

SUBCHAPTER G—FEDERAL HOME LOAN BANK ASSETS AND OFF-BALANCE SHEET ITEMS

PART 950—ADVANCES

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Subpart A—Advances to Members

§ 950.1 Definitions.

As used in this part:

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.

Affiliate means any business entity that controls, is controlled by, or is under common control with, a member.

Affordable Housing Program or *AHP* means the program described in section 10(j) of the Act (12 U.S.C. 1430(j)) and part 951 of the Finance Board's regulations.

Appropriate Federal banking agency. The term *appropriate Federal banking agency* has the same meaning as used in 12 U.S.C. 1813(q) and for federally insured credit unions shall mean the National Credit Union Administration.

Capital deficient member means a member that fails to meet its minimum regulatory capital requirements as defined or otherwise required by the member's appropriate federal banking agency, insurer or, in the case of members that are not federally insured depository institutions, state regulator.

Cash equivalents means investments that—

(1) Are readily convertible into known amounts of cash;

(2) Have a remaining maturity of 90 days or less at the acquisition date; and

(3) Are held for liquidity purposes.

Community Investment Cash Advance or *CICA* means any advance made through a program offered by a Bank under section 10 of the Act and parts 951 and 952 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 Act; a Bank's Urban Development Funding (UDF) program, offered under section 10(j)(10) of the Act; a Bank's Affordable Housing Program (AHP), offered under section 10(j) of the Act; a Bank's Community Investment Program (CIP), offered under section 10(i) of the Act; or any other program offered by a Bank that meets the requirements of part 952 of this chapter.

Depository institution means a bank or savings association, as defined in 12

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U.S.C. 1813, or a credit union, as defined in 12 U.S.C. 1752.

Dwelling unit means, for purposes of this part, a single room or a unified combination of rooms designed for residential use by one household.

FDIC means the Federal Deposit Insurance Corporation.

GAAP means Generally Accepted Accounting Principles.

HUD means the Department of Housing and Urban Development.

Improved residential real property means residential real property excluding real property to be improved, or in the process of being improved, by the construction of dwelling units.

Insurer means the Federal Deposit Insurance Corporation for “insured depository institutions” as defined in 12 U.S.C. 1813(c)(2) and the National Credit Union Administration for federally insured credit unions.

Long-term advance means, for the purposes of this part, an advance with an original term to maturity greater than five years.

Manufactured housing means a manufactured home as defined in section 603(6) of the Manufactured Home Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5402(6)).

Mortgage-backed security means:

(1) An equity security representing an ownership interest in:

(i) Fully disbursed, whole first mortgage loans on improved residential real property; or

(ii) Mortgage pass-through or participation securities which are themselves backed entirely by fully disbursed, whole first mortgage loans on improved residential real property; or

(2) An obligation, bond, or other debt security backed entirely by the assets described in paragraph (1)(i) or (ii) of this definition.

Multifamily property means, for purposes of this part:

(1)(i) Real property that is solely residential and which includes five or more dwelling units; or

(ii) Real property which includes five or more dwelling units with commercial units combined, provided the property is primarily residential.

(2) Multifamily property as defined in this section includes nursing homes, dormitories and homes for the elderly.

Nonresidential real property means, for purposes of this part, real property not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, educational and charitable institutions, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property, except as otherwise determined by the Finance Board in its discretion.

OCC means the Office of the Comptroller of the Currency.

One-to-four family property means any of the following:

(1) Real property containing:

(i) One-to-four dwelling units; or

(ii) More than four dwelling units if each unit is separated from the other units by dividing walls that extend from ground to roof, including row houses, townhouses or similar types of property;

(2) Manufactured housing if:

(i) Applicable state law defines the purchase or holding of manufactured housing as the purchase or holding of real property; and

(ii) The loan to purchase the manufactured housing is secured by that manufactured housing;

(3) Individual condominium dwelling units or interests in individual cooperative housing dwelling units that are part of a condominium or cooperative building without regard to the number of total dwelling units therein; or

(4) Real property containing one-to-four dwelling units with commercial units combined, provided the property is primarily residential.

OTS means the Office of Thrift Supervision.

Residential housing finance assets means any of the following:

(1) Loans secured by residential real property;

(2) Mortgage-backed securities;

(3) Participations in loans secured by residential real property;

(4) Loans or investments qualifying under the definition of “community lending” in § 900.1 of this chapter;

(5) Loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property; or

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(6) Any loans or investments which the Finance Board, in its discretion, otherwise determines to be residential housing finance assets.

