

## PART 934—OPERATIONS OF THE BANKS

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AUTHORITY: 12 U.S.C. 1422a, 1422b, 1431(g), 1432(a), and 1442.

SOURCE: 43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, unless otherwise noted.

### §934.1 Investments.

(a) Banks may acquire or dispose of securities with prior approval of the Board or its designated representative or in conformity with:

(1) Authorizations of the Board or such representative or (2) stated Board policy. A Bank's board of directors may authorize Bank officer(s) to acquire or dispose of securities qualifying as liquidity for deposits under the investment policy of the Board as in the judgment of the officer(s) is necessary in the operation of the Bank. Any other acquisition or disposition must be authorized in advance by a majority of the board of directors, executive committee, or investment committee consisting of three or more persons a majority of whom are directors of the Bank. Single acquisitions or dispositions may be so authorized, or acquisitions and/or dispositions of securities of a stated amount maturing within specified dates as in the judgment of the officer(s) designated in the authorization are necessary in the operation of the Bank, may be so authorized, for periods of 90 days or less.

(b) Compliance with sections 11 and 16 of the act shall be determined based

on the principal amount of obligations of the United States.

(c) Secured advances to members maturing within five years are investments in compliance with section 11(g) of the Act.

(d) Cash reserves may be held temporarily, awaiting investment opportunity, without violating section 16 of the Act.

[43 FR 46841, Oct. 11, 1978, as amended at 49 FR 34198, Aug. 29, 1984. Redesignated at 54 FR 36759, Sept. 5, 1989]

### §934.2 Loans guaranteed under the Foreign Assistance Act of 1961.

With prior approval of the Board, a Bank's board of directors may authorize it to acquire, hold, or dispose of any of the following loans, or interests therein, primarily to facilitate acquisition of participation interests in such loans by members authorized to make such investment:

(a) Housing project loans with any guaranty under section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1969;

(b) Loans with any guaranty under section 224 of such Act, as in effect before December 30, 1969; or

(c) Loans with any guaranty under section 221 or 222 of such Act, as in effect after December 29, 1969.

Prior approval of the Board is not required to repurchase a participation interest previously sold to a member.

### §934.3 Transfer of funds between Banks.

Interbank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks. If agreement on terms cannot be reached, the Board may establish terms.

[43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 55 FR 2229, Jan. 23, 1990]

### §934.4 Deposits in banks or trust companies.

For purposes of section 11(g) of the Act, the term "deposits in banks or trust companies" means:

- (a) A deposit in another Bank;
- (b) A demand account in a Federal Reserve Bank; and
- (c) A deposit in, or a sale of federal funds to:

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(1) An insured depository institution, as defined in section 2(12)(A) of the Act, that is designated by a Bank's board of directors;

(2) A trust company that is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation, and is designated by a Bank's board of directors; or

(3) A U.S. branch or agency of a foreign bank, as defined in the International Banking Act of 1978, as amended (12 U.S.C. 3101 *et seq.*), that is subject to the supervision of the Board of Governors of the Federal Reserve System, and is designated by a Bank's board of directors.

[62 FR 26922, May 16, 1997]

### § 934.5 Deposits from members.

Banks may accept demand and time deposits from members, reserving the right to require notice of intention to withdraw any part of time deposits. Rates of interest paid on all deposits shall be set by the Bank's board of directors (or, between regular meetings thereof, by a committee of directors selected by the board) or by the Bank President, if so authorized by the board. Unless otherwise specified by the board, a Bank President may delegate to any officer or employee of the Bank any authority he possesses under this section.

[46 FR 49107, Oct. 6, 1981. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.6 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 savers, investors, or borrowers, or for 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.

[43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 55 FR 2229, Jan. 23, 1990. Redesignated at 62 FR 26922, May 16, 1997]

### § 934.7 Budget preparation.

(a) *Adoption of annual Bank budgets.* Each Bank's board of directors shall be responsible for the adoption of an annual operating expense budget and a capital expenditures budget for the Bank, and any subsequent amendments thereto, consistent with the requirements of the Act, this section, other regulations and policies of the Board, and with the Bank's responsibility to protect both its members and the public interest by keeping its costs to an efficient and effective minimum.

(b) A Bank's board of directors may not delegate the authority to approve the Bank's annual budgets, or any subsequent amendments thereto, to Bank officers or other Bank employees.

(c) A Bank's annual budgets shall be prepared based upon an interest rate scenario as determined by the Bank.

(d) A Bank may not exceed its total annual operating expense budget or its total annual capital expenditures budget without prior approval by the Bank's board of directors of an amendment to such budget.

[61 FR 55880, Oct. 30, 1996. Redesignated at 62 FR 26922, May 16, 1997, as amended at 64 FR 71278, Dec. 21, 1999]

### § 934.8 Surety bonds.

Each Bank shall maintain surety bonds covering all officers, employees, attorneys, or agents having control over, or access to, monies or securities owned by the Bank or in its possession.

[49 FR 34198, Aug. 29, 1984, as amended at 54 FR 6113, Feb. 7, 1989. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.9 Insurance.

Each bank shall maintain insurance required by law, and may maintain any

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additional insurance its board of directors considers necessary for its protection.

[43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.10 Safe-keeping accounts.

Securities owned by each Bank shall be held at any Federal Reserve Bank or, with prior Board approval, at any depository commercial bank that is a member of a Federal Reserve Bank.

[45 FR 31046, May 12, 1980. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.11 Securities held in trust or as collateral.

