FEDERAL HOUSING FINANCE BOARD

12 CFR Part 915

[No. 2007–01]

RIN 3069–AB–33

Federal Home Loan Bank Appointive Directors

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting procedures for the selection of Federal Home Loan Bank (Bank) appointive directors. The procedures require the boards of directors of the Banks to submit to the Finance Board a list of individuals that includes information regarding each individual's eligibility and qualifications to serve as a Bank director. The Finance Board will use the lists provided by each Bank to select well-qualified individuals to serve on the Bank's board of directors.

DATES: This interim final rule is effective on January 24, 2007. The Finance Board will accept written comments on the interim final rule on or before February 23, 2007.

Comments: Submit comments to the Finance Board using any one of the following methods:

E-mail: *comments@fhfb.gov.*

Fax: 202–408–2580.

Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street NW., Washington, DC 20006, ATTENTION: Public Comments.

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to the Finance Board at *comments@fhfb.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Federal Housing Finance Board. Interim Final Rule: Federal Home Loan Bank Appointive Directors. RIN Number 3069–AB–33. Docket Number 2007–01.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the Finance Board Web site at *http://www.fhfb.gov/Default.aspx?Page=93&Top=93.*

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Deputy General Counsel, 202–408–2990, *crowleyn@fhfb.gov;* or Thomas P. Jennings, Senior Attorney Advisor, Office of General Counsel, 202–408–2553, *jenningst@fhfb.gov.* You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

Section 7(a) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1427(a)), authorizes the Finance Board to appoint directors to the board of each Bank. Section 7(f)(2) (12 U.S.C. 1427(f)(2)) authorizes the Finance Board to fill any vacancy in an appointive directorship for the remainder of the unexpired term. The current rule implementing this statutory authority provides only for the selection of appointive directors in the sole discretion of the Finance Board, but lacks any procedures for accomplishing this. *See* 12 CFR 915.10(a). The Finance Board has determined that adopting procedures for the selection of appointive directors will enhance its ability to identify and appoint well-qualified individuals to serve as Bank directors. Accordingly, the Finance Board is amending § 915.10 to adopt procedures under which the board of directors of each Bank will submit to the Finance Board a list of individuals that includes information regarding each individual's eligibility and qualifications to serve as a Bank director. The Finance Board will use the lists provided by each Bank to select well-qualified individuals to serve on the Bank's board of directors.

II. Analysis of the Interim Final Rule

A. Bank Responsibilities

An effective board of directors is an important element in maintaining the safety and soundness of a Bank and ensuring that it serves its housing and community finance mission. The Banks and other interested parties with knowledge of the district likely will be familiar with individuals who have the background and skills necessary to serve on the board of a large financial institution such as a Bank. The Finance Board believes that the appointment process will be enhanced by allowing those most familiar with the resources in a Bank's district to play a greater role in identifying a pool of well-qualified individuals from which the Finance Board can appoint Bank directors. Accordingly, the rule seeks to utilize the local and regional knowledge of the Bank, as well as of any other interested parties, in seeking out or otherwise identifying individuals who have the background and skills necessary to serve as an effective Bank director.

Under the rule, the Banks are responsible at the initial stages of the selection process for identifying potential appointive directors, assessing their eligibility and qualifications, and nominating them to the Finance Board. In doing so, the Finance Board expects each Bank to assess the appropriate experience and abilities its board must possess in order to operate effectively. When the Bank's board identifies potential appointive directors, it will perform a preliminary assessment of their qualifications prior to sending a list of nominations to the Finance Board. The board's preliminary assessment should include, but is not limited to, a review of the individuals' executed eligibility form and their community reputation. In the case of an individual seeking to be designated as a community interest director, the Finance Board expects that each Bank will assess the individual's prior experience in serving the consumer and community interests specified in the Bank Act. As noted below, in order to allow for a well-diversified applicant pool, the rule permits any interested party to submit to the Banks the names of prospective directors, which the Banks will evaluate based on each individual's qualifications.

