

§ 935.16

(b) *Unilateral redemption of excess stock.* A Bank, after providing 15 calendar days advance written notice to a member, may unilaterally redeem that amount of the member's Bank stock that exceeds the stock requirements set forth in paragraph (a) of this section or, in the case of a non-QTL member, the stock requirements set forth in § 935.13(a)(1)(ii) of this part, provided the minimum amount required in sections 6(b)(1) and 10(e)(3) of the Act is maintained. The Banks shall have the discretion to determine the timing of such unilateral redemption, provided that the Bank's redemption policy is consistent with the requirement of section 7(j) of the Act (12 U.S.C. 1427(j)) which provides for fair and impartial treatment of all members.

§ 935.16 Advance participations.

A Bank may allow any other Bank to purchase a participation interest in any advance, and any other Bank may accept a participation interest therein, together with an appropriate assignment of security therefor, subject to the approval of the boards of directors of the relevant Banks.

§ 935.17 Intradistrict transfer of advances.

(a) *Advances held by members.* A Bank may allow one of its members to assume an advance extended by the Bank to another of its members, provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

(b) *Advances held by nonmembers.* A Bank may allow one of its members to assume an advance held by a nonmember, provided the advance was originated by the Bank and provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

[59 FR 2950, Jan. 20, 1994]

§ 935.18 Special advances to savings associations.

(a) *Eligible institutions.* (1) A Bank, upon receipt of a written request from the Director of the OTS, may make

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short-term advances to a savings association member.

(2) Such request must certify that the member:

(i) Is solvent but presents a supervisory concern to the OTS because of the member's financial condition; and

(ii) Has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(b) *Terms and conditions.* Advances made by a Bank to a member savings association under this section shall:

(1) Be subject to all applicable collateral requirements of the Bank, this part and section 10(a) of the Act (12 U.S.C. 1430(a)); and

(2) Be at the interest rate applicable to advances of similar type and maturity that are made available to other members that do not pose such a supervisory concern.

§ 935.19 Liquidation of advances upon termination of membership.

If an institution's membership in a Bank is terminated, the Bank shall determine an orderly schedule for liquidating any indebtedness of such member to the Bank; this section shall not require a Bank to call any such indebtedness prior to maturity of the advance. The Bank shall deem any such liquidation a prepayment of the member's indebtedness, and the member shall be subject to any fees applicable to such prepayment.

Subpart B—Advances to Nonmembers

SOURCE: 62 FR 12079, Mar. 14, 1997, unless otherwise noted.

§ 935.20 Advances to the Savings Association Insurance Fund.

(a) *Authority.* Upon receipt of a written request from the FDIC, a Bank may make advances to the FDIC for the use of the Savings Association Insurance Fund. The Bank shall provide a copy of such request to the Board.

(b) *Requirements.* Advances to the FDIC for the use of the Savings Association Insurance Fund shall:

(1) Bear a rate of interest not less than the Bank's marginal cost of funds,

taking into account the maturities involved and reasonable administrative costs;

(2) Have a maturity acceptable to the Bank;

(3) Be subject to any prepayment, commitment, or other appropriate fees of the Bank; and

(4) Be adequately secured by collateral acceptable to the Bank.

§935.21 Scope.

With the exception of §935.13, and except as otherwise provided in §935.20 and §935.24, the requirements of subpart A of this part apply to this subpart.

§935.22 Nonmember mortgagee eligibility requirements.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances to an entity that is not a member of the Bank if the Bank has certified the entity as a nonmember mortgagee.

(b) *Eligibility requirements.* A Bank may certify as a nonmember mortgagee any applicant that meets the following requirements:

(1) The applicant is approved under title II of the National Housing Act (12 U.S.C. 1707, *et seq.*);

(2) The applicant is a chartered institution having succession;

(3) The applicant is subject to the inspection and supervision of some governmental agency;

(4) The principal activity of the applicant in the mortgage field consists of lending its own funds; and

(5) The financial condition of the applicant is such that advances may be safely made to it.

(c) *Satisfaction of eligibility requirements—(1) HUD approval requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and paragraph (b)(1) of this section that it be approved under title II of the National Housing Act if it submits a current HUD Yearly Verification Report or other documentation issued by HUD stating that the Federal Housing Administration of HUD has approved the applicant as a mortgagee.

(2) *Charter requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and

paragraph (b)(2) of this section that it be a chartered institution having succession if it provides evidence satisfactory to the Bank, such as a copy of, or a citation to, the statutes and/or regulations under which the applicant was created, that:

(i) The applicant is a government agency; or

(ii) The applicant is chartered under state, federal, local, tribal, or Alaska Native village law as a corporation or other entity that has rights, characteristics, and powers under applicable law similar to those granted a corporation.

(3) *Inspection and supervision requirement.* An applicant shall be deemed to meet the inspection and supervision requirement in section 10b(a) of the Act and paragraph (b)(3) of this section if it provides evidence satisfactory to the Bank, such as a copy of, or a citation to, relevant statutes and/or regulations, that, pursuant to statute or regulation, the applicant is subject to the inspection and supervision of a federal, state, local, tribal, or Alaska native village governmental agency. An applicant shall be deemed to meet the inspection requirement if there is a statutory or regulatory requirement that the applicant be audited or examined periodically by a governmental agency or by an external auditor. An applicant shall be deemed to meet the supervision requirement if the governmental agency has statutory or regulatory authority to remove an applicant's officers or directors for cause or otherwise exercise enforcement or administrative control over actions of the applicant. For purposes of this paragraph (c)(3), the term "governmental agency" includes the governor, legislature, and any other component of a federal, state, local, tribal, or Alaska native village government with authority to act for or on behalf of that government.

(4) *Mortgage activity requirement.* An applicant shall be deemed to meet the mortgage activity requirement in section 10b(a) of the Act and paragraph (b)(4) of this section if it provides documentary evidence satisfactory to the Bank, such as a financial statement or other financial documents that include the applicant's mortgage loan assets and their funding liabilities, that it