

## SUBCHAPTER B—FEDERAL HOUSING FINANCE BOARD ORGANIZATION AND OPERATIONS

### PART 906—OPERATIONS

#### Subpart A [Reserved]

#### Subpart B—Monthly Interest Rate Survey (MIRS)

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906.5 Monthly interest rate survey.

#### Subpart C [Reserved]

AUTHORITY: 12 U.S.C. 4516.

SOURCE: 70 FR 9509, Feb. 28, 2005, unless otherwise noted.

#### Subpart A [Reserved]

#### Subpart B—Monthly Interest Rate Survey (MIRS)

##### § 906.5 Monthly interest rate survey.

The Finance Board conducts its Monthly Survey of Rates and Terms on Conventional One-Family Non-farm Mortgage Loans in the following manner:

(a) *Initial survey.* Each month, the Finance Board samples savings institutions, commercial banks, and mortgage loan companies, and asks them to report the terms and conditions on all conventional mortgages (*i.e.*, those not federally insured or guaranteed) used to purchase single-family homes that each such lender closes during the last five working days of the month. In most cases, the information is reported electronically in a format similar to Finance Board Form FHFBS 10-91. The initial weights are based on lender type and lender size. The data also is weighted so that the pattern of weighted responses matches the actual pattern of mortgage originations by lender type and by region. The Finance Board tabulates the data and publishes standard data tables late in the following month.

(b) *Adjustable-rate mortgage index.* The weighted data, tabulated and published pursuant to paragraph (a) of this section, is used to compile the Finance Board's adjustable-rate mortgage

index, entitled the "National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders." This index is the successor to the index maintained by the former Federal Home Loan Bank Board and is used for determining the movement of the interest rate on renegotiable-rate mortgages and on some other adjustable-rate mortgages.

#### Subpart C [Reserved]

### PART 907—PROCEDURES

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AUTHORITY: 12 U.S.C. 1422b(a)(1).

SOURCE: 64 FR 30883, June 9, 1999, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000.

EDITORIAL NOTE: Nomenclature changes to part 907 appear at 67 FR 12844, Mar. 20, 2002.

#### Subpart A—Definitions

##### § 907.1 Definitions.

As used in this part:

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*Approval* means a written statement issued to a Bank or the Office of Finance approving a transaction, activity, or item that requires Finance Board approval under the Act or a Finance Board rule, regulation, policy, or order.

*Case-by-Case Determination* means a Final Decision concerning any matter that requires a determination, finding, or approval by the Board of Directors under the Act or Finance Board regulations, for which no controlling statutory, regulatory, or other Finance Board standard previously has been established, and that, in the judgment of the Board of Directors, is best resolved on a case-by-case basis by a ruling applicable only to the Petitioner and any Intervenor, and not by adoption of a rule of general applicability.

*Final Decision* means a decision rendered by the Board of Directors on issues raised in a Petition or Request to Intervene that have been accepted for consideration.

*Intervenor* means a Bank, Member, or other entity that has been granted leave to intervene in the consideration of a Petition by the Board of Directors.

*Managing Director* means the Managing Director of the Finance Board.

*No-Action Letter* means a written statement issued to a Bank or the Office of Finance providing that Finance Board staff will not recommend supervisory or other action to the Board of Directors for failure to comply with a specific provision of the Act or a Finance Board rule, regulation, policy, or order, if a requester undertakes a proposed transaction or activity.

*Party* means a Petitioner, an Intervenor, or the Finance Board.

*Petition* means a Petition for Case-by-Case Determination or a Petition for Review of a Disputed Supervisory Determination.

*Petitioner* means the Office of Finance or a Bank that has filed a Petition.

*Regulatory Interpretation* means written guidance issued by Finance Board staff with respect to application of the Act or a Finance Board rule, regulation, policy, or order to a proposed transaction or activity.

*Requester* means an entity or person that has submitted an application for a Waiver or Approval or a request for a

No-Action Letter or Regulatory Interpretation.

*Supervisory determination* means a Finance Board finding in a report of examination, order, or directive, or a Finance Board order or directive concerning safety and soundness or compliance matters that requires mandatory action by a Bank or the Office of Finance.

