

## Federal Housing Finance Agency

## § 1271.6

transmission of data from the instrument or item by electronic or mechanical means.

*Statement packaging* includes receiving statement information from members or eligible institutions or their service bureaus on respective customer cycle dates; printing statements; matching customer account statements; packaging the statements with appropriate items and informational materials, as authorized by individual members and eligible institutions, for distribution to their customers; sending the packages to the members or eligible institutions or mailing the packages directly to their customers.

*Storage services* includes filing, storage, and truncation of items.

*Transportation of items* includes transporting items from Federal Reserve offices, other Banks' clearinghouse associations, depository institutions, and other direct sending entities to a Bank; forwarding items to financial institutions after sorting; and forwarding cash items or return items to Federal Reserve offices and other sending entities.

### § 1271.2 Authority and scope.

(a) Pursuant to section 11(e)(2) of the Bank Act (12 U.S.C. 1431(e)(2)), FHFA has promulgated this subpart governing the collection, processing, and settlement, and services incidental thereto, of drafts, checks, and other negotiable and nonnegotiable items and instruments by Banks. Settlement, collection, and processing include the following activities as defined in this subpart: Account processing, data processing, data communication, issuance of forms, transportation of items, and storage services.

(b) Any activity authorized by section 11(e)(2) of the Bank Act (12 U.S.C. 1431(e)(2)) shall be governed by the provisions of this subpart.

### § 1271.3 General provisions.

The Banks are authorized to:

(a) Engage in, be agents or intermediaries for, or otherwise participate or assist in, the processing, collection, and settlement of checks, drafts, or any other negotiable or nonnegotiable items and instruments of payment

drawn on eligible institutions or Bank members; and

(b) Be drawees of checks, drafts, and other negotiable and nonnegotiable items and instruments issued by eligible institutions or Bank members.

### § 1271.4 Incidental powers.

In connection with the collection, processing, and settlement of items and instruments drawn on or issued by eligible institutions or Bank members, a Bank may also perform the following services:

(a) Statement packaging; and

(b) Any other activity that FHFA shall, from time to time, after notice and comment, find necessary for the exercise of the authority of this subpart.

### § 1271.5 Operations.

A Bank may utilize the services of a Federal Reserve Bank and may become a member or use the services of a clearinghouse, public or private financial institution, or agency in the exercise of any powers or functions under this subpart.

### § 1271.6 Pricing of services.

(a) *General.* Banks shall charge for services authorized in this subpart in a manner consistent with the principles of section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)), as interpreted by this subpart.

(b) *Payment instrument account services.* (1) In determining the fees for services provided under this subpart, a Bank must take into account all direct and indirect costs of providing the services.

(2) Prices must reflect the imputed rate of return that would have been earned and the taxes that would have been paid if the Bank were a private corporation, by using a cost of capital adjustment factor applied to those assets used in providing services authorized under this subpart.

(c) *Review and publication.* For any year during which any Bank actually provides services authorized by this subpart:

(1) FHFA shall from time to time and at least annually review the cost of capital adjustment factor and review prices for services authorized in this

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subpart for compliance with the principles set forth in paragraphs (a) and (b) of this section, and

(2) FHFA shall annually publish in the FEDERAL REGISTER all prices for Bank services authorized in this subpart except those for fees charged to an applicant for draws made by a beneficiary under a standby letter of credit.

### § 1271.7 Rights, powers, responsibilities, duties, and liabilities.

To the extent it is not inconsistent with other provisions of this subpart, the Uniform Commercial Code governs the rights, powers, responsibilities, duties, and liabilities of Banks in the exercise of their authority under this subpart. For purposes of this paragraph, the term “bank,” as used in the Uniform Commercial Code and clearinghouse rules, includes Banks and their members and eligible institutions.

## Subpart B—Miscellaneous Bank Authorities

### § 1271.10 Transfer of funds between Banks.

Inter-Bank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks.

### § 1271.11 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, if:

(a) Such trust is created or arises for the benefit of the institution or its depositors, investors, or borrowers, or for the 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.

## Subpart C—Bank Requests for Information

### § 1271.15 Definitions.

As used in this subpart:

*Confidential regulatory information* means any record, data, or report, including but not limited to examination

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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 having transactions under the Bank Act.

*Financial regulatory agency* means any of the following:

(1) The Department of the Treasury, including the Comptroller of the Currency;

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

(3) The National Credit Union Administration; or

(4) The Federal Deposit Insurance Corporation.

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

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

(2) The financial regulatory agency that supplied the particular confidential regulatory information to such Bank.

### § 1271.16 Scope.

This subpart governs the procedure by which a Bank will request and receive confidential regulatory information pursuant to section 22 of the Bank Act (12 U.S.C. 1442).

### § 1271.17 Request for confidential regulatory information.

A Bank shall make all requests for confidential regulatory 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 subpart as well as any procedures of general applicability for requesting information promulgated by such financial regulatory agency. This subpart and its procedures may be supplemented by a confidentiality agreement between a Bank and a financial regulatory agency.