

## SUBCHAPTER I—MISCELLANEOUS FEDERAL HOME LOAN BANK OPERATIONS AND AUTHORITIES

### PART 975—COLLECTION, SETTLEMENT, AND PROCESSING OF PAYMENT INSTRUMENTS

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AUTHORITY: 12 U.S.C. 1430, 1431.

SOURCE: 45 FR 64164, Sept. 29, 1980, unless otherwise noted. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 65 FR 8256, Feb. 18, 2000.

#### §975.1 Definitions.

(a) Unless otherwise defined in this part, the terms used in this part shall conform, in the following order, to: Regulations of the Finance Board, the Uniform Commercial Code, regulations of the Federal Reserve System, and general banking usage.

(b) As used in this part:

*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 Act (12 U.S.C. 1424), including any building and loan

association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or any insured depository institution (as defined in section 2(12) of the Act (12 U.S.C. 1422(12))), 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.

[67 FR 12854, Mar. 20, 2002]

#### §975.2 Authority and scope.

(a) Pursuant to section 11(e)(2) of the Act (12 U.S.C. 1431(e)(2)), the Finance Board has promulgated this part governing the collection, processing, and settlement, and services incidental

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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 part: 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 Act (12 U.S.C. 1431(e)(2)) shall be governed by the provisions of this part.

[45 FR 64164, Sept. 5, 1989, as amended at 65 FR 8266, Feb. 18, 2000. Redesignated and amended at 67 FR 12854, Mar. 20, 2002]

### §975.3 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.

[67 FR 12854, Mar. 20, 2002]

### §975.4 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 the Finance Board shall, from time to time, after notice and comment, find necessary for the exercise of the authority of this part.

[45 FR 64164, Sept. 29, 1980, as amended at 55 FR 2231, Jan. 23, 1990; 65 FR 8266, Feb. 18, 2000; 67 FR 12854, Mar. 20, 2002]

### §975.5 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 part.

[45 FR 64164, Sept. 5, 1989, as amended at 65 FR 8266, Feb. 18, 2000]

### §975.6 Pricing of services.

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

(b) *Payment instrument account services.* (1) In determining the fees for services provided under this part, 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 part.

(c) *Review and publication.* The Finance Board shall from time to time and at least annually review the cost of capital adjustment factor and review prices for services authorized in this part for compliance with the principles set forth in paragraphs (a) and (b) of this section. All prices for Bank services authorized in this part will be published annually in the FEDERAL REGISTER, except those for fees charged to an applicant for draws made by a beneficiary under a standby letter of credit.

(12 U.S.C. 1431(e); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

[45 FR 64164, Sept. 29, 1980, as amended at 46 FR 38900, July 30, 1981. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 58 FR 59936, Nov. 12, 1993; 60 FR 57682, Nov. 17, 1995; 63 FR 65700, Nov. 30, 1998; 65 FR 8266, Feb. 18, 2000]

### §975.7 Rights, powers, responsibilities, duties, and liabilities.

To the extent it is not inconsistent with other provisions of this part, the Uniform Commercial Code governs the rights, powers, responsibilities, duties, and liabilities of Banks in the exercise of their authority under this part. 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.

[45 FR 64164, Sept. 5, 1989, as amended at 65 FR 8266, Feb. 18, 2000]

## PART 977—MISCELLANEOUS BANK AUTHORITIES

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977.1 Definitions. [Reserved]

977.2 Transfer of funds between Banks.

977.3 Trustee powers.

AUTHORITY: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1431(a), 1431(e), 1432(a).

SOURCE: 65 FR 8266, Feb. 18, 2000, unless otherwise noted.

### § 977.1 Definitions. [Reserved]

### § 977.2 Transfer of funds between Banks.

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

### § 977.3 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 or for insurance of accounts, or any group applying for a charter for a Federal Savings Association, 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.

## PART 978—BANK REQUESTS FOR INFORMATION

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AUTHORITY: 12 U.S.C. 1422b(a), 1442.

SOURCE: 65 FR 8266, Feb. 18, 2000, unless otherwise noted.

### § 978.1 Definitions.

As used in this part:

*Confidential 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 Act.

*Financial regulatory agency* means any of the following:

(1) The Department of the Treasury, including either the OCC or the OTS;

(2) The FRB;

(3) The NCUA; or

(4) The FDIC.

*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 information; or

(2) The financial regulatory agency that supplied the particular confidential information to such Bank.

[65 FR 8266, Feb. 18, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

### § 978.2 Scope.

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

[65 FR 8266, Feb. 18, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

### § 978.3 Request for confidential information.

A Bank shall make all requests for confidential 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 part as well as any procedures of general applicability for requesting information promulgated by such financial regulatory agency. This part and its procedures may be supplemented by a confidentiality agreement between a Bank and a financial regulatory agency.

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### § 978.4 Form of request.

A request by a Bank to a financial regulatory agency for confidential 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 Act (12 U.S.C. 1442), as amended, and this regulation, and shall describe the confidential information requested and identify its intended use pursuant to the Act. The request shall be signed or otherwise made by any duly authorized Bank officer or employee.

[65 FR 8266, Feb. 18, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

### § 978.5 Storage of confidential information.

Each Bank shall:

(a) Store all identified confidential 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 information in its possession; and

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

### § 978.6 Access to confidential information.

Each Bank shall ensure that access to the confidential 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 information in accordance with the Bank's own procedures for maintaining the confidentiality of its members' privileged or non-public information.

### § 978.7 Third party requests for confidential information.

(a) *General.* In the event a Bank receives a request for confidential information in its possession from any third party, the Bank shall forward such re-

quest to the financial regulatory agency from which the confidential information was obtained.

(b) *Subpoena.* In the event a Bank receives a subpoena for confidential 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 information was obtained, unless such notice is prohibited by applicable law. Except as limited in this part, the Bank may disclose confidential 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 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 information to any third party. A Bank shall refer all third party requests for such confidential information to the financial regulatory agency that released the confidential information to the Bank.

(d) *Disclosure to Finance Board.* (1) Neither this part nor any confidentiality agreement executed between a Bank and a financial regulatory agency shall prevent a Bank from disclosing confidential information in its possession to the Finance Board whenever disclosure is necessary to accomplish the Finance Board's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential information in its possession if such disclosure is made pursuant to an audit conducted pursuant to § 978.5 or section 20 of the Act (12 U.S.C. 1440).

(2) The Finance Board shall keep all confidential information received under paragraph (d) of this section in strict confidence.

[65 FR 8266, Feb. 18, 2000, as amended at 67 FR 12854, Mar. 20, 2002]

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**§ 978.8 Computer data.**

Nothing in this part shall preclude a Bank from arranging with any financial regulatory agency to transmit or allow access to confidential 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.

**SUBCHAPTER J—NEW FEDERAL HOME LOAN BANK  
ACTIVITIES [RESERVED]  
SUBCHAPTER K—OFFICE OF FINANCE [RESERVED]**