Residential real property means:

(1) Any of the following:

(i) One-to-four family property;

(ii) Multifamily property;

(iii) Real property to be improved by the construction of dwelling units;

(iv) Real property in the process of being improved by the construction of dwelling units;

(2) The term residential real property does not include nonresidential real property as defined in this section.

Savings association means a savings association as defined in section 3(b) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(b)).

Small agri-business loans means loans to finance agricultural production and other loans to farmers that are within the legal lending limit of the reporting CFI member, and that are reported on either: Schedule RC-C, Part I, item 3 of the Report of Condition and Income filed by insured commercial banks and FDIC-supervised savings banks; or Schedule SC300, SC303 or SC306 of the Thrift Financial Report filed by savings associations (or equivalent successor schedules).

Small business loans means commercial and industrial loans that are within the legal lending limit of the reporting CFI member and that are reported on either: Schedule RC-C, Part I, item 1.e or Schedule RC-C, Part I, item 4 of the Report of Condition and Income filed by insured commercial banks and FDIC-supervised savings banks; or Schedule SC300, SC303 or SC306 of the Thrift Financial Report filed by savings associations (or equivalent successor schedules)

Small farm loans means loans secured primarily by farmland that are within the legal lending limit of the reporting CFI member, and that are reported on either: Schedule RC-C, Part I, item 1.a. or 1.b. of the Report of Condition and Income filed by insured commercial banks and FDIC-supervised savings banks; or Schedule SC260 of the Thrift Financial Report filed by savings asso-

ciations (or equivalent successor schedules).

State means a state of the United States, the District of Columbia, Guam, Puerto Rico or the U.S. Virgin Islands.

State housing finance agency or *SHFA* means:

(1) A public agency, authority, or publicly sponsored corporation that serves as an instrumentality of any state or political subdivision of any state, and functions as a source of residential mortgage loan financing in that state; or

(2) A legally established agency, authority, corporation, or organization that serves as an instrumentality of any Indian tribe, band, group, nation, community, or Alaskan Native village recognized by the United States or any state, and functions as a source of residential mortgage loan financing for the Indian or Alaskan Native community.

State regulator means a state insurance commissioner or state regulatory entity with primary responsibility for supervising a member borrower that is not a federally insured depository institution.

Tangible capital means:

(1) Capital, calculated according to GAAP, less "intangible assets" except for purchased mortgage servicing rights to the extent such assets are included in a member's core or Tier 1 capital, as reported in the member's Thrift Financial Report for members whose primary federal regulator is the OTS, or as reported in the Report of Condition and Income for members whose primary federal regulator is the FDIC, the OCC, or the Board of Governors of the Federal Reserve System.

(2) Capital calculated according to GAAP, less intangible assets, as defined by a Bank for members which are not regulated by the OTS, the FDIC, the OCC, or the Board of Governors of the Federal Reserve System; provided that a Bank shall include a member's purchased mortgage servicing rights to the extent such assets are included for

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the purpose of meeting regulatory capital requirements.

[58 FR 29469, May 20, 1993, as amended at 58 FR 29477, May 20, 1993; 59 FR 2949, Jan. 20, 1994; 62 FR 8871, Feb. 27, 1997; 62 FR 12079, Mar. 14, 1997; 63 FR 35128, June 29, 1998; 63 FR 65545, Nov. 27, 1998; 64 FR 16621, Apr. 6, 1999; 65 FR 8262, Feb. 18, 2000; 65 FR 44428, July 18, 2000; 66 FR 50295, Oct. 3, 2001]

§ 950.2 Authorization and application for advances; obligation to repay advances.

(a) *Application for advances.* A Bank may accept oral or written applications for advances from its members.

(b) *Obligation to repay advances.* (1) A Bank shall require any member to which an advance is made to enter into a primary and unconditional obligation to repay such advance and all other indebtedness to the Bank, together with interest and any unpaid costs and expenses in connection therewith, according to the terms under which such advance was made or other indebtedness incurred.

(2) Such obligations shall be evidenced by a written advances agreement that shall be reviewed by the Bank's legal counsel to ensure such agreement is in compliance with applicable law.

(c) *Secured advances.* (1) Each Bank shall make only fully secured advances to its members as set forth in the Act, the provisions of this part and policy guidelines established by the Finance Board.

(2) The Bank shall execute a written security agreement with each borrowing member which establishes the Bank's security interest in collateral securing advances.

(3) Such written security agreement shall, at a minimum, describe the type of collateral securing the advances and give the Bank a perfectible security interest in the collateral.

(d) *Approval— By the Bank's board of directors.* Applications for advances, advances agreements and security agreements shall be in substantially such form as approved by the Bank's board of directors, or a committee thereof

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specifically authorized by the board of directors to approve such forms.

