

(e) Testing or examination material used solely to determine or assess individual qualifications for appointment to employment at the Finance Board, or promotion therein—the disclosure of which would compromise the objectivity or fairness of the testing, evaluation or examining process is exempt under 5 U.S.C. 552a(k)(6).

## PART 910—CONSOLIDATED BONDS AND DEBENTURES

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AUTHORITY: 12 U.S.C. 1422a, 1422b and 1431.

### §910.0 Definitions.

(a) *Finance Board* means the Federal Housing Finance Board.

(b) *Bank* means Federal Home Loan Bank.

(c) *Consolidated bond* means any bond or note issued on behalf of one or more Banks by the Finance Board pursuant to section 11(c) of the Federal Home Loan Bank Act, as amended (the Act) (12 U.S.C. 1431(c)).

(d) *Senior bonds* means consolidated bonds issued pursuant to 12 U.S.C. 1431 and this part and not defeased, other than bonds specifically subordinated to any then outstanding consolidated bonds.

(e) *Unsecured, senior liabilities* means all obligations of the Banks recognized as a liability under Generally Accepted Accounting Principles, except:

- (1) Liabilities that are covered by a perfected security interest;
- (2) Consolidated bonds;
- (3) Bonds issued pursuant to 12 U.S.C. 1431(a); and
- (4) Allowance for losses for off-balance sheet obligations.

(f) *Direct Obligation* means an obligation of a Bank to make any principal or interest payment due on a consolidated bond, whether such obligation arises from:

(1) The Bank's receipt of sale proceeds from the issuance of that consolidated bond or the assumption of the obligation in a voluntary transaction subsequent to the issuance of the bond;

(2) An obligation to make an assistance payment to any other Bank, whether made pursuant to an agreement between one or more Banks or pursuant to a Finance Board payment order; or

(3) An assistance payment reimbursement obligation.

(g) *Non-complying Bank* means any Bank that fails to certify, pursuant to §910.7(b)(1) of this part, that it is able to pay all of its current obligations, including direct obligations, in full when due; that fails to make consolidated bond payments in full when due; that is required to file a notice pursuant to §910.7(b)(2) or a consolidated bond payment plan pursuant to §910.7(c); or that is determined by the Finance Board to require assistance in meeting its direct obligations on consolidated bonds.

[57 FR 62186, Dec. 30, 1992, as amended at 64 FR 55130, Oct. 12, 1999]

### §910.1 Issuance of consolidated bonds.

(a) *General*. The Board will determine and authorize the issuance of all consolidated bonds, dates of issue, maturities, rates of interest, terms and conditions thereof, and the manner in which such bonds shall be issued, subject to the provisions of 31 U.S.C. 9108. The Board in its discretion may delegate this responsibility.

(b) *Leverage limit*. The Board shall not issue senior bonds, other than bonds issued to refund consolidated bonds previously issued, if, immediately following such issuance, the aggregate amount of senior bonds and unsecured, senior liabilities of the Federal Home Loan Banks exceeds twenty (20) times the total paid-in capital stock, retained earnings and reserves (excluding loss reserves and deposit reserves pursuant to 12 U.S.C. 1431(g)), of all the Federal Home Loan Banks.

(c) *Negative pledge requirement*. The Federal Home Loan Banks shall at all times maintain assets of the following types, free from any lien or pledge, in a total amount at least equal to the amount of senior bonds outstanding:

- (1) Cash;

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(2) Obligations of or fully guaranteed by the United States;

(3) Secured advances;

(4) Mortgages as to which one or more Federal Home Loan Banks have any guaranty or insurance, or commitment therefore, by the United States or any agency thereof;

(5) Investments described in section 16(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1436(a)); and

(6) Other securities which have been assigned a rating or assessment by a major nationally recognized securities rating agency that is equivalent to or higher than the rating or assessment assigned by such agency on senior bonds outstanding.

*Provided, however,* that any assets of the types described in paragraphs (c)(1) through (6) of this section which are subject to a lien or pledge for the benefit of the holders of any issue of senior bonds shall be treated as if they were assets free from any lien or pledge for purposes of compliance with this provision.

