

Federal Housing Finance Board

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Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308); and

(i) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

[65 FR 43981, July 17, 2000]

PART 944—COMMUNITY SUPPORT REQUIREMENTS

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AUTHORITY: 12 U.S.C. 1422a(a)(3)(B), 1422b(a)(1), and 1430(g).

SOURCE: 62 FR 28988, May 29, 1997, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000.

§ 944.1 Definitions.

For purposes of this part:

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

Advance has the same meaning as in § 935.1 of this chapter.

Advisory Council means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Act and part 960 of this chapter.

Affordable Housing Program or *AHP* means the program each Bank is required to establish pursuant to section 10(j) of the Act and part 960 of this chapter.

Appropriate federal financial supervisory agency means the Office of the Comptroller of the Currency for national banks; the Board of Governors of the Federal Reserve System for state chartered banks that are members of the Federal Reserve System and bank holding companies; the Federal Deposit Insurance Corporation for state chartered banks and savings banks that are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insur-

ance Corporation; and the Office of Thrift Supervision for savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation and savings and loan holding companies.

CICA or *Community Investment Cash Advance* has the same meaning as in § 950.1 of this chapter.

Targeted community lending has the same meaning as in § 952.3 of this chapter.

CRA means the Community Reinvestment Act of 1977, as amended (12 U.S.C. 2901, *et seq.*).

CRA evaluation means the public disclosure portion of the CRA performance evaluation provided by a member's appropriate federal financial supervisory agency.

First-time homebuyer means:

(1) An individual and his or her spouse, if any, who has had no present ownership interest in a principal residence during the three-year period prior to purchase of a principal residence.

(2) A displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (1) of this definition. For purposes of this paragraph (2) of this definition, the term *displaced homemaker* means an adult who has not worked full-time, full-year in the labor force for a number of years and, during that period, worked primarily without remuneration to care for a home and family, and currently is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) A single parent who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (1) of this definition. For purposes of this paragraph (3) of this definition, the term *single parent* means an individual who is unmarried or legally separated from a spouse and has custody or joint custody of one or more minor children or is pregnant.

Long-term advance means an advance with a term to maturity greater than one year.

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Restriction on access to long-term advances means a member may not borrow long-term advances or renew any maturing advance for a term to maturity greater than one year.

[62 FR 28988, May 29, 1997, as amended at 63 FR 65545, Nov. 27, 1998; 65 FR 8262, Feb. 18, 2000; 65 FR 44428, July 18, 2000]

§ 944.2 Community support requirement.

(a) *Selection for community support review.* The Finance Board shall select a member for community support review approximately once every two years.

(b) *Notice—(1) By the Finance Board.* The Finance Board concurrently shall:

(i) Notify each Bank of the members within its district that are required to submit community support statements during the calendar quarter; and

(ii) Publish a notice in the FEDERAL REGISTER that includes the name and address of each member required to submit a community support statement during the calendar quarter, and the deadline for submission of the community support statement to the Finance Board. The deadline for submission of a community support statement shall be no earlier than 45 calendar days after the date of publication of the notice in the FEDERAL REGISTER.

(2) *By the Banks.* Within 15 calendar days of the date of publication in the FEDERAL REGISTER of the notice required by paragraph (b)(1)(ii) of this section, a Bank shall provide written notice:

(i) To each member within its district that is named in the FEDERAL REGISTER notice, that the member is required to submit a community support statement to the Finance Board by the deadline stated in the FEDERAL REGISTER notice; and

(ii) Its Advisory Council and non-profit housing developers, community groups, and other interested parties in its district of the name and address of each member within its district that is required to submit a community support statement during the calendar quarter.

(c) *Required documents.* Each member selected for community support review shall submit a completed Community Support Statement Form executed by an appropriate senior officer to the Fi-

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nance Board and any other information the Finance Board may require to determine whether a member meets the community support standards.

(d) *Public comments.* In reviewing a member for compliance with the community support requirement, the Finance Board shall take into consideration any public comments it has received concerning the member.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0003 with an expiration date of January 31, 2003.)

[62 FR 28988, May 29, 1997, as amended at 65 FR 5739, Feb. 7, 2000]

§ 944.3 Community support standards.

(a) *In general.* In reviewing a community support statement, the Finance Board shall take into account a member's performance under the CRA if the member is subject to the requirements of the CRA, and the member's record of lending to first-time homebuyers.

(b) *CRA standard—(1) Adequate performance.* A member that is subject to the requirements of the CRA shall be deemed to meet the CRA standard if the rating in the member's most recent CRA evaluation is "outstanding" or "satisfactory."

(2) *Probationary performance.* A member that is subject to the requirements of the CRA shall be subject to a probationary period if the rating in the member's most recent CRA evaluation is "needs to improve." The probationary period shall extend until the member's appropriate federal financial supervisory agency completes its next CRA evaluation and issues a rating. The member will be eligible to receive long-term advances during the probationary period. If the member does not meet the CRA standard at the end of the probationary period, the Finance Board shall restrict the member's access to long-term advances in accordance with § 944.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 944.5 if the rating in the member's most recent CRA evaluation is "substantial noncompliance."