[58 FR 29469, May 20, 1993, as amended at 64 FR 71278, Dec. 21, 1999; 65 FR 8262, Feb. 18, 2000. Redesignated at 65 FR 44429, July 18, 2000]

§ 950.3 Purpose of long-term advances; Proxy test.

(a) A Bank shall make long-term advances only for the purpose of enabling any member to purchase or fund new or existing residential housing finance assets, which include, for CFI members, small business loans, small farm loans and small agri-business loans.

(b)(1) Prior to approving an application for a long-term advance, a Bank shall determine that the principal amount of all long-term advances currently held by the member does not exceed the total book value of residential housing finance assets held by such member. The Bank shall determine the total book value of such residential housing finance assets, using the most recent Thrift Financial Report, Report of Condition and Income, financial statement or other reliable documentation made available by the member.

(2) Applications for CICA advances are exempt from the requirements of paragraph (b)(1) of this section.

[58 FR 29469, May 20, 1993, as amended at 63 FR 65545, Nov. 27, 1998. Redesignated and amended at 65 FR 44429, July 18, 2000]

§ 950.4 Limitations on access to advances.

(a) *Credit underwriting.* A Bank, in its discretion, may:

(1) Limit or deny a member's application for an advance if, in the Bank's judgment, such member:

(i) Is engaging or has engaged in any unsafe or unsound banking practices;

(ii) Has inadequate capital;

(iii) Is sustaining operating losses;

(iv) Has financial or managerial deficiencies, as determined by the Bank, that bear upon the member's creditworthiness; or

(v) Has any other deficiencies, as determined by the Bank; or

(2) Make advances and renewals only if the Bank determines that it may safely make such advance or renewal

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to the member, including advances and renewals made pursuant to this section.

(b) *New advances to members without positive tangible capital.* (1) A Bank shall not make a new advance to a member without positive tangible capital unless the member's appropriate federal banking agency or insurer requests in writing that the Bank make such advance. The Bank shall promptly provide the Finance Board with a copy of any such request.

(2) A Bank shall use the most recently available Thrift Financial Report, Report of Condition, and Income or other regulatory report of financial condition to determine whether a member has positive tangible capital.

(c) *Renewals of advances to members without positive tangible capital—(1) Renewal for 30-day terms.* A Bank may renew outstanding advances, for successive terms of up to 30 days each, to a member without positive tangible capital; provided, however, that a Bank shall honor any written request of the appropriate federal banking agency or insurer that the Bank not renew such advances.

(2) *Renewal for longer than 30-day terms.* A Bank may renew outstanding advances to a member without positive tangible capital for a term greater than 30 days at the written request of the appropriate federal banking agency or insurer.

(d) *Advances to capital deficient but solvent members.* (1) Except as provided in paragraph (d)(2)(i) of this section, a Bank may make a new advance or renew an outstanding advance to a capital deficient member that has positive tangible capital.

(2)(i) A Bank shall not lend to a capital deficient member that has positive tangible capital if it receives written notice from the appropriate federal banking agency or insurer that the member's use of Bank advances has been prohibited. The Bank shall promptly provide the Finance Board with a copy of any such notice.

(ii) A Bank may resume lending to such a capital deficient member if the Bank receives a written statement from the appropriate federal banking agency or insurer which re-establishes the member's ability to use advances.

(e) *Reporting.* (1) Each Bank shall provide the Finance Board with a monthly report of the advances and commitments outstanding to each of its members.

(2) Such monthly report shall be in a format or on a form prescribed by the Finance Board.

(3) Each Bank shall, upon written request from a member's appropriate federal banking agency or insurer, provide to such entity information on advances and commitments outstanding to the member.

(f) *Members without federal regulators.* In the case of members that are not federally insured depository institutions, the references in paragraphs (b), (c), (d) and (e) of this section to "appropriate federal banking agency or insurer" shall mean the member's state regulator acting in a capacity similar to an appropriate federal banking agency or insurer.

(g) *Advance commitments.* (1) In the event that a member's access to advances from a Bank is restricted pursuant to this section, the Bank shall not fund outstanding commitments for advances not exercised prior to the imposition of the restriction. This requirement shall apply to all advance commitments made by a Bank after August 25, 1993.

(2) Each Bank shall include the stipulation contained in paragraph (g)(1) of this section as a clause in either:

(i) The written advances agreement required by § 950.4(b)(2) of this part; or

(ii) The written advances application required by § 950.4(a) of this part.

