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FEDERAL HOUSING FINANCE BOARD

12 CFR Subchapters D and F through L

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1201, 1225, 1228, 1229, 1231, 1233, 1235, 1236, 1237, 1261, 1263, 1264, 1265, 1266, 1267, 1269, 1270, 1271, 1272, 1273, 1274, 1278, 1281, 1282, 1290, 1291, and 1292.

RIN 2590-AA56

Relocation of Regulations

AGENCIES: Federal Housing Finance Agency and Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is relocating six Federal Housing Finance Board (Finance Board) regulations to new locations within the FHFA chapter of the Code of Federal Regulations (CFR). The regulations relate to:

Community Investment Cash Advance Programs (CICA); Federal Home Loan Bank (Bank) collection, settlement, and processing of payment instruments; miscellaneous Bank authorities; Bank requests for information from the federal banking regulators;

Financing Corporation (FICO) operations; and Bank assistance for the Resolution Funding Corporation (RefCorp). This final rule relocates those regulations without any substantive modification and removes and designates as reserved several empty subchapters in the Finance Board chapter of the CFR. This final rule also creates a

general definitions section to be located at the beginning of the FHFA chapter to facilitate the use of common terms found throughout the chapter.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michou H.M. Nguyen, Assistant General Counsel, (202) 649-3081, Office of General Counsel, Federal Housing Finance Agency, 400 7th Street, S.W., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

A. Creation of the Federal Housing Finance Agency and Recent Legislation

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, 122 Stat. 2654, created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), the oversight responsibilities of the Finance Board over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent) and certain functions of the Department of Housing and Urban Development. See id. at section 1101, 122 Stat. 2661-62. FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including that they maintain adequate capital and internal controls, that their activities foster liquid, efficient, competitive and resilient national housing finance markets, and that they carry

out their public policy missions through authorized activities. See id. at section 1102, 122 Stat. 2663-64. The Enterprises, the Banks, and the OF continue to operate under regulations promulgated by OFHEO and the Finance Board, respectively, until such regulations are superseded by regulations issued by FHFA. See id. at sections 1301, 1302, 1311, 1312, 122 Stat. 2794-95, 2797-98.

B. Considerations of Differences between the Banks and the Enterprises

Section 1201 of HERA requires the Director, when promulgating regulations “of general applicability and future effect” relating to the Banks, to consider the differences between the Banks and the Enterprises as they may relate to the Banks’ cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. See section 1201, Public Law No. 110-289, 122 Stat. 2782-83 (amending 12 U.S.C. 4513(f)). That provision exempts from this requirement any Finance Board regulation that FHFA reissues as its own, which is what FHFA is doing in this rulemaking. For that reason, FHFA has determined that a section 1201 analysis is not required for this final rule.

C. Purpose of Rule

The purpose of this rulemaking is to relocate certain of the Finance Board’s regulations by adopting them as FHFA regulations without any substantive revisions. With respect to the general definition section, FHFA is replicating in its regulations (rather than relocating) the general definition provisions of the Finance Board regulations, 12 CFR part 900, with appropriate revisions to reflect the amendments made by HERA, but is leaving in place the Finance Board’s general definitions, which are necessary for the remaining Finance Board regulations. For each of these relocated

regulations, FHFA is replacing all references to the “Finance Board,” “FHFB,” and “board of directors” of the Finance Board, with references to “FHFA,” or the “Director,” as appropriate. FHFA also is updating the statutory authority citations for the regulations by replacing the citations to the rulemaking authority for the Finance Board with citations to its own rulemaking authorities. The following paragraphs briefly describe each of the Finance Board regulations that is being adopted as an FHFA regulation and the extent to which the regulation is being revised in the process.

D. Finance Board Part 952 / FHFA Part 1292 (Community Investment Cash Advance Programs)

In 1989, Congress amended the Federal Home Loan Bank Act (Bank Act) to authorize the Banks to offer Community Investment Cash Advance (CICA) programs, and to require the Banks to offer advances for housing and economic development activities at targeted income levels through the Community Investment Program (CIP). Part 952 of the Finance Board’s regulations implemented the CICA statutory provision by authorizing the Banks, in their discretion, to offer long-term advances or grants to members or housing associates to provide financing for economic development projects for specified targeted beneficiaries. Part 952 also codified the CIP statutory provisions under the CICA regulatory umbrella.

FHFA is removing part 952 in its entirety from chapter 9 of title 12 of the CFR (Finance Board Chapter) and relocating it to chapter 12 of title 12 of the CFR (FHFA Chapter) as new part 1292. As part of the relocation, FHFA is updating cross references to FHFA regulations and updating a statutory cite in the authority section. Otherwise, the FHFA provision is identical to the Finance Board provision.

E. Finance Board Part 975 / FHFA Part 1271 – Subpart A (Collection, Settlement, and Processing of Payment Instruments)

Part 975 implements section 11(e)(2) of the Bank Act, (12 U.S.C. 1431(2)), which generally authorizes the Finance Board to permit the Banks to engage in the processing, collection, and settlement of negotiable and nonnegotiable items and instruments drawn on or issued by their members or institutions eligible to make application to be a member. FHFA is removing part 975 in its entirety and relocating it to the FHFA Chapter of the CFR as new subpart A of part 1271. As part of the relocation, FHFA is updating the definition of “eligible institution” to include community development financial institutions, which reflects recent amendments to the Bank Act authorizing such institutions to become Bank members. FHFA is also amending regulation text in new part 1271.6(c) (current part 975.6(c)) relating to FHFA’s obligation to: 1) review the cost of capital adjustment factor and prices for services authorized in new subpart A of part 1271 (current part 975); and (2) to publish annually the prices for such services provided by the Banks. The revision clarifies that FHFA’s obligation to review and publish will arise only if the Banks resume providing the services described in subpart A of part 1271. Currently, the Banks do not provide any of these services. Lastly, FHFA also is correcting a statutory cross reference in that definition, to reflect other recent amendments to the Bank Act, and is making conforming changes to reflect the fact that this regulation is now established as a subpart of the FHFA regulations instead of a discrete part, as had been the case previously.

F. Finance Board Part 977 / FHFA Part 1271 – Subpart B (Miscellaneous Bank Authorities)

Part 977 is a very short provision that governs inter-Bank borrowing and, under

certain circumstances, allows Banks to act as trustee of any trust affecting the business of any member, any institution or group applying for membership or for insurance of accounts, or any group applying for a charter for a federal savings association. FHFA is repealing all of part 977 and is relocating its substantive provisions without any material change to a new subpart B of part 1271. In the relocated regulation, FHFA is striking a reference in § 977.3 to an institution that is applying for “insurance of accounts.” That reference dates to regulations of the Federal Home Loan Bank Board, and would have referred to savings and loan associations that were applying for insurance of accounts from the former Federal Savings and Loan Insurance Corporation. As that term no longer has any relevance to the Banks, FHFA has not included it in the relocated provisions. FHFA is also striking a reference in § 977.3 to “any group applying for a charter for a federal savings association.” That provision also dates back to a time when the Federal Home Loan Bank Board chartered federal savings associations in addition to supervising the Banks. Neither FHFA nor the Banks has any regulatory authority over the chartering of federal savings associations. Therefore this outdated reference is being repealed.

G. Finance Board Part 978 / FHFA Part 1271 – Subpart C (Bank Requests for Information)

Part 978 implements section 22 of the Bank Act, 12 U.S.C. 1442, which generally authorizes the Banks to have access to certain reports, records, or other information of the federal bank regulatory agencies relating to the condition of any Bank member or any institution with respect to which any Bank may have transactions. Part 978 establishes procedures for the Banks to request such information and sets forth requirements for maintaining the security and confidentiality of the information. FHFA is relocating part

978 in its entirety from the Finance Board Chapter to the FHFA Chapter as new subpart C of part 1271. As part of the relocation, FHFA is making conforming changes to reflect the fact that this regulation is now a subpart instead of a discrete part, clarifying that the term “confidential information” is intended to refer to "confidential regulatory information,” and is removing an obsolete reference to the Office of Thrift Supervision.