Section 915.10(a)(1) requires the board of directors of each Bank annually, on or before October 1st, to submit to the Finance Board a list of nominees who meet the statutory eligibility requirements and are otherwise well-qualified for the appointive directorships that will become vacant at the end of that calendar year. Determining who to include on the list is left to the boards of directors of the Banks, which may exercise discretion in determining how to identify and present individuals to the Finance Board. The board should consider each individual in light of his or her background and experience as it relates to being a director of a Bank, and should select nominees based on the totality of their qualifications. Section 915.10(a)(3) of the rule further requires that the list of individuals a Bank submits include 2 times the number of appointive directorships that are to be filled that year. Under § 915.15(b), the Finance Board has the discretion to require a Bank to provide information about additional eligible and well-qualified individuals.

Along with the list of eligible and qualified individuals, the Bank must provide the original executed appointive director application form on which each individual describes in detail the business, financial, housing, community and economic development, or other leadership experiences that qualify him or her to serve on the board

of the Bank. A copy of the form is attached as an exhibit.

Section 915.10(a)(2) extends this procedure to filling vacancies that arise before the completion of a full term, by requiring the board of directors of the Bank to submit a list of 2 individuals for any appointive directorship that becomes vacant prior to the end of its term. The rule requires a Bank to act promptly to provide the list to fill the remaining term of a vacant appointive directorship.

B. Finance Board Selection

Section 915.10(b) provides that the Finance Board has sole discretion to appoint individuals to the boards of the Banks. In exercising this discretion, the Finance Board intends to look principally to the qualifications of the nominees, and will appoint only those individuals who have demonstrated that they possess the experience necessary to serve effectively on the board of a large and sophisticated financial institution with an important housing finance and economic development mission, such as a Bank. By relying on the demonstrated qualifications of the nominees, the Finance Board expects that any individuals it appoints will possess the experience and skills necessary to serve as the independent voices on the board of directors, a role that can best be played by the appointive directors of the Banks.

The rule also makes clear that the Finance Board may decline, in its sole discretion, to appoint any of the individuals on the initial list submitted by the Bank. If this occurs, the Finance Board can direct a Bank to submit the names of additional eligible and well-qualified individuals for the Finance Board's consideration.

C. Prospective Appointive Directors

To ensure a diverse pool of prospective directors, § 915.10(c) allows any individual who is interested in being appointed to the board of a Bank to submit to the Bank an executed appointive director application form. The rule also allows any interested party to make recommendations to a Bank regarding individuals who are well-qualified to serve on the board of the Bank, but requires any such individual to submit to the Bank the same application form before the Bank may consider that person for inclusion in the list it submits to the Finance Board. The rule does not provide for any individuals to submit applications directly to the Finance Board. The board of the Bank has discretion to determine which individuals it submits to the Finance Board for consideration, although the Finance Board expects that the Bank's board will give due consideration to all persons seeking to be nominated to the board.

D. Term of Office

Section 915.10(d) is substantially similar to § 915.10(b) of the current rule. It has been revised to delete outdated language that addressed how the Finance Board would stagger the terms of appointive directors with terms commencing in 2001 and 2002, to achieve a one-third staggering of the boards of directors, as required by section 7(d) of the Bank Act (12 U.S.C. 1427(d)). Because the Finance Board has adjusted the terms of office for those directorships and has established 3 approximately equal classes of directors at each of the Banks that language is no longer necessary and is deleted.

E. Appointive Directorship Vacancies Existing on January 1, 2007

Section 915.10(e) is a temporary provision for filling appointive directorships that are vacant on January 1, 2007. The rule requires the boards of directors of the Banks to submit the list of eligible and qualified individuals to the Finance Board on or before March 31, 2007, instead of October 1, 2007. In all other respects, the changes made by the interim final rule will apply. For these directorships the Finance Board intends to consider nominations as they are received, and the rule thus does not require a Bank to submit nominations for all vacancies at one time.

III. Notice and Public Participation

The notice and comment procedure required by the Administrative Procedure Act is inapplicable to this interim final rule because it is a rule of agency procedure. *See* 5 U.S.C. 553(b)(3)(A). In addition, it is in the public interest to fill appointive directorships at the Banks with well qualified individuals as soon as it is practicable to do so. *See* 5 U.S.C. 553(b)(3)(B). However, because the Finance Board believes that public comments are valuable, it encourages comments on this interim final rule, and will consider all comments received on or before February 23, 2007 in promulgating a final rule.

IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the interim final rule should become effective on January 24, 2007. *See* 5 U.S.C. 553(d)(3).

V. Paperwork Reduction Act

The appointive director application form is part of the information collection entitled ''Federal Home Loan Bank Directors.'' Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has assigned control number 3069–0002, which is due to expire on November 30, 2007. The Finance Board and the Banks use the information contained in the application form to determine whether prospective appointive Bank directors satisfy the statutory and regulatory eligibility requirements and are well qualified to serve as a Bank director. Only individuals meeting these requirements may serve as Bank directors. *See* 12 U.S.C. 1427. The interim final rule does not make substantive or material modifications to the ''Federal Home Loan Bank Directors'' information collection. Consequently, the Finance Board has not submitted any information to OMB for review.

VI. Regulatory Flexibility Act

The Finance Board is adopting this procedural amendment in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601(2) and 603(a).

List of Subjects in 12 CFR Part 915

Conflicts of interest, Elections, Federal home loan banks, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the Finance Board amends 12 CFR part 915 as follows:

PART 915—BANK DIRECTOR ELIGIBILITY, APPOINTMENT, AND ELECTIONS

■ 1. The authority citation for part 915 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432.

■ 2. Revise § 915.10 to read as follows:

§ 915.10 Selection of appointive directors.

(a) *Bank responsibilities.* (1) On or before October 1st of each year, the board of directors of each Bank shall submit to the Finance Board a list of eligible nominees who are well-qualified to fill the appointive directorships that will expire on December 31st of that year, along with the original Finance Board-prescribed appointive director application form executed by each individual on the list.

(2) If an appointive directorship becomes vacant prior to the expiration

of its term, the board of directors of the Bank shall submit to the Finance Board a list of eligible nominees who are well-qualified to fill that directorship, along with each individual's executed appointive director application form, promptly after the vacancy arises.

(3) The number of nominees on any list submitted by a Bank's board of directors pursuant to paragraphs (a)(1) or (2) of this section shall equal 2 times the number of appointive directorships to be filled.

(b) *Finance Board selection.* As provided by the Act, the Finance Board has the sole responsibility for appointing individuals to the boards of directors of the Banks. In exercising that responsibility, the Finance Board shall select from among the nominees on the list submitted by the Bank pursuant to paragraph (a) of this section, provided, however, that if the Finance Board does not fill all of the appointive directorships from the list initially submitted by the Bank, it may require the Bank to submit a supplemental list of nominees for its consideration.

(c) *Prospective applicants.* Any individual who seeks to be appointed to the board of directors of a Bank may submit to the Bank an executed appointive director application form that demonstrates that the individual both is eligible and has business, financial, housing, community and economic development, and/or leadership experience. Any other interested party may recommend to the Bank that it consider a particular individual as a nominee for an appointive directorship, but the Bank may not do so until the individual has provided the Bank with an executed appointive director application form. The board of directors of the Bank may consider any individual for inclusion on the list it submits to the Finance Board provided it has determined that the individual is eligible and well-qualified for an appointive directorship at the Bank.

(d) *Term of office.* The term of office of each appointive directorship is 3 years, except as adjusted pursuant to section 7(d) of the Act (12 U.S.C. 1427(d)) to achieve a staggered board, and shall commence on January 1st. In the case of a discretionary appointive directorship that is terminated pursuant to § 915.3(b)(5), the term of office of the directorship shall end after the close of business on December 31st of that year.

(e) *Appointive directorship vacancies existing on January 1, 2007.* For appointive directorships that are vacant on January 1, 2007, the board of directors of each Bank shall submit the information required by paragraph (a) of this section on or before March 31, 2007.

Dated: January 18, 2007.

By the Board of Directors of the Federal Housing Finance Board.

Ronald A. Rosenfeld,

Chairman.

Editorial Note: The following forms will not appear in the Code of Federal Regulations.