[58 FR 29469, May 20, 1993, as amended at 59 FR 2949, Jan. 20, 1994; 64 FR 71278, Dec. 21, 1999; 65 FR 8263, Feb. 18, 2000. Redesignated at 65 FR 44429, July 18, 2000]

§ 950.5 Terms and conditions for advances.

(a) *Advance maturities.* Each Bank shall offer advances with maturities of up to ten years, and may offer advances with longer maturities consistent with the safe and sound operation of the Bank.

(b) *Advance pricing—(1) General.* A Bank shall not price its advances to members below:

(i) The marginal cost to the Bank of raising matching term and maturity

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funds in the marketplace, including embedded options; and

(ii) The administrative and operating costs associated with making such advances to members.

(2) *Differential pricing.* (i) Each Bank may, in pricing its advances, distinguish among members based upon its assessment of:

(A) The credit and other risks to the Bank of lending to any particular member; or

(B) Other reasonable criteria that may be applied equally to all members.

(ii) Each Bank shall include in its member products policy required by §917.4 of this chapter, standards and criteria for such differential pricing and shall apply such standards and criteria consistently and without discrimination to all members applying for advances.

(3) *Exceptions.* The advance pricing policies contained in paragraph (b)(1) of this section shall not apply in the case of:

(i) A Bank's CICA programs; and

(ii) Any other advances programs that are volume limited and specifically approved by the Bank's board of directors.

(c) *Authorization for pricing advances.*

(1) A Bank's board of directors, a committee thereof, or the Bank's president, if so authorized by the Bank's board of directors, shall set the rates of interest on advances consistent with paragraph (b) of this section.

(2) A Bank president authorized to set interest rates on advances pursuant to this paragraph (c) may delegate any part of such authority to any officer or employee of the Bank.

(d) *Puttable or convertible advances—(1) Disclosure.* A Bank that offers a puttable or convertible advance to a member shall disclose in writing to such member the type and nature of the risks associated with puttable or convertible advance funding. The disclosure should include detail sufficient to describe such risks.

(2) *Replacement funding for puttable advances.* If a Bank terminates a puttable advance prior to the stated maturity date of such advance, the Bank shall offer to provide replacement funding to the member, provided the member is able to satisfy the normal credit and

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collateral requirements of the Bank for the replacement funding requested.

(3) *Definition.* For purposes of this paragraph (d), the term *puttable advance* means an advance that a Bank may, at its discretion, terminate and require the member to repay prior to the stated maturity date of the advance.

[58 FR 29469, May 20, 1993, as amended at 61 FR 52687, Oct. 8, 1996; 65 FR 8263, Feb. 18, 2000. Redesignated and amended at 65 FR 44429, July 18, 2000]

§950.6 Fees.

(a) *Fees in member products policy.* All fees charged by each Bank and any schedules or formulas pertaining to such fees shall be included in the Bank's member products policy required by §917.4 of this chapter. Any such fee schedules or formulas shall be applied consistently and without discrimination to all members.

(b) *Prepayment fees.* (1) Except where an advance product contains a prepayment option, each Bank shall establish and charge a prepayment fee pursuant to a specified formula which makes the Bank financially indifferent to the borrower's decision to repay the advance prior to its maturity date.

(2) Prepayment fees are not required for:

(i) Advances with original terms to maturity or repricing periods of six months or less;

(ii) Advances funded by callable debt; or

(iii) Advances which are otherwise appropriately hedged so that the Bank is financially indifferent to their prepayment.

(3) The board of directors of each Bank, a designated committee thereof, or officers specifically authorized by the board of directors, may waive a prepayment fee only if such prepayment will not result in an economic loss to the Bank. Any such waiver must subsequently be ratified by the board of directors.

(4) A Bank, in determining whether or not to waive a prepayment fee, shall apply consistent standards to all of its members.

(c) *Commitment fees.* Each Bank may charge a fee for its commitment to fund an advance.

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(d) *Other fees.* Each Bank is authorized to charge other fees as it deems necessary and appropriate.

[58 FR 29469, May 20, 1993; 65 FR 8263, Feb. 18, 2000. Redesignated and amended at 65 FR 44429, July 18, 2000]

§ 950.7 Collateral.

(a) *Eligible security for advances to all members.* At the time of origination or renewal of an advance, each Bank shall obtain from the borrowing member or, in accordance with paragraph (g) of this section, an affiliate of the borrowing member, and thereafter maintain, a security interest in collateral that meets the requirements of one or more of the following categories:

(1) *Mortgage loans and privately issued securities.* (i) Fully disbursed, whole first mortgage loans on improved residential real property not more than 90 days delinquent; or

(ii) Privately issued mortgage-backed securities, excluding the following:

(A) Securities that represent a share of only the interest payments or only the principal payments from the underlying mortgage loans;

(B) Securities that represent a subordinate interest in the cash flows from the underlying mortgage loans;

(C) Securities that represent an interest in any residual payments from the underlying pool of mortgage loans; or

(D) Such other high-risk securities as the Board in its discretion may determine.

