



# NEWS

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## **FHFB CHAIRMAN READIES PLAN TO ADDRESS MULTIDISTRICT ISSUES AFTER LEGAL OPINION SUPPORTS BOARD'S AUTHORITY TO ACT**

Chairman John T. Korsmo said today that an independent legal analysis reaffirms the Federal Housing Finance Board's authority to regulate the terms of membership in the Federal Home Loan Bank System as part of its mandate to supervise the safety and soundness and housing-finance mission of the System.

“When I became chairman a year ago, the debate over multidistrict membership was bogged down in competing interpretations of one small section of the Federal Home Loan Bank Act,” he said. “Now that we have a firm sense of our statutory authority in these matters, the time has come to reframe the debate around this fundamental question: Is the long-term safety and soundness of the Home Loan Banks served by modernizing the terms of membership?”

Korsmo said he will ask the Finance Board soon to adopt a resolution posing specific questions to the 12 Federal Home Loan Banks, gathering the information needed to permit the Board, if it chooses to do so, to design a modernized membership structure for the System. The questions will focus on how a new membership structure can preserve each Bank's capital structure and cooperative nature, while building on the regional strengths of the System as the financial services industry continues to consolidate.

Once that information has been collected and analyzed, Finance Board staff will develop a regulatory plan for broadening the capital base of each Bank in the interests of meeting those regulatory goals. The Chairman then plans to begin a formal rule-making process, asking the Board to consider a proposed regulation by June.

The Chairman's comments came after the Finance Board received a legal opinion from the law firm of Morrison & Foerster, L.L.P., outlining the Board's authority regarding multidistrict memberships.

Acting on the suggestion of Board Director Franz Leichter, Korsmo sought an independent legal opinion to resolve questions about the Finance Board's statutory authority to act on the petitions from four Federal Home Loan Banks to permit multidistrict memberships. Two other Banks have written letters of support of the Banks' petitions.

The opinion concludes that the Finance Board can act in the interest of meeting the Board's regulatory responsibilities toward the Federal Home Loan Bank System, including safety and soundness oversight.

Morrison & Foerster wrote: “(We) conclude that, although the matter is not free from doubt, the better

view is that the Act authorizes the Board to promulgate a regulation allowing an FHLBank to grant membership to a member of another FHLBank, to the extent that the regulation furthers the mandate imposed by Congress on the Board, including that the Board ‘ensure that’ FHLBanks ‘operate in a financially safe and sound manner,’ ‘carry out their housing finance mission,’ and ‘remain adequately capitalized and able to raise funds.’”

“Seventy years ago, Congress designed a regional Bank system in which the membership rights, collateral, and capital resided with the member’s headquarters,” Korsmo said. “With interstate banking, consolidation, and a host of other innovations, the corporate headquarters and capital of Bank members are shifting to other districts while the collateral and a healthy mortgage market remain behind.

“The time has arrived for the System and the Finance Board to address this phenomenon and decide whether membership rules should keep with changes in the industry.”

As March 31, 2002, there were 101 holding companies in the United States that had separately chartered affiliates in more than one Federal Home Loan Bank.

Korsmo acknowledged that his earlier “plain reading” of one discrete provision of the statute first led him to believe that the law did not clearly address approving multidistrict memberships. But, he said, it now appears clear to him the Federal Home Loan Bank Act gives the Board authority to modify membership terms in support of the System's safety and soundness and its housing-finance mission.

In December 2000, the Finance Board received the first of four petitions from Federal Home Loan Banks seeking to retain as members institutions that had merged into members of other Federal Home Loan Bank districts. The petitions were filed by the Home Loan Banks located in Dallas, New York, Atlanta, and Chicago.

In January 2002, Chairman Korsmo asked the respective Banks to withdraw their petitions to allow the Finance Board to undertake a more thorough review of the issues involved in multidistrict memberships.

A copy of the legal opinion from Morrison & Foerster, as well as a history of the multidistrict issue, is available here:

[http://www.fhfb.gov/pressroom/pressroom\\_petitions.htm](http://www.fhfb.gov/pressroom/pressroom_petitions.htm)

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