights of a party that would be entitled to priority under otherwise applicable law and is an actual *bona fide* purchaser for value of such collateral or is an actual secured party whose security interest in such collateral is perfected in accordance with applicable state law.

FHLBanks are jointly and severally liable to repay the debt securities that comprise the principal basis of their funding. For these reasons, we believe FHLBank debt securities should be included as permitted investments for FCMs and DCOs with similar treatment and concentration limits as those for GSEs with explicit government guarantees under the proposed rule.

We appreciate the opportunity to comment. Please contact me at (703) 467-3640 or fisk@fhlb-of.com with any questions you may have in connection with this matter.

Sincerely,



John Fisk
Chief Executive Officer