(2) *Agency securities.* Securities issued, insured or guaranteed by the United States Government, or any agency thereof, including without limitation:

(i) Mortgage-backed securities, as defined in § 950.1 of this part, issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, or any other agency of the United States Government;

(ii) Mortgages or other loans, regardless of delinquency status, to the extent that the mortgage or loan is insured or guaranteed by the United States or any agency thereof, or otherwise is backed by the full faith and credit of the United States, and such

insurance, guarantee or other backing is for the direct benefit of the holder of the mortgage or loan; and

(iii) Securities backed by, or representing an equity interest in, mortgages or other loans referred to in paragraph (a)(2)(i) of this section.

(3) *Cash or deposits.* Cash or deposits in a Bank.

(4) *Other real estate-related collateral.*

(i) Other real estate-related collateral provided that:

(A) Such collateral has a readily ascertainable value, can be reliably discounted to account for liquidation and other risks, and can be liquidated in due course; and

(B) The Bank can perfect a security interest in such collateral.

(ii) Eligible other real estate-related collateral may include, but is not limited to:

(A) Privately issued mortgage-backed securities not otherwise eligible under paragraph (a)(1)(ii) of this section;

(B) Second mortgage loans, including home equity loans;

(C) Commercial real estate loans; and

(D) Mortgage loan participations.

(5) *Securities representing equity interests in eligible advances collateral.* Any security the ownership of which represents an undivided equity interest in underlying assets, all of which qualify either as:

(i) Eligible collateral under paragraphs (a)(1), (2), (3) or (4) of this section; or

(ii) Cash equivalents.

(b) *Additional collateral eligible as security for advances to CFI members or their affiliates—(1) General.* Subject to the requirements set forth in part 980 of this chapter, a Bank is authorized to accept from CFI members or their affiliates as security for advances small business loans, small farm loans or small agribusiness loans fully secured by collateral other than real estate, or securities representing a whole interest in such loans, provided that:

(i) Such collateral has a readily ascertainable value, can be reliably discounted to account for liquidation and other risks, and can be liquidated in due course; and

(ii) The Bank can perfect a security interest in such collateral.

(2) *Change in CFI status.* If a Bank determines, as of April 1 of each year, that a member that has previously qualified as a CFI no longer qualifies as a CFI, and the member has total advances outstanding that exceed the amount that can be fully secured by collateral under paragraph (a) of this section, the Bank may:

(i) Permit the advances of such member to run to their stated maturities; and

(ii) Renew such member's advances to mature no later than March 31 of the following year; provided that the total of the member's advances under paragraphs (b)(2)(i) and (ii) of this section shall be fully secured by collateral set forth in paragraphs (a) and (b) of this section.

(c) *Bank restrictions on eligible advances collateral.* A Bank at its discretion may further restrict the types of eligible collateral acceptable to the Bank as security for an advance, based upon the creditworthiness or operations of the borrower, the quality of the collateral, or other reasonable criteria.

(d) *Additional advances collateral.* The provisions of paragraph (a) of this section shall not affect the ability of any Bank to take such steps as it deems necessary to protect its secured position on outstanding advances, including requiring additional collateral, whether or not such additional collateral conforms to the requirements for eligible collateral in paragraphs (a) or (b) of this section or section 10 of the Act (12 U.S.C. 1430).

(e) *Bank stock as collateral.* (1) Pursuant to section 10(c) of the Act (12 U.S.C. 1430(c)), a Bank shall have a lien upon, and shall hold, the stock of a member in the Bank as further collateral security for all indebtedness of the member to the Bank.

(2) The written security agreement used by the Bank shall provide that the borrowing member's Bank stock is assigned as additional security by the member to the Bank.

(3) The security interest of the Bank in such member's Bank stock shall be entitled to the priority provided for in section 10(f) of the Act (12 U.S.C. 1430(f)).

(f) *Advances collateral security requiring formal approval.* No home mortgage loan otherwise eligible to be accepted as collateral for an advance by a Bank under this section shall be accepted as collateral for an advance if any director, officer, employee, attorney or agent of the Bank or of the borrowing member is personally liable thereon, unless the board of directors of the Bank has specifically approved such acceptance by formal resolution, and the Finance Board has endorsed such resolution.

