

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 2000-9]

Election Cycle Reporting by Authorized Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comment on proposed rules to require authorized committees of Federal candidates to aggregate, itemize and report all receipts and disbursements on an election-cycle basis rather than on the current calendar-year-to-date basis. This requirement reflects recent changes in the Federal Election Campaign Act of 1971. The intent of these proposed rules is to simplify recordkeeping and reporting requirements for authorized committees of Federal candidates and to better disclose receipts and disbursements that occur during an election cycle. Please note that the draft rules that follow do not represent a final decision by the Commission on the issues presented by this rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before June 2, 2000.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. Faxed comments should be sent to (202) 219-3923, with printed copy follow-up to insure legibility. Electronic mail comments should be sent to ecyclereport@fec.gov. Commenters sending comments by electronic mail must include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter

will not be considered. The Commission will make every effort to have public comments posted on its web site within ten business days of the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary Smith, Assistant General Counsel, or Cheryl Fowle, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On September 29, 1999, Public Law 106-58 amended section 434(b) of the Federal Election Campaign Act of 1971 ("the Act" or "FECA") to require, *inter alia*, that the Commission draft rules requiring the authorized committees of Federal candidates to aggregate and report their receipts and disbursements¹ on an election-cycle-to-date basis, rather than a calendar-year-to-date basis, as is currently required. The new law requires these rules to be effective for reports covering periods after December 31, 2000.

The new law also requires the Commission to amend its regulations to add a system of administrative fines for violations of the reporting requirements, and to require persons to file electronically if their aggregate contributions or expenditures within a calendar year are, or are expected to be, above a certain threshold amount. These two topics are being addressed in two separate rulemakings. See Notice of Proposed Rulemaking, 65 FR 16534 (March 29, 2000) and Notice of Proposed Rulemaking, 65 FR 19339 (April 11, 2000).

The Commission is seeking public comment on proposed amendments to 11 CFR 104.3, 104.7, 104.8 and 104.9 to implement the new statutory requirements regarding election-cycle reporting. Current Commission regulations at 11 CFR 104.3 and 104.8

¹ While the amendment requires all disbursements including operating expenditures to be aggregated and reported on an election-cycle basis, it does not require that operating expenditures be itemized on an election-cycle basis. Thus, the effect of the amendment is that operating expenditures would be reported on the summary pages on an election-cycle basis and itemized on Schedule B on a calendar-year basis. On March 10, 2000, the Commission submitted to Congress a legislative recommendation that Congress amend the FECA by requiring operating expenditures to be itemized on an election cycle basis rather than on a per calendar year basis. The proposed rules proceed on the assumption that Congress will pass an amendment to the Act to correct this inconsistency prior to the January 1, 2001, effective date required by Public Law 106-58.

require authorized committees of Federal candidates to aggregate contributions from each contributor on a per-election basis for purposes of the contribution limits, but to report them on a calendar-year-to-date basis.² Other receipts are both aggregated and reported on a calendar-year-to-date basis. Under 11 CFR 104.3 and 104.9, disbursements are both aggregated and reported on a calendar-year-to-date basis. The goals of the amendment to the FECA and the proposed rules are to simplify recordkeeping and reporting for authorized committees by itemizing contributions, other receipts, and disbursements on the same election-cycle-to-date basis, and to provide the public with more relevant information for the current election cycle. 145 Cong. Rec. E1896-02, September 17, 1999 (statement of Hon. William M. Thomas).

Please note that this amendment to the FECA does not affect unauthorized committees and the Commission does not anticipate issuing new rules modifying the calendar year reporting system they currently use, or changing the forms they file.³

Definition of Election Cycle

Under current 11 CFR 100.3(b), an election cycle begins on the day after the general election for the office or seat that the candidate seeks and ends on the day of the next general election for that seat or office.⁴ For example, for many candidates for the House of Representatives, the 2004 election cycle begins the day after the general election in 2002 and will end on the day of the general election in 2004. Please note that the length of the election cycle varies depending on the office sought.