(c) *First-time homebuyer standard—(1) Adequate performance.* In the absence of

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public comments or other information to the contrary, a member shall be presumed to meet the first-time homebuyer standard if the member is subject to the requirements of the CRA and the rating in the member's most recent CRA evaluation is "outstanding." In determining whether other members meet the first-time homebuyer standard, the Finance Board shall consider a member's description of its efforts to assist first-time or potential first-time homebuyers or its explanation of factors that affect its ability to assist first-time or potential first-time homebuyers. A member shall be deemed to meet the first-time homebuyer standard if the member otherwise demonstrates to the satisfaction of the Finance Board that it:

(i) Has an established record of lending to first-time homebuyers; or

(ii) Has a program whereby it actively seeks to lend or support lending to first-time homebuyers, including, but not limited to, the following:

(A) Providing special credit products with flexible underwriting standards for first-time homebuyers;

(B) Participating in federal, state, or local government, or nationwide homeownership lending programs that benefit, serve, or are targeted to, first-time homebuyers;

(C) Participating in loan consortia for first-time homebuyer loans or loans that serve predominantly low- or moderate-income borrowers; or

(iii) Has a program whereby it actively seeks to assist or support organizations that assist potential first-time homebuyers to qualify for mortgage loans, including, but not limited to, the following:

(A) Providing, participating in, or supporting special counseling programs or other homeownership education activities that benefit, serve, or are targeted to, first-time homebuyers;

(B) Providing or participating in marketing plans and related outreach programs targeted to first-time homebuyers;

(C) Providing technical assistance of financial support to organizations that assist first-time homebuyers;

(D) Participating with or financially supporting community or nonprofit

groups that assist first-time homebuyers;

(E) Holding investments or making loans that support first-time homebuyer programs;

(F) Holding mortgage-backed securities that may include a pool of loans to low- and moderate-income homebuyers;

(G) Participating or investing in service organizations that assist credit unions in providing mortgages; or

(H) Participating in Bank targeted community lending programs; or

(iv) Has any combination of the elements described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2) *Probationary performance.* If the evidence of first-time homebuyer performance is deemed to be unsatisfactory by the Finance Board, the member shall be subject to a one-year probationary period. The member will be eligible to receive long-term advances during the probationary period. If the member does not demonstrate compliance with the first-time homebuyer standard before the probationary period ends, the Finance Board shall restrict the member's access to long-term advances in accordance with § 936.5.

(3) *Inadequate performance.* A member's access to long-term advances shall be restricted in accordance with § 944.5 if the member provides no evidence of first-time homebuyer performance.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0003 with an expiration date of January 31, 2003.)

[62 FR 28988, May 29, 1997, as amended at 65 FR 5739, Feb. 7, 2000; 65 FR 8262, Feb. 18, 2000; 65 FR 44428, July 18, 2000]

§ 944.4 Decision on community support statements.

(a) *Action on community support statements.* The Finance Board shall act on each community support statement in accordance with the requirements of § 944.3 within 75 calendar days of the date the Finance Board deems the community support statement to be complete. The Finance Board shall deem a

community support statement complete when it has obtained all of the information required by this part and any other information it deems necessary to process the community support statement. If the Finance Board determines during the review process that additional information is necessary to process the community support statement, the Finance Board may deem the community support statement incomplete and stop the 75-day time period by providing written notice to the member. When the Finance Board receives the additional information, it shall again deem the community support statement complete and resume the 75-day time period where it stopped. The Finance Board shall have 10 calendar days in addition to the 75-day time period to act on a community support statement if the Finance Board receives the additional information on or after the seventieth day of the 75-day time period.

(b) *Decision on community support statements.* The Finance Board shall provide written notice to the member and the member's Bank of its determination regarding the community support statement submitted by the member. The notice shall identify the reasons for the Finance Board's determination.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0003 with an expiration date of January 31, 2003.)

[62 FR 28988, May 29, 1997, as amended at 65 FR 5739, Feb. 7, 2000; 65 FR 8262, Feb. 18, 2000]

§ 944.5 Restrictions on access to long-term advances.

(a) *Requirement.* The Finance Board shall restrict a member's access to long-term advances if the member:

- (1) Failed to comply with the requirements of this part;
- (2) Submitted a community support statement that was not approved by the Finance Board;
- (3) Did not receive a rating in a CRA evaluation of "outstanding" or "satisfactory" at the end of the probationary period described in § 944.3(b)(2); or
- (4) Failed to provide evidence satisfactory to the Finance Board of its first-time homebuyer performance be-

fore the end of the probationary period described in § 944.3(c)(2).