(g) *Pledge of advances collateral by affiliates.* Assets held by an affiliate of a member that are eligible as collateral under paragraphs (a) or (b) of this section may be used to secure advances to that member only if:

(1) The collateral is pledged to secure either:

(i) The member's obligation to repay advances; or

(ii) A surety or other agreement under which the affiliate has assumed, along with the member, a primary obligation to repay advances made to the member; and

(2) The Bank obtains and maintains a legally enforceable security interest pursuant to which the Bank's legal rights and privileges with respect to the collateral are functionally equivalent in all material respects to those that the Bank would possess if the member were to pledge the same collateral directly, and such functional equivalence is supported by adequate documentation.

[58 FR 29469, May 20, 1993, as amended at 64 FR 16621, Apr. 6, 1999; 65 FR 8262, Feb. 18, 2000. Redesignated and amended at 65 FR 44429, July 18, 2000]

§ 950.8 Banks as secured creditors.

(a) Except as provided in paragraph (b) of this section, notwithstanding any other provision of law, any security interest granted to a Bank by a member, or by an affiliate of such member, shall be entitled to priority over the claims and rights of any party, including any receiver, conservator, trustee or similar party having rights of a lien creditor, to such collateral.

(b) A Bank's security interest as described in paragraph (a) of this section

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shall not be entitled to priority over the claims and rights of a party that:

(1) Would be entitled to priority under otherwise applicable law; and

(2) Is an actual bona fide purchaser for value of such collateral or is an actual secured party whose security interest in such collateral is perfected in accordance with applicable state law.

[58 FR 29469, May 20, 1993. Redesignated at 65 FR 8256, Feb. 18, 2000 and further redesignated at 65 FR 44429, July 18, 2000]

§ 950.9 Pledged collateral; verification.

(a) *Collateral safekeeping.* (1) A Bank may permit a member that is a depository institution to retain documents evidencing collateral pledged to the Bank, provided that the Bank and such member have executed a written security agreement pursuant to § 950.4(c) of this part whereby such collateral is retained solely for the Bank's benefit and subject to the Bank's control and direction.

(2) A Bank shall take any steps necessary to ensure that its security interest in all collateral pledged by non-depository institutions for an advance is as secure as its security interest in collateral pledged by depository institutions.

(3) A Bank may at any time perfect its security interest in collateral securing an advance to a member.

(b) *Collateral verification.* Each Bank shall establish written procedures and standards for verifying the existence of collateral securing the Bank's advances, and shall regularly verify the existence of the collateral securing its advances in accordance with such procedures and standards.

[58 FR 29469, May 20, 1993, as amended at 64 FR 16621, Apr. 6, 1999; 65 FR 8263, Feb. 18, 2000. Redesignated at 65 FR 44430, July 18, 2000]

§ 950.10 Collateral valuation; appraisals.

(a) *Collateral valuation.* Each Bank shall determine the value of collateral securing the Bank's advances in accordance with the collateral valuation procedures set forth in the Bank's member products policy established pursuant to § 917.4 of this chapter.

(b) *Fair application of procedures.* Each Bank shall apply the collateral valuation

procedures consistently and fairly to all borrowing members, and the valuation ascribed to any item of collateral by the Bank shall be conclusive as between the Bank and the member.

(c) *Appraisals.* A Bank may require a member to obtain an appraisal of any item of collateral, and to perform such other investigations of collateral as the Bank deems necessary and proper.

[65 FR 44430, July 18, 2000]

§ 950.11 Capital stock requirements; unilateral redemption of excess stock.

(a) *Capital stock requirement for advances.* At no time shall the aggregate amount of outstanding advances made by a Bank to a member exceed 20 times the amount paid in by such member for capital stock in the Bank.

(b) *Unilateral redemption of excess capital stock; fee in lieu prohibited.* (1) A Bank, after providing 15 calendar days advance written notice to a member, may require the redemption of that amount of the member's Bank capital stock that exceeds the capital stock requirements set forth in paragraph (a) of this section, provided the minimum amount required in section 6(b)(1) of the Act is maintained. The Bank shall have the discretion to determine the timing of such unilateral redemption. The Bank's implementation of its redemption policy shall be consistent with the requirement of section 7(j) of the Act (12 U.S.C. 1427(j)) that the affairs of the Bank shall be administered fairly and impartially and without discrimination in favor of or against any member borrower.

(2) A Bank may not impose on or accept from a member a fee in lieu of redeeming the member's excess Bank capital stock.