[57 FR 62186, Dec. 30, 1992]

### §910.2 Form of consolidated bonds.

Consolidated Federal Home Loan Bank bonds shall be issued in series and all consolidated bonds of the same series shall be of like date, tenor, and effect except as to denominations, which shall be in such amounts as may be authorized by the Board. The form of each consolidated bond shall be prescribed by the Board. Consolidated bonds issued with maturities of 1 year or less may be designated consolidated notes.

[42 FR 56316, Oct. 25, 1977. Redesignated at 54 FR 36759, Sept. 5, 1989]

### §910.3 Transactions in consolidated bonds.

The general regulations of the Department of Treasury now or hereafter in force governing transactions in United States securities, except 31 CFR part 357 (regarding book-entry procedure), are hereby incorporated into this part, so far as applicable and as necessarily modified to relate to consolidated Federal Home Loan Bank bonds, as the regulations of the Board for similar transactions in consolidated

Federal Home Loan Bank bonds. The book-entry procedure for consolidated Federal Home Loan Bank bonds is contained in part 912 of this subchapter.

[63 FR 8059, Feb. 18, 1998]

### §910.4 Lost, stolen, destroyed, mutilated, or defaced bonds.

The statutes of the United States now or hereafter in force, and the regulations of the Treasury Department, now or hereafter in force, governing relief on account of the loss, theft, destruction, mutilation, or defacement of United States securities, so far as applicable and as necessarily modified to relate to consolidated Federal Home Loan Bank bonds, are hereby adopted as the regulations of the Board for the issuance of substitute consolidated Federal Home Loan Bank bonds or the payment of lost, stolen, destroyed, mutilated, or defaced consolidated Federal Home Loan Bank bonds.

[23 FR 9878, Dec. 23, 1958. Redesignated at 54 FR 36759, Sept. 5, 1989]

### §910.5 Administrative provision.

The Secretary of the Treasury, or the Acting Secretary of the Treasury, is hereby authorized and empowered, as the agent of the Board and the Federal Home Loan Banks, to administer the regulations of the Board adopted by §§910.3 and 910.4, and to delegate such authority at his discretion to other officers, employees, and agents of the United States Treasury Department. Any such regulations may be waived on behalf of the Board and the Federal Home Loan Banks by the Secretary of the Treasury or the Acting Secretary of the Treasury or by an officer of the United States Treasury Department authorized to waive similar regulations with respect to United States securities, but only in any particular case in which a similar regulation, with respect to United States Securities would be waived. The terms "securities" and "bonds" as used in this section shall, unless the context otherwise requires, include and apply to coupons and interim certificates.

[23 FR 9878, Dec. 23, 1958. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 55 FR 2229, Jan. 23, 1990]

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### §910.6 Reservation of right to revoke or amend; limitations thereon.

(a) *General.* The right to revoke or amend this part, or to prescribe and issue supplemental or amendatory rules and regulations thereto, is hereby reserved.

(b) *Limitation on amendment of leverage limit or negative pledge requirement.* No revocation or relaxation of any of the restrictions or requirements contained in or imposed by §910.1 (b) or (c) shall be effected except:

(1) If there are no senior bonds then outstanding or if there shall have been deposited with the Treasurer of the United States, noncallable (or called) direct obligations of the United States of America or obligations fully guaranteed by the United States of America of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient to pay in full (together with any other moneys placed in trust and irrevocably committed for such payment and without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom) the principal of and interest to date of maturity or to such date designated for redemption and any redemption premium on all senior bonds the holders of which have not consented to such revocation or relaxation; or

(2) Section 910.1(b) may be changed by the Board in any manner if the Board receives either:

(i) Written evidence from at least one major nationally recognized securities rating agency which rates or makes an assessment of the senior bonds that such change in that provision will not result in the lowering of its then-current rating or assessment on senior bonds outstanding or next to be issued; or

(ii) A written opinion from an investment banking firm that such change would not have a materially adverse effect on the creditworthiness of senior bonds outstanding or next to be issued.

[57 FR 62186, Dec. 30, 1992]

### §910.7 Joint and several liability.

(a) *In general.* (1) Each and every Bank, individually and collectively,

has an obligation to make full and timely payment of all principal and interest on consolidated bonds when due.

