

credit that comply with the requirements of this part, for any of the following purposes:

- (1) To assist members in facilitating residential housing finance;
- (2) To assist members in facilitating community lending that is eligible for any of the Banks' CICA programs under part 970 of this chapter;
- (3) To assist members with asset/liability management; or
- (4) To provide members with liquidity or other funding.

(b) *Fully secured.* A Bank, at the time it issues or confirms a standby letter of credit on behalf of a member, shall obtain and maintain a security interest in collateral that is sufficient to secure fully the member's unconditional obligation described in §938.4(a)(2) of this part, and that complies with the requirements set forth in paragraph (c) of this section.

(c) *Eligible collateral.* (1) Any standby letter of credit issued or confirmed on behalf of a member may be secured by collateral that is eligible to secure advances under §935.9(a) of this chapter. Only standby letters of credit issued for the purposes described in paragraphs (a)(3) or (a)(4) of this section shall be counted in making the calculation required under §935.9(a)(4)(iii).

(2) A standby letter of credit issued or confirmed on behalf of a member for a purpose described in paragraph (a)(1) or (a)(2) of this section may, in addition to the collateral described in paragraph (c)(1) of this section, be secured by:

- (i) Secured or federally-guaranteed loans to small businesses or securities representing interests in such loans; or
- (ii) Obligations of state or local government units or agencies, rated as investment grade by a nationally-recognized rating agency.

§938.3 Standby letters of credit on behalf of nonmember mortgagees.

(a) *Nonmember mortgagees.* Each Bank is authorized to issue or confirm on behalf of nonmember mortgagees standby letters of credit that are fully secured by collateral described in §§935.24(b)(1)(i) or (ii) of this chapter, and that otherwise comply with the requirements of this part, for any of the following purposes:

(1) To assist nonmember mortgagees in facilitating residential housing finance;

(2) To assist nonmember mortgagees in facilitating community lending that is eligible for any of the Banks' CICA programs under part 970 of this chapter;

(3) To assist nonmember mortgagees with asset/liability management; or

(4) To provide nonmember mortgagees with liquidity or other funding.

(b) *Nonmember SHFAs.* Each Bank is authorized to issue or confirm on behalf of nonmember SHFAs standby letters of credit that are fully secured by collateral described in §935.24(b)(2)(i)(A), (B) or (C) of this chapter, and that otherwise comply with the requirements of this part, for the purpose of facilitating residential or commercial mortgage lending that benefits individuals or families meeting the income requirements in section 142(d) or 143(f) of the Internal Revenue Code (26 U.S.C. 142(d) or 143(f)).

§938.4 Obligation to Bank under all standby letters of credit.

(a) *Obligation to reimburse.* A Bank may issue or confirm a standby letter of credit only on behalf of a member or nonmember mortgagee that has:

(1) Established with the Bank a cash account pursuant to §§934.5, 935.24(b)(2)(i)(B) or 935.24(d) of this chapter; and

(2) Assumed an unconditional obligation to reimburse the Bank for value given by the Bank to the beneficiary under the terms of the standby letter of credit by depositing immediately available funds into the account described in paragraph (a)(1) of this section not later than the date of the Bank's payment of funds to the beneficiary.

(b) *Prompt action to recover funds.* If a member or nonmember mortgagee fails to fulfill the obligation described in paragraph (a)(2) of this section, the Bank shall take action promptly to recover the funds that such member or nonmember mortgagee is obligated to repay.

(c) *Obligation financed by advance.* Notwithstanding the obligations and duties of the Bank and its member or

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nonmember mortgagee under paragraphs (a) and (b) of this section, the Bank may, at its discretion, permit such member or nonmember mortgagee to finance repayment of the obligation described in paragraph (a)(2) of this section by receiving an advance that complies with sections 10 or 10b of the Act and part 935 of this chapter.

§ 938.5 Additional provisions applying to all standby letters of credit.

(a) *Written policy; other requirements.* Each standby letter of credit issued or confirmed by a Bank shall:

(1) Be issued or confirmed only in compliance with a written policy, developed and implemented by the Bank to govern its standby letter of credit programs, that:

(i) Is consistent with the provisions of the Act and this part;

(ii) Sets forth credit underwriting criteria, consistent with the provisions of § 935.5 of this chapter, to be applied in evaluating applications for standby letters of credit and renewals thereof;

(iii) Sets forth criteria regarding the pricing of standby letters of credit, including any special pricing provisions for letters of credit that facilitate the financing of projects that are eligible for any of the Banks' CICA programs under part 970 of this chapter; and

(iv) Provides that, for any draw made by a beneficiary under a standby letter of credit, the applicant will be charged a processing fee calculated in accordance with the requirements of § 943.6(b) of this chapter;

(2) Contain a specific expiration date, or be for a specific term; and

(3) Require approval in advance by the Bank of any transfer of the standby letter of credit from the original beneficiary to another person or entity;

(b) *Additional collateral provisions.* (1) A Bank may take such steps as it deems necessary to protect its secured position on standby letters of credit, including requiring additional collateral, whether or not such additional collateral conforms to the requirements of §§ 938.2 or 938.3 of this part.

(2) Collateral pledged by a member or nonmember mortgagee to secure a letter of credit issued or confirmed on its behalf by a Bank shall be subject to the

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provisions of §§ 935.9(b), 935.9(d), 935.9(e), 935.10, 935.11 and 935.12 of this chapter.

PARTS 939-940 [RESERVED]

PART 941—OPERATIONS OF THE OFFICE OF FINANCE

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AUTHORITY: 12 U.S.C. 1422b, 1431.

SOURCE: 57 FR 2834, Jan. 24, 1992, unless otherwise noted.

§ 941.1 Definitions.

In this part, the following terms mean:

Bank. A Federal Home Loan Bank.

Bank Act. The Federal Home Loan Bank Act.

Bank System. The Federal Home Loan Bank System, consisting of the twelve Federal Home Loan Banks and including the Office of Finance as a joint office of the Federal Home Loan Banks.

Chair. The Chairperson of the Office of Finance Board of Directors.

Consolidated obligation. A Federal Home Loan Bank consolidated debenture, bond or note issued under authority of section 11 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1431).

Director. The Director of the Office of Finance.

Finance Board. The Federal Housing Finance Board.

OF Board of Directors. The three member administrative body responsible for management of the Office of Finance.