*Waiver* means a written statement issued to a Bank, a Member, or the Office of Finance that waives a provision, restriction, or requirement of a Finance Board rule, regulation, policy, or order, or a required submission of information, not otherwise required by law, in connection with a particular transaction or activity.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000; 67 FR 12844, Mar. 20, 2002]

### Subpart B—Waivers, Approvals, No-Action Letters, and Regulatory Interpretations

#### § 907.2 Waivers.

(a) *Authority.* The Board of Directors reserves the right, in its discretion and in connection with a particular transaction or activity, to waive any provision, restriction, or requirement of this chapter, or any required submission of information, not otherwise required by law, if such waiver is not inconsistent with the law and does not adversely affect any substantial existing rights, upon a determination that application of the provision, restriction, or requirement would adversely affect achievement of the purposes of the Act, or upon a showing of good cause.

(b) *Application.* A Bank, a Member, or the Office of Finance may apply for a Waiver in accordance with § 907.6.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

#### § 907.3 Approvals.

(a) *Application.* A Bank or the Office of Finance may apply for an Approval of any transaction, activity, or item that requires Finance Board approval under the Act or a Finance Board rule, regulation, policy, or order in accordance with § 907.6, unless alternative application procedures are prescribed by

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the Act or a Finance Board rule, regulation, policy, or order for the transaction, activity, or item at issue.

(b) *Reservation.* The Finance Board reserves the right, in its discretion, to prescribe additional or alternative procedures for any application for Approval of a transaction, activity, or item.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.4 No-Action Letters.

(a) *Authority.* Finance Board staff, in its discretion, may issue a No-Action Letter to a Bank or the Office of Finance stating that staff will not recommend supervisory or other action to the Board of Directors for failure to comply with a specific provision of the Act or a Finance Board rule, regulation, policy, or order, if a requester undertakes a proposed transaction or activity. The Board of Directors may modify or supersede a No-Action Letter.

(b) *Requests.* A Bank or the Office of Finance may request a No-Action Letter in accordance with § 907.6.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.5 Regulatory Interpretations.

(a) *Authority.* Finance Board staff, in its discretion, may issue a Regulatory Interpretation to a Bank, a Member, an official of a Bank or Member, the Office of Finance, or any other entity or person, providing guidance with respect to application of the Act or a Finance Board rule, regulation, policy, or order to a proposed transaction or activity. The Board of Directors may modify or supersede a Regulatory Interpretation.

(b) *Requests.* A Bank, a Member, an official of a Bank or Member, the Office of Finance, or any other entity or person may request a Regulatory Interpretation in accordance with § 907.6.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.6 Submission requirements.

Applications for a Waiver or Approval and requests for a No-Action Letter or Regulatory Interpretation

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shall comply with the following requirements:

(a) *Filing.* Each application or request shall be in writing. The original and three copies shall be filed with the Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

(b) *Authorization—(1) Waivers and Approvals.* Applications for Waivers and Approvals shall be signed by an official with authority to sign such applications on behalf of the requester. Applications for Waivers and Approvals from a Bank or the Office of Finance shall be accompanied by a resolution of the board of directors of the Bank or the Office of Finance concurring in the substance and authorizing the filing of the application.

(2) *Requests for No-Action Letters.* The president of the Bank making a Request for a No-Action Letter shall sign the Request. Requests for a No-Action Letter from the Office of Finance shall be signed by the chairperson of the board of directors of the Office of Finance.

(3) *Requests for Regulatory Interpretations.* The requester or an authorized representative of the requester shall sign a request for a Regulatory Interpretation.

(c) *Information requirements.* Each application or request shall contain:

(1) The name of the requester, and the name, title, address, telephone number, and electronic mail address, if any, of the official filing the application or request on its behalf;

(2) The name, address, telephone number, and electronic mail address, if any, of a contact person from whom Finance Board staff may seek additional information if necessary;

(3) The section numbers of the particular provisions of the Act or Finance Board rules, regulations, policies, or orders to which the application or request relates;

(4) Identification of the determination or relief requested, including any alternative relief requested if the primary relief is denied, and a clear statement of why such relief is needed;

(5) A statement of the particular facts and circumstances giving rise to

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the application or request and identifying all relevant legal and factual issues;

