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(ii) A binding order to produce the confidential information has become final with all rights of appeal either exhausted or lapsed.

(3) *Nondisclosure to third parties.* Except as provided in paragraph (f)(2) of this section, a Bank shall not disclose confidential information to any third party. A Bank shall refer all third party requests for such confidential information to the Financial Regulatory Agency that released the confidential information to the Bank.

(4) *Disclosure to Board.* (i) Neither this section nor any confidentiality agreement executed between a Bank and a Financial Regulatory Agency shall prevent a Bank from disclosing confidential information in its possession to the Board whenever disclosure is necessary to accomplish the Board's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential information in its possession if such disclosure is made pursuant to an audit conducted pursuant to paragraph (d) of this section or section 20 of the Bank Act.

(ii) The Board shall keep all confidential information received under paragraph (f)(4) of this section in strict confidence.

(g) *Computer data.* This section shall not preclude a bank from arranging with any Financial Regulatory Agency to transmit or allow access to confidential information with the consent of such agency by means of an electronic computer system. Any such arrangement shall insure the security of the computerized data stored in a bank's computer and restrict access to such data in order to preserve confidentiality in a manner agreed upon by the bank and the Financial Regulatory Agency.

[55 FR 50545, Dec. 7, 1990. Redesignated at 60 FR 65516, Dec. 20, 1995, and further redesignated at 62 FR 26922, May 16, 1997]

§ 934.16 Approval of Bank bylaws.

The board of directors of a Bank may prescribe, amend, or repeal bylaws governing the manner in which the Bank administers its affairs without the Board's prior approval provided that the bylaws or amendments are consist-

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ent with applicable statutes, regulations, and Board policies.

[62 FR 65198, Dec. 11, 1997]

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PART 935—ADVANCES

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AUTHORITY: 12 U.S.C. 1422a(a)(3), 1422(b)(a)(1), 1426, 1429, 1430, 1430b, and 1431.

SOURCE: 58 FR 29469, May 20, 1993, unless otherwise noted.

Subpart A—Advances to Members

§ 935.1 Definitions.

As used in this part:  
*Act* means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).  
*Actual thrift investment percentage* or *ATIP* has the same meaning as used in

section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)), except that the ATIP will be calculated and applied for purposes of this part to all members of the Banks, whether or not they are savings associations.

*Advance* means a loan from a Bank that is:

- (1) Provided pursuant to a written agreement;
- (2) Supported by a note or other written evidence of the borrower's obligation; and
- (3) Fully secured by collateral in accordance with the Act and this part.

*Affordable Housing Program* or *AHP* means the program described in section 10(j) of the Act (12 U.S.C. 1430(j)) and part 960 of the Board's regulations.

*Appropriate Federal banking agency.* The term *appropriate Federal banking agency* has the same meaning as used in 12 U.S.C. 1813(q) and for federally insured credit unions shall mean the National Credit Union Administration.

*Bank* means a Federal Home Loan Bank established under the authority of the Act.

*Board* means the Federal Housing Finance Board established under the authority of the Act, its governing Board of Directors, or an official duly authorized to act on its behalf.

*Capital deficient member* means a member that fails to meet its minimum regulatory capital requirements as defined or otherwise required by the member's appropriate federal banking agency, insurer or, in the case of members that are not federally insured depository institutions, state regulator.

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

*Community Investment Program* or *CIP* means the program described in section 10(i) of the Act or a program established pursuant to section 10(j)(10) of the Act (12 U.S.C. 1430(i), (j)(10)).

*Depository institution* means a bank or savings association, as defined in 12 U.S.C. 1813, or a credit union, as defined in 12 U.S.C. 1752.

*Dwelling unit* means, for purposes of this part, a single room or a unified combination of rooms designed for residential use by one household.

*FDIC* means the Federal Deposit Insurance Corporation.

*GAAP* means Generally Accepted Accounting Principles.

*HUD* means the Department of Housing and Urban Development.

*Improved residential real property* means residential real property excluding real property to be improved, or in the process of being improved, by the construction of dwelling units.

*Insurer* means the Federal Deposit Insurance Corporation for "insured depository institutions" as defined in 12 U.S.C. 1813(c)(2) and the National Credit Union Administration for federally insured credit unions.

*Long-term advance* means, for the purposes of this part, an advance with an original term to maturity greater than five years.

*Manufactured housing* means a manufactured home as defined in section 603(6) of the Manufactured Home Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5402(6)).

*Member* means an institution that has been admitted to membership in a Bank and, pursuant to requirements established by the Board, has purchased capital stock in the Bank.

*Mortgage-backed security* means, for purposes of this part:

(1) An equity security representing an ownership interest in:

(i) Fully disbursed, whole first mortgage loans on improved residential real property; or

(ii) Mortgage pass-through or participation securities which are themselves backed entirely by fully disbursed, whole first mortgage loans on improved residential real property; or

(2) A collateralized mortgage obligation, mortgage-backed bond or other debt security backed entirely by the assets described in paragraph (1)(i) or (ii) of this section.

*Multifamily property* means, for purposes of this part:

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

(ii) Real property which includes five or more dwelling units with commercial units combined, provided the property is primarily residential.

(2) Multifamily property as defined in this section includes nursing homes, dormitories and homes for the elderly.

*Non-Qualified Thrift Lender member* means any member that does not meet the Qualified Thrift Lender test as defined in this part.

*Nonresidential real property* means, for purposes of this part, real property not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, educational and charitable institutions, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property, except as otherwise determined by the Board in its discretion.