² The Commission notes that publicly funded Presidential candidates are required to provide in their matching fund submissions, contributor information for contributors whose aggregate contributions exceed \$200 per calendar year. 11 CFR 9036.1(b)(2). Since this is an issue of matching fund submissions and not a reporting issue, the Commission does not intend to change the matching fund regulations while submissions are being made with respect to the 2000 election.

³ On March 10, 2000, the Commission sent a legislative recommendation to Congress recommending a clarifying amendment that would remove the election cycle language from 2 U.S.C. 434(b)(6)(B)(iii) and (v) because 2 U.S.C. 434(b)(6)(B) applies solely to unauthorized committees.

⁴ Please note that in the case of a runoff election after the general election, the election cycle would end on the day of the runoff election. Advisory Opinions 1993-2 and 1983-16.

The election cycle is two years for candidates for the House of Representatives, six years for Senate candidates and four years for Presidential candidates.

For purposes of the contribution limits of 2 U.S.C. 441a and 11 CFR 110.1 and 110.2, contributions are aggregated on per election basis. See *FEC v. Haley*, 852 F.2d 1111, (1988) (“*Haley*”). Contribution aggregation regulations at 11 CFR 110.1 and 110.2 state that post-election contributions can only be made to the extent the recipient committee has net debts outstanding, and these contributions must be properly designated for the previous election. 11 CFR 110.1(b)(3)(i) and 110.2(b)(3)(i). Those regulations further require that any undesignated post-election contributions be applied to the donor’s contribution limit for the next election in which the recipient will be a candidate. In *Haley*, the Ninth Circuit Court of Appeals upheld the Commission’s aggregation regulations at 11 CFR 110.1, ruling that post-election loan guarantees for a loan used to retire general-election debt were contributions subject to the limits and aggregation rules in Part 110 of 11 CFR.⁵

Changes to FEC Forms 3 and 3P

The Commission recognizes that the amendment to the FECA and the proposed regulations will necessitate several changes to both the paper and electronic FEC Form 3 (used by House and Senate candidates’ authorized committees to report receipts and disbursements) and FEC Form 3P (used by Presidential candidates’ committees to report receipts and disbursements). While most of the changes to the forms would consist of renaming headings and redrafting certain instructions, Forms 3 and 3P for the post-general election report would have to be substantively changed. Section 434(a)(2)(A)(ii) of the Act and 11 CFR 104.5 require that committees file post-general election reports covering the period from the 19th day before the general election to the twentieth day after the general election. Thus, the post-general election covers two election cycles. Similarly, two election cycles will be covered in the year-end report for candidates who did not participate in the most recent

general election (and therefore did not file a post-general election report). Comments are sought as to the simplest and easiest way for committees to report separately the financial activity for each cycle, given that the activity occurred within the time period covered by the post-general election report or year-end report.

Best Efforts

Under current 11 CFR 104.7, treasurers are required to exercise best efforts to obtain, maintain and report certain identifying information for contributors whose contributions aggregate in excess of \$200 in a calendar year. The Commission is proposing to amend paragraph (b) of 11 CFR 104.7 to change the references to \$200 in a *calendar year* to \$200 in an *election cycle* with regard to contributions itemized by authorized committees. This revision would be consistent with the proposed changes to the regulations at 11 CFR 104.3 requiring authorized committees to itemize contributions from any contributor aggregating in excess of \$200 per election cycle. Also under the current regulations at 11 CFR 104.7(b), written solicitations are required to contain a clear statement requesting contributor information. The current regulations give two examples of clear statements. The Commission is considering adding two additional examples at 11 CFR 104.7(b)(1)(i)(B) for authorized committees.