(6) References to all relevant authorities, including the Act, Finance Board rules, regulations, policies, and orders, judicial decisions, administrative decisions, relevant statutory interpretations, and policy statements;

(7) References to any Waivers, No-Action Letters, Approvals, or Regulatory Interpretations issued to the requester in the past in response to circumstances similar to those surrounding the request or application;

(8) For any application or request involving interpretation of the Act or Finance Board regulations, a reasoned opinion of counsel supporting the relief or interpretation sought and distinguishing any adverse authority;

(9) Any non-duplicative, relevant supporting documentation; and

(10) A certification by a person with knowledge of the facts that the representations made in the application or request are accurate and complete. The following form of certification is sufficient for this purpose: "I hereby certify that the statements contained in the submission are true and complete to the best of my knowledge. [Name and Title]."

(d) *Waiver of requirements.* The Managing Director may waive any requirement of this section for good cause. The Managing Director shall provide prompt notice of any such waiver to the Board of Directors. The Board of Directors may overrule any waiver granted by the Managing Director under this paragraph.

(e) *Withdrawal.* Once filed, an application or request may be withdrawn only upon written request. The Finance Board will not consider a request for withdrawal after transmission by the Secretary to the Board to the requester of a response in final form.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000; 67 FR 12844, Mar. 20, 2002]

### **§ 907.7 Issuance of Waivers, Approvals, No-Action Letters, and Regulatory Interpretations.**

(a) *Board of Directors review.* At least three business days prior to issuance to the requester, the Secretary to the

Board shall transmit each Approval, No-Action Letter, or Regulatory Interpretation issued by the Chairperson or Finance Board staff to the Board of Directors for review.

(b) *Issuance and effectiveness.* A Waiver, Approval, No-Action Letter, or Regulatory Interpretation is not effective until the Secretary to the Board has transmitted it in final form to the requester.

(c) *Abbreviated form.* The Finance Board may respond to an application or request in an abbreviated form, consisting of a concise statement of the nature of the response, without restatement of the underlying facts.

## **Subpart C—Case-by-Case Determinations; Review of Disputed Supervisory Determinations**

### **§ 907.8 Case-by-Case Determinations.**

(a) *Petition for Case-by-Case Determination.* A Bank or the Office of Finance may seek a Case-by-Case Determination concerning any matter that may require a determination, finding or approval under the Act or Finance Board regulations by the Board of Directors, and for which no controlling statutory, regulatory or other Finance Board standard previously has been established. The Office of Finance or a Bank seeking a Case-by-Case Determination shall file a Petition for Case-by-Case Determination in accordance with § 907.10.

(b) *Intervention.* A Member, a Bank, or the Office of Finance may file a Request to Intervene in the consideration of the Petition in accordance with § 907.11 if it believes its rights may be affected.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### **§ 907.9 [Reserved]**

### **§ 907.10 Petitions.**

Each Petition brought pursuant to this subpart shall comply with the following requirements:

(a) *Filing.* The Petition shall be in writing. The original and three copies shall be filed with the Secretary to the Board, Federal Housing Finance Board,

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1777 F Street NW., Washington, DC 20006.

(b) *Information requirements.* Each Petition shall contain:

(1) The name of the Petitioner, and the name, title, address, telephone number, and electronic mail address, if any, of the official filing the Petition on its behalf;

(2) The name, address, telephone number, and electronic mail address, if any, of a contact person from whom Finance Board staff may seek additional information if necessary;

(3) The section numbers of the particular provisions of the Act or Finance Board rules, regulations, policies, or orders to which the Petition relates, and, if the Petition is for Review of a Disputed Supervisory Determination, identification of the disputed Supervisory Determination;

(4) Identification of the determination or relief requested, including any alternative relief requested if the primary relief is denied, and a clear statement of why such relief is needed;

(5) A statement of the particular facts and circumstances giving rise to the Petition and identifying all relevant legal and factual issues;

(6) A summary of any steps taken to date by the Petitioner to address or resolve the dispute or issue; or, in cases involving safety and soundness or compliance issues, a summary of any actions taken by the Petitioner in the interim to implement corrective action;

