

## SUBCHAPTER D—FEDERAL HOME LOAN BANK MEMBERS AND HOUSING ASSOCIATES

### PART 925—MEMBERS OF THE BANKS

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AUTHORITY: 12 U.S.C. 1422, 1422a, 1422b, 1423, 1424, 1426, 1430, 1442.

SOURCE: 58 FR 43542, Aug. 17, 1993, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000.

#### Subpart A—Definitions

##### § 925.1 Definitions.

For purposes of this part:

*Adjusted net income* means net income, excluding extraordinary items such as income received from, or expense incurred in, sales of securities or fixed assets, reported on a regulatory financial report.

*Aggregate unpaid loan principal* means the aggregate unpaid principal of a subscriber's or member's home mortgage loans, home-purchase contracts and similar obligations.

*Allowance for loan and lease losses* means a specified balance-sheet account held to fund potential losses on loans or leases, that is reported on a regulatory financial report.

*Appropriate regulator* means a regulatory entity listed in § 925.8, as applicable.

*Combination business or farm property* means real property for which the total appraised value is attributable to residential, and business or farm uses.

*Community financial institution or CFI* means an institution:

(1) The deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811, *et seq.*); and

(2) That has, as of the date of the transaction at issue, less than the community financial institution asset cap in total assets, based on an average of total assets over three years, which shall be calculated by the Bank based on the average of total assets drawn from the institution's regulatory financial reports filed with its appropriate regulator for the most recent calendar quarter and the immediately preceding 11 calendar quarters.

*Community financial institution asset cap* means, for 2000, \$500 million. Beginning in 2001 and for subsequent years, the cap shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the U.S. Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board shall publish notice by the FEDERAL REGISTER of the CPI-adjusted cap.

*Composite regulatory examination rating* means a composite rating assigned to an institution following the guidelines of the Uniform Financial Institutions Rating System (Issued by the Federal Financial Institutions Examination Council; for availability contact the Federal Housing Finance Board, FOIA Office, 1777 F Street, NW., Washington, DC 20006), including a CAMEL rating, a MACRO rating, or other similar rating, contained in a written regulatory examination report.

*Consolidation* includes a consolidation, a merger, or a purchase of all of the assets and assumption of all of the liabilities of an entity by another entity.

*Dwelling unit* means a single room or a unified combination of rooms designed for residential use.

*Enforcement action* means any written notice, directive, order or agreement initiated by an applicant for Bank membership or by its appropriate regulator to address any operational, financial, managerial or other deficiencies of the applicant identified by such regulator, but does not include a board of directors resolution adopted by the applicant in response to examination weaknesses identified by such regulator.

*Funded residential construction loan* means the portion of a loan secured by real property made to finance the on-site construction of dwelling units on one-to-four family property or multifamily property disbursed to the borrower.

*Home mortgage loan* means:

(1) A loan, whether or not fully amortizing, or an interest in such a loan, which is secured by a mortgage, deed of trust, or other security agreement that creates a first lien on one of the following interests in property:

(i) One-to-four family property or multifamily property, in fee simple;

(ii) A leasehold on one-to-four family property or multifamily property under a lease of not less than 99 years that is renewable, or under a lease having a period of not less than 50 years to run from the date the mortgage was executed; or

(iii) Combination business or farm property where at least 50 percent of the total appraised value of the combined property is attributable to the residential portion of the property or, in the case of any community financial institution, combination business or farm property, on which is located a permanent structure actually used as a residence (other than for temporary or seasonal housing), where the residence constitutes an integral part of the property; or

(2) A mortgage pass-through security that represents an undivided ownership interest in:

(i) Long-term loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of paragraph (1) of this definition; or

(ii) A security that represents an undivided ownership interest in long-term loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of paragraph (1) of this definition.

*Insured depository institution* means an insured depository institution as defined in section 2(12) of the Act (12 U.S.C. 1422(12)).

*Long-term* means a term to maturity of five years or greater.

*Manufactured housing* means a manufactured home as defined in section

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603(6) of the Manufactured Home Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5402(6)).

*Multifamily property* means:

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

(2) Real property that includes five or more dwelling units combined with commercial units, provided that the property is primarily residential; or

(3) Nursing homes, dormitories, or homes for the elderly.

*Nonperforming loans and leases* means the sum of the following, reported on a regulatory financial report:

(1) Loans and leases that have been past due for 90 days (60 days in the case of credit union applicants) or longer but are still accruing;

(2) Loans and leases on a nonaccrual basis; and

(3) Restructured loans and leases (not already reported as nonperforming).

*Nonresidential real property* means real property that is not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, educational and charitable institution buildings or facilities, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property.

*One-to-four family property* means:

(1) Real property that is solely residential, including one-to-four family dwelling units or more than four family dwelling units if each dwelling unit is separated from the other dwelling units by dividing walls that extend from ground to roof, such as row houses, townhouses or similar types of property;

(2) Manufactured housing if applicable state law defines the purchase or holding of manufactured housing as the purchase or holding of real property;

(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 which includes one-to-four family dwelling units combined with commercial units, provided the property is primarily residential.

