MBA

Maryland Bankers Association

KATHLEEN M. MURPHY
PRESIDENT & CEO

June 23, 2008

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 Seventeenth Street, N.W.
Washington, D.C. 20429

Re: Interim Final Policy Statement on Covered Bonds – Request for Comments

Dear Mr. Feldman:

On April 15, 2008, the Federal Deposit Insurance Corporation adopted an interim final policy statement titled "Covered Bond Policy Statement" (Policy Statement) and solicited public comment on, among other topics, the FDIC's treatment of "secured liabilities" of depository institutions for deposit insurance assessment and other purposes. In particular, the FDIC asked "whether an institution's percentage of secured liabilities to total liabilities should be factored into an institution's insurance assessment rate or whether the total secured liabilities should be included in the assessment base" and "whether ... there should ... be an overall cap for secured liabilities."

The Maryland Bankers Association appreciates the opportunity to address the important issues raised by this request for comments. Many of our member banks are members of the Federal Home Loan Bank of Atlanta.

While the Policy Statement did not specifically refer to Federal Home Loan Bank (FHLBank) advances, we are concerned that the term "secured liabilities" may be deemed to encompass such secured loans. If so, we believe that penalizing the use of FHLBank advances, or placing an arbitrary cap on their use, would not be consistent with Congressional intent or with sound public policy, especially in light of the current demand for enhanced liquidity in the credit markets.

FHLBank advances serve as a consistent, reliable source of liquidity for FHLBank member financial institutions. In 2007 FHLBank advances increased 36.6 percent to $875 billion, and advances increased further to $913 billion by the end of the first quarter 2008 – indicating that the FHLBanks are playing a vital role in alleviating the current shortage of liquidity in the mortgage markets. Limiting or penalizing the use of FHLBank funding is inconsistent with the current efforts of the Administration, Congress, and the Federal Reserve to restore liquidity and bolster confidence in the mortgage sector.

A policy that discourages borrowing from the FHLBanks would be counterproductive to reducing the risk of failure of FDIC-insured institutions and could, in fact, increase the risks of such failures.

FHLBank advances are commonly used for liquidity purposes, and advances help FHLBank members manage interest-rate risk and fund loan growth. If the use of FHLBank advances is discouraged, FHLBank members may be forced to seek alternative, often more costly and volatile sources of funding, thereby reducing profitability and increasing liquidity risk.

We think the FDIC should consider the potential unintended consequences of its actions if it were to cap the amount of FHLBank advances available to insured depository institutions. To the extent that a particular institution were close to such a cap, and it had need of additional liquidity in a crisis, such a cap would prevent an FHLBank from supplying liquidity to such an institution with adequate collateral. Thus, we believe that the imposition of a cap could increase the likelihood that the institution would default and, instead of decreasing the costs to the FDIC, could increase the costs to the FDIC.

A policy that discourages the use of FHLBank advances by imposing higher deposit insurance premiums on institutions based on their use of FHLBank advances, or that limits the amount of advances that they can use, would be contrary to the intent of Congress in establishing the FHLBanks, in opening FHLBank membership to commercial banks as part of FIRREA, and more recently, in adopting the Gramm-Leach-Bliley Act, which expanded small banks' access to advances. When the FDIC initiated its risk-based deposit insurance assessment rulemaking, a similar question arose as to the treatment of FHLBank advances. On a bi-partisan basis, both the House and Senate strongly expressed concern that the FDIC's development and implementation of a risk-based insurance assessment system would have a negative effect on the cost of homeownership or community credit if higher premiums were imposed on institutions using FHLBank advances. (See the House Budget Committee report on the Deficit Reduction Act of 2005 (November 7, 2005) and the House Financial Services Committee report on deposit insurance reform (April 29, 2005).) Such concern also was expressed in separate Congressional Record statements by principal sponsors of FDIC reform. The FDIC received 569 comments on the issue and all but one argued that the FDIC should not penalize FHLBank advances.

For 75 years, FHLBank member financial institutions and the communities they serve have benefited from FHLBank advances. FHLBank advances function as a critical source of credit for housing and community development purposes, sustain prudent financial management practices, and enable member banks throughout the nation to remain competitive. FHLBank membership has long been viewed as protection for deposit insurance funds because FHLBank members have access to a reliable source of liquidity.

In considering a final Policy Statement on covered bonds, or in taking any other administrative action, we strongly urge the FDIC not to penalize insured depository institutions based on their use of FHLBank advances, or to limit the amount of such liabilities that they can use for their funding needs.

Sincerely,

Kathleen Murphy

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President & CEO