(7) The Petitioner's argument in support of its position, including citation to any supporting legal opinions, policy statements, or other relevant precedent and supporting documentation, if any;

(8) References to all relevant authorities, including the Act, Finance Board rules, regulations, policies, and orders, judicial decisions, administrative decisions, relevant statutory interpretations, and policy statements;

(9) A reasoned opinion of counsel supporting the relief or interpretation sought and distinguishing any adverse authority;

(10) Any non-duplicative, relevant supporting documentation; and

(11) A certification by a person with knowledge of the facts that the representations made in the Petition are

accurate and complete. The following form of certification is sufficient for this purpose: "I hereby certify that the statements contained in the Petition are true and complete to the best of my knowledge. [Name and Title]."

(c) *Authorization.* Each Petition shall be accompanied by a resolution of the Petitioner's board of directors concurring in the substance and authorizing the filing of the Petition.

(d) *Request to Appear.* The Petition may contain a request that staff or an agent of the Petitioner be permitted to make a personal appearance before the Board of Directors at any meeting convened to consider the Petition pursuant to these procedures. A statement of the reasons a written presentation would not suffice shall accompany a Request to Appear. The statement shall specifically:

(1) Identify any questions of fact that are in dispute;

(2) Summarize the evidence that would be presented at the meeting; and

(3) Identify any proposed witnesses, and state the substance of their anticipated testimony.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.11 Requests to Intervene.

(a) *Filing—(1) Date.* Any Request to Intervene in consideration of a Petition under this subpart shall be in writing and shall be filed with the Secretary to the Board within 45 days from the date the Petition is filed.

(2) *Information requirements.* A Request to Intervene shall include the information required by § 907.10(b), where applicable, and a concise statement of the position and interest of the Intervenor and the grounds for the proposed intervention.

(3) *Authorization.* If the entity requesting intervention is a Bank or the Office of Finance, the Request to Intervene shall be accompanied by a resolution of the Petitioner's board of directors concurring in the substance and authorizing the filing of the Request. If the entity requesting intervention is not a Bank or the Office of Finance, the Request to Intervene shall be signed by an official of the entity with authority to authorize the filing of the

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Request, and shall include a statement describing such authority.

(4) *Request to Appear.* A Request to Intervene may include a Request to Appear before the Board of Directors in any meeting conducted under these procedures to consider a Petition. A Request to Appear shall be accompanied by a statement containing the information required by §907.10(d), and, in addition, setting forth the likely impact that intervention will have on the expeditious progress of the meeting. A Request to Appear shall be filed with the Secretary to the Board either with the Request to Intervene or at least 20 days prior to the meeting scheduled to consider the Petition.

(5) *Intervenor is bound.* Any Request to Intervene shall include a statement that, if such leave to intervene is granted, the Intervenor shall be bound expressly by the Final Decision of the Board of Directors, as described in §907.13(b), subject only to judicial review or as otherwise provided by law.

(b) *Grounds for approval.* The Managing Director may grant leave to intervene if the entity requesting intervention has complied with paragraph (a) of this section and, in the judgment of Managing Director:

(1) The presence of the entity requesting intervention would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties; and

(2) The entity requesting intervention may be adversely affected by a Final Decision on the Petition.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.12 Finance Board procedures.

(a) *Notice of Receipt of Petition or Request to Intervene.* No later than three business days following receipt of a Petition or Request to Intervene, the Secretary to the Board shall transmit a written Notice of Receipt to the Petitioner or Intervenor. In the case of a Petition for Case-by-Case Determination, the Finance Board shall promptly publish a notice of receipt of Petition, including a brief summary of the issue(s) involved, in the FEDERAL REGISTER.

(b) *Transmittal of filings.* The Secretary to the Board shall promptly

transmit copies of any Petition, Request to Intervene, or other filing under this subpart to the Board of Directors and all other parties to the filing.

(c) *Opportunity to cure defects.* The Managing Director shall afford the Petitioner or Intervenor a reasonable opportunity to cure any failure to comply with the requirements of §907.10.

(d) *Information request.* The Managing Director may request additional information from the Petitioner or Intervenor. No later than 20 calendar days after the date of a request under this paragraph, the Petitioner shall provide to the Secretary to the Board all information requested.

