MEMORANDUM

TO: The Commission
   General Counsel
   Staff Director
   Public Information
   Press Office
   Public Records
   Data Systems Development
   Reports Analysis Division
   Audit Division

FROM: Rosemary C. Smith
      Assistant General Counsel

SUBJECT: Late Comment on Election Cycle Reporting by Authorized Committees


Attachments

cc: Associate General Counsel for Policy
    Congressional Affairs Officer
    Executive Assistants
Rosemary C. Smith  
Assistant General Counsel  
Federal Election Commission  
Washington, DC 20463  

Dear Ms. Smith:  

Thank you for sending us a copy of the Notice published in the Federal Register at 65 FR 16672 (May 3, 2000). The proposed rules published in the Notice are not consistent with the Internal Revenue Code or the regulations thereunder.  

Sincerely,  

Acting Assistant Chief Counsel  
(Income Tax and Accounting)  

By:  
Karin G. Gross  
Senior Technician Reviewer  
Branch 3
May 3, 2000

Karin Gross  
Senior Technician Reviewer, Branch 3  
CC:DOM:IT&A:03  
Internal Revenue Service  
1111 Constitution Ave., N.W.  
Washington, D.C. 20224

Dear Ms. Gross:

Enclosed is a copy of a Notice of Proposed Rulemaking ("NPRM") on Election Cycle Reporting by Authorized Committees, as published in the May 3, 2000, Federal Register. 65 F.R. 25672 (May 3, 2000). The NPRM proposes new rules requiring authorized committees of Federal candidates to aggregate and report their receipts and disbursements on an election-cycle-to-date basis rather than on the currently used calendar-year-to-date basis. A copy of the NPRM is attached.

Pursuant to 2 U.S.C. § 438(f), the FEC and the IRS are to "work together to promulgate rules, regulations, and forms which are mutually consistent." The Commission invites your agency's comments on this NPRM, particularly regarding any conflict with the Internal Revenue Code or your regulations.

If there are any questions concerning this NPRM, please feel free to contact me at 694-1630.

Sincerely,

Rosemary C. Smith  
Assistant General Counsel

Enclosure
This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 104

Notice 2000-8

Election Cycle Reporting by Authorized Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comment on proposed rules to require authorized committees of Federal candidates to aggregate, itemize and report all receipts and disbursements on an election-cycle basis rather than on the current calendar-year-to-date basis. This requirement reflects recent changes in the Federal Election Campaign Act of 1971. The intent of these proposed rules is to simplify recordkeeping and reporting requirements for authorized committees of Federal candidates to aggregate contributions or disbursements that occur during an election cycle. Please note that the draft rules that follow do not represent a final decision by the Commission on the issues presented by this rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before June 2, 2000.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. Written comments should be sent to (202) 219-2023, with patched copy follow-up to assure legibility. Electronic mail comments should be sent to recylec@fec.gov. Comments submitted by electronic mail must include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. The Commission will make every effort to have public comments posted on its web site within ten business days of the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary Smith, Assistant General Counsel, or Cheryl Fowles, Attorney, 900 E Street, NW, Washington, DC 20463, (202) 219-1803 or (202) 407-3000.

SUPPLEMENTARY INFORMATION:

As of September 28, 1999, Public Law 106-55 amended section 83(b) of the Federal Election Campaign Act of 1971 ("the Act" or "FECA") to require, inter alia, that the Commission draft rules requiring the authorized committees of Federal candidates to aggregate and report their receipts and disbursements on an election-cycle-to-date basis, rather than on a calendar-year-to-date basis, as is currently required. The new law requires that rules be effective for reports covering periods after October 31, 2000.

The new law also requires the Commission to amend its regulations to add a system of administrative fines for violations of the reporting requirements, and to require persons to file electronically if their aggregate contributions or expenditures within a calendar year are, or are expected to be, above a certain threshold amount. These two topics are being addressed in two separate rulemakings. See Notice of Proposed Rulemaking, 65 FR 61534 (March 29, 2000) and Notice of Proposed Rulemaking, 65 FR 61399 (April 11, 2000).