*OCC* means the Office of the Comptroller of the Currency.

*One-to-four family property* means any of the following:

- (1) Real property containing:
  - (i) One-to-four dwelling units; or
  - (ii) More than four dwelling units if each unit is separated from the other units by dividing walls that extend from ground to roof, including row houses, townhouses or similar types of property;
- (2) Manufactured housing if:
  - (i) Applicable state law defines the purchase or holding of manufactured housing as the purchase or holding of real property; and
  - (ii) The loan to purchase the manufactured housing is secured by that manufactured housing;
- (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 containing one-to-four dwelling units with commercial units combined, provided the property is primarily residential.

*OTS* means the Office of Thrift Supervision.

*Qualified Thrift Lender* or *QTL* means the term as defined in section 10(m)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)). A non-savings association member which meets the QTL test as applied by the Banks will be treated as a QTL for purposes of this part.

*Qualified Thrift Lender test* or *QTL test* means the asset test described in section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)), except that the QTL test will be applied for purposes of this part to all members of the Banks, whether or not they are savings associations.

*Residential housing finance assets* means any of the following:

- (1) Loans secured by residential real property;
- (2) Mortgage-backed securities;
- (3) Participations in loans secured by residential real property;
- (4) Loans financed by CIP advances;
- (5) Loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property; or
- (6) Any loans or investments which the Board, in its discretion, otherwise determines to be residential housing finance assets.

*Residential real property* means:

- (1) Any of the following:
  - (i) One-to-four family property;
  - (ii) Multifamily property;
  - (iii) Real property to be improved by the construction of dwelling units;
  - (iv) Real property in the process of being improved by the construction of dwelling units;
  - (v) Combination business or farm property, provided that at least 50 percent of the total appraised value of the combined property is attributable to the residential portion of the property.
- (2) The term residential real property does not include nonresidential real property as defined in this section.

*Savings association* means a savings association as defined in section 3(b) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(b)).

*State* means a state of the United States, the District of Columbia, Guam, Puerto Rico or the U.S. Virgin Islands.

*State housing finance agency* or *SHFA* means:

- (1) A public agency, authority, or publicly sponsored corporation that serves as an instrumentality of any state or political subdivision of any state, and functions as a source of residential mortgage loan financing in that state; or

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(2) A legally established agency, authority, corporation, or organization that serves as an instrumentality of any Indian tribe, band, group, nation, community, or Alaskan Native village recognized by the United States or any state, and functions as a source of residential mortgage loan financing for the Indian or Alaskan Native community.

*State regulator* means a state insurance commissioner or state regulatory entity with primary responsibility for supervising a member borrower that is not a federally insured depository institution.

*Tangible capital* means:

(1) Capital, calculated according to GAAP, less "intangible assets" except for purchased mortgage servicing rights to the extent such assets are included in a member's core or Tier 1 capital, as reported in the member's Thrift Financial Report for members whose primary federal regulator is the OTS, or as reported in the Report of Condition and Income for members whose primary federal regulator is the FDIC, the OCC, or the Board of Governors of the Federal Reserve System.

(2) Capital calculated according to GAAP, less intangible assets, as defined by a Bank for members which are not regulated by the OTS, the FDIC, the OCC, or the Board of Governors of the Federal Reserve System; provided that a Bank shall include a member's purchased mortgage servicing rights to the extent such assets are included for the purpose of meeting regulatory capital requirements.

[58 FR 29469, May 20, 1993, as amended at 58 FR 29477, May 20, 1993; 59 FR 2949, Jan. 20, 1994; 62 FR 8871, Feb. 27, 1997; 62 FR 12079, Mar. 14, 1997]

### § 935.2 Bank credit mission.

(a) The primary credit mission of the Banks shall be to enhance the availability of residential mortgage credit.

(b) Each Bank shall fulfill its primary credit mission by:

(1) Providing a readily available, economical and affordable source of funds in the form of advances to its members; and

(2) Offering such advances products and programs that satisfy the credit needs of its members.

(c) Notwithstanding paragraph (b) of this section, each Bank shall place such limitations on the making of advances to its members as shall:

(1) Be specifically prescribed by statute, regulation or policy;

(2) Protect the financial integrity of the Bank and accommodate the practical constraints associated with the Bank's ability to raise funds; or

(3) Be required by the Board.

### § 935.3 Bank advances policy.

(a) Each Bank's board of directors shall adopt, and review at least semi-annually, a policy on advances to members consistent with the requirements of the Act, this part, and policy guidelines of the Board. Each Bank shall provide a copy of its advances policy, and any revisions thereto, to the Board.

(b) A Bank's board of directors may designate officers authorized to extend or deny credit and take other action consistent with the Bank's advances policy.

(c) A Bank may make exceptions to its advances policy only with the approval of its board of directors, a committee thereof, or officers specifically authorized by the board of directors to approve such exceptions, provided that any such exceptions shall comply with the Act, this part and policy guidelines of the Board.

(d) A Bank's board of directors shall:

(1) Require the officers designated pursuant to paragraph (b) of this section to report promptly to it, or a designated committee of the board, all actions taken under this section; and

(2) Review such actions for compliance with this section.

### § 935.4 Authorization and application for advances; obligation to repay advances.

(a) *Application for advances.* A Bank may accept oral or written applications for advances from its members.

(b) *Obligation to repay advances.* (1) A Bank shall require any member to which an advance is made to enter into a primary and unconditional obligation to repay such advance and all other indebtedness to the Bank, together with