Bonds and negotiable securities held by a Bank as collateral or in trust shall be placed in the custody of a Federal Reserve Bank or branch thereof, a financial institution which is a member of the Federal Reserve System or of the Federal Deposit Insurance Corporation, or under such other arrangement approved by the Board. However this section shall not apply to bonds and negotiable securities held in custody under the plan for holding security transactions of member institutions approved August 13, 1943.

[43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.12 Accounting.

Each Bank's accounting system is subject to approval by the Board, and its accounting forms are subject to approval by the Board or its designee.

[43 FR 46841, Oct. 11, 1978. Redesignated at 54 FR 36759, Sept. 5, 1989, and amended at 55 FR 2229, Jan. 23, 1990. Redesignated at 60 FR 65516, Dec. 20, 1995, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.13 Gold and gold-related transactions.

No Bank may engage in any capacity or manner in any transaction or activity involving gold (including gold coin) or gold related instruments or securities, except for purchase and sale of gold coins minted and issued by the United States Treasury pursuant to

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Pub. L. 99-185, 99 Stat. 1177 (1985), and activities reasonably incident thereto.

[51 FR 34951, Oct. 1, 1986. Redesignated at 54 FR 36759, Sept. 5, 1989. Redesignated at 60 FR 65516, Dec. 20, 1995, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.14 Office of Thrift Supervision assessments.

At the request of, and in accordance with the instructions of, the Director of the Office of Thrift Supervision, the Federal home loan banks shall remit funds made available by their members to satisfy Office of Thrift Supervision assessments.

[54 FR 36760, Sept. 5, 1989. Redesignated at 60 FR 65516, Dec. 20, 1995, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.15 Bank requests for information.

This section governs the procedure by which a Federal Home Loan Bank will request and receive Confidential Information, as defined in paragraph (a)(4) of this section, pursuant to section 22 of the Federal Home Loan Bank Act.

(a) *Definitions.* As used in this section:

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

(2) *Bank* means a Federal Home Loan Bank, including its directors, officers, employees or agents.

(3) *Financial Regulatory Agency* means any of the following:

(i) The Department of the Treasury, including either the Office of the Comptroller of the Currency or the Office of Thrift Supervision;

(ii) The Board of Governors of the Federal Reserve System;

(iii) The National Credit Union Administration; or

(iv) The Federal Deposit Insurance Corporation.

(4) *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

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having transactions under the Bank Act.

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

(i) A Bank in possession of any particular confidential information; or

(ii) The Financial Regulatory Agency that supplied the particular confidential information to such Bank.

(b) *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 section as well as any procedures of general applicability for requesting information promulgated by such Financial Regulatory Agency. This section and its procedures may be supplemented by a confidentiality agreement between a Bank and a Financial Regulatory Agency.

(c) *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 Bank Act, as amended, and this regulation, and shall describe the confidential 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.

(d) *Storage of Confidential Information.* Each Bank will 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. Each Bank shall have in place a written set of procedures and policies designed to insure the confidentiality of confidential information in its possession, and shall establish an internal review of its procedures for storing confidential information and maintaining its confidentiality, as a part of its internal audit process.

(e) *Access to Confidential Information.* A Bank will insure 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.

(f) *Third party requests for Confidential Information—*(1) *In general.* In the event a Bank receives a request for confidential information in its possession from any third party, the Bank shall forward such requests to the Financial Regulatory Agency from which the confidential information was obtained.

(2) *By 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 herein, the Bank may disclose confidential information pursuant to the subpoena, after giving timely written notice, when:

(i) The Financial Regulatory Agency gives written approval to the disclosure; or

(ii) A binding order to produce the confidential information has become final with all rights of appeal either exhausted or lapsed.

(3) *Nondisclosure to third parties.* Except as provided in paragraph (f)(2) 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.

(4) *Disclosure to Board.* (i) Neither this section 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 Board whenever disclosure is necessary to accomplish the 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

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conducted pursuant to paragraph (d) of this section or section 20 of the Bank Act.

(ii) The Board shall keep all confidential information received under paragraph (f)(4) of this section in strict confidence.

(g) *Computer data.* This section shall not 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 insure 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.

[55 FR 50545, Dec. 7, 1990. Redesignated at 60 FR 65516, Dec. 20, 1995, and further redesignated at 62 FR 26922, May 16, 1997]

### § 934.16 Bank bylaws.

A Bank's board of directors shall have in effect at all times bylaws governing the manner in which the Bank administers its affairs, and such bylaws shall be consistent with applicable laws and regulations as administered by the Finance Board.

[64 FR 71278, Dec. 21, 1999]

### § 934.17 Bank dividends.

A Bank's board of directors may declare and pay a dividend only from previously retained earnings or current net earnings, and only if such payment will not result in a projected impairment of the par value of the capital stock of the Bank. Dividends on such capital stock shall be computed without preference.

[64 FR 71278, Dec. 21, 1999]

## PART 935—ADVANCES

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AUTHORITY: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b and 1431.

SOURCE: 58 FR 29469, May 20, 1993, unless otherwise noted.

### Subpart A—Advances to Members

#### § 935.1 Definitions.

As used in this part:

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

*Actual thrift investment percentage* or *ATIP* has the same meaning as used in section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)), except that the ATIP will be calculated and applied for purposes of this part to all members of the Banks, whether or not they are savings associations.

*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 Act and this part.

*Affordable Housing Program* or *AHP* means the program described in section 10(j) of the Act (12 U.S.C. 1430(j)) and part 960 of the Board's regulations.