(b) *Notice.* The Finance Board shall provide written notice to a member and the member's Bank of its determination to restrict the member's access to long-term advances, the member by certified mail, return receipt requested, and the member's Bank by facsimile and by regular mail.

(c) *Effective date.* Restrictions on access to long-term advances shall take effect 30 days after the date the notices required under paragraph (b) of this section are mailed unless the member complies with the requirements of this part before the end of the 30-day period.

(d) *Removing restrictions.* (1) The Finance Board may remove restrictions on a member's access to long-term advances imposed under this section:

- (i) If the Finance Board determines that application of the restriction may adversely affect the safety and soundness of the member. A member may submit a written request to the Finance Board to remove a restriction on access to long-term advances under this paragraph (d)(1)(i). Such written request shall contain a clear and concise statement of the basis for the request, and a statement that application of the restriction may adversely affect the safety and soundness of the member from the member's appropriate federal financial supervisory agency, or the National Credit Union Administration for a federally insured credit union member, or the member's *appropriate state regulator* for a member that is not subject to regulation or supervision by a federal regulator. The Finance Board shall consider each written request within 30 calendar days of receipt. For purposes of this paragraph (d)(1)(i), the term *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 member.

(ii) If the Finance Board determines that the member subsequently has complied with the requirements of this part. A member may submit a written request to the Finance Board to remove a restriction on access to long-term advances under this paragraph

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(d)(1)(ii). Such written request shall state with specificity how the member has complied with the requirements of this part. The Finance Board shall consider each written request within 30 calendar days of receipt.

(2) The Finance Board shall place a member on probation in accordance with § 944.3(b)(2), if:

(i) The member's access to long-term advances was restricted on the basis of the member's inadequate performance under the CRA standard, as described in § 944.3(b)(3);

(ii) The rating in the member's subsequent CRA evaluation is "needs to improve;" and

(iii) The member did not receive either a "substantial noncompliance" CRA rating or a "needs to improve" CRA rating immediately preceding the CRA rating on which the member's inadequate performance under the CRA standard was based.

(3) The Finance Board shall provide written notice to the member and the member's Bank of its determination under this paragraph (d), the member by certified mail, return receipt requested, and the member's Bank by facsimile and by regular mail. The Finance Board's determination shall take effect on the date the notices are mailed.

(e) *CICA*. A member that is subject to a restriction on access to long-term advances under this part shall not be eligible to participate in a CICA program offered under parts 951 and 952 of this chapter. The restriction in this paragraph (e) shall not apply to CICA applications or funding approved before the date the restriction is imposed.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0003 with an expiration date of January 31, 2003.)

[62 FR 28988, May 29, 1997, as amended at 62 FR 46872, Sept. 5, 1997; 63 FR 65545, Nov. 27, 1998; 65 FR 5739, Feb. 7, 2000; 65 FR 8262, Feb. 18, 2000]

§ 944.6 Bank community support programs.

(a) *Requirement*. Consistent with the safe and sound operation of the Bank, each Bank shall establish and maintain a community support program. A

Bank's community support program shall:

(1) Provide technical assistance to members;

(2) Promote and expand affordable housing finance;

(3) Identify opportunities for members to expand financial and credit services in underserved neighborhoods and communities; and

(4) Encourage members to increase their targeted community lending and affordable housing finance activities by providing incentives such as awards or technical assistance to nonprofit housing developers or community groups with outstanding records of participation in targeted community lending or affordable housing finance partnerships with members;

(5) Include an annual Targeted Community Lending Plan, approved by the Bank's board of directors and subject to modification, which shall require the Bank to:

(i) Conduct market research in the Bank's district;

(ii) Describe how the Bank will address identified credit needs and market opportunities in the Bank's district for targeted community lending;

(iii) Consult with its Advisory Council and with members, nonmember borrowers, and public and private economic development organizations in the Bank's district in developing and implementing its Targeted Community Lending Plan; and

(iv) Establish quantitative targeted community lending performance goals.

(b) *Notice*. A Bank shall provide annually to each of its members a written notice:

(1) Identifying CICA programs and other Bank activities that may provide opportunities for a member to meet the community support requirements and to engage in targeted community lending; and

(2) Summarizing targeted community lending and affordable housing activities undertaken by members, housing associates, nonprofit housing developers, community groups, or other entities in the Bank's district, that may provide opportunities for a member to

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meet the community support requirements and to engage in targeted community lending.

[62 FR 28988, May 29, 1997, as amended at 63 FR 65545, Nov. 27, 1998; 65 FR 44428, July 18, 2000]

§ 944.7 Reports.

Each Advisory Council annual report required to be submitted to the Fi-

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nance Board pursuant to section 10(j)(11) of the Act shall include an analysis of the Bank's targeted community lending and affordable housing activities.

[63 FR 65545, Nov. 27, 1998, as amended at 65 FR 44428, July 18, 2000]