The Commission is seeking public comment on proposed amendments to 11 CFR 104.3, 104.7, 104.8 and 104.9 to implement the new statutory requirements regarding election-cycle reporting. Current Commission regulations at 11 CFR 104.3 and 104.6 require authorized committees of Federal candidates to aggregate contributions and disbursements from each contributor on a pre-election basis for purposes of the contribution limits, but to report them on a calendar-year-to-date basis. Other receipts are both aggregated and reported on a calendar-year-to-date basis. Under 11 CFR 104.3 and 104.9, disbursements are both aggregated and reported on a calendar-year-to-date basis. The purpose of the amendment to the FECA and the proposed rules are to simplify recordkeeping and reporting for authorized committees by itemizing contributions, other receipts, and disbursements on the same election-cycle-to-date basis, and to provide the public with more relevant information for the current election cycle. 145 Cong. Rec. E1699-02, September 17, 1999 (statement of Hon. William M. Thomas).

Please note that this amendment to the FECA does not affect the election cycle, and the Commission does not anticipate changing new rules about recording calendar-year reporting system that currently uses, or changing the forms they fill.2

Definitions of Election Cycles

Under current 11 CFR 104.3(b), an election cycle begins on the day after the general election for the office or seat that the candidate seeks and ends on the day of the next general election for that seat or office.4 For example, for many candidates for the House of Representatives, the 2004 election cycle begins the day after the general election in 2002 and will end on the day of the general election in 2004. Please note that the length of the election cycle varies depending on the office sought.

2The Commission issues publicly funded candidates and other committees of candidates on a quarterly basis.

3The Commission anticipates publishing all of the amendments to the Commission's regulations that have been made public in the Federal Register. These amendments are intended to clarify the Commission's rules and regulations, and the amendments do not affect the election cycle, that is, the amount of time that a candidate seeks a seat or office.

4For example, for many candidates for the House of Representatives, the 2004 election cycle begins the day after the general election in 2002 and will end on the day of the general election in 2004.
The election cycle is two years for candidates for the House of Representatives, six years for Senate candidates, and four years for District candidates. Under the current regulations, contributions can only be made to the amount that the recipient committee has raised, loans, and outstanding, and these contributions must be properly designated for the previous election. At no point in time, even if the recipient committee has not received any contributions, these contributions must be properly designated for the previous election.

Changes to FEC Forms 3 and 3P

The Commission recognizes that the amendment to the PCLA and the proposed regulation will necessitate changes to both the paper and electronic FEC Form 3 (used by House and Senate candidates' authorized committees to report receipts and disbursements) and FEC Form 3P (used by Presidential candidates' committees to report receipts and disbursements). While most of the changes to the forms would consist of formalizing the methods and modifying existing categories, there are some substantive changes.

The new regulations require that committees file post-general election reports covering the period from the 9th day before the general election to the 9th day after the general election. Thus, the post-general election covers two election cycles. Similarly, two election cycles will be covered in the year-end report for candidates who did not participate in the current election cycle (and therefore did not file a post-general election report).

Since these revisions to 11 CFR 104.9(b)(2) and (b)(3)(ii) would require some additional information to be maintained, the Commission has included these changes in the proposed rules.

Alternative 1

The first alternative would be to add a new paragraph (d) to 11 CFR 104.1, stating that for reporting purposes only, if the election takes place in the same year as the general election, the campaign committee shall report the contributions to the general election as of the last day of the calendar year. This would allow for more efficient and accurate reporting.

Alternative 2

Under the second alternative approach, which has not been included in the proposed rules, the Federal Election Commission (FEC) has recommended that the election cycle be extended to cover the period from the 9th day before the general election to the 9th day after the general election. This approach would require the FEC to provide guidance on how to report contributions for the entire election cycle and to amend all reports to reflect these contributions. The Commission has determined that this approach would provide a more accurate reflection of the campaign activities and allow for more effective oversight.

Both alternatives have been included in the proposed rules and are open for public comment. The Commission is seeking comments on these alternatives, which can be found in the proposed rules.
the next general election for the seat or

office the candidate is seeking (the day

the post-general reporting period ends

for that election). Under this alternative,

both 11 CFR 103.1(b) (election cycle
date-todate) and 11 CFR 104.3 (reporting
period) would be extended. In addition, the
campaign contribution regulations at

11 CFR 110.2(b) and 110.2(c) would be

changed to modify the attribution data of

undesignated contributions for a general

election from election day to the
twentieth day after the election. For

example, under this alternative,

undesignated contributions made on or

before the twentieth day after the
election would be considered

attributed to the contributor's

campaign contribution limits for the
general election in which the recipient is

a candidate.