BILLING CODE 6725–01–P

FEDERAL HOME LOAN BANK APPOINTIVE DIRECTOR APPLICATION FORM

PERSONAL INFORMATION

Full name: _____

Address: _____

_____

_____

_____

Current employment:

_____ _____
Name of organization **Your title or position**

_____ _____ _____
Telephone number **Fax number** **E-mail address**

_____ _____ _____ _____
Street **City** **State** **Zip code**

_____ _____ _____ _____
Mailing address (if different) **City** **State** **Zip code**

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STATUTORY ELIGIBLITY REQUIREMENTS

An individual must satisfy certain statutory requirements in order to be eligible for appointment to the board of a Federal Home Loan Bank (Bank). Those requirements relate to citizenship, residency, and, for prospective community interest directors, experience in that field. The statute also prohibits an appointive director from having any financial interest in an institution that is a member of the Bank on whose board the director serves. The questions below address these statutory requirements.

1. ***Citizenship.*** Are you a citizen of the United States? **Yes** ___ **No** ___

2. ***Residency.*** In order to be an appointed director you must be a bona fide resident of a state that is within the geographic district of the Bank on whose board you wish to serve. You will satisfy this requirement if your principal residence is located within that geographic district, or if you own or lease a second residence within the district *and* are employed within the district. Please indicate which basis you are using to demonstrate bona fide residence.

Is your principal residence located within the Bank's geographic district? **Yes** ___ **No** ___

If you answered **No**, do you own or lease a second residence within the Bank's district *and* are you employed within the district? **Yes** ___ **No** ___

If so, please provide the address of the second home and the name and address of your employer.

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3. ***Community Interest Directors.*** If you are seeking appointment as a community interest director, you also must be able to demonstrate that you are a director, officer, employee, or member of an organization that has represented consumer or community interests on banking services, credit needs, housing, or financial consumer protections for at least two years.

If you meet this requirement, provide the name and address of the organization, specify your association with the organization, and describe how the organization represents consumer or community interests.

_____	_____
Name of organization	**Your title or position**

_____	_____	_____	_____
Street	**City**	**State**	**Zip code**

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Describe how the organization represents consumer or community interests:

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4. ***Conflicts of interest.*** The statute prohibits an appointive director from serving as an officer or director of any member of the Bank on whose board the director serves, and from owning any shares or other financial interest in any member of the Bank on whose board the directors serves. If you have any such financial interests, you will have to divest them before you can become a director of the Bank.

For purposes of this conflict of interest provision, the term "member" includes the member institution itself, as well as any subsidiary, holding company, and affiliate. Thus, you may not own bank holding company stock or bonds if a subsidiary of the holding company is a member of your Bank.

The term "financial interest" is broadly defined, and includes any "direct or indirect financial interest in any activity, transaction, property, or relationship that involves receiving or providing something of monetary value," and "any right, contractual or otherwise, to the payment of money." Finance Board regulations exclude from this prohibition financial interests that arise in the normal course of business with a member and are on terms generally available to the public, such as having money on deposit with, or obtaining a loan from, a financial institution that is a member of your Bank. Other types of business relationships with a Bank member – such as engaging in a joint venture or providing goods or services – may constitute a prohibited "financial interest" for these purposes.

A "direct" financial interest includes any interests that you hold in your own name, either as a sole or joint owner. An "indirect" financial interest includes other situations where you have a beneficial interest or the interest is held by a member of your immediate family. Thus, the financial interests of your spouse or minor child generally will be attributed to you, as will interests held through a trust or similar arrangement. Because indirect interests often present complex factual situations, you may wish to consult with Bank or Finance Board staff to determine whether particular interests must be disclosed and/or divested. Ownership of shares of a registered investment company (mutual fund) that owns debt or equity instruments issued by a member is not barred by this prohibition.

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A. If you own any equity or debt securities issued by a member of the Bank on whose board you would serve, or have any other financial interest in a member of that Bank, please list those interests below.

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B. Do you agree to divest such interests before becoming an appointive director of that Bank? **Yes** ___ **No** ___

SELECTION CRITERIA

The Banks are multi-billion dollar financial institutions, the principal business of which is to borrow funds in the capital markets and then provide secured loans to their members. The size and nature of the Banks' business requires that each Bank have a board of directors that possesses expertise in areas such as capital markets transactions, asset/liability management, the use of derivatives, accounting and financial modeling, mortgage markets, affordable housing, community investment, and legal/regulatory compliance. In making appointments to the boards of the Banks, the Finance Board seeks persons who have broad business leadership experience, are financially literate, and have a commitment to serving on the board, as well as experience in one or more of the above areas.