(2) Each and every Bank, individually and collectively, shall ensure that the timely payment of principal and interest on all consolidated bonds is given priority over, and is paid in full in advance of, any payment to or redemption of shares from any shareholder.

(3) The provisions of this section shall not limit, restrict or otherwise diminish, in any manner, the joint and several liability of all of the Banks on all of the consolidated bonds issued by the Finance Board pursuant to section 11(c) of the Act.

(b) *Certification and reporting.* (1) Before the end of each calendar quarter, and before declaring or paying any dividend for that quarter, the President of each Bank shall certify in writing to the Finance Board that, based on known current facts and financial information, the Bank will remain in compliance with the liquidity requirements set forth in section 11(g) of the Act (12 U.S.C. 1431(g)), and the Finance Board's Financial Management Policy (as the same may be amended, modified or replaced), and will remain capable of making full and timely payment of all of its current obligations, including direct obligations, coming due during the next quarter.

(2) A Bank shall immediately provide written notice to the Finance Board if at any time:

(i) The Bank is unable to provide the certification required in paragraph (b)(1) of this section;

(ii) The Bank projects at any time that it will fail to comply with statutory or regulatory liquidity requirements, or will be unable to timely and fully meet all of its current obligations, including direct obligations, due during the quarter;

(iii) The Bank actually fails to comply with statutory or regulatory liquidity requirements or to timely and fully meet all of its current obligations, including direct obligations, due during the quarter; or

(iv) The Bank negotiates to enter or enters into an agreement with one or more other Banks to obtain financial assistance from such Bank(s) to meet

its current obligations, including direct obligations, due during the quarter; the notice of which shall be accompanied by a copy of the agreement, which shall be subject to the approval of the Finance Board.

(c) *Consolidated bond payment plans.*

(1) A Bank promptly shall file a consolidated bond payment plan for Finance Board approval:

(i) If it becomes a non-complying Bank as a result of failing to provide the certification required in paragraph (b)(1) of this section;

(ii) If it becomes a non-complying Bank as a result of being required to provide the notice required pursuant to paragraph (b)(2) of this section, except in the event that a failure to make a principal or interest payment on a consolidated bond when due was caused solely by a temporary interruption in the Bank's debt servicing operations resulting from an external event such as a natural disaster or a power failure; or

(iii) If the Finance Board determines that a Bank will cease to be in compliance with the statutory or regulatory liquidity requirements, or will lack the capacity to timely and fully meet all of its current obligations, including direct obligations, due during the quarter.

(2) A consolidated bond payment plan shall specify the measures the non-complying Bank will undertake to make full and timely payments of all of its current obligations, including direct obligations, due during the applicable quarter.

(3) A non-complying Bank may continue to incur and pay normal operating expenses incurred in the regular course of business (including salaries, benefits, or costs of office space, equipment and related expenses), but shall not incur or pay any extraordinary expenses, or declare, or pay dividends, or redeem any capital stock, until such time as the Finance Board has approved the Bank's consolidated bond payment plan or inter-Bank assistance agreement, or ordered another remedy, and all of the non-complying Bank's direct obligations have been paid.

(d) *Finance Board Payment Orders; Obligation to Reimburse.* (1) The Board of Directors of the Finance Board, in its

discretion and notwithstanding any other provision in this section, may at any time order any Bank to make any principal or interest payment due on any consolidated obligation.

(2) To the extent that a Bank makes any payment on any consolidated obligation on behalf of another Bank, the paying Bank shall be entitled to reimbursement from the non-complying Bank, which shall have a corresponding obligation to reimburse the Bank providing assistance, to the extent of such payment and other associated costs (including interest to be determined by the Finance Board).

(e) *Adjustment of equities.* (1) Any non-complying Bank shall apply its assets to fulfill its direct obligations.

(2) If a Bank is required to meet, or otherwise meets, the direct obligations of another Bank due to a temporary interruption in the latter Bank's debt servicing operations (*e.g.*, in the event of a natural disaster or power failure), the assisting Bank shall have the same right to reimbursement as set forth in paragraph (e)(1) of this section.