Current paragraph (b)(3) of 11 CFR 104.7 requires committees to disclose contributor information not supplied by the contributor if the committees have the information in their records or reports filed within the same “two-year election cycle.” Paragraph (b)(4)(ii) of 11 CFR 104.7 requires that if committees file an amendment containing contributor information received after contributions are disclosed, that they must amend every report containing itemized contributions from those contributors for the “two-year election cycle.” The Commission seeks comments on possibly revising paragraphs (b)(3) and (b)(4)(ii) to require authorized committees to supply information found in reports filed within the entire election cycle and to amend all reports disclosing itemized contributions from the contributor during the election cycle. This would require authorized committees to maintain copies of records and reports for the entire election cycle (two, four or six years for House, Presidential and Senate candidates respectively). However, the FECA requires committees to maintain records and reports for a period of three years. 2 U.S.C. 432(d).

Since these revisions to 11 CFR 104.7(b)(3) and (b)(4)(ii) would require some authorized committees to maintain records for a longer period of time than the FECA requires, the Commission has not included these changes in the proposed rules that follow.

Two Alternatives Regarding Election Cycles

The Commission is seeking comments on two alternatives, neither of which has been included in the proposed rules set out below.

Alternative 1

The first alternative would be to add a new paragraph (c) to 11 CFR 104.1 stating that for reporting purposes only, authorized committees shall begin the “election cycle” on January 1 of the year following the general election for a seat or office and shall end the election cycle on December 31 of the calendar year in which the next general election for that seat or office is held (e.g., January 1, 2003, to December 31, 2004, for House candidates). This approach has the advantage of causing less change to current reporting practices and avoiding the need to include election-cycle-to-date figures for two different election cycles in post-general election reports (or year-end reports where no post-general report is filed). Under this alternative, post-general-election contributions received after the general election but before January 1 of the following year would be reported in the election cycle to date totals corresponding to the election cycle in which the general election was held, even though these contributions might count toward the limits for a different election. This approach would introduce a definition of election cycle into the regulations that is different than the one in current 11 CFR 100.3(b) which relates to determining whether an individual is a candidate. To avoid any confusion, a new cross-reference sentence would be added to paragraph 100.3(b) to explain that for reporting purposes, the term *election cycle* is defined at paragraph 104.1(c).

Alternative 2

Under the second alternative approach, which has not been included in the proposed rules set out below, for both reporting and contribution limit purposes, authorized committees would begin the election cycle on the twenty-first day after the general election for the seat or office the candidate is seeking (the day after the end of the post-general election reporting period) and end the election cycle on the twentieth day after

⁵ At the time of the *Haley* loan guarantees in 1983, 11 CFR 110.1 stated that properly designated post-primary contributions were allowed only to the extent that the recipient committee had net debts outstanding. AO 1977-24 interpreted these rules to apply also to post-general election contributions. The regulations were clarified in a 1987 rulemaking. See Explanation and Justification for Rules on Contributions by persons other than multicandidate committees, 52 FR 761, (January 9, 1987).

the next general election for the seat or office the candidate is seeking (the day the post-general reporting period ends for that election). Under this alternative, both 11 CFR 100.3(b) (election cycle definition) and 11 CFR 104.3 (reporting) would be amended. In addition, the contribution aggregation regulations at 11 CFR 110.1 and 110.2 would be changed to modify the attribution date of undesignated contributions for a general election from election day to the twentieth day after the election. For example, an undesignated contribution made on or before the twentieth day after the election would be considered as aggregating to the contributor's contribution limit for the general election that was just held. Undesignated contributions made after the twentieth day would count toward the contributor's limit for the next election in which the recipient is a candidate.

This alternative would obviate the issue of the post-general election report covering two election cycles. Nevertheless, for candidates who did not participate in the general election (and therefore who do not file a post-general election report), the year-end report would cover activity occurring both before the twentieth day after the election and after the twentieth day, and thus, would cover two election cycles. If the Commission adopts this alternative, it will need to consider which advisory opinions, if any need to be modified or superseded. Another consideration may be whether this change is advisable in light of the *Haley* decision, absent a change in the FECA.

Aggregation of Past Financial Activity

The amendment to the Act requires that the new rules be in effect for reporting periods beginning after December 31, 2000. Consequently, receipts and disbursements made between November 8, 2000 (the day after the general election) and December 31, 2000 will be reported in the year-to-date totals for 2000 in the post-general election report and the year-end report. However, under proposed paragraph (k) of 11 CFR 104.3, these amounts must also be included in the election-cycle-to-date aggregation totals that are reported beginning in 2001. Similarly, some candidates for U.S. Senate in 2002 and 2004 and possibly some Presidential candidates for the 2004 election may have two, three, four or more years of previously reported receipts and disbursements. These amounts must also be included in the election-cycle-to-date figures reported on the first report covering financial activity occurring in 2001.

On the Detailed Summary Page of each report filed for the first election cycle during which these rules take effect, election-cycle-to-date totals should be reported for each category of receipts (except itemized and unitemized contributions from individuals) and each category of disbursements. Please note that the Commission is creating a one-time worksheet to assist authorized committees in aggregating election-cycle-to-date data because this might require some committees to aggregate several years of previously reported receipts and disbursements. However, the Commission does not anticipate making any changes to either the detailed summary page, or schedules of contributions or expenditures, that would necessitate the filing of amendments to reports covering pre-2001 financial activity. The Commission is also considering possible changes to its databases to reflect the election-cycle totals. The Commission welcomes comments on the proposed approach as well as on other alternatives to address these issues.

The Commission seeks comments on the proposed revisions to 11 CFR 104.3, 104.7, 104.8 and 104.9, on the alternatives discussed above, and on any other issues raised by the new statutory requirements regarding election cycle reporting.

List of Subjects in 11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

These proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The only small entities subject to these proposed regulations are candidates for Federal office and their authorized committees. The proposed rules implement statutory reporting requirements that Congress enacted to reduce inadvertent violations of the contribution limits. Therefore, there would be no significant economic impact on a substantial number of small entities.

For the reasons set out in the preamble, subchapter A, chapter I of title 11 of the Code of Federal Regulations is proposed to be amended as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES

1. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b), 439a.

2. Section 104.3 would be amended by revising paragraph (a) introductory text, paragraph (a)(3) introductory text, paragraph (a)(4) introductory text, paragraphs (a)(4)(i), (v) and (vi), paragraph (b) introductory text paragraph (b)(2) introductory text, paragraphs (b)(4)(i) and (vi), paragraph (c) introductory text, and paragraph (i), and by adding paragraph (k) to read as follows:

§ 104.3 Contents of reports (2 U.S.C. 434(b), 439a).

(a) *Reporting of receipts.* Each report filed under § 104.1 shall disclose the total amount of receipts for the reporting period and for the calendar year (or for the election cycle, in the case of an authorized committee) and shall disclose the information set forth at paragraphs (a)(1) through (a)(4) of this section. The first report filed by a committee shall also include all amounts received prior to becoming a political committee under § 100.5 of this chapter, even if such amounts were not received during the current reporting period.

* * * * *

(3) *Categories of receipts for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the election cycle in each of the following categories:

* * * * *

(4) *Itemization of receipts for all committees including authorized and unauthorized committees.* The identification (as defined at § 100.12 of this chapter) of each contributor and the aggregate year-to-date (or aggregate election-cycle-to-date, in the case of an authorized committee) total for such contributor in each of the following categories shall be reported.

(i) Each person, other than any committee, who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions aggregate in excess of \$200 per calendar year (or per election cycle in the case of an authorized committee), together with the date of receipt and amount of any such contributions, except that the reporting committee may elect to report such information for contributors of lesser amount(s) on a separate schedule;

* * * * *

(v) Each person who provides a rebate, refund or other offset to

operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year (or within the election cycle, in the case of an authorized committee), together with the date and amount of any such receipt; and

(vi) Each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year (or within the election cycle, in the case of an authorized committee), together with the date and amount of any such receipt.

(b) *Reporting of Disbursements.* Each report filed under § 104.1 shall disclose the total amount of all disbursements for the reporting period and for the calendar year (or for the election cycle, in the case of an authorized) and shall disclose the information set forth at paragraphs (b)(1) through (b)(4) of this section. The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under § 100.5 of this chapter, even if such amounts were not disbursed during the current reporting period.