(e) *Supplemental information.* Upon good cause shown, the Managing Director may grant permission to a Petitioner or Intervenor to submit supplemental written information pertaining to the Petition or Request to Intervene.

(f) *Consolidation and severance—(1) Consolidation.* The Managing Director may consolidate any or all matters at issue in two or more meetings on Petitions where:

(i) There exist common parties or common questions of fact or law;

(ii) Consolidation would expedite and simplify consideration of the issues; and

(iii) Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

(2) *Severance.* The Managing Director may order any meetings and issues severed with respect to any or all parties or issues.

(g) *Notice of Board Consideration.* Within 30 calendar days of receipt of a Petition deemed by the Managing Director to be in compliance with the requirements of §907.10, or, if the Petition has been the subject of a request under paragraph (d) of this section, within 30 calendar days of receipt of a response from the Petitioner deemed by the Managing Director to complete the information necessary for the Board of Directors to consider the Petition, the Managing Director, after consultation with the Board of Directors, through the Secretary to the Board, shall provide all parties with a Notice

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of Board Consideration containing the following information:

(1) Identification of the issues accepted for consideration;

(2) Any decision to consolidate or sever pursuant to paragraph (f) of this section;

(3) Whether the Petition will be considered by the Board of Directors on the written record pursuant to § 907.13(a)(1), or at a meeting pursuant to § 907.13(a)(2); and

(4) If the Petition will be considered by the Board of Directors at a meeting:

(i) The date, time and place of the meeting; and

(ii) A decision as to any Request to Appear filed pursuant to §§ 907.10(d) or 907.11(a)(4).

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.13 Consideration and Final Decisions.

(a) *Consideration by Board of Directors.* The Board of Directors may consider a Petition and render a decision:

(1) Solely on the basis of the written record; or

(2) At a regularly scheduled meeting or a meeting convened specifically for the purpose of considering the Petition. Consideration of a Petition at a meeting shall be governed by the procedures described in § 907.14.

(b) *Final Decision.* The Board of Directors shall render a Final Decision on the issue(s) presented in a Petition or Request to Intervene that has been accepted for consideration, based upon consideration of the entire record of the proceeding. The terms and conditions of the Final Decision shall bind the parties as to any issue(s) presented in the Petition or Request to Intervene and decided by the Board of Directors. The decision of the Board of Directors is a final decision for purposes of obtaining judicial review or as otherwise provided by law.

(c) *Time periods.* Subject to extension by such additional time as may reasonably be required, the Board of Directors shall render a Final Decision within 120 calendar days of the date the Petition is received in a form deemed by the Managing Director to be in compliance with the requirements of § 907.10 or, if the Petition has been the subject

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of a request under § 907.12(d), within 120 calendar days of receipt of a response from the Petitioner deemed by the Managing Director to complete the information necessary for the Board of Directors to consider the Petition.

(d) *Transmittal of Final Decision.* The Secretary to the Board shall transmit the Final Decision of the Board of Directors to all parties to the submission.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.14 Meetings of the Board of Directors to consider Petitions.

(a) *Full and fair opportunity to be heard.* Any meeting of the Board of Directors to consider a Petition shall be conducted in a manner that provides the parties a full and fair opportunity to be heard on the issues accepted for consideration. Any such meeting shall be conducted so as to permit an expeditious presentation of such issues.

(b) *Participation in meeting.* (1) The presence of a quorum of the Board of Directors is required to conduct a meeting under this section. Members of the Board of Directors are deemed present if they appear in person or by telephone.

(2) An act of the Board of Directors requires the vote of a majority of the members of the Board of Directors voting at a meeting at which a quorum of the Board of Directors is present.

(3) A Final Decision may be reached by a vote of the Board of Directors after the meeting at which the Petition has been considered. Only those members of the Board of Directors present at the meeting at which the Petition was considered may vote on issues presented in the Petition and accepted for consideration. A vote of the majority of the members of the Board of Directors eligible to vote and voting shall be an act of the Board of Directors.

(c) *Chairperson*—(1) *Presiding officer.* The Chairperson, or a member of the Board of Directors designated by the Chairperson, shall preside over a meeting of the Board of Directors convened under this section.