(3) If the Finance Board determines that the assets of a non-complying Bank are insufficient to satisfy all of its direct obligations as set forth in paragraph (e)(1) of this section, then the Finance Board may allocate the outstanding liability among the remaining Banks on a pro rata basis in proportion to each Bank's participation in all consolidated obligations outstanding as of the end of the most recent month for which the Finance Board has data.

(f) *Reservation of authority.* Nothing in this section shall affect the Finance Board's authority to adjust the equities between the Banks in any manner different than the manner described in this section, or to take such enforcement or other action against any Bank pursuant to the Finance Board's authority under the Act or otherwise to supervise the Banks and ensure that they are operated in a safe and sound manner.

(g) *No rights created.* (1) Nothing in this section shall create or be deemed to create any rights in any third party.

(2) Payments made by a Bank toward the direct obligations of another Bank

are made for the sole purpose of discharging the joint and several liability of the Banks on the consolidated bonds.

(3) Compliance, or the failure to comply, with any provision in this section shall not be deemed a default under the terms and conditions of the consolidated bonds.

[64 FR 55130, Oct. 12, 1999]

## PART 912—BOOK-ENTRY PROCEDURE FOR Federal HOME LOAN BANK SECURITIES

Sec.

912.1 Definitions.

912.2 Law governing rights and obligations of Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks; rights of any Person against Federal Home Loan Banks, Finance Board, Office of Finance, United States and Federal Reserve Banks.

912.3 Law governing other interests.

912.4 Creation of Participant's Security Entitlement; security interests.

912.5 Obligations of Federal Home Loan Banks and the Office of Finance; no Adverse Claims.

912.6 Authority of Federal Reserve Banks.

912.7 Liability of Federal Home Loan Banks, Finance Board, Office of Finance and Federal Reserve Banks.

912.8 Additional requirements; notice of attachment for Book-entry Federal Home Loan Bank Securities.

912.9 Reference to certain Department of Treasury commentary and determinations.

912.10 Obligations of United States with respect to Federal Home Loan Bank Securities.

AUTHORITY: 12 U.S.C. 1422a, 1422b, 1431, 1435.

SOURCE: 63 FR 8059, Feb. 18, 1998, unless otherwise noted.

### §912.1 Definitions.

For purposes of this part, unless the context otherwise requires or indicates:

(a) *Adverse Claim* means a claim that a claimant has a property interest in a Book-entry Federal Home Loan Bank Security and that it is a violation of the rights of the claimant for another Person to hold, transfer, or deal with the Security.

(b) *Book-entry Federal Home Loan Bank Security* means a Federal Home

Loan Bank Security maintained in the book-entry system of the Federal Reserve Banks.

(c) *Entitlement Holder* means a Person or a Federal Home Loan Bank to whose account an interest in a Book-entry Federal Home Loan Bank Security is credited on the records of a Securities Intermediary.

(d) *Federal Home Loan Bank Security* means a consolidated bond, debenture, note, or other obligation of the Federal Home Loan Bank issued by the Finance Board under authority of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431).

(e) *Federal Reserve Bank* means a Federal Reserve Bank or branch, acting as fiscal agent for the Office of Finance, unless otherwise indicated.

(f) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Federal Reserve Bank maintains Book-entry Securities accounts and transfers Book-entry Securities.

(g) *Finance Board* means the Federal Housing Finance Board.

(h) *Funds account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, Book-entry Securities transaction fees, or principal and interest payments.

(i) *Office of Finance* means the Office of Finance established under part 941 of this chapter, acting as agent of the Finance Board in all matters relating to the issuance of Book-entry Federal Home Loan Bank Securities, or as agent of the Federal Home Loan Banks in the performance of all other necessary and proper functions relating to Book-entry Federal Home Loan Bank Securities, including the payment of principal and interest due thereon.

(j) *Participant* means a Person or a Federal Home Loan Bank that maintains a Participant's Securities Account with a Federal Reserve Bank.

(k) *Participant's Securities Account* means an account in the name of a Participant at a Federal Reserve Bank to which Book-entry Federal Home Loan Bank Securities held for a Participant are or may be credited.