(d) Evaluation of drug abuse or drug dependence by a licensed clinical social worker who is a staff member of a recognized drug treatment program;

(e) Failure to successfully complete a drug treatment program prescribed by a credentialed medical professional. Recent drug involvement, especially following the granting of a security clearance, or an expressed intent not to discontinue use, will almost invariably result in an unfavorable determination.

26. *Conditions that could mitigate security concerns include:*

(a) The drug involvement was not recent;

(b) The drug involvement was an isolated or aberrational event;

(c) A demonstrated intent not to abuse any drugs in the future;

(d) Satisfactory completion of a prescribed drug treatment program, including rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a credentialed medical professional.

Guideline I: Emotional, Mental, and Personality Disorders

27. *The Concern.* Emotional, mental, and personality disorders can cause a significant defect in an individual's psychological, social and occupational functioning. These disorders are of security concern because they may indicate a defect in judgment, reliability, or stability. A credentialed mental health professional (e.g., clinical psychologist or psychiatrist), employed by, acceptable to or approved by the government, should be utilized in evaluating potentially disqualifying and mitigating information fully and properly, and particularly for consultation with the individual's mental health care provider.

28. *Conditions that could raise a security concern and may be disqualifying include:*

(a) An opinion by a credentialed mental health professional that the individual has a condition or treatment that may indicate a defect in judgment, reliability, or stability;

(b) Information that suggests that an individual has failed to follow appropriate medical advice relating to treatment of a condition, e.g., failure to take prescribed medication;

(c) A pattern of high-risk, irresponsible, aggressive, anti-social or emotionally unstable behavior;

(d) Information that suggests that the individual's current behavior indicates a defect in his or her judgment or reliability.

29. *Conditions that could mitigate security clearance concerns include:*

(a) There is no indication of a current problem;

(b) Recent opinion by a credentialed mental health professional that an individual's previous emotional, mental, or personality disorder is cured, under control or in remission and has a low probability of recurrence or exacerbation;

(c) The past emotional instability was a temporary condition (e.g., one caused by a death, illness, or marital breakup), the situation has been resolved, and the individual is no longer emotionally unstable.

Guideline J: Criminal Conduct

30. *The Concern.* A history or pattern of criminal activity creates a doubt about a person's judgment, reliability and trustworthiness.

31. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Allegations or admissions of criminal conduct, regardless of whether the person was formally charged;

(b) A single serious crime or multiple lesser offenses.

32. *Conditions that could mitigate security concerns include:*

(a) The criminal behavior was not recent;

(b) The crime was an isolated incident;

(c) The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life;

(d) The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur;

(e) Acquittal;

(f) There is clear evidence of successful rehabilitation.

Guideline K: Security Violations

33. *The Concern.* Noncompliance with security regulations raises doubt about an individual's trustworthiness, willingness, and ability to safeguard classified information.

34. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Unauthorized disclosure of classified information;

(b) Violations that are deliberate or multiple or due to negligence.

35. *Conditions that could mitigate security concerns include actions that:*

(a) Were inadvertent;

(b) Were isolated or infrequent;

(c) Were due to improper or inadequate training;

(d) Demonstrate a positive attitude towards the discharge of security responsibilities.

Guideline L: Outside Activities

36. *The Concern.* Involvement in certain types of outside employment or activities is of security concern if it poses a conflict with an individual's security responsibilities and could create an increased risk of unauthorized disclosure of classified information.

37. Conditions that could raise a security concern and may be disqualifying include any service, whether compensated, volunteer, or employment with:

(a) A foreign country;

(b) Any foreign national;

(c) A representative of any foreign interest;

(d) Any foreign, domestic, or international organization or person engaged in analysis, discussion, or publication of material on intelligence, defense, foreign affairs, or protected technology.

38. *Conditions that could mitigate security concerns include:*

(a) Evaluation of the outside employment or activity indicates that it does not pose a conflict with an individual's security responsibilities;

(b) The individual terminates employment or discontinues the activity upon being notified that it is in conflict with his or her security responsibilities.

