

Federal Housing Finance Board

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§ 966.2 Issuance of consolidated obligations.

(a) *Consolidated obligations issued by the Finance Board.* The Finance Board may issue consolidated obligations under section 11(c) of the Act (12 U.S.C. 1431(c)), including the determination of the dates of issue, maturities, rates of interest, terms and conditions thereof, and the manner in which such consolidated obligations shall be issued. The Finance Board in its discretion from time to time may delegate this by resolution of the Board of Directors, or may terminate such delegation.

(b) *Consolidated obligations issued by the Banks.* (1) Pursuant to the Banks' housing finance mission set forth in section 2A(a)(3)(B)(ii) of the Act (12 U.S.C. 1422a(a)(3)(B)(ii)), pursuant to the Finance Board's duty to ensure that the Banks carry out that mission and remain adequately capitalized and able to raise funds in the capital markets under section 2A(a)(3)(B)(ii) and (iii) of the Act (12 U.S.C. 1422a(a)(3)(B)(ii) and (iii)), and subject to the provisions of this part and such rules, regulations, terms and conditions as the Finance Board may prescribe, the Banks are authorized to issue joint debt under section 11(a) of the Act (12 U.S.C. 1431(a)), which shall be called consolidated obligations and on which the Banks shall be jointly and severally liable under § 966.9 of this part.

(2) Consolidated obligations shall be issued only through the Office of Finance, as agent of the Banks pursuant to this part and part 985 of this chapter.

(3) The authorization contained herein shall be deemed to constitute satisfaction of the requirement for Finance Board approval of the "terms and conditions" of the consolidated obligations pursuant to section 11(a) of the Act (12 U.S.C. 1431(a)).

(c) *Negative pledge requirement.* Each Bank shall at all times maintain assets described in paragraphs (c)(1) through (c)(6) of this section free from any lien or pledge, in an amount at least equal to a *pro rata* share of the total amount of currently outstanding consolidated obligations jointly issued by the Banks pursuant to section 11(a) of the Act (12 U.S.C. 1431(a)) and by the Finance

Board pursuant to section 11(c) of the Act (12 U.S.C. 1431(c)) and equal to such Bank's participation in all such COs outstanding, *provided that* any assets that are subject to a lien or pledge for the benefit of the holders of any issue of consolidated obligations shall be treated as if they were assets free from any lien or pledge for purposes of compliance with this paragraph (c). Eligible assets are:

- (1) Cash;
- (2) Obligations of or fully guaranteed by the United States;
- (3) Secured advances;
- (4) Mortgages as to which one or more Banks have any guaranty or insurance, or commitment therefor, by the United States or any agency thereof;
- (5) Investments described in section 16(a) of the Act (12 U.S.C. 1436(a)); and
- (6) Other securities that have been assigned a rating or assessment by an NRSRO that is equivalent to or higher than the rating or assessment assigned by that NRSRO to consolidated obligations outstanding.

[65 FR 36298, June 7, 2000, as amended at 67 FR 12853, Mar. 20, 2002]

§ 966.3 Leverage limit and credit rating requirements.

(a) *Bank leverage.* (1) Except as provided in paragraph (a)(2) of this section, the total assets of any Bank shall not exceed 21 times the total of paid-in capital stock, retained earnings, and reserves (excluding loss reserves and liquidity reserves for deposits pursuant to section 11(g) of the Act (12 U.S.C. 1431(g)) of that Bank.

(2) The aggregate amount of assets of any Bank may be up to 25 times the total paid-in capital stock, retained earnings, and reserves of that Bank, provided that non-mortgage assets, after deducting the amount of deposits and capital, do not exceed 11 percent of such total assets. For the purposes of this section, the amount of non-mortgage assets equals total assets after deduction of:

- (i) Advances;
- (ii) Acquired member assets, including all United States government-insured or guaranteed whole single-family or multi-family residential mortgage loans;

(iii) Standby letters of credit;
 (iv) Intermediary derivative contracts;

(v) Debt or equity investments:

(A) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

- (1) Housing;
- (2) Economic development;
- (3) Community services;
- (4) Permanent jobs; or
- (5) Area revitalization or stabilization;

(B) In the case of mortgage-or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(C) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(vi) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(vii) SBIC debentures, the short term tranche of SBIC securities, or other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq.*);

(viii) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308);

(ix) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

(x) Securities representing an interest in pools of mortgages (MBS) issued, guaranteed, or fully insured by the

Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or the Federal National Mortgage Association (Fannie Mae), or Collateralized Mortgage Obligations (CMOs), including Real Estate Mortgage Investment Conduits (REMICs), backed by such securities;

(xi) Other MBS, CMOs, and REMICs rated in the highest rating category by a NRSRO;

(xii) Asset-backed securities collateralized by manufactured housing loans or home equity loans and rated in the highest rating category by a NRSRO; and

(xiii) Marketable direct obligations of state or local government units or agencies, rated in one of the two highest rating categories by a NRSRO, where the purchase of such obligations by a Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community development.

(b) *Credit ratings.* (1) The Banks, collectively, shall obtain from an NRSRO and, at all times, maintain a current credit rating on the Banks' consolidated obligations.

(2) Each Bank shall operate in such a manner and take any actions necessary, including without limitation reducing Bank leverage, to ensure that the Banks' consolidated obligations receive and continue to receive the highest credit rating from any NRSRO by which the consolidated obligations have then been rated.

(c) *Individual Bank credit rating.* Each Bank shall operate in such a manner and take any actions necessary to ensure that the Bank has and maintains an individual issuer credit rating of at least the second highest credit rating from any NRSRO providing a rating, where such rating is a meaningful measure of the individual Bank's financial strength and stability, and is updated at least annually by an NRSRO, or more frequently as required by the Finance Board, to reflect any material changes in the condition of the Bank.

(d) *Transition provision.* Each Bank shall obtain the credit rating from an

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NRSRO required under paragraph (c) of this section by July 1, 2001.

[65 FR 36298, June 7, 2000, as amended at 67 FR 12853, Mar. 20, 2002; 67 FR 35715, May 21, 2002]

§ 966.4 Form of consolidated obligations.

(a) All consolidated obligations shall be issued *in pari passu*.

(b) Consolidated obligations with maturities of one year or less may be designated consolidated notes.

§ 966.5 Transactions in consolidated obligations.

The general regulations of the Department of the Treasury now or hereafter in force governing transactions in United States securities, except 31 CFR part 357 regarding book-entry procedure, are hereby incorporated into this part 966, so far as applicable and as necessarily modified to relate to consolidated obligations, as the regulations of the Finance Board for similar transactions on consolidated obligations. The book-entry procedure for consolidated obligations is contained in part 987 of this subchapter.

§ 966.6 Lost, stolen, destroyed, mutilated or defaced consolidated obligations.

United States statutes and regulations of the Department of the Treasury now or hereafter in force governing relief on account of the loss, theft, destruction, mutilation or defacement of United States securities, so far as applicable and as necessarily modified to relate to consolidated obligations, are hereby adopted as the regulations of the Finance Board for the issuance of substitute consolidated obligations or the payment of lost, stolen, destroyed, mutilated or defaced consolidated obligations.

§ 966.7 Administrative provision.

The Secretary of the Treasury or the Acting Secretary of the Treasury is hereby authorized and empowered, as the agent of the Finance Board and the Banks, to administer §§ 966.5 and 966.6, and to delegate such authority at their discretion to other officers, employees, and agents of the Department of the Treasury. Any such regulations may be

waived on behalf of the Finance Board and the Banks by the Secretary of the Treasury, the Acting Secretary of the Treasury, or by an officer of the Department of the Treasury authorized to waive similar regulations with respect to United States securities, but only in any particular case in which a similar regulation with respect to United States securities would be waived. The terms "securities" and "bonds" as used in this section shall, unless the context otherwise requires, include and apply to coupons and interim certificates.

§ 966.8 Conditions for issuance of consolidated obligations.

(a) The Office of Finance board of directors shall authorize the offering for current and forward settlement (up to 12 months) or the reopening of COs, as necessary, and authorize the maturities, rates of interest, terms and conditions thereof, subject to the provisions of 31 U.S.C. 9108.

(b) COs may be offered for sale only to the extent that Banks are committed to take the proceeds.

(c) COs shall not be directly placed with any Bank.

(d) If a Bank participates in any CO denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, then the Bank shall meet the following requirements:

(1) The relevant foreign exchange, equity price or commodity price risks associated with the CO must be hedged in accordance with § 956.6 of this chapter;

(2) If there is a default on the part of a counterparty to a contract hedging the foreign exchange, equity or commodity price risk associated with a CO, the Bank shall enter into a replacement contract in a timely manner and as soon as market conditions permit.

[65 FR 36298, June 7, 2000, as amended at 66 FR 8321, Jan. 30, 2001; 67 FR 12853, Mar. 20, 2002]

§ 966.9 Joint and several liability.

(a) *In general.* (1) Each and every Bank, individually and collectively, has an obligation to make full and timely payment of all principal and interest on consolidated obligations when due.

(2) Each and every Bank, individually and collectively, shall ensure that the