H. Finance Board Part 995 / FHFA Part 1271 – Subpart D (Financing Corporation Operations)

Part 995 implements the authority over the operations of FICO granted to the Finance Board by section 21 of the Bank Act. 12 U.S.C. 1441. The regulation addresses FICO’s general authority, procedures for its budget and operations, and record-keeping and reporting requirements. Except for the changes discussed in the following paragraph, FHFA is relocating part 995 in its entirety from the Finance Board Chapter to the FHFA Chapter as new subchapter E of part 1271.

FHFA is removing all references to “exit fees” that appear in part 995. Repealed provisions of the Federal Deposit Insurance Act (FDIA) provided a mechanism for institutions to change their status from Bank Insurance Fund (BIF) member to Savings Association Insurance Fund (SAIF) member and vice versa. In connection with that conversion, institutions were charged an “exit fee,” which under certain circumstances would be transferred to FICO if FICO had exhausted all other sources of funding for interest payments on its obligations. 12 U.S.C. 1815(d)(2)(E)(i)(II) (repealed). Part 995 provided a mechanism for FICO to request exit fee funds pursuant to the FDIA. With the elimination of SAIF, the conversion process was eliminated along with the exit fee and the associated portions of the FDIA. Therefore, there is no longer any need for the FICO regulations to define or refer to exit fees and FHFA is eliminating all such references, as

well as obsolete related references to BIF deposits and SAIF deposits, as part of the relocation. FHFA also is not relocating section 995.8(b)(2)(ii), which by its term expired over ten years ago.¹ FHFA is also updating and correcting in part 995 several erroneous or outdated cross references to statutes and other parts of the CFR.

I. Finance Board Part 996 / FHFA Part 1271 – Subpart E (Authority for Bank Assistance of the Resolution Funding Corporation)

Part 996 implements section 21B of the Bank Act, which allows certain Bank personnel to perform specified functions on behalf of RefCorp. 12 U.S.C. 1441b(c)(6)(B). Part 996 also permits a Bank to assist in the collection of RefCorp’s assessment from SAIF members through the use of a direct debit system.² In particular, section 996.3 requires that each Bank allow any SAIF member whose principal place of business is in its district to establish and maintain at least one demand deposit account for the purpose of facilitating the RefCorp assessment. With the elimination of SAIF some years ago, section 996.3 became obsolete and is being repealed, as is section 996.1, which is an empty reserved section. The remaining provision within part 996, section 996.2, is being relocated in its entirety from the Finance Board Chapter to the FHFA Chapter and being designated as new subpart E of part 1271.

J. FHFA Part 1201—Definitions

As part of the relocation of parts 975, 977, 978, 995 and 996 of the Finance Board Chapter, FHFA has created a general definitions section, to be designated as new part 1201 of the FHFA Chapter. Part 1201 contains terms commonly used throughout the

¹ This provision set a cap on the rate of FICO assessments for FDIC insured institution with respect to BIF assessable deposits and expired on December 31, 1999.

² In 1989, Congress established RefCorp as a vehicle to provide funding for the Resolution Trust Corporation to finance resolution of the savings and loan crisis. 12 U.S.C. 1441b(a), (b).

FHFA Chapter, many of which are carried over from the general definitions section of the Finance Board regulation, at 12 CFR part 900. Part 1201 also contains a number of other commonly occurring terms from the FHFA regulations. As FHFA has adopted regulations since 2008, it typically has included within each regulation a separate section of defined terms for each part of its regulations, which has included commonly occurring terms as well as terms that are specific to particular parts of the CFR. As a result, commonly used terms such as “FHFA,” “Finance Agency,” “Director,” and “Enterprise” are defined multiple times throughout the FHFA regulations, sometimes in different ways. To lessen the number of times the regulations define a particular term, and to ensure consistency in how a particular term is defined, FHFA is establishing part 1201 as a central location for the definition of common terms that are used throughout the regulations and is removing the definitions of those terms that appear in scattered sections throughout the FHFA regulations. Thus, in the definitions section of parts 1225, 1228, 1229, 1231, 1233, 1235-1237, 1261, 1263-1267, 1269, 1270, 1272-1274, 1278, 1281, 1282, 1290, and 1291 of the FHFA Chapter, FHFA is removing the definitions of common terms that will be defined instead in new part 1201. The creation of the new definitions section and removal of existing definitions do not result in any substantive change to any regulation in the FHFA Chapter, but only serve to facilitate the use of these common terms. For FHFA regulations that may be used by the public, such as the FOIA or Privacy Act provisions, FHFA has left the definitions of common terms as part of those regulations, as persons using those regulations may be less familiar with FHFA and its regulations generally and could benefit from having all relevant terms defined within the rules that implement the FOIA or Privacy Act provisions. Similarly, for certain terms

that may be commonly used but that also may be important to understanding a particular part of the regulations, FHFA has included the term within the general definitions of part 1201 and has also left the term within the definitions section of the particular part of the regulations. Examples would include definitions of the terms “advance” and “Office of Finance” both of which are defined in part 1201 as well as in the advances regulation and the OF regulation.

K. Removal of Empty Subchapters

After the relocation of parts 952, 975, 977, 978, 995, and 996 of the Finance Board Chapter, subchapters I and L of the Finance Board Chapter will be empty. In addition, subchapters D, F, H, J, and K of the Finance Board Chapter are currently empty. Therefore, in order to streamline the table of contents of the Finance Board Chapter, FHFA is removing the headings from each of these subchapters and designating each as reserved.

II. Notice and Public Participation

FHFA finds that good cause exists for adopting these rule changes as a final rule without public notice and comment under 5 U.S.C. 553(b)(B). No substantive modifications are being made to the regulations that are being relocated. The addition of the common definitions section also does not alter the substance of any existing regulation. Consequently, the final rule does not alter the rights or responsibilities of any party. Therefore, FHFA believes that public comments are unnecessary and not useful.

III. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Therefore, FHFA has not

submitted any information to the Office of Management and Budget for review.

IV. Regulatory Flexibility Act

The final rule applies only to the Banks and the Enterprises, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, FHFA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 952, 975, 977, 978, 995, 996, 1271, 1290 and 1292

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 1201

Administrative practice and procedure, Federal Home Loan Banks, Government Sponsored Enterprises, Office of Finance, Regulated Entities.

12 CFR Part 1225

Federal Home Loan Banks, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Capital, Filings, Minimum capital, Procedures, Standards.

12 CFR Part 1228

Asset-backed securities, Builders, Condominium associations, Cooperative associations, Developers, Federal Home Loan Banks, Government-sponsored enterprises, Homeowners' associations, Housing, Mortgages, Mortgage-backed securities, Nonprofit organizations, Private transfer fees.

12 CFR Part 1229

Capital, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

12 CFR Part 1231

Golden parachutes, Government-sponsored enterprises, Indemnification.

12 CFR Part 1233

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 1235

Federal home loan banks, Government-sponsored enterprises, Records, Reporting and recordkeeping requirements.

12 CFR Part 1236

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

12 CFR Part 1237

Capital, Conservator, Federal home loan banks, Government-sponsored enterprises, Receiver.

12 CFR Part 1261

Banks, Banking, Conflicts of interest, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

12 CFR Part 1263

Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 1265

Community development, Credit, Federal home loan banks, Housing.

12 CFR Parts 1264, 1266, 1267, 1269, and 1272

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

12 CFR Part 1270

Accounting, Federal home loan banks, Government securities.

12 CFR Part 1273

Federal home loan banks, Securities.

12 CFR Part 1274

Accounting, Federal home loan banks, Financial disclosure.

12 CFR Part 1278

Banks, banking, Federal home loan banks, mergers.