[58 FR 29469, May 20, 1993, as amended at 64 FR 16791, Apr. 6, 1999; 65 FR 8263, Feb. 18, 2000; 65 FR 13870, Mar. 15, 2000. Redesignated at 65 FR 44430, July 18, 2000]

§ 950.12 Intradistrict transfer of advances.

(a) *Advances held by members.* A Bank may allow one of its members to assume an advance extended by the Bank to another of its members, provided the assumption complies with the requirements of this part governing the

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issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

(b) *Advances held by nonmembers.* A Bank may allow one of its members to assume an advance held by a nonmember, provided the advance was originated by the Bank and provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

[59 FR 2950, Jan. 20, 1994. Redesignated at 65 FR 44430, July 18, 2000]

§ 950.13 Special advances to savings associations.

(a) *Eligible institutions.* (1) A Bank, upon receipt of a written request from the Director of the OTS, may make short-term advances to a savings association member.

(2) Such request must certify that the member:

(i) Is solvent but presents a supervisory concern to the OTS because of the member's financial condition; and

(ii) Has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(b) *Terms and conditions.* Advances made by a Bank to a member savings association under this section shall:

(1) Be subject to all applicable collateral requirements of the Bank, this part and section 10(a) of the Act (12 U.S.C. 1430(a)); and

(2) Be at the interest rate applicable to advances of similar type and maturity that are made available to other members that do not pose such a supervisory concern.

[58 FR 29469, May 20, 1993. Redesignated at 65 FR 8256, Feb. 18, 2000 and further redesignated at 65 FR 44430, July 18, 2000]

§ 950.14 Advances to the Savings Association Insurance Fund.

(a) *Authority.* Upon receipt of a written request from the FDIC, a Bank may make advances to the FDIC for the use of the Savings Association Insurance Fund. The Bank shall provide a copy of such request to the Finance Board.

(b) *Requirements.* Advances to the FDIC for the use of the Savings Association Insurance Fund shall:

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(1) Bear a rate of interest not less than the Bank's marginal cost of funds, taking into account the maturities involved and reasonable administrative costs;

(2) Have a maturity acceptable to the Bank;

(3) Be subject to any prepayment, commitment, or other appropriate fees of the Bank; and

(4) Be adequately secured by collateral acceptable to the Bank.

[58 FR 29469, May 20, 1993, as amended at 65 FR 8262, Feb. 18, 2000. Redesignated at 65 FR 44430, July 18, 2000]

§ 950.15 Liquidation of advances upon termination of membership.

If an institution's membership in a Bank is terminated, the Bank shall determine an orderly schedule for liquidating any indebtedness of such member to the Bank; this section shall not require a Bank to call any such indebtedness prior to maturity of the advance. The Bank shall deem any such liquidation a prepayment of the member's indebtedness, and the member shall be subject to any fees applicable to such prepayment.

[58 FR 29469, May 20, 1993. Redesignated at 65 FR 8256, Feb. 18, 2000 and further redesignated at 65 FR 44430, July 18, 2000]

Subpart B—Advances to Housing Associates

SOURCE: 62 FR 12079, Mar. 14, 1997, unless otherwise noted.

§ 950.16 Scope.

Except as otherwise provided in §§ 950.14 and 950.17, the requirements of subpart A apply to this subpart.

[58 FR 29469, May 20, 1993. Redesignated at 65 FR 44430, July 18, 2000]

§ 950.17 Advances to housing associates.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances only to a housing associate whose principal place of business, as determined in accordance with part 925 of this chapter, is located in the Bank's district.

(b) *Collateral requirements.*—(1) *Advances to housing associates.* A Bank

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may make an advance to any housing associate upon the security of the following collateral:

(i) Mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act; or

(ii) Securities representing a whole interest in the principal and interest payments due on a pool of mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act. A Bank may only accept as collateral the securities described in this paragraph (b)(1)(ii) if the housing associate provides evidence that such securities are backed solely by mortgages of the type described in paragraph (b)(1)(i) of this section.

(2) *Certain advances to SHFAs.* (i) In addition to the collateral described in paragraph (b)(1) of this section, a Bank may make an advance to a housing associate that has satisfied the requirements of §926.3(b) for the purpose of facilitating residential or commercial mortgage lending that benefits individuals or families meeting the income requirements in section 142(d) or 143(f) of the Internal Revenue Code (26 U.S.C. 142(d) or 143(f)) upon the security of the following collateral:

(A) The collateral described in §950.9(a) (1) or (2).

(B) The collateral described in §950.7(a)(3). Solely for the purpose of facilitating acceptance of such collateral, a Bank may establish a cash collateral account for a housing associate that has satisfied the requirements of §926.3(b).

