

§ 956.6

12 CFR Ch. IX (1–1–10 Edition)

§ 956.6 Use of hedging instruments.

(a) *Applicability of GAAP.* Derivative instruments that do not qualify as hedging instruments pursuant to GAAP may be used only if a non-speculative use is documented by the Bank.

(b) *Documentation requirements.* (1) Transactions with a single counterparty shall be governed by a single master agreement when practicable.

(2) A Bank's agreement with the counterparty for over-the-counter derivative contracts shall include:

(i) A requirement that market value determinations and subsequent adjustments of collateral be made at least on a monthly basis;

(ii) A statement that failure of a counterparty to meet a collateral call will result in an early termination event;

(iii) A description of early termination pricing and methodology, with the methodology reflecting a reasonable estimate of the market value of the over-the-counter derivative contract at termination (standard International Swaps and Derivatives Association, Inc. language relative to early termination pricing and methodology may be used to satisfy this requirement); and

(iv) A requirement that the Bank's consent be obtained prior to the transfer of an agreement or contract by a counterparty.

[66 FR 8321, Jan. 30, 2001]

PART 960—STANDBY LETTERS OF CREDIT

Sec.

960.1 Definitions.

960.2 Standby letters of credit on behalf of members.

960.3 Standby letters of credit on behalf of housing associates.

960.4 Obligation to Bank under all standby letters of credit.

960.5 Additional provisions applying to all standby letters of credit.

AUTHORITY: 12 U.S.C. 1422b, 1429, 1430, 1430b, 1431.

SOURCE: 63 FR 65699, Nov. 30, 1998, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000, and further redesignated at 67 FR 12853, Mar. 20, 2002.

§ 960.1 Definitions.

As used in this part:

Applicant means a person or entity at whose request or for whose account a standby letter of credit is issued.

Beneficiary means a person or entity who, under the terms of a standby letter of credit, is entitled to have its complying presentation honored.

Confirm means to undertake, at the request or with the consent of the issuer, to honor a presentation under a standby letter of credit issued by a member or housing associate.

Document means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion that is presented under the terms of a standby letter of credit.

Investment grade means:

(1) A credit quality rating in one of the four highest credit rating categories by an NRSRO and not below the fourth highest credit rating category by any NRSRO; or

(2) If there is no credit quality rating by an NRSRO, a determination by a Bank that the issuer, asset or instrument is the credit equivalent of investment grade using credit rating standards available from an NRSRO or other similar standards.

Issuer means a person or entity that issues a standby letter of credit.

Presentation means delivery of a document to an issuer, or an entity that has undertaken a confirmation at the request or with the consent of the issuer, for the giving of value under a standby letter of credit.

Residential housing finance means:

(1) The purchase or funding of "residential housing finance assets," as that term is defined in §950.1 of this chapter; or

(2) Other activities that support the development or construction of residential housing.

SHFA associate means a housing associate that is a "state housing finance agency," as that term is defined in §926.1 of this chapter, and that has met the requirements of §926.3(b) of this chapter.

Standby letter of credit means a definite undertaking by an issuer on behalf

Federal Housing Finance Board

§ 960.4

of an applicant that represents an obligation to the beneficiary, pursuant to a complying presentation: to repay money borrowed by, advanced to, or for the account of the applicant; to make payment on account of any indebtedness undertaken by the applicant; or to make payment on account of any default by the applicant in the performance of an obligation. The term *standby letter of credit* does not include a commercial letter of credit, or any short-term self-liquidating instrument used to finance the movement of goods.

[63 FR 65699, Nov. 30, 1998, as amended at 65 FR 8265, Feb. 18, 2000; 65 FR 44431, July 18, 2000. Redesignated and amended at 67 FR 12853, Mar. 20, 2002]

§ 960.2 Standby letters of credit on behalf of members.

(a) *Authority and purposes.* Each Bank is authorized to issue or confirm on behalf of members standby letters of credit that comply with the requirements of this part, for any of the following purposes:

- (1) To assist members in facilitating residential housing finance;
- (2) To assist members in facilitating community lending;
- (3) To assist members with asset/liability management; or
- (4) To provide members with liquidity or other funding.

(b) *Fully secured.* A Bank, at the time it issues or confirms a standby letter of credit on behalf of a member, shall obtain and maintain a security interest in collateral that is sufficient to secure fully the member's unconditional obligation described in § 960.4(a)(2) of this part, and that complies with the requirements set forth in paragraph (c) of this section.

(c) *Eligible collateral.* (1) Any standby letter of credit issued or confirmed on behalf of a member may be secured in accordance with the requirements for advances under § 950.7 of this chapter.

(2) A standby letter of credit issued or confirmed on behalf of a member for a purpose described in paragraphs (a)(1) or (a)(2) of this section may, in addition to the collateral described in paragraph (c)(1) of this section, be secured by obligations of state or local govern-

ment units or agencies rated as investment grade by an NRSRO.

[63 FR 65699, Nov. 30, 1998, as amended at 65 FR 8265, Feb. 18, 2000; 65 FR 44431, July 18, 2000. Redesignated and amended at 67 FR 12853, Mar. 20, 2002]

§ 960.3 Standby letters of credit on behalf of housing associates.

(a) *Housing associates.* Each Bank is authorized to issue or confirm on behalf of housing associates standby letters of credit that are fully secured by collateral described in §§ 950.17(b)(1)(i) or (ii) of this chapter, and that otherwise comply with the requirements of this part, for any of the following purposes:

- (1) To assist housing associates in facilitating residential housing finance;
- (2) To assist housing associates in facilitating community lending;
- (3) To assist housing associates with asset/liability management; or
- (4) To provide housing associates with liquidity or other funding.

(b) *SHFA associates.* Each Bank is authorized to issue or confirm on behalf of SHFA associates standby letters of credit that are fully secured by collateral described in § 950.17(b)(2)(i) (A), (B) or (C) of this chapter, and that otherwise comply with the requirements of this part, 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)).

[63 FR 65699, Nov. 30, 1998, as amended at 65 FR 8265, Feb. 18, 2000; 65 FR 44431, July 18, 2000]

§ 960.4 Obligation to Bank under all standby letters of credit.

(a) *Obligation to reimburse.* A Bank may issue or confirm a standby letter of credit only on behalf of a member or housing associate that has:

- (1) Established with the Bank a cash account pursuant to §§ 950.17(b)(2)(i)(B), 950.17(d), or 969.2 of this chapter; and
- (2) Assumed an unconditional obligation to reimburse the Bank for value given by the Bank to the beneficiary under the terms of the standby letter of credit by depositing immediately