(2) *Authority of the Chairperson.* The Chairperson shall have all powers and discretion necessary to conduct the

meeting in a fair and impartial manner, to avoid unnecessary delay, to regulate the course of the meeting and the conduct of the parties and their counsel, and to discharge the duties of a presiding officer.

(3) *Board of Directors may overrule the Chairperson.* Any member of the Board of Directors may, by motion, challenge any action, finding, or determination made by the Chairperson in the course of the meeting, and the Board of Directors, by majority vote, may overrule any action, finding or determination of the Chairperson.

(d) *Meeting may be closed.* A party may request that the meeting, or portion thereof, be closed to public observation. A request to close a meeting shall be processed in accordance with the requirements of the Government in the Sunshine Act (5 U.S.C. 552b) and the Finance Board's implementing regulation (12 CFR part 912).

(e) *Location of meeting.* Unless otherwise specified, all meetings of the Board of Directors will be held in the Board Room of the Finance Board at 1777 F Street, NW., Washington, DC, at the time specified in the notice of meeting issued pursuant to 12 CFR 912.6.

(f) *Presentation of issues—(1) Stipulations.* Subject to the Chairperson's discretion, the parties may agree to stipulations of law or fact, including stipulations as to the admissibility of exhibits, and present such stipulations at the meeting. Stipulations shall be made a part of the record of the proceeding.

(2) *Order of presentation.* The Chairperson shall determine the order of presentation of the issues, testimony of any witnesses, presentation of any other information or document, and all other procedural matters at the meeting.

(g) *Record.* The meeting shall be recorded and transcribed. Transcripts of the proceedings shall be governed by 12 CFR 912.5(c). The Petition and all supporting documentation shall be made a part of the record, unless otherwise determined by the Chairperson. The Chairperson may order the record corrected, upon motion to correct, upon stipulation of the parties, or at the Chairperson's discretion.

(h) *Admissibility of documents and testimony.* (1) The Chairperson has discretion to admit and make a part of the record documents and testimony that are relevant, material, and reliable, and may elect not to admit documents and testimony that are privileged, unduly repetitious, or of little probative value.

(2) The Board of Directors shall give such weight to documents and testimony admitted and made part of the record as it may deem reasonable and appropriate.

(3) The Chairperson may admit and make a part of the record, in lieu of oral testimony, statements of fact or opinion prepared by a witness. The admissibility of the information contained in the statement shall be subject to the same rules as if the testimony were provided orally.

(i) *Official notice.* All matters officially noticed by the Chairperson shall appear on the record.

(j) *Exhibits and documents—(1) Copies.* A legible duplicate copy of a document shall be admissible to the same extent as the original.

(2) *Exhibits.* Witnesses may use existing or newly created charts, exhibits, calendars, calculations, outlines, or other graphic materials to summarize, illustrate, or simplify the presentation of testimony. Subject to the Chairperson's discretion, such materials may be used with or without being admitted into the record.

(3) *Identification.* All exhibits offered into the record shall be numbered sequentially and marked with a designation identifying the sponsor. The original of each exhibit offered into the record or marked for identification shall be retained in the record of the meeting, unless the Chairperson permits substitution of a copy for the original.

(4) *Exchange of Exhibits.* One copy of each exhibit offered into the record shall be furnished to each of the parties and to each member of the Board of Directors. If the Chairperson does not fix a time for the exchange of exhibits, the parties shall exchange copies of proposed exhibits at the earliest practicable time before the commencement

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of the meeting to consider the Petition. Parties are not required to exchange exhibits submitted as rebuttal information before the meeting commences if submission of the exhibits is not reasonably certain at that time.

(5) *Authenticity.* The authenticity of all documents submitted or exchanged as proposed exhibits prior to the meeting shall be admitted unless written objection is filed before the commencement of the meeting, or unless good cause is shown for failing to file such a written objection.

(k) *Sanction for obstruction of the proceedings.* The Board of Directors may impose sanctions it deems appropriate for violation of any applicable provision of this subpart or any applicable law, rule, regulation, or order, or any dilatory, frivolous, or obstructionist conduct by any witness or counsel during the course of a meeting.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.15 General provisions.

(a) *Waiver of requirements.* The Managing Director may waive any filing requirement or deadline in this subpart for good cause shown. The Managing Director shall provide prompt notice of any such waiver to the Board of Directors.

(b) *Actions of the Managing Director subject to the authority of the Board of Directors.* The Board of Directors may overrule any action by the Managing Director under this subpart.

(c) *Withdrawal.* At any time prior to the issuance by the Managing Director of a Notice of Board Consideration pursuant to § 907.12(g), an authorized representative of a Petitioner may withdraw the Petition, or an authorized representative of an Intervenor may withdraw the Request to Intervene, by filing a written request to withdraw with the Secretary to the Board. Only the Board of Directors may grant a request to withdraw after issuance by the Managing Director of a Notice of Board Consideration pursuant to § 907.12(g). Unless otherwise agreed, withdrawal of a Petition or Request to Intervene shall not foreclose a Petitioner from resubmitting a Petition, or an Intervenor from submitting a Request to Intervene, on the same or similar issues.

(d) *Settlement agreement.* (1) At any time during the course of proceedings pursuant to this subpart, the Finance Board shall give Petitioners and Intervenor the opportunity to submit offers of settlement when the nature of the proceedings and the public interest permit. With the approval of the Managing Director, an authorized representative of a Petitioner or Intervenor may enter into a proposed settlement agreement with the Finance Board disposing of some or all of the issues presented in a Petition or Request to Intervene.

(2) No proposed settlement agreement shall be final until approved by the Board of Directors. The Board of Directors shall consider any proposed settlement agreement within 30 calendar days of receiving a notice of the proposed settlement agreement. If the Board of Directors disapproves or fails to approve a proposed settlement agreement within 30 days, the proposed settlement agreement shall be null and void and the previously filed Petition or Request to Intervene shall be considered in accordance with this subpart.

(3) A settlement agreement approved by the Board of Directors shall be deemed final and binding on all parties to the agreement. At the time a proposed settlement agreement becomes final, a Petition or Request to Intervene previously filed by a party to the agreement shall be deemed withdrawn as to all issues resolved in the agreement, and the parties to the agreement shall be estopped from raising objection to those issues or to the terms of the settlement agreement.

(e) *No rights created; Finance Board not prohibited.* Nothing in this subpart shall be deemed to create any substantive or discovery right in any party. Nothing in this subpart shall limit in any manner the right of the Finance Board to conduct any examination or inspection of any Bank or the Office of Finance, or to take any action with respect to a Bank or the Office of Finance, or its directors, officers, employees or agents, otherwise authorized by law.

(f) *Exhaustion requirement.* When seeking a Case-by-Case Determination of any matter or review by the Board of

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Directors of any Supervisory Determination, a Bank or the Office of Finance shall follow the procedures in this subpart as a prerequisite to seeking judicial review. Failure to do so shall be deemed to be a failure to exhaust all available administrative remedies.

(g) *Improper conduct prohibited.* No party shall, by act or omission, unduly burden or frustrate the efforts of the Board of Directors to carry out its duties under the laws and regulations of the Finance Board. A Petitioner or Intervenor shall confine its communications with the Board of Directors, or any individual member thereof, concerning issues raised in a pending Petition, to written communications for inclusion in the record of the proceeding, filed with the Secretary to the Board.

(h) *Costs.* Petitioners are encouraged to contain costs associated with the preparation and filing of Petitions and related personal appearances, if any, at

any meeting held by the Board of Directors under this subpart. The Petitioner shall be solely responsible for all costs associated with any such Petitions and appearances.

(i) *Procedures are exclusive.* All Case-by-Case Determinations by the Board of Directors and all Reviews of Disputed Supervisory Determinations shall be considered exclusively pursuant to the procedures described in this subpart.

[64 FR 30883, June 9, 1999, as amended at 65 FR 8257, Feb. 18, 2000]

### § 907.16 Rules of practice.

In connection with any matter initiated or pending pursuant to this part, petitioners, requestors or intervenors, or their representatives, shall be subject to the provisions of subpart F of 12 CFR part 908. No other provision of part 908 shall apply under this part

[67 FR 9903, Mar. 5, 2002]