This alternative would achieve the

same result as the postgeneral election

report covering two election cycles.

Nevertheless, for candidates who did

not participate in the general election

(and therefore who do not file a post-
general election report), the year-end

report would cover activity occurring

both before the twentieth day after the
election and after the twentieth day, and

thus, would cover two election cycles.

If the Commission adopts this

alternative, it will need to consider

what advice opinions, if any need to

be modified or superseded. Another

consideration might be whether this

change is advisable in light of the.

change decision. absent a change in the

FECA.

Aggregation of Post Financial Activity

The amendment to the Act requires

that the new rules be in effect for

reporting periods beginning after

December 31, 2000. Consequently,

receipts and disbursements made

between the end of the post-general

election period and December 31, 2000

will be reported in the year-to-
date totals for 2001 in the post-
general election report and the year-end

report. However, under proposed

paragraph (L) of 11 CFR 104.3, these

amounts shall be included in the election-
cycle-date-to-date aggregation totals that

are reported beginning in 2001. Similarly,

some candidates for U.S. Senate in 2002

and possibly some

Presidential candidates for the 2004

election may have two, three, four or

more years of previously reported

receipts and expenditures. These

amounts must also be included in the

election-cycle-date-to-date figures reported

on the first report covering financial


On the Detailed Summary Page of

each report filed for the first election

date cycle during which these rules take
effect, election-cycle-date-to-date totals

should be reported for each category of

receipts (except itemized and

unitemized contributions from
dependents) and each category of

disbursements. Please note that the

Commission is creating a one-
time-worksheet to assist authorized

committees in aggregating election-
cycle-date-to-date data. This might

require some committees to aggregate

several years of data. In addition, the

Report and Disinterest Committee (RDC)

will need to modify notice requirements.

The Committee also recommends changes to its
data base to reflect election-cycle
totals. The Committee welcomes

comments on the proposed approach as

well as on other alternatives to address

these issues.

The Commission seeks comments on

the proposed revisions to 11 CFR 104.3,

104.5, 104.6 and 104.9 on the

alternative discussed above, and on

any other issues raised by the new

statutory requirements regarding

election cycle reporting.

List of Subjects in 11 CFR Part 104

Campaign funds, Political committees

and parties, Reporting and

recordkeeping requirements.

Certifications of No Effect Pursuant to 5

U.S.C. 552(b) (Regulatory Flexibility

Act)

These proposed rules, if promulgated,

will not have a significant economic

impact on a substantial number of

entities. The only small entities subject

to these proposed regulations are

candidates for Federal office and their

authorized committees. The proposed

rules implement statutory reporting

requirements that Congress enacted to

reduce indirect violations of the

contribution limitation. Therefore, there

would be no significant economic

impact on a substantial number of

entities.

For the reasons set out in the

premise, subject chapter A; chapter 1 of

Title 11 of the Code of Federal

Regulations is proposed to be amended

as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES

1. The authority cited for part 104

continues to read as follows:

Authority: 5 U.S.C. 301(a), 4331(a)(1), 4331(b),
4332, 4333, 4334, 4335(b), 4336.

2. Section 104.3 would be amended by

revising paragraphs (a), (d), (e), (f), (h),
(paragraph (f) introductory text,
paragraph (g) introductory text,
paragraph (h) introductory text,
paragraph (i) introductory text,
paragraph (j) introductory text,
paragraph (k) introductory text,
paragraph (l) introductory text,
paragraph (m) introductory text,
paragraph (n) introductory text,
paragraph (o) introductory text,
paragraph (p) introductory text,
paragraph (q) introductory text,
paragraph (r) introductory text,
paragraph (s) introductory text,
paragraph (t) introductory text,
paragraph (u) introductory text,
paragraph (v) introductory text,
paragraph (w) introductory text,
paragraph (x) introductory text,
paragraph (y) introductory text,
paragraph (z) introductory text,

and by adding paragraphs (l) to read as follows:

104.3. Contents of reports (2 U.S.C.
4331(a), 4331(b))

(b) Yearend of reports. Each report
filed under 104.3 shall disclose the

full amount of receipts for the

reporting period and for the calendar

year (for election cycle, in the case of

an authorized committee) and shall

disclose the information set forth at

paragraphs 104.1(a) through 104.1(e)

of this section. In the case of a federal

committee shall also include any amounts received prior to becoming a

political committee under § 100.5 of this

chapter, even if such amounts were not

received during the current reporting

period.

(c) Categories of receipts for

authorized committees. An authorized

committee of a candidate for Federal

office shall report the total amount of

receipts received during the reporting

period, except for itemized and

unitemized breakdowns, during the

election cycle in each of the following
categories:

(v) Itemization of receipts for all
categories including authorized and

unauthorized committees. The

identification (as defined in § 100.12

of this chapter) of each contributor

and the amount contributed in a year-
to-date (or aggregate election-
cycle-date-to-date); in the case of an

authorized committee (total for such

contributions in each of the following
categories shall be reported.

(u) Each person, other than any

committee, who makes a contribution
to the reporting committee during the

reporting period, whose contribution or

contributions aggregate to an excess

of $10,000 per contributor per election

cycle in the case of an authorized

committee, together with the date of

receipts and any amount of any such

contributions, except that the

reporting committee may elect to report

such information only for contributors of

lesser amount(s) on a separate schedule;

(u) Each person who provides a

grant, loan, or other money to
operating expenditures to the reporting committees in an aggregate amount or value in excess of $200 within the calendar year (or within the election cycle, in the case of an authorized committee), together with the date and amount of any such receipt; and

(vi) Each person who provides any dividend, interest, or other receipt to the reporting committees in an aggregate amount or value in excess of $200 within the calendar year (or within the election cycle, in the case of an authorized committee), together with the date and amount of any such receipt.

(b) Reporting of Disbursements. Each report filed under §104.1 shall disclose the total amount of all disbursements for the reporting period and for the calendar year (or for the election cycle, in the case of an authorized committee), and shall disclose the information set forth at paragraphs (b)(1) through (b)(4) of this section. The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under §100.3 of this chapter, even if such amounts were not disbursed during the current reporting period.

(2) Categories of disbursements for authorized committees. An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and except for itemized and unitemized breakdowns, during the election cycle in each of the following categories:

(a) Each person to whom an expenditure in an aggregate amount or value in excess of $200 within the election cycle is made by the reporting committee to defray the committee's operating expenses, together with the date, amount and purpose of each such expenditure.

(vi) Each person who has received any disbursement(s) not otherwise disclosed under paragraph (b)(4) of this section to whom the aggregate amount or value of such disbursements exceeds $200 within the election cycle, together with the date, amount and purpose of any such disbursement.

(c) Summary of contributions and operating expenditures. Each report filed pursuant to §104.1 shall disclose for both the reporting period and the calendar year (or the election cycle, in the case of the authorized committees):

(i) Cumulative reports. The report required to be filed under §104.3 shall be cumulative for the calendar year (or for the election cycle, in the case of an authorized committee) to which they relate. But if there has been no change in a category of disbursement or a previous report during that year (or for the election cycle, in the case of an authorized committee), only the amount thereof need be carried forward.

(ii) Reporting election cycle activity occurring prior to January 1, 2001. The aggregate of each category of receipt listed in §104.3(b)(1), (b)(4), and (b)(5), and for each category of disbursement listed in §104.3(b)(7) that includes gifts received or reimbursed on or after the last general election the year before the election cycle of the candidate is running through February 28, 2000. Section 104.4 would be amended by revising paragraph (a) to read as follows:

§104.4 Uniform reporting of receipts.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of $200 to the committee's federal account(s). This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If the individual contributor's name is known to have changed or an earlier contribution reported during the calendar year (or during the election cycle, in the case of an authorized committee), the contributor's new name shall be noted with the first reported contribution from that contributor subsequent to the name change.

(b) Disbursements in excess of $200 in a calendar year (or in an election cycle, in the case of an authorized committee) by an individual who has received any disbursement exceeding $200 within the election cycle, together with the date, amount and purpose of any such disbursement.

4. Section 104.6 would be amended by revising paragraphs (a) and (b) to read as follows:

§104.6 Uniform reporting of disbursements.

(a) Political committees shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year (or within the election cycle, in the case of an authorized committee) is made from the committee's federal account(s), together with the date, amount and purpose of such expenditure, in accordance with paragraph (b) of this section. As used in this section, purpose means a brief statement or description as to the reason for the expenditure.

(b) In each case when an expenditure made in a reporting period is added to previously unaudited expenditures to the same recipient and the total exceeds $200 for the calendar year (or for the election cycle, in the case of an authorized committee), the reporting committee shall disclose the recipient's name and mailing address on the next report filed, together with the date, amount and purpose of such expenditure. As used in this section, purpose means a brief statement or description as to the reason for the disbursement as defined at 11 CFR 104.3(b)(7). (ii)(A).

3. Section 104.7 would be amended by revising introductory text of paragraph (b), paragraph (b)(1) and the first sentence of paragraph (b)(2) to read as follows:

§104.7 Best efforts (2 U.S.C. 433(i)).

4. (b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person whose contribution(s) to the political committees and its affiliated committees aggregate in excess of $200 in any calendar year (or in an election cycle, in the case of an authorized committee pursuant to 11 CFR 104.2(a)(4)), the treasurer and the committees will only be deemed to have satisfied best efforts to obtain, maintain, and report the required information if all:

(i) Contributions for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the solicitation and reporting of individual contributions to political committees;

(ii) A compiler of contributions includes a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the solicitation and reporting of individual contributions to political committees;

(iii) The compiler of contributions includes a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the solicitation and reporting of individual contributions to political committees;
year" and "To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per calendar year."

(3) The following are examples of acceptable statements for authorized committees, but are not the only allowable statements: "Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 in an election cycle." and "To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per election cycle."

8. The request and statement shall appear in a clear and conspicuous manner on any response materials included in a solicitation. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation and response materials, or if the printing is difficult to read or if the placement is easily overlooked.

(2) For each contribution received segregating in excess of $200 per calendar year (or per election cycle, in the case of an authorized committee) which lacks required contribution information, such as the contributor's full name, mailing address, occupation or name of employer, the committee must make at least one effort after the receipt of the contribution to obtain the missing information. * * * * *

Darryl R. Wold,
Chairman, Federal Election Commission.

[FR Doc. 00-10668 Filed 5-2-00; 8:45 am]
BILLING CODE 6710-01-U

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 800, 846, 855, 856 and 866

[No. 2000-20]

RIN 3063-AABZ

Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act), see Title VI of the Gramm-Leach-Bliley Act, Public Law 106-102 (1999), which amended the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1421 through 1440, among other things, to establish a new capital structure for the Banks to authorize the Banks to accept additional types of collateral as security for advances, and to deed to the Banks from the Federal Reserve Board authority over their corporate governance, all subject to the rules and regulations of the Federal Reserve Board. Further, the Board is implementing these other statutory changes, the Federal Reserve Board has already adopted: a final rule delineating certain corporate governance authorities to the Banks, see 65 FR 13845 (March 14, 2000); an interim final rule concerning certain membership and advancement requirements to the requirements of the Modernization Act, see 55 FR 13845 (March 15, 2000); a final rule setting forth a corporate governance framework for the Banks, which was published in the Federal Register on February 11, 2000; a final rule reorganizing the Finance Board's regulations to better accommodate the substantive regulatory changes, see 55 FR 13845 (Feb. 16, 2000); and a proposed rule that would amend the Finance Board's advance collateral support and make other related changes to the regulations and in addition, the Finance Board intends to adopt a proposed rule on risk management and capital during the second quarter of 2000. By statute, the Finance Board is required to publish a final rule on capital by November of 2000.

Under the revised Bank Act and the new regulations, each Bank will have authority to engage in a wider range of asset activities than in the past, will have more discretion in establishing its capital structure, and will have more freedom to operate its business without the day-to-day involvement of the Finance Board. As the agency charged with Congress' duty to ensure that the Banks carry out their statutory mission, see 12 U.S.C. 1422(a), the Finance Board believes that it is especially important to keep the Banks focused on their mission as they exercise their new expanded authority and regulatory authorities. To this end, the Finance Board's recently-adopted final governance rule requires that each Bank's board of directors have in place at all times a strategic business plan that describes how the Bank's business activities will achieve the mission of the Bank (to be codified at 12 CFR § 817.3). In order to clarify this requirement, the Finance Board in its regulations a new part 946, which in § 540.2 defines the "mission of the Banks" as providing to members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates' financial financing of (a) housing, including single-family and multifamily housing serving consumers at all income levels; and (b) community lending. This definition of the mission of the Banks and the regulatory provisions that implement it are intended to ensure sound use of the cooperative structure of the Bank System to provide funds for housing finance and community lending. In order to further clarify the strategic business planning requirement, the proposed rule would encourage in regulation these specific Bank activities that the Finance Board considers to be "core mission activities" (CMA); that is, those activities that are within the

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to add a new part 946 to its regulations to authorize the Federal Home Loan Banks (Banks) to hold acquired member asset (AMA) and to amend its recently adopted part 942 to establish the types of asset management (AMA) that must be addressed in the Banks' strategic business plans. The Finance Board is also proposing related changes to its regulations governing the Banks' investment and advance authorities.

DATES: Comments on this proposed rule must be received in writing on or before June 22, 2000.

ADDRESSES: Comments should be mailed to: Ilene S. Baker, Secretary to the Board, by electronic mail at bo@fhfa.gov, or by regular mail to the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:
James L. Bottinelli, Director and Chief Economist, (202) 408-3321; Scott L. Smith, Deputy Director, (202) 408-2951; Ellen E. Hancock, Senior Financial Analyst, (202) 408-2900; Christine K. Muradian, Senior Financial Analyst, (202) 408-2954; Office of Policy, Research and Analysis; or Elic M. Baudenbush, Senior Attorney-Adviser, (202) 408-2032; Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 1999, the President signed into law the Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act), see Title VI of the Gramm-Leach-Bliley Act, Public Law 106-102 (1999), which amended the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1421 through 1440, among other things, to establish a new capital structure for the Banks, to authorize the Banks to accept additional types of collateral as security for advances, and to deed to the Banks from the Federal Reserve Board authority over their corporate governance, all subject to the rules and regulations of the Finance Board. Further, the Board is implementing these other statutory changes, the Finance Board has already adopted: a final rule delineating certain corporate governance authorities to the Banks, see 65 FR 13845 (March 14, 2000); an interim final rule concerning certain membership and advancement requirements to the requirements of the Modernization Act, see 55 FR 13845 (March 15, 2000); a final rule setting forth a corporate governance framework for the Banks, which was published in the Federal Register on February 11, 2000; a final rule reorganizing the Finance Board's regulations to better accommodate the substantive regulatory changes, see 55 FR 13845 (Feb. 16, 2000); and a proposed rule that would amend the Finance Board's advance collateral support and make other related changes to the regulations and in addition, the Finance Board intends to adopt a proposed rule on risk management and capital during the second quarter of 2000. By statute, the Finance Board is required to publish a final rule on capital by November of 2000.

Under the revised Bank Act and the new regulations, each Bank will have authority to engage in a wider range of asset activities than in the past, will have more discretion in establishing its capital structure, and will have more freedom to operate its business without the day-to-day involvement of the Finance Board. As the agency charged with Congress' duty to ensure that the Banks carry out their statutory mission, see 12 U.S.C. 1422(a), the Finance Board believes that it is especially important to keep the Banks focused on their mission as they exercise their new expanded authority and regulatory authorities. To this end, the Finance Board's recently-adopted final governance rule requires that each Bank's board of directors have in place at all times a strategic business plan that describes how the Bank's business activities will achieve the mission of the Bank (to be codified at 12 CFR § 817.3). In order to clarify this requirement, the Finance Board in its regulations a new part 946, which in § 540.2 defines the "mission of the Banks" as providing to members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates' financial financing of (a) housing, including single-family and multifamily housing serving consumers at all income levels; and (b) community lending. This definition of the mission of the Banks and the regulatory provisions that implement it are intended to ensure sound use of the cooperative structure of the Bank System to provide funds for housing finance and community lending. In order to further clarify the strategic business planning requirement, the proposed rule would encourage in regulation these specific Bank activities that the Finance Board considers to be "core mission activities" (CMA); that is, those activities that are within the

** FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 800, 846, 855, 856 and 866

[No. 2000-20]

RIN 3063-AABZ

Federal Home Loan Bank Acquired Member Associations, Control, Membership Activities, Investments, and Advances

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.