(C) The other real estate-related collateral described in §950.7(a)(4), provided that such collateral is comprised of mortgage loans on one-to-four family or multifamily residential property.

(ii) Prior to making an advance pursuant to this paragraph (b)(2), a Bank shall obtain a written certification from the housing associate that it shall use the proceeds of the advance for the purposes described in paragraph (b)(2)(i) of this section.

(c) *Terms and conditions—(1) General.* Subject to the provisions of this paragraph (c), a Bank, in its discretion, shall determine whether, and on what

terms, it will make advances to a housing associate.

(2) *Advance pricing.* (i) A Bank shall price advances to housing associates in accordance with the requirements for pricing advances to members set forth in §950.6(b). Wherever the term “member” appears in §950.6(b), the term shall be construed also to mean “housing associate.”

(ii) A Bank shall apply the pricing criteria identified in §944.5(b)(2) equally to all of its member and housing associate borrowers.

(3) *Limit on advances.* The principal amount of any advance made to a housing associate may not exceed 90 percent of the unpaid principal of the mortgage loans or securities pledged as security for the advance. This limit does not apply to an advance made to a housing associate under paragraph (b)(2) of this section.

(d) *Transaction accounts.* Solely for the purpose of facilitating the making of advances to a housing associate, a Bank may establish a transaction account for each housing associate.

(e) *Loss of eligibility—(1) Notification of status changes.* A Bank shall require a housing associate that applies for an advance to agree in writing that it will promptly inform the Bank of any change in its status as a housing associate.

(2) *Verification of eligibility.* A Bank may, from time to time, require a housing associate to provide evidence that it continues to satisfy all of the eligibility requirements of the Act and this subpart.

(3) *Loss of eligibility.* A Bank shall not extend a new advance or renew an existing advance to a housing associate that no longer meets the eligibility requirements of the Act and this subpart until the entity has provided evidence satisfactory to the Bank that it is in compliance with such requirements.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0005 with an expiration date of November 30, 2002.)

[58 FR 29469, May 20, 1993, as amended by 65 FR 203, Jan. 4, 2000; 65 FR 8263, Feb. 18, 2000. Redesignated and amended at 65 FR 44430, July 18, 2000]

Subpart C—Advances to Out-of-District Members and Housing Associates

§ 950.25 Advances to out-of-district members and housing associates.

(a) *Establishment of creditor/debtor relationship.* Any Bank may become a creditor to a member or housing associate of another Bank through the purchase of an outstanding advance, or a participation interest therein, from the other Bank, or through an arrangement with the other Bank that provides for the establishment of such a creditor/debtor relationship at the time an advance is made.

(b) *Applicability of advances requirements.* Any debtor/creditor relationship established pursuant to paragraph (a) of this section shall be subject to all of the provisions of this part that would apply to an advance made by a Bank to its own members or housing associates.

[65 FR 43981, July 17, 2000; 65 FR 46049, July 26, 2000]

PART 951—AFFORDABLE HOUSING PROGRAM

Sec.

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- 951.14 Temporary suspension of AHP contributions.
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AUTHORITY: 12 U.S.C. 1430(j).

SOURCE: 62 FR 41828, Aug. 4, 1997, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000.

EDITORIAL NOTE: Nomenclature changes appear at 66 FR 50301, Oct. 3, 2001.

§ 951.1 Definitions.

As used in this part:

Advance means a loan to a member from a Bank that is:

- (1) Provided pursuant to a written agreement; (2) Supported by a note or other written evidence of the member's obligation; and
- (3) Fully secured by collateral in accordance with the Act and part 950 of this chapter.

Affordable means that the rent charged for a unit which is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 person per unit without a separate bedroom).

AHP or *Program* means the Affordable Housing Program established pursuant to 12 U.S.C. 1430(j) and this part.

CIP means a Bank's Community Investment Program established under section 10(i) of the Act (12 U.S.C. 1430(i)).

Cost of funds means, for purposes of a subsidized advance, the estimated cost of issuing Bank System consolidated obligations with maturities comparable to that of the subsidized advance.

Direct subsidy means an AHP subsidy in the form of a direct cash payment, but does not include homeownership set-aside funds.

Family member means any individual related to a person by blood, marriage or adoption.

Habitable means suitable for occupancy, taking into account local health, safety, and building codes.

Homeless household means a household made up of one or more individuals, other than individuals imprisoned or otherwise detained pursuant to state or federal law, who:

- (1) Lack a fixed, regular, and adequate nighttime residence; or
- (2) Have a primary nighttime residence that is:

- (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate