

applicant that receives such conditional membership approval is subject to the stock purchase requirements of § 933.20 of this part and the advances provisions of 12 CFR part 935.

(ii) *Approval.* The applicant shall be deemed to be in compliance with the home financing policy requirement of section 4(a)(2)(C) of the Act and § 933.6(a)(6) of this part upon receipt by the Bank of evidence from the applicant that it received a CRA rating of “Satisfactory” or better on its first formal, or if unavailable, informal or preliminary, CRA performance evaluation.

(iii) *Conditional approval deemed null and void.* If the applicant’s first such CRA rating is “Needs to Improve” or “Substantial Non-Compliance,” the applicant shall be deemed to be in non-compliance with the home financing policy requirement of section 4(a)(2)(C) of the Act and § 933.6(a)(6) of this part, subject to rebuttal by the applicant under § 933.17(f) of this part, and its conditional membership approval is deemed null and void.

(iv) *Treatment of outstanding advances and Bank stock.* If the applicant’s conditional membership approval is deemed null and void pursuant to paragraph (a)(4)(iii) of this section, the liquidation of any outstanding indebtedness owed by the applicant to the Bank and redemption of stock of such Bank shall be carried out in accordance with § 933.29 of this part.

(b) *Newly chartered applicants that have recently commenced operations.* An insured depository institution applicant that is newly chartered and has commenced operations, is subject to the requirements of §§ 933.7 to 933.13 of this part except as provided in this paragraph (b).

(1) *10 percent requirement.* The applicant shall have until one year after commencing its initial business operations to meet the 10 percent requirement of § 933.10 of this part.

(2) *Financial condition requirement—(i) Regulatory financial reports.* For purposes of § 933.11(a)(1) of this part, if the applicant has not yet filed regulatory financial reports with its primary regulator for the last six calendar quarters and three year-ends preceding the date the Bank receives the application, the

applicant shall provide any regulatory financial reports that it has filed with its primary regulator.

(ii) *Recent composite regulatory examination rating.* For purposes of § 933.11(b)(1) and (3) of this part, if the applicant has not yet received a composite regulatory examination rating from its primary regulator or appropriate state regulator, the applicant shall provide a preliminary or informal, written composite regulatory examination rating, if available, from its primary regulator or appropriate state regulator.

(iii) *Performance trend criteria.* If the applicant has not yet filed regulatory financial reports with its primary regulator for the last six calendar quarters preceding the date the Bank receives its application for membership, the applicant need not meet the performance trend criteria in § 933.11(b)(3)(i)(A) to (C) of this part, if:

(A) *Reports for three quarters.* The applicant has filed regulatory financial reports with its primary regulator for at least three calendar quarters of operation; and

(B) *Business plan compliance.* The Bank determines that the applicant is in substantial compliance with the terms of its regulatory business plan.

(3) *Home financing policy requirement.* For purposes of § 933.13 of this part, an applicant that has not received its first formal, or if unavailable, informal or preliminary, CRA performance evaluation, is subject to the home financing policy requirements of paragraph (a)(4) of this section.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 3069-0004)

§ 933.15 Recent merger or acquisition applicants.

An applicant that merged with or acquired another institution prior to the date the Bank receives its application for membership is subject to the requirements of §§ 933.7 to 933.13 of this part except as provided in this section.

(a) *Financial condition requirement—(i) Regulatory financial reports.* For purposes of § 933.11(a)(1) of this part, an applicant that, as a result of a merger or acquisition preceding the date the

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Bank receives its application for membership, has not yet filed regulatory financial reports with its primary regulator for the last six calendar quarters and three year-ends preceding such date, shall provide any regulatory financial reports that the applicant has filed with its primary regulator.

(ii) *Performance trend criteria.* For purposes of § 933.11(b)(3)(i) (A) to (C) of this part, an applicant that, as a result of a merger or acquisition preceding the date the Bank receives its application for membership, has not yet filed combined regulatory financial reports with its primary regulator for the last six calendar quarters preceding such date, shall provide pro forma combined financial statements for those calendar quarters in which actual combined regulatory financial reports are unavailable.

(b) *Home financing policy requirement.* For purposes of § 933.13 of this part, an applicant that, as a result of a merger or acquisition preceding the date the Bank receives its application for membership, has not received its first formal, or if unavailable, informal or preliminary, Community Reinvestment Act performance evaluation, shall file as part of its application a written justification acceptable to the Bank of how and why the applicant's home financing credit policy and lending practices will meet the credit needs of its community.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 3069-0004)

§ 933.16 Financial condition requirement for insurance company applicants.

An insurance company applicant shall be deemed to meet the financial condition requirement of section 4(a)(2)(B) of the Act and § 933.6(a)(4) of this part, if, based on the information contained in the applicant's most recent regulatory financial report filed with its primary regulator, the applicant meets all of its minimum statutory and regulatory capital requirements and the capital standards established by the National Association of Insurance Commissioners.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 3069-0004)

§ 933.17 Rebuttable presumptions.

(a) *Rebutting presumptive compliance.* The presumption that an applicant meeting the requirements of §§ 933.7 to 933.16 of this part is in compliance with section 4(a) of the Act and § 933.6 (a) and (b) of this part, may be rebutted, and the Bank may deny membership to the applicant, if the Bank obtains substantial evidence to overcome the presumption of compliance.

(b) *Rebutting presumptive noncompliance.* The presumption that an applicant not meeting a particular requirement of §§ 933.8, 933.11, 933.12, 933.13, or 933.16 of this part is in noncompliance with section 4(a) of the Act and § 933.6(a) (2), (4), (5) or (6) of this part, may be rebutted, and the applicant shall be deemed to meet such requirement, if the applicable requirements in this section are satisfied.

(c) *Presumptive noncompliance by insurance company applicant with "subject to inspection and regulation" requirement of § 933.8.* If an insurance company applicant is not subject to inspection and regulation by an appropriate state regulator accredited by the National Association of Insurance Commissioners (NAIC), as required by § 933.8 of this part, the applicant or the Bank shall prepare a written justification that provides substantial evidence acceptable to the Bank that the applicant is subject to inspection and regulation as required by § 933.6(a)(2) of this part, notwithstanding the lack of NAIC accreditation.

(d) *Presumptive noncompliance with financial condition requirements of §§ 933.11 and 933.16—(1) Applicants other than insurance companies.* For applicants other than insurance companies, in the case of an applicant's lack of a composite regulatory examination rating within the two-year period required by § 933.11(b)(1) of this part, a variance from the rating required by § 933.11(b)(3)(i) of this part, or a variance from a performance trend criterion required by § 933.11(b)(3)(i) of this part, the applicant or the Bank shall prepare a written justification pertaining to such requirement that provides