12 CFR Part 1281

Credit, Federal home loan banks, Housing, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 1291

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, for reasons stated in the preamble and under the authority of 12 U.S.C. 1430, 1431, 1432, 1441, 1442, 4511, and 4513, FHFA hereby amends chapters IX and XII of title 12 of the Code of Federal Regulations as follows:

Chapter IX—Federal Housing Finance Board

Subchapter D—[Removed and Reserved]

1. Subchapter D is removed and reserved.

Subchapter F—[Removed and Reserved]

2. Subchapter F is removed and reserved.

Subchapter G—Federal Home Loan Bank Assets and Off-Balance Sheet Items

PART 952—[REMOVED]

3. Remove part 952.

Subchapter H—[Removed and Reserved]

4. Subchapter H is removed and reserved.

Subchapter I—[Removed and Reserved]

5. Subchapter I is removed and reserved.

Subchapter J—[Removed and Reserved]

6. Subchapter J is removed and reserved.

Subchapter K—[Removed and Reserved]

7. Subchapter K is removed and reserved.

Subchapter L—[Removed and Reserved]

8. Subchapter L is removed and reserved.

Chapter XII—Federal Housing Finance Agency

Subchapter A—Organization and Operations

9. Part 1201 is added to read as follows:

**PART 1201—GENERAL DEFINITIONS APPLYING TO ALL FEDERAL
HOUSING FINANCE AGENCY REGULATIONS**

Authority: 12 U.S.C. 4511(b), 4513(a), 4513(b).

§ 1201.1 Definitions.

As used throughout this chapter, the following basic terms relating to the Federal Housing Finance Agency, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Banks, the Office of Finance, and related entities have the meanings set forth below, unless otherwise indicated in a particular subchapter, part, section, or paragraph:

1934 Act means the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

Acquired member assets or AMA means those assets that may be acquired by a Bank under part 955 of this title, or any successor thereto.

Advance means a loan from a Bank that is:

- (1) Provided pursuant to a written agreement;
- (2) Supported by a note or other written evidence of the borrower's obligation;

and

(3) Fully secured by collateral in accordance with the Bank Act and part 1266 of this chapter.

Affordable Housing Program or AHP means the Affordable Housing Program that each Bank is required to establish pursuant to section 10(j) of the Bank Act (12 U.S.C. 1430(j)) and part 1291 of this chapter.

Appropriate Federal banking agency has the meaning set forth in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) and, for federally-insured credit unions, means the NCUA.

Appropriate state regulator means any state officer, agency, supervisor or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a particular institution.

Bank, written in title case, means a Federal Home Loan Bank established under section 12 of the Bank Act (12 U.S.C. 1432).

Bank Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 et seq.).

Bank System means the Federal Home Loan Bank System, consisting of the 12 Banks and the Office of Finance.

Capital plan means the capital structure plan required for each Bank by section 6(b) of the Bank Act, as amended (12 U.S.C. 1426(b)).

CIP means the Community Investment Program, an advance program under CICA required to be offered pursuant to section 10(i) of the Bank Act (12 U.S.C. 1430(i)).

Community Investment Cash Advance or CICA means any advance made through a program offered by a Bank under section 10 of the Bank Act (12 U.S.C. 1430) and parts 1291 and 1292 of this chapter to provide funding for targeted community lending and affordable housing, including advances made under a Bank's Rural Development Funding (RDF) program, offered under section 10(j)(10) of the Bank Act (12 U.S.C. 1430(j)(10)); a Bank's Urban Development Funding (UDF) program, offered under section 10(j)(10) of the Bank Act (12 U.S.C. 1430(j)(10)); a Bank's Affordable Housing Program (AHP), offered under section 10(j) of the Bank Act (12 U.S.C. 1430(j)); a Bank's Community Investment Program (CIP), offered under section 10(i) of

the Bank Act (12 U.S.C. 1430(i)); or any other program offered by a Bank that meets the requirements of part 1292 of this chapter.

Community lending means providing financing for economic development projects for targeted beneficiaries, and, for community financial institutions (as defined in § 1263.1 of this chapter), purchasing or funding small business loans, small farm loans, small agri-business loans, or community development loans (as defined in §1266.1 of this chapter).

Consolidated obligation or CO means any bond, debenture, or note on which the Banks are jointly and severally liable and which was issued under section 11 of the Bank Act (12 U.S.C. 1431) and any implementing regulations, whether or not such instrument was originally issued jointly by the Banks or by the Federal Housing Finance Board on behalf of the Banks.

Data Reporting Manual or DRM means a manual issued by FHFA and amended from time to time containing reporting requirements for the Regulated Entities.

Director, written in title case, means the Director of FHFA or his or her designee.

Enterprise means Fannie Mae and Freddie Mac (collectively, Enterprises) and any affiliate thereof.

Excess stock means that amount of a Bank's capital stock owned by a member or other institution in excess of that member's or other institution's minimum investment in capital stock required under the Bank's capital plan, the Bank Act, or FHFA's regulations, as applicable.

Fannie Mae means the Federal National Mortgage Association and any affiliate thereof.

FDIC means the Federal Deposit Insurance Corporation.

FHFA means the Federal Housing Finance Agency established by Section 1311(a) of the Safety and Soundness Act. (12 U.S.C. 4511(a)).

Financing Corporation or FICO means the Financing Corporation established and supervised by the Director under section 21 of the Bank Act (12 U.S.C. 1441) and part 1271 of this chapter.

FRB means the Board of Governors of the Federal Reserve System.

Freddie Mac means the Federal Home Loan Mortgage Corporation and any affiliate thereof.

Generally Accepted Accounting Principles or GAAP means accounting principles generally accepted in the United States.

Ginnie Mae means the Government National Mortgage Association.

GLB Act means the Gramm-Leach-Bliley Act (Pub. L. 106–102 (1999)).

HERA means the Housing and Economic Recovery Act of 2008, Public Law No. 110-289, 122 Stat. 2654.

Housing associate means an entity that has been approved as a housing associate pursuant to part 1264 of this chapter.

HUD means the United States Department of Housing and Urban Development.

Member means an institution that has been approved for membership in a Bank and has purchased capital stock in the Bank in accordance with §§1263.20 or 1263.24(b) of this chapter.

NCUA means the National Credit Union Administration.

NRSRO means a credit rating organization registered with the SEC as a nationally recognized statistical rating organization by the Securities and Exchange Commission.

OCC means the Office of the Comptroller of the Currency.

Office of Finance or OF means the Office of Finance, a joint office of the Banks established under part 1273 of this chapter and referenced in the Bank Act and the Safety and Soundness Act.

Regulated Entity means the Federal Home Loan Mortgage Corporation and any affiliate thereof, the Federal National Mortgage Association and any affiliate thereof, and any Federal Home Loan Bank.

Resolution Funding Corporation or REFCORP means the Resolution Funding Corporation established by section 21B of the Bank Act (12 U.S.C. 1441b).

Safety and Soundness Act means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 et seq.).

SBIC means a small business investment company formed pursuant to section 301 of the Small Business Investment Act (15 U.S.C. 681).

SEC means the United States Securities and Exchange Commission.

State means a state of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, or the United States Virgin Islands.

Subchapter B—Entity Regulations

PART 1225—MINIMUM CAPITAL—TEMPORARY INCREASE

10. The authority citation for part 1225 continues to read as follows:

Authority: 12 U.S.C. 4513, 4526 and 4612.

§ 1225.2 [Amended]

11. Amend § 1225.2 by removing the definitions for “Enterprise” and “Regulated entity”.

PART 1228—RESTRICTIONS ON THE ACQUISITION OF, OR TAKING SECURITY INTERESTS IN MORTGAGES ON PROPERTIES ENCUMBERED BY CERTAIN PRIVATE TRANSFER FEE COVENANTS AND RELATED SECURITIES

12. The authority citation for part 1228 continues to read as follows:

Authority: 12 U.S.C. 4511, 4513, 4526, 4616, 4617, 4631.

§ 1228.1 [Amended]

13. Amend § 1228.1 by removing the definitions for “Enterprises”, “Federal Home Loan Banks or Banks”, and “Regulated entities”.

PART 1229—CAPITAL CLASSIFICATIONS AND PROMPT CORRECTIVE ACTION

14. The authority citation for part 1229 continues to read as follows:

Authority: 12 U.S.C. 1426, 4513, 4526, 4613, 4614, 4615, 4616, 4617, 4618, 4622, 4623.

§ 1229.1 [Amended]

15. Amend § 1229.1 by removing the definitions for “Bank”, “Bank Act”, “Director”, “Consolidated obligations”, “FHFA”, and “Safety and Soundness

Act”.

PART 1231—GOLDEN PARACHUTE PAYMENTS

16. The authority citation for part 1229 continues to read as follows:

Authority: 12 U.S.C. 4518(e).

§ 1231.1 [Amended]

17. Amend § 1231.1 by removing the word “Act” and adding, in its place, the words “Safety and Soundness Act”.

§ 1231.2 [Amended]

18. Amend § 1231.2 by removing the definitions for “Act”, “Director”, “Enterprise”, “Federal Home Loan Bank”, “FHFA”, “HERA”, “Office of Finance”, and “Regulated entity”.

PART 1233—REPORTING OF FRAUDULENT FINANCIAL INSTRUMENTS

19. The authority citation for part 1233 continues to read as follows:

Authority: 12 U.S.C. 4511, 4513, 4514, 4526, 4642.

§ 1233.2 [Amended]

20. Amend § 1233.2 by removing the definitions for “Bank or Federal Home Loan Bank”, “Director”, “Enterprise”, “Regulated entity”, and “Safety and Soundness Act”.

PART 1235—RECORD RETENTION FOR REGULATED ENTITIES AND OFFICE OF FINANCE

21. The authority citation for part 1235 continues to read as follows:

Authority: 12 U.S.C. 4511(b), 4513(a), 4513b(a)(10) and (11), 4526.

§ 1235.2 [Amended]

22. Amend § 1235.2 by removing the definitions for “Director”, “Federal Home Loan Bank”, “FHFA”, “Financing Corporation”, “Office of Finance”, “Regulated entity”, and “Safety and Soundness Act”.

PART 1236—PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS

23. The authority citation for part 1236 continues to read as follows:

Authority: 12 U.S.C. 4511, 4513(a) and (f), 4513b, and 4526.

§ 1236.2 [Amended]

24. Amend § 1236.2 by removing the definition for “FHFA”.

PART 1237—CONSERVATORSHIP AND RECEIVERSHIP

25. The authority citation for part 1237 continues to read as follows:

Authority: 12 U.S.C. 4513b, 4526, 4617.

§ 1237.2 [Amended]

26. Amend § 1237.2 by removing the definitions for “Director”, “Enterprise”, and “Regulated entity”.

Subchapter D—Federal Home Loan Banks

PART 1261—FEDERAL HOME LOAN BANK DIRECTORS

27. The authority citation for part 1261 continues to read as follows:

Authority: 12 U.S.C. 1426, 1427, 1432, 4511 and 4526.

§ 1261.1 [Removed and Reserved]

28. Remove and reserve § 1261.1.

PART 1263—MEMBERS OF THE BANKS

29. The authority citation for part 1263 continues to read as follows:

Authority: 12 U.S.C. 1422, 1423, 1424, 1426, 1430, 1442, 4511, 4513.

§ 1263.1 [Amended]

30. Amend § 1263.1 by removing the definitions for “Bank Act” and “Director”.

PART 1264—FEDERAL HOME LOAN BANK HOUSING ASSOCIATES

31. The authority citation for part 1264 continues to read as follows:

Authority: 12 U.S.C. 1430b, 4511, 4513 and 4526.

32. Amend part 1264 by removing the words “the Act”, wherever they appear, and adding, in their place, the words “the Bank Act”.

§ 1264.1 [Amended]

33. Amend § 1264.1 by removing the definitions for “Act”, “Bank”, and “FHFA”.

PART 1265—CORE MISSION ACTIVITIES

34. The authority citation for part 1265 continues to read as follows:

Authority: 12 U.S.C. 1430, 1430b, 1431, 4511, 4513 and 4526.

§ 1265.1 [Amended]

35. Amend § 1265.1 by removing the definitions for “Bank” and “Acquired member assets or AMA”.

PART 1266—ADVANCES

36. The authority citation for part 1266 continues to read as follows:

Authority: 12 U.S.C. 1426, 1429, 1430, 1430b, 1431, 4511(b), 4513, 4526(a).

§ 1266.1 [Amended]

37. Amend § 1266.1 by removing the definitions for “Bank”, “Bank Act”, and “FHFA”.

PART 1267—FEDERAL HOME LOAN BANK INVESTMENTS

38. The authority citation for part 1267 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 1436, 4511, 4513, 4526.

§ 1267.1 [Amended]

39. Amend § 1267.1 by removing the definitions for “Bank” and “Bank Act”.

PART 1269—STANDBY LETTERS OF CREDIT

40. The authority citation for part 1269 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 4511, 4513 and 4526.

§ 1269.1 [Amended]

41. Amend § 1269.1 by removing the definitions for “Act” and “Bank”.

§ 1269.4 [Amended]

42. Amend § 1269.4 in paragraph (c) by removing the words “the Act” and adding, in their place, the words “the Bank Act”.

PART 1270—LIABILITIES

43. The authority citation for part 1269 continues to read as follows:

Authority: 12 U.S.C. 1431, 1432, 1435, 4511, 4512, 4513, and 4526.

§ 1270.1 [Amended]

44. Amend § 1270.1 by removing the definitions for “Bank”, “Bank Act”, “Director”, “FHFA”, and “Safety and Soundness Act”.

45. Part 1271 is added to read as follows:

PART 1271—MISCELLANEOUS FEDERAL HOME LOAN BANK OPERATIONS AND AUTHORITIES

Subpart A—Collection, Settlement, And Processing of Payment Instruments

Sec.

1271.1 Definitions.

1271.2 Authority and scope.

1271.3 General provisions.

1271.4 Incidental powers.

- 1271.5 Operations.
- 1271.6 Pricing of services.
- 1271.7 Rights, powers, responsibilities, duties, and liabilities.

Subpart B—Miscellaneous Bank Authorities

- 1271.10 Transfer of funds between Banks.
- 1271.11 Trustee powers.

Subpart C—Bank Requests For Information

- 1271.15 Definitions.
- 1271.16 Scope.
- 1271.17 Request for confidential regulatory information.
- 1271.18 Form of request.
- 1271.19 Storage of confidential regulatory information.
- 1271.20 Access to confidential regulatory information.
- 1271.21 Third party requests for confidential regulatory information.
- 1271.22 Computer data.

Subpart D—Financing Corporation Operations

- 1271.30 Definitions.
- 1271.31 General authority.
- 1271.32 Authority to establish investment policies and procedures.
- 1271.33 Book-entry procedure for Financing Corporation obligations.
- 1271.34 Bank and Office of Finance employees.
- 1271.35 Budget and expenses.
- 1271.36 Administrative expenses.
- 1271.37 Non-administrative expenses; assessments.
- 1271.38 Reports to FHFA.
- 1271.39 Review of books and records.

Subpart E—Authority for Bank Assistance of The Resolution Funding Corporation

- 1271.41 Bank employees.

Authority: 12 U.S.C. 1430, 1431, 1432, 1441(b)(8), (c), (j), 1442, 4511(b), 4513(a), 4526.

Subpart A—Collection, Settlement, and Processing of Payment Instruments

§ 1271.1 Definitions.

Unless otherwise defined in this subpart, the terms used in this subpart shall conform, in the following order, to: Regulations of FHFA, the Uniform Commercial Code, regulations of the Federal Reserve System, and general banking usage. As used in this subpart:

Account processing includes charging, crediting, and settling of member or eligible institution accounts, excluding individual customer accounts.

Assets includes furniture and equipment, leasehold improvements, and capitalized start-up costs.

Data communication means transmitting and receiving of data to or from Banks, Federal Reserve offices, clearinghouse associations, depository institutions or their service bureaus, and other direct sending entities; arrangement for delivery of information; and telephone inquiry service.

Data processing includes capture, storage, and assembling of, and computation of, data from payment instruments received from Federal Reserve offices, Banks, clearinghouse associations, depository institutions, and other direct lending entities.

Eligible institution means any institution that is eligible to make application to become a member of a Bank under section 4 of the Bank Act (12 U.S.C. 1424), including any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution, or any insured depository institution (as defined in section 2(9) of the Bank Act (12 U.S.C. 1422(9))), regardless of whether the institution applies for or

would be approved for membership.

Issuance of forms means the designation and distribution of standardized forms for use in collection, processing, and settlement services.

Presentment means a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder, and may involve the use of electronic transmission of an instrument or item or transmission of data from the instrument or item by electronic or mechanical means.

Statement packaging includes receiving statement information from members or eligible institutions or their service bureaus on respective customer cycle dates; printing statements; matching customer account statements; packaging the statements with appropriate items and informational materials, as authorized by individual members and eligible institutions, for distribution to their customers; sending the packages to the members or eligible institutions or mailing the packages directly to their customers.

Storage services includes filing, storage, and truncation of items.

Transportation of items includes transporting items from Federal Reserve offices, other Banks' clearinghouse associations, depository institutions, and other direct sending entities to a Bank; forwarding items to financial institutions after sorting; and forwarding cash items or return items to Federal Reserve offices and other sending entities.

§ 1271.2 Authority and scope.

(a) Pursuant to section 11(e)(2) of the Bank Act (12 U.S.C. 1431(e)(2)), FHFA has promulgated this subpart governing the collection, processing, and settlement, and services incidental thereto, of drafts, checks, and other negotiable and nonnegotiable items and instruments by Banks. Settlement, collection, and processing include the

following activities as defined in this subpart: Account processing, data processing, data communication, issuance of forms, transportation of items, and storage services.

(b) Any activity authorized by section 11(e)(2) of the Bank Act (12 U.S.C. 1431(e)(2)) shall be governed by the provisions of this subpart.

§ 1271.3 General provisions.

The Banks are authorized to:

(a) Engage in, be agents or intermediaries for, or otherwise participate or assist in, the processing, collection, and settlement of checks, drafts, or any other negotiable or nonnegotiable items and instruments of payment drawn on eligible institutions or Bank members; and

(b) Be drawees of checks, drafts, and other negotiable and nonnegotiable items and instruments issued by eligible institutions or Bank members.

§ 1271.4 Incidental powers.

In connection with the collection, processing, and settlement of items and instruments drawn on or issued by eligible institutions or Bank members, a Bank may also perform the following services:

(a) Statement packaging; and

(b) Any other activity that FHFA shall, from time to time, after notice and comment, find necessary for the exercise of the authority of this subpart.

§ 1271.5 Operations.

A Bank may utilize the services of a Federal Reserve Bank and may become a member or use the services of a clearinghouse, public or private financial institution, or agency in the exercise of any powers or functions under this subpart.

§ 1271.6 Pricing of services.

(a) General. Banks shall charge for services authorized in this subpart in a manner consistent with the principles of section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)), as interpreted by this subpart.

(b) Payment instrument account services. (1) In determining the fees for services provided under this subpart, a Bank must take into account all direct and indirect costs of providing the services.

(2) Prices must reflect the imputed rate of return that would have been earned and the taxes that would have been paid if the Bank were a private corporation, by using a cost of capital adjustment factor applied to those assets used in providing services authorized under this subpart.

(c) Review and publication. For any year during which any Bank actually provides services authorized by this subpart:

(1) FHFA shall from time to time and at least annually review the cost of capital adjustment factor and review prices for services authorized in this subpart for compliance with the principles set forth in paragraphs (a) and (b) of this section, and

(2) FHFA shall annually publish in the Federal Register all prices for Bank services authorized in this subpart except those for fees charged to an applicant for draws made by a beneficiary under a standby letter of credit.

§ 1271.7 Rights, powers, responsibilities, duties, and liabilities.

To the extent it is not inconsistent with other provisions of this subpart, the Uniform Commercial Code governs the rights, powers, responsibilities, duties, and liabilities of Banks in the exercise of their authority under this subpart. For purposes of this paragraph, the term “bank,” as used in the Uniform Commercial Code and clearinghouse rules, includes Banks and their members and eligible institutions.

Subpart B—Miscellaneous Bank Authorities

§ 1271.10 Transfer of funds between Banks.

Inter-Bank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks.

§ 1271.11 Trustee powers.

A Bank may act, and make reasonable charges for doing so, as trustee of any trust affecting the business of any member or any institution or group applying for membership, if:

(a) Such trust is created or arises for the benefit of the institution or its depositors, investors, or borrowers, or for the promotion of sound and economical home financing; and

(b) In the case of applicants, the Bank ceases to act as trustee if the application is withdrawn or rejected.

Subpart C—Bank Requests for Information

§ 1271.15 Definitions.

As used in this subpart:

Confidential regulatory information means any record, data, or report, including

but not limited to examination reports, or any part thereof, that is non-public, privileged or otherwise not intended for public disclosure which is in the possession or control of a financial regulatory agency and which contains information regarding members of a Bank or financial institutions with which a Bank has had or contemplates having transactions under the Bank Act.

Financial regulatory agency means any of the following:

- (1) The Department of the Treasury, including the Comptroller of the Currency;
- (2) The Board of Governors of the Federal Reserve System;
- (3) The National Credit Union Administration; or
- (4) The Federal Deposit Insurance Corporation.

Third party means any person or entity except a director, officer, employee or agent of either:

- (1) A Bank in possession of any particular confidential regulatory information; or
- (2) The financial regulatory agency that supplied the particular confidential regulatory information to such Bank.

§ 1271.16 Scope.

This subpart governs the procedure by which a Bank will request and receive confidential regulatory information pursuant to section 22 of the Bank Act (12 U.S.C. 1442).

§ 1271.17 Request for confidential regulatory information.

A Bank shall make all requests for confidential regulatory information to a financial regulatory agency, or to a regional office of such agency if mutually agreeable, in accordance with the procedures contained in this subpart as well as any procedures of

general applicability for requesting information promulgated by such financial regulatory agency. This subpart and its procedures may be supplemented by a confidentiality agreement between a Bank and a financial regulatory agency.

§ 1271.18 Form of request.

A request by a Bank to a financial regulatory agency for confidential regulatory information shall be made in writing or by such other means as may be agreed upon between the Bank and the financial regulatory agency. The request shall reference section 22 of the Bank Act (12 U.S.C. 1442), as amended, and this regulation, and shall describe the confidential regulatory information requested and identify its intended use pursuant to the Bank Act. The request shall be signed or otherwise made by any duly authorized Bank officer or employee.

§ 1271.19 Storage of confidential regulatory information.

Each Bank shall:

(a) Store all identified confidential regulatory information in secure storage areas or filing cabinets or other secured facilities generally used by such Bank and limit access thereto in the same manner as it maintains the confidentiality of its own members' privileged or non-public information;

(b) Have in place a written set of procedures and policies designed to ensure the confidentiality of confidential regulatory information in its possession; and

(c) Establish an internal review of its procedures for storing confidential regulatory information and maintaining its confidentiality, as a part of its internal audit process.

§ 1271.20 Access to confidential regulatory information.

Each Bank shall ensure that access to the confidential regulatory information stored at its facility is limited to those with a need to know such information and that employees with access maintain the confidentiality of the confidential regulatory information in accordance with the Bank's own procedures for maintaining the confidentiality of its members' privileged or non-public information.

§ 1271.21 Third party requests for confidential regulatory information.

(a) General. In the event a Bank receives a request for confidential regulatory information in its possession from any third party, the Bank shall forward such request to the financial regulatory agency from which the confidential regulatory information was obtained.

(b) Subpoena. In the event a Bank receives a subpoena for confidential regulatory information issued by a Federal, state or local government department, agency, court or bureau, the Bank shall give timely written notice of such subpoena to the financial regulatory agency from which the confidential regulatory information was obtained, unless such notice is prohibited by applicable law. Except as limited in this subpart, the Bank may disclose confidential regulatory information pursuant to the subpoena, after giving timely written notice, when:

- (1) The financial regulatory agency gives written approval to the disclosure; or
- (2) A binding order to produce the confidential regulatory information has become final with all rights of appeal either exhausted or lapsed.

(c) Nondisclosure to third parties. Except as provided in paragraph (b) of this section, a Bank shall not disclose confidential regulatory information to any third party. A Bank shall refer all third party requests for such confidential regulatory information to

the financial regulatory agency that released the confidential regulatory information to the Bank.

(d) Disclosure to FHFA. (1) Neither this subpart nor any confidentiality agreement executed between a Bank and a financial regulatory agency shall prevent a Bank from disclosing confidential regulatory information in its possession to FHFA whenever disclosure is necessary to accomplish FHFA's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential regulatory information in its possession if such disclosure is made pursuant to an audit conducted pursuant to § 1271.19 or section 20 of the Bank Act (12 U.S.C. 1440).

(2) FHFA shall keep all confidential regulatory information received under this paragraph (d) in strict confidence.

§ 1271.22 Computer data.

Nothing in this subpart shall preclude a Bank from arranging with any financial regulatory agency to transmit or allow access to confidential regulatory information with the consent of such agency by means of an electronic computer system. Any such arrangement shall ensure the security of the computerized data stored in a Bank's computer and restrict access to such data in order to preserve confidentiality in a manner agreed upon by the Bank and the financial regulatory agency.

Subpart D—Financing Corporation Operations

§ 1271.30 Definitions.

As used in this subpart:

Administrative expenses. (1) Include general office and operating expenses such as telephone and photocopy charges, printing, legal, and professional fees, postage,

courier services, and office supplies; and

(2) Do not include any form of employee compensation, custodian fees, issuance costs, or any interest on (and any redemption premium with respect to) any Financing Corporation obligations.

Custodian fees means any fee incurred by the Financing Corporation in connection with the transfer of any security to, or maintenance of any security in, the segregated account established under section 21(g)(2) of the Bank Act (12 U.S.C. 1441(g)(2)), and any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

Directorate means the board established under section 21(b) of the Bank Act (12 U.S.C. 1441(b)) to manage the Financing Corporation.

Insured depository institution has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

Issuance costs means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of Financing Corporation obligations, including legal and accounting expenses, trustee, fiscal, and paying agent charges, securities processing charges, joint collection agent charges, advertising expenses, and costs incurred in connection with preparing and printing offering materials to the extent the Financing Corporation incurs such costs in connection with issuing any obligations.

Non-administrative expenses means custodian fees, issuance costs, and interest on Financing Corporation obligations.

Obligations means debentures, bonds, and similar debt securities issued by the

Financing Corporation under sections 21(c)(3) and (e) of the Bank Act (12 U.S.C. 1441(c)(3) and (e)).

Receivership proceeds means the liquidating dividends and payments made on claims received by the Federal Savings and Loan Insurance Corporation Resolution Fund established under section 11A of the Federal Deposit Insurance Act (12 U.S.C. 1821a) from receiverships, that are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund established under section 21B of the Bank Act (12 U.S.C. 1441b).

§ 1271.31 General authority.

Subject to the limitations and interpretations in this subpart and such orders and directions as FHFA may prescribe, the Financing Corporation shall have authority to exercise all powers and authorities granted to it by the Bank Act and by its charter and bylaws regardless of whether the powers and authorities are specifically implemented in regulation.

§ 1271.32 Authority to establish investment policies and procedures.

The Directorate shall have authority to establish investment policies and procedures with respect to Financing Corporation funds provided that the investment policies and procedures are consistent with the requirements of section 21(g) of the Bank Act (12 U.S.C. 1441(g)). The Directorate shall promptly notify FHFA in writing of any changes to the investment policies and procedures.

§ 1271.33 Book-entry procedure for Financing Corporation obligations.

(a) Authority. Any Federal Reserve Bank shall have authority to apply book-entry procedure to Financing Corporation obligations.

(b) Procedure. The book-entry procedure for Financing Corporation obligations shall be governed by the book-entry procedure established for Bank consolidated obligations, codified at part 1270 of this chapter. Wherever the terms “Bank(s),” “consolidated obligation(s)” or “Book-entry consolidated obligation(s)” appear in part 1270, the terms shall be construed also to mean “Financing Corporation,” “Financing Corporation obligation(s),” or “Book-entry Financing Corporation obligation(s),” respectively, if appropriate to accomplish the purposes of this section.

§ 1271.34 Bank and Office of Finance employees.

Without further approval of FHFA, the Financing Corporation shall have authority to utilize the officers, employees, or agents of any Bank or the Office of Finance in such manner as may be necessary to carry out its functions.

§ 1271.35 Budget and expenses.

(a) Directorate approval. The Financing Corporation shall submit annually to the Directorate for approval, a budget of proposed expenditures for the next calendar year that includes administrative and non-administrative expenses.

(b) FHFA approval. The Directorate shall submit annually to FHFA for approval, the budget of the Financing Corporation's proposed expenditures it approved pursuant to paragraph (a) of this section.

(c) Spending limitation. The Financing Corporation shall not exceed the amount provided for in the annual budget approved by FHFA pursuant to paragraph (b) of this section, or as it may be amended by the Directorate within limits set by FHFA.

(d) Amended budgets. Whenever the Financing Corporation projects or anticipates that it will incur expenditures, other than interest on Financing Corporation

obligations, that exceed the amount provided for in the annual budget approved by FHFA or the Directorate pursuant to paragraph (b) or (c) of this section, the Financing Corporation shall submit an amended annual budget to the Directorate for approval, and the Directorate shall submit such amended budget to FHFA for approval.

§ 1271.36 Administrative expenses.

(a) Payment by Banks. The Banks shall pay all administrative expenses of the Financing Corporation approved pursuant to § 1271.35.

(b) Amount. The Financing Corporation shall determine the amount of administrative expenses each Bank shall pay in the manner provided by section 21(b)(7)(B) of the Bank Act (12 U.S.C. 1441(b)(7)(B)). The Financing Corporation shall bill each Bank for such amount periodically.

(c) Adjustments. The Financing Corporation shall adjust the amount of administrative expenses the Banks are required to pay in any calendar year pursuant to paragraphs (a) and (b) of this section, by deducting any funds that remain from the amount paid by the Banks for administrative expenses in the prior calendar year.

§ 1271.37 Non-administrative expenses; assessments.

(a) Interest expenses. The Financing Corporation shall determine anticipated interest expenses on its obligations at least semiannually.

(b) Assessments on insured depository institutions—(1) Authority. To provide sufficient funds to pay the non-administrative expenses of the Financing Corporation approved under § 1271.35, the Financing Corporation shall, with the approval of the board of directors of the FDIC, assess against each insured depository institution an assessment in the same manner as assessments are made by the FDIC under section 7 of

the Federal Deposit Insurance Act (12 U.S.C. 1817).

(2) Assessment rate—(i) Determination. The Financing Corporation at least semiannually shall establish an assessment rate formula, which may include rounding methodology, to determine the rate or rates of the assessment it will assess against insured depository institutions pursuant to section 21(f)(2) of the Bank Act (12 U.S.C. 1441(f)(2)) and paragraph (b)(1) of this section.

(ii) Notice. The Financing Corporation shall notify the FDIC and the collection agent, if any, of the formula established under paragraph (b)(2)(i) of this section.

(3) Collecting assessments—(i) Collection agent. The Financing Corporation shall have authority to collect assessments made under section 21(f)(2) of the Bank Act (12 U.S.C. 1441(f)(2)) and paragraph (b)(1) of this section through a collection agent of its choosing.

(ii) Accounts. Each Bank shall permit any insured depository institution whose principal place of business is in its district to establish and maintain at least one demand deposit account to facilitate collection of the assessments made under section 21(f)(2) of the Bank Act (12 U.S.C. 1441(f)(2)) and paragraph (b)(1) of this section.

(c) Receivership proceeds—(1) Authority. To the extent the amounts collected under paragraph (b) of this section are insufficient to pay the non-administrative expenses of the Financing Corporation approved under § 1271.35, the Financing Corporation shall have authority to require the FDIC to transfer receivership proceeds to the Financing Corporation in accordance with section 21(f)(3) of the Bank Act (12 U.S.C. 1441(f)(3)).

(2) Procedure. The Directorate shall request in writing that the FDIC transfer the receivership proceeds to the Financing Corporation. Such request shall specify the

estimated amount of funds required to pay the non-administrative expenses of the Financing Corporation approved under § 1271.35.

§ 1271.38 Reports to FHFA.

The Financing Corporation shall file such reports as FHFA shall direct.

§ 1271.39 Review of books and records.

FHFA shall examine the Financing Corporation at least annually to determine whether the Financing Corporation is performing its functions in accordance with the requirements of section 21 of the Bank Act (12 U.S.C. 1441) and this subpart.

Subpart E—Authority for Bank Assistance of the Resolution Funding Corporation

§ 1271.41 Bank employees.

Upon the request of the Directorate of the Resolution Funding Corporation, established pursuant to section 21B(b) of the Bank Act (12 U.S.C. 1441b(b)), officers, employees, or agents of the Banks are authorized to act for and on behalf of the Resolution Funding Corporation in such manner as may be necessary to carry out the functions of the Resolution Funding Corporation as provided in section 21B(c)(6)(B) of the Bank Act (12 U.S.C. 1441b(c)(6)(B)).

PART 1272—NEW BUSINESS ACTIVITIES

46. The authority citation for part 1272 continues to read as follows:

Authority: 12 U.S.C. 1431(a), 1432(a), 4511(b), 4513, 4526(a).

§ 1272.1 [Amended]

47. Amend § 1272.1 by removing the definitions for “Bank”, “Bank Act”, and “FHFA”.

PART 1273—OFFICE OF FINANCE

48. The authority citation for part 1273 continues to read as follows:

Authority: 12 U.S.C. 1431, 1440, 4511(b), 4513, 4514(a), 4526(a).

§ 1273.1 [Amended]

49. Amend § 1273.1 by removing the definitions for “Bank”, “Bank Act”, “FHFA”, and “Safety and Soundness Act”.

PART 1274—FINANCIAL STATEMENTS OF THE BANKS

50. The authority citation for part 1274 continues to read as follows:

Authority: 12 U.S.C. 1426, 1431, 4511(b), 4513, 4526(a).

§ 1274.1 [Amended]

51. Amend § 1274.1 by removing the definitions for “Bank”, “FHFA”, and “Office of Finance or OF”.

PART 1278—VOLUNTARY MERGERS OF FEDERAL HOME LOAN BANKS

52. The authority citation for part 1278 continues to read as follows:

Authority: 12 U.S.C. 1432(a), 1446, 4511.

§ 1278.1 [Amended]

53. Amend § 1278.1 by removing the definitions for “Bank”, “Bank Act”, “Director”, “FHFA”, and “Office of Finance”.

Subchapter E—Housing Goals and Mission

PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS

54. The authority citation for part 1281 continues to read as follows:

Authority: 12 U.S.C. 1430c.

§ 1281.1 [Amended]

55. Amend § 1281.1 by removing the definitions for “Bank”, “Bank Act”,

“Director”, and “FHFA”.

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

56. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561-4566.

§ 1282.1 [Amended]

57. Amend § 1282.1 by removing the definitions for “Director”, “Enterprise”, “Fannie Mae”, “FHFA”, “Freddie Mac”, “Ginnie Mae” and “Safety and Soundness Act”.

PART 1290—COMMUNITY SUPPORT REQUIREMENTS

58. The authority citation for part 1290 continues to read as follows:

Authority: 12 U.S.C. 1430(g), 4511, 4513.

§ 1290.1 [Amended]

59. Amend § 1290.1 by removing the definitions for “Bank” and “FHFA”.

PART 1291—FEDERAL HOME LOAN BANKS’ AFFORDABLE HOUSING PROGRAM

60. The authority citation for part 1291 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

§ 1291.1 [Amended]

61. Amend § 1291.1 by removing the definitions for “Director” and “FHFA”.

62. Part 1292 is added to read as follows:

PART 1292—COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

Sec.

1292.1 Definitions.

1292.2 Scope.

1292.3 Purpose.

- 1292.4 Targeted Community Lending Plan.
- 1292.5 Community Investment Cash Advance Programs.
- 1292.6 Reporting.
- 1292.7 Documentation.

Authority: 12 U.S.C. 1430, 4511(b)(2).

§ 1292.1 Definitions.

As used in this part:

Champion Community means a community which developed a strategic plan and applied for designation by either the Secretary of HUD or the Secretary of the USDA as an Empowerment Zone or Enterprise Community, but was designated a Champion Community.

CICA program or Community Investment Cash Advance program means:

- (1) A Bank's AHP;
- (2) A Bank's CIP;
- (3) A Bank's RDF program or UDF program using any combination of the targeted beneficiaries and targeted income levels specified in § 1292.1 of this part; and
- (4) Any other advance or grant program offered by a Bank using targeted beneficiaries and targeted income levels other than those specified in § 1292.1 of this part, established by the Bank with the prior approval of FHFA.

Economic development projects means:

- (1) Commercial, industrial, manufacturing, social service, and public facility projects and activities; and
- (2) Public or private infrastructure projects, such as roads, utilities, and sewers.

Family means one or more persons living in the same dwelling unit.

Housing projects means projects or activities that involve the purchase,

construction, rehabilitation or refinancing (subject to § 1292.5(c) of this part) of, or predevelopment financing for:

(1) Individual owner-occupied housing units, each of which is purchased or owned by a family with an income at or below the targeted income level;

(2) Projects involving multiple units of owner-occupied housing in which at least 51% of the units are owned or are intended to be purchased by families with incomes at or below the targeted income level;

(3) Rental housing where at least 51% of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or

(4) Manufactured housing parks where:

(i) At least 51% of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or

(ii) The project is located in a neighborhood with a median income at or below the targeted income level.

Median income for the area. (1) Owner-occupied housing projects and economic development projects. For purposes of owner-occupied housing projects and economic development projects, median income for the area means one or more of the following, as determined by the Bank:

(i) The median income for the area, as published annually by HUD;

(ii) The median income for the area obtained from the Federal Financial Institutions Examination Council;

(iii) The applicable median family income, as determined under 26 U.S.C. 143(f)

(Mortgage Revenue Bonds) and published by a State agency or instrumentality;

(iv) The median income for the area, as published by the USDA; or

(v) The median income for the area obtained from another public entity or a private source and approved by the Director, at the request of a Bank, for use under the Bank's CICA programs.

(2) Rental housing projects. For purposes of rental housing projects, median income for the area means one or more of the following, as determined by the Bank:

(i) The median income for the area, as published annually by HUD; or

(ii) The median income for the area obtained from the Federal Financial Institutions Examination Council;

(iii) The median income for the area obtained from another public entity or a private source and approved by the Director, at the request of a Bank, for use under the Bank's CICA programs.

MSA means a Metropolitan Statistical Area as designated by the Office of Management and Budget.

Neighborhood means:

(1) A census tract or block numbering area;

(2) A unit of local government with a population of 25,000 or less;

(3) A rural county; or

(4) A geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographic designation that is within the boundary of but does not encompass the entire area of a unit of general local government.

Provide financing means:

(1) Originating loans;

(2) Purchasing a participation interest, or providing financing to participate, in a loan consortium for CICA-eligible housing or economic development projects;

(3) Making loans to entities that, in turn, make loans for CICA-eligible housing or economic development projects;

(4) Purchasing mortgage revenue bonds or mortgage-backed securities, where all of the loans financed by such bonds and all of the loans backing such securities, respectively, meet the eligibility requirements of the CICA program under which the member or housing associate borrower receives funding;

(5) Creating or maintaining a secondary market for loans, where all such loans are mortgage loans meeting the eligibility requirements of the CICA program under which the member or housing associate borrower receives funding;

(6) Originating CICA-eligible loans within 3 months prior to receiving the CICA funding; and

(7) Purchasing low-income housing tax credits.

RDF or Rural Development Funding program means an advance or grant program offered by a Bank for targeted community lending in rural areas.

Rural area means:

(1) A unit of general local government with a population of 25,000 or less;

(2) An unincorporated area outside an MSA; or

(3) An unincorporated area within an MSA that qualifies for housing or economic development assistance from the USDA.