* * * * *

(2) *Categories of disbursements for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the election cycle in each of the following categories:

* * * * *

(4) * * *

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the election cycle is made by the reporting committee to meet the committee's operating expenses, together with the date, amount and purpose of each expenditure.

* * * * *

(vi) Each person who has received any disbursement(s) not otherwise disclosed under paragraph (b)(4) of this section to whom the aggregate amount or value of such disbursements exceeds \$200 within the election cycle, together with the date, amount, and purpose of any such disbursement.

(c) *Summary of contributions and operating expenditures.* Each report filed pursuant to § 104.1 shall disclose for both the reporting period and the calendar year (or the election cycle, in the case of the authorized committee):

* * * * *

(i) *Cumulative reports.* The reports required to be filed under § 104.5 shall be cumulative for the calendar year (or for the election cycle, in the case of an authorized committee) to which they relate, but if there has been no change in a category reported in a previous report during that year (or during that election cycle, in the case of an authorized committee), only the amount thereof need be carried forward.

* * * * *

(k) *Reporting election cycle activity occurring prior to January 1, 2001.* The aggregate of each category of receipt listed in § 104.3(a)(3), except those in § 104.3(a)(3)(i)(A) and (B), and for each category of disbursement listed in § 104.3(b)(2) shall include amounts received or disbursed on or after the day after the last general election for the seat or office for which the candidate is running through December 31, 2000.

3. Section 104.8 would be amended by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 104.8 Uniform reporting of receipts.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of \$200 to the committee's federal account(s). This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If an individual contributor's name is known to have changed since an earlier contribution reported during the calendar year (or during the election cycle, in the case of an authorized committee), the exact name or address previously used shall be noted with the first reported contribution from that contributor subsequent to the name change.

(b) In each case where a contribution received from an individual in a reporting period is added to previously unitemized contributions from the same individual and the aggregate exceeds \$200 in a calendar year (or in an election cycle, in the case of an authorized committee) the reporting committee shall disclose the identification of such individual along with the date of receipt and amount of any such contribution. * * *

* * * * *

4. Section 104.9 would be amended by revising paragraphs (a) and (b) as follows:

§ 104.9 Uniform reporting of disbursements.

(a) Political committees shall report the full name and mailing address of

each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year (or within the election cycle, in the case of an authorized committee) is made from the reporting committee's federal account(s), together with the date, amount and purpose of such expenditure, in accordance with paragraph (b) of this section. As used in this section, *purpose* means a brief statement or description as to the reasons for the expenditure. See 11 CFR 104.3(b)(3)(i)(A).

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds \$200 for the calendar year (or for the election cycle, in the case of an authorized committee), the reporting committee shall disclose the recipient's full name and mailing address on the prescribed reporting forms, together with the date, amount and purpose of such expenditure. As used in this section, *purpose* means a brief statement or description as to the reason for the disbursement as defined at 11 CFR 104.3(b)(3)(i)(A).

* * * * *

5. Section 104.7 would be amended by revising the introductory text of paragraph (b), paragraph (b)(1) and the first sentence of paragraph (b)(2) to read as follows:

§ 104.7 Best efforts (2 U.S.C. 432(i)).

* * * * *

(b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person whose contribution(s) to the political committee and its affiliated committees aggregate in excess of \$200 in a calendar year (or in an election cycle in the case of an authorized committee) (pursuant to 11 CFR 104.3(a)(4)), the treasurer and the committee will only be deemed to have exercised best efforts to obtain, maintain and report the required information if—

(1)(i) All written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications.

(A) The following are examples of acceptable statements for unauthorized committees, but are not the only allowable statements: "Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar

year;" and "To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year."

(B) The following are examples of acceptable statements for authorized committees, but are not the only allowable statements: "Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in an election cycle;" and "To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per election cycle."

(ii) The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation and response materials, or if the printing is difficult to read or if the placement is easily overlooked.

(2) For each contribution received aggregating in excess of \$200 per calendar year (or per election cycle, in the case of an authorized committee) which lacks required contributor information, such as the contributor's full name, mailing address, occupation or name of employer, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. * * *

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Dated: April 27, 2000.

Darryl R. Wold,

Chairman, Federal Election Commission.

[FR Doc. 00-10962 Filed 5-2-00; 8:45 am]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 940, 950, 955 and 956

[No. 2000-20]

RIN 3069-AA98

Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to add a new part 955 to its regulations to authorize the Federal Home Loan Banks (Banks) to hold acquired member assets (AMA) and to amend its recently adopted part 940 to enumerate the types of core mission assets (CMA) that must be addressed in the Banks' strategic business plans. The Finance Board is also proposing related changes to its regulations governing the Banks' investment and advances authorities.

DATES: Comments on this proposed rule must be received in writing on or before June 2, 2000.

ADDRESSES: Comments should be mailed to: Elaine L. Baker, Secretary to the Board, by electronic mail at bakere@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: James L. Bothwell, Director and Chief Economist, (202) 408-2821; Scott L. Smith, Deputy Director, (202) 408-2991; Ellen E. Hancock, Senior Financial Analyst, (202) 408-2906; Christina K. Muradian, Senior Financial Analyst, (202) 408-2584, Office of Policy, Research and Analysis; or Eric M. Raudenbush, Senior Attorney-Advisor, (202) 408-2932; Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

On November 12, 1999, the President signed into law the Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act), *see* Title VI of the Gramm-Leach-Bliley Act, Public Law 106-102 (1999), which amended the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1421 through 1449, among other things, to establish a new capital structure for the Banks, to authorize the Banks to accept additional types of collateral as security for advances, and to devolve to the Banks from the Finance Board full authority over their corporate governance, all subject to the rules and regulations of the Finance Board. In order to implement these and other statutory changes, the Finance Board has already adopted: a final rule devolving certain corporate governance authorities to the Banks, *see* 65 FR 13663 (March 14, 2000); an interim final rule conforming certain membership and advances requirements to the requirements of the

Modernization Act, *see* 65 FR 13866 (March 15, 2000); a final rule setting forth a corporate governance framework for the Banks, which was published in the **Federal Register** on May 1, 2000; a final rule reorganizing the Finance Board's regulations to better accommodate the substantive regulatory changes, *see* 65 FR 8253 (Feb. 18, 2000); and a proposed rule that would amend the Finance Board's advances collateral regulation and make other related changes to the regulations. In addition, the Finance Board intends to adopt a proposed rule on risk management and capital during the second quarter of 2000. By statute, the Finance Board is required to publish a final rule on capital by November of 2000.

Under the revised Bank Act and the new regulations, each Bank will have authority to engage in a wider range of asset activities than in the past, will have more discretion in establishing its capital structure, and will have more freedom to operate its business without the day-to-day involvement of the Finance Board. As the agency charged by Congress with the duty to ensure that the Banks carry out their statutory mission, *see* 12 U.S.C. 1422a(a), the Finance Board believes that it is especially important to keep the Banks focused on their mission as they exercise their expanded statutory and regulatory authorities. To this end, the Finance Board's recently-adopted final governance rule requires that each Bank's board of directors have in place at all times a strategic business plan that describes how the Bank's business activities will achieve the mission of the Bank (to be codified at 12 CFR 917.5). In order to clarify this requirement, the Finance Board established in its regulations a new part 940, which, in § 940.2 defines the "mission of the Banks" as providing to members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates financing of: (a) Housing, including single-family and multifamily housing serving consumers at all income levels; and (b) community lending. This definition of the mission of the Banks and the regulatory provisions that implement it are intended to ensure maximum use of the cooperative structure of the Bank System to provide funds for housing finance and community lending.

In order to further clarify the strategic business planning requirement, this proposed rule would enumerate in regulation those specific Bank activities that the Finance Board considers to be "core mission activities" (CMA); that is, those activities that are within the