1. ***Leadership Experience.*** Bank directors should have experience in senior management or policy-making in one or more fields of business, government, education, or community/civic affairs, and should have a record of achievement in their chosen profession or field of business. This experience should provide directors with the ability to understand the business of the Bank, to act independently, and to ask Bank management appropriate questions about how they are conducting Bank business.

A. If you have ever served as the CEO, CFO, COO, or in a similar capacity for a business enterprise, or as a dean or senior faculty member at a prominent college or university, or as a senior official for a federal or state government or prominent nonprofit organization, please provide the details for those positions, including the dates of service and the positions held.

B. If you have other experience dealing with issues such as developing or implementing business strategies, overseeing regulatory compliance, corporate governance, or board operations, or have previously served on the board of a large business enterprise, please describe those experiences.

C. If you have other significant business or professional achievements that demonstrate your ability to lead an organization please describe them.

2. *Business Knowledge.* Bank directors must be financially literate, meaning that they must be familiar with how financial statements and various financial ratios are used in managing a business enterprise, how basic accounting conventions apply to the Bank, and how internal controls are used to manage risk. They also must have some knowledge about one or more of the areas of the Bank's business, such as mortgage finance, capital markets transactions, accounting/modeling practices, affordable housing, community and economic development, and legal and regulatory compliance.

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A. Do you know how to read and understand a financial statement, and do you understand how financial ratios and other indices are used for evaluating the performance of a business enterprise? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you gained that knowledge.

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B. Do you have a working familiarity with basic finance and accounting practices, including internal controls and risk management? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you acquired that knowledge.

_____

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C. Do you have experience with financial accounting and corporate finance, particularly with a publicly traded company? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

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D. Do you have experience in capital market transactions? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

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E. Do you have experience in an organization providing financing for residential mortgages, housing for low or moderate income individuals and families, or real estate development? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

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F. Have you served in any position that required an understanding of the legal and other fiduciary obligations associated with being an independent director? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

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G. The mission of the Banks is to support the housing finance activities of their members, which includes residential mortgage finance and community and economic development lending activities. Please describe any prior experience that is related to the mission of the Banks.

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3. ***Commitment to Service.*** In order to serve effectively on the board of a Bank, a director must be able to attend the meetings of the board of directors and subcommittees on which the director serves, and to devote the time necessary to prepare for those meetings.

A. Do you have any other business or professional commitments that would hinder your ability to prepare for and attend board of director and committee meetings? **Yes** ___ **No** ___ If so, please describe the constraints on your ability to serve.

_____

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_____

B. If you serve on any other corporate boards, please provide the name and location of the organization, your role (*e.g.*, chair and committee assignments), and the term of service.

Name of organization	Your role	Term
Name of organization	Your role	Term
Name of organization	Your role	Term

4. ***Personal Integrity.*** Character is an important consideration in evaluating any prospective Bank director. All directors must have high ethical standards and integrity in both their personal and professional dealings. Please indicate whether you ever have been convicted of a felony, been found to have violated any federal or state civil laws relating to the securities, banking, housing or real estate industries, or have had a professional license suspended or revoked. **Yes** ___ **No** ___ If you answered **Yes**, please explain.

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5. ***Independence.*** It is essential that an appointive director be able act independently of management in overseeing the policy and operations of a Bank, and not have any relationships that may create actual or apparent conflicts of interest. Please disclose whether you have any familial or business relationships with any members of Bank management or the board of directors of the Bank, and any other relationship(s) that might lead a reasonable person to question your independence. **Yes** ___ **No** ___

If you answered **Yes**, please explain below.

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6. ***Other Experience and Education.*** Please provide a copy of your resume that describes other business, professional, or educational achievements that are not described in the responses to the questions above.

BY EXECUTING AND SUBMITTING THIS APPLICATION FORM, YOU ARE CERTIFYING THAT THE INFORMATION YOU PROVIDED IS TRUE, CORRECT, AND COMPLETE TO THE BEST OF YOUR KNOWLEDGE AND THAT YOU AGREE TO SERVE AS A DIRECTOR IF APPOINTED.

_____ _____

Signature Date

Expires 11/30/2007
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