Small business means a “small business concern,” as that term is defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and implemented by the Small Business Administration under 13 CFR part 121, or any successor provisions.

Targeted beneficiaries means beneficiaries determined by the geographical area in which a project is located (Geographically Defined Beneficiaries), by the individuals who benefit from a project as employees or service recipients (Individual Beneficiaries), or by the nature of the project itself (Activity Beneficiaries), as follows:

(1) Geographically Defined Beneficiaries:

(i) The project is located in a neighborhood with a median income at or below the targeted income level;

(ii) The project is located in a rural Champion Community, or a rural Empowerment Zone or rural Enterprise Community, as designated by the Secretary of the USDA;

(iii) The project is located in an urban Champion Community, or an urban Empowerment Zone or urban Enterprise Community, as designated by the Secretary of HUD;

(iv) The project is located in an Indian area, as defined by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*), Alaskan Native Village, or Native Hawaiian Home Land;

(v) The project is located in an area and involves a property eligible for a Brownfield Tax Credit;

(vi) The project is located in an area affected by a military base closing and is a “community in the vicinity of the installation” as defined by the Department of Defense

at 32 CFR part 176;

(vii) The project is located in a designated community under the Community Adjustment and Investment Program as defined under 22 U.S.C. 290m-2;

(viii) The project is located in a Federally declared disaster area; or

(ix) The project is located in a state declared disaster area, or other area that qualifies for assistance under another Federal or State targeted economic development program, approved by FHFA.

(2) Individual Beneficiaries:

(i) The annual salaries for at least 51% of the permanent full- and part-time jobs, computed on a full-time equivalent basis, created or retained by the project, other than construction jobs, are at or below the targeted income level; or

(ii) At least 51% of the families who otherwise benefit from (other than through employment), or are provided services by, the project have incomes at or below the targeted income level.

(3) Activity Beneficiaries: Projects that qualify as small businesses.

(4) Other Targeted Beneficiaries. A Bank may designate, with the prior approval of FHFA, other targeted beneficiaries for its targeted community lending.

(5) Only targeted beneficiaries identified in paragraphs (1)(i) through (1)(iv), and (2)(i) and (2)(ii) of this definition are eligible for CIP advances.

Targeted community lending means providing financing for economic development projects for targeted beneficiaries.

Targeted income level means:

(1) For rural areas, incomes at or below 115 percent of the median income for the

area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four;

(2) For urban areas, incomes at or below 100 percent of the median income for the area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four;

(3) For advances provided under CIP:

(i) For economic development projects, incomes at or below 80 percent of the median income for the area; or

(ii) For housing projects, incomes at or below 115 percent of the median income for the area, both as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four; or

(4) For advances or grants provided under any other CICA program offered by a Bank, a targeted income level established by the Bank with the prior approval of FHFA.

UDF program or Urban Development Funding program means an advance or grant program offered by a Bank for targeted community lending in urban areas.

Urban area means:

(1) A unit of general local government with a population of more than 25,000; or

(2) An unincorporated area within an MSA that does not qualify for housing or economic development assistance from the USDA.

USDA means the United States Department of Agriculture.

§ 1292.2 Scope.

Section 10(j)(10) of the Bank Act (12 U.S.C. 1430(j)(10)) authorizes the Banks to

offer Community Investment Cash Advance (CICA) programs. This part establishes requirements for all CICA programs offered by a Bank, except for a Bank's Affordable Housing Program (AHP), which is governed specifically by part 1291 of this chapter.

§ 1292.3 Purpose.

The purpose of this part is to identify targeted community lending projects that the Banks may support through the establishment of CICA programs under section 10(j)(10) of the Bank Act (12 U.S.C. 1430(j)(10)). Pursuant to this part, a Bank may offer RDF or UDF programs, or both, for targeted community lending using the targeted beneficiaries or targeted income levels specified in §1292.1, without prior FHFA approval. A Bank also may offer other CICA programs for targeted community lending using targeted beneficiaries and targeted income levels other than those specified in §1292.1, established by the Bank with the prior approval of FHFA. In addition, a Bank shall offer CICA programs under section 10(i) of the Bank Act (12 U.S.C. 1430(i)) (Community Investment Program (CIP)) and section 10(j) of the Bank Act (12 U.S.C. 1430(j)) (AHP). A Bank may provide advances or grants under its CICA programs except for CIP programs, under which a Bank may only provide advances.

§ 1292.4 Targeted Community Lending Plan.

Each Bank shall develop and adopt an annual Targeted Community Lending Plan pursuant to § 1290.6 of this chapter.

§ 1292.5 Community Investment Cash Advance Programs.

(a) In general. (1) Each Bank shall offer an AHP in accordance with part 1291 of this chapter.

(2) Each Bank shall offer a CIP to provide financing for housing projects and for

eligible targeted community lending at the appropriate targeted income levels.

(3) Each Bank may offer RDF programs or UDF programs, or both, for targeted community lending using the targeted beneficiaries or targeted income levels specified in §1292.1 of this part, without prior FHFA approval.

(4) Each Bank may offer CICA programs for targeted community lending using targeted beneficiaries and targeted income levels other than those specified in § 1292.1 of this part, established by the Bank with the prior approval of FHFA.

(b) Mixed-use projects. (1) For projects funded under CICA programs other than CIP, involving a combination of housing projects and economic development projects, only the economic development components of the project must meet the appropriate targeted income level for the respective CICA program.

(2) For projects funded under CIP, both the housing and economic development components of the project must meet the appropriate targeted income levels.

(c) Refinancing. CICA funding other than AHP may be used to refinance economic development projects and housing projects, provided that any equity proceeds of the refinancing of rental housing and manufactured housing parks are used to rehabilitate the projects or to preserve affordability for current residents.

(d) Pricing and Availability of advances—(1) Advances to members. For CICA programs other than AHP and CIP, a Bank shall price advances to members as provided in § 1266.5 of this chapter, and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10(a) of the Bank Act. (12 U.S.C. 1430(a)).

(2) Pricing of CIP advances. The price of advances made under CIP shall not

exceed the Bank's cost of issuing consolidated obligations of comparable maturity, taking into account reasonable administrative costs.

(3) Pricing of AHP advances. A Bank shall price advances made under AHP in accordance with parts 1266 and 1291 of this chapter.

(4) Advances to housing associate borrowers. (i) A Bank may offer advances under CICA programs to housing associate borrowers at the Bank's option, except for AHP and CIP, which are available only to members.

(ii) A Bank shall price advances to housing associate borrowers as provided in §1266.17 of this chapter, and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10b of the Bank Act. (12 U.S.C. 1430b).

(5) Pricing pass-through. A Bank may require that borrowers receiving advances made under CICA programs pass through the benefit of any price reduction from regular advance pricing to their borrowers.

(6) Discount Fund. (i) A Bank may establish a Discount Fund which the Bank may use to reduce the price of CIP or other advances made under CICA programs below the advance prices provided for by this part.

(ii) Price reductions made through the Discount Fund shall be made in accordance with a fair distribution scheme.

§ 1292.6 Reporting.

(a) Each Bank annually shall provide to FHFA, on or before January 31, a Targeted Community Lending Plan.

(b) Each Bank shall provide such other reports concerning its CICA programs as

FHHA may request from time to time.

§ 1292.7 Documentation.

(a) A Bank shall require the borrower to certify to the Bank that each project funded under a CICA program (other than AHP) meets the respective targeting requirements of the CICA program. Such certification shall include a description of how the project meets the requirements, and where appropriate, a statistical summary or list of incomes of the borrowers, rents for the project, or salaries of jobs created or retained.

(b) For those CICA-funded projects that also receive funds from another targeted Federal economic development program that has income targeting requirements that are the same as, or more restrictive than, the targeting requirements of the applicable CICA program, the Bank shall permit the borrower to certify that compliance with the criteria of such Federal economic development program will meet the requirements of the respective CICA program.

(c) Such certifications shall satisfy the Bank's obligations to document compliance with the CICA funding provisions of this part.

Edward J. DeMarco,
Acting Director, Federal Housing Finance Agency.

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