*Other real estate owned* means all other real estate owned (i.e., foreclosed and repossessed real estate), reported on a regulatory financial report, and does not include direct and indirect investments in real estate ventures.

*Regulatory examination report* means a written report of examination prepared by the applicant's appropriate regulator, containing, in the case of insured depository institution applicants, a composite rating assigned to the institution following the guidelines of the Uniform Financial Institutions Rating System, including a CAMEL rating, a MACRO rating, or other similar rating.

*Regulatory financial report* means a financial report that an applicant is required to file with its appropriate regulator on a specific periodic basis, including the quarterly call report for commercial banks, thrift financial report for savings associations, quarterly or semi-annual call report for credit unions, the National Association of Insurance Commissioners' annual or quarterly report for insurance companies, or other similar report, including such report maintained by the appropriate regulator on a computer on-line database.

*Residential mortgage loan* means any one of the following types of loans, whether or not fully amortizing:

(1) Home mortgage loans;

(2) Funded residential construction loans;

(3) Loans secured by manufactured housing whether or not defined by state law as secured by an interest in real property;

(4) Loans secured by junior liens on one-to-four family property or multi-family property;

(5) Mortgage pass-through securities representing an undivided ownership interest in:

(i) Loans that meet the requirements of paragraphs (1) through (4) of this definition at the time of issuance of the security;

(ii) Securities representing an undivided ownership interest in loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of paragraphs (1) through (4) of this definition; or

(iii) Mortgage debt securities as defined in paragraph (6) of this definition;

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(6) Mortgage debt securities secured by:

(i) Loans, provided that, at the time of issuance of the security, substantially all of the loans meet the requirements of paragraphs (1) through (4) of this definition;

(ii) Securities that meet the requirements of paragraph (5) of this definition; or

(iii) Securities secured by assets, provided that, at the time of issuance of the security, all of the assets meet the requirements of paragraphs (1) through (5) of this definition;

(7) Home mortgage loans secured by a leasehold interest, as defined in paragraph (1)(ii) of the definition of “home mortgage loan,” except that the period of the lease term may be for any duration; or

(8) Loans that finance properties or activities that, if made by a member, would satisfy the statutory requirements for the CIP established under section 10(i) of the Act (12 U.S.C. 1430(i)), or the regulatory requirements established for any CICA program.

*Total assets* means the total assets reported on a regulatory financial report.

[67 FR 12846, Mar. 20, 2002]

### Subpart B—Membership Application Process

SOURCE: 61 FR 42543 Aug. 16, 1996, unless otherwise noted.

#### § 925.2 Membership application requirements.

(a) *Application.* An applicant for membership in a Bank shall submit to that Bank an application that satisfies the requirements of this part. The application shall include a written resolution or certification duly adopted by the applicant’s board of directors, or by an individual with authority to act on behalf of the applicant’s board of directors, of the following:

(1) *Applicant review.* Applicant has reviewed the requirements of this part and, as required by this part, has provided to the best of applicant’s knowledge the most recent, accurate and complete information available; and

(2) *Duty to supplement.* Applicant will promptly supplement the application

with any relevant information that comes to applicant’s attention prior to the Bank’s decision on whether to approve or deny the application, and if the Bank’s decision is appealed pursuant to § 925.5 of this part, prior to resolution of any appeal by the Finance Board.

(b) *Digest.* The Bank shall prepare a written digest for each applicant stating whether or not the applicant meets each of the requirements in §§ 925.6 to 925.18 of this part, the Bank’s findings and the reasons therefor.

(c) *File.* The Bank shall maintain a membership file for each applicant for at least three years after the Bank decides whether to approve or deny membership and the resolution of any appeal to the Finance Board. The membership file shall contain at a minimum:

(1) *Digest.* The digest required by paragraph (b) of this section.

(2) *Required documents.* All documents required by §§ 925.6 to 925.18 of this part, including those documents required to establish or rebut a presumption under this part, shall be described in and attached to the digest. The Bank may retain in the file only the relevant portions of the regulatory financial reports required by this part. If an applicant’s appropriate regulator requires return or destruction of a regulatory examination report, the date that the report is returned or destroyed shall be noted in the file.

(3) *Additional documents.* Any additional document submitted by the applicant, or otherwise obtained or generated by the Bank, concerning the applicant.

(4) *Decision resolution.* The decision resolution described in § 925.3(b) of this part.

[61 FR 42543, Aug. 16, 1996, as amended at 63 FR 40023, July 27, 1998; 65 FR 8261, Feb. 18, 2000; 70 FR 9510, Feb. 28, 2005]

#### § 925.3 Decision on application.

(a) *Authority.* The Finance Board authorizes the Banks to approve or deny all applications for membership, subject to the requirements of this part. The Bank may delegate the authority to approve membership applications only to a committee of the Bank’s board of directors, the Bank president,