Guideline M: Misuse of Information Technology Systems

39. *The Concern.* Noncompliance with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's trustworthiness, willingness, and ability to properly protect classified systems, networks, and information. Information Technology Systems include all related equipment used for the communication, transmission, processing, manipulation, and storage of classified or sensitive information.

40. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Illegal or unauthorized entry into any information technology system;

(b) Illegal or unauthorized modification destruction, manipulation or denial of access to information residing on an information technology system;

(c) Removal (or use) of hardware, software, or media from any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations;

(d) Introduction of hardware, software, or media into any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations.

41. *Conditions that could mitigate security concerns include:*

(a) The misuse was not recent or significant;

(b) The conduct was unintentional or inadvertent;

(c) The introduction or removal of media was authorized;

(d) The misuse was an isolated event;

(e) The misuse was followed by a prompt, good faith effort to correct the situation.

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BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

12 CFR Part 1510

RIN 1550–AA79

Resolution Funding Corporation Operations

AGENCY: Department of the Treasury.

ACTION: Affirmation of interim rule as final, with amendments.

SUMMARY: The Secretary of the Treasury (Secretary) is adopting as a final rule, with amendments, an interim rule that amended the Treasury Department's regulation governing the operations of the Resolution Funding Corporation (Funding Corporation). The interim rule implemented statutory changes affecting the Funding Corporation's operations, eliminated obsolete regulatory provisions, and streamlined remaining regulatory provisions. The final rule makes two technical changes to the

interim rule to reduce the compliance burden.

EFFECTIVE DATE: The interim rule became effective on March 8, 2000. The amendments made by the final rule are effective on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney-Advisor, Office of the Assistant General Counsel (Banking & Finance), (202) 622–1964, or Matthew P. Green, Financial Analyst, Office of Financial Institutions and Government Sponsored Enterprise Policy, Department of the Treasury, (202) 622–2157.

SUPPLEMENTARY INFORMATION:

I. Background

In an interim rule published in the **Federal Register** on March 8, 2000 (*see* 65 FR 12064) and which became effective on that date, the Secretary amended the Treasury Department's regulation governing the operations of the Funding Corporation (operations regulation) in order to implement statutory changes affecting the Funding Corporation's operations, eliminate obsolete regulatory provisions, and streamline the regulation's remaining provisions. The Funding Corporation is a mixed-ownership government corporation created by Congress in 1989 as a mechanism for issuing debt to finance the resolution of a large number of insolvent savings associations. The **SUPPLEMENTARY INFORMATION** section of the interim rule provides additional background on the Funding Corporation and a detailed explanation of the regulatory amendments made by the interim rule (*see* 65 FR 12064–12068). The Secretary now is adopting the interim rule as final, with two changes that are discussed below.

II. Analysis of Public Comment and the Final Rule

The Secretary received one comment on the interim rule, which was submitted by the Funding Corporation. The Funding Corporation supported the Secretary's effort to streamline and simplify the operations regulation. The Funding Corporation also suggested a change to the procedure in § 1510.5(d)(1) of the interim rule governing how the Funding Corporation collects funds from the Federal Home Loan Banks (Banks) in order to make interest payments on its debt obligations (bonds). The Funding Corporation commented that in order to comply with the timing requirement in § 1510.5(d)(1) for reporting actual quarterly net earnings to the Funding Corporation, the Banks must close their books and determine actual net earnings figures no later than four business days after the end of a quarter. The Funding Corporation stated that in the future, however, it may not be possible for the Banks to close their books within this timeframe due to the operation of Financial Accounting Standards Board Statement 133. Statement 133, which went into effect for the Banks in 2000, establishes new accounting and reporting standards for derivative instruments. Consequently, the Funding Corporation believes it may not be able to obtain actual net earnings figures from the Banks by the sixth business day prior to the interest payment due date, as required by § 1510.5(d)(1) of the interim rule. To address this timing issue, the Funding Corporation recommended that the Secretary remove all the reporting deadlines from § 1510.5(d) of the interim rule and establish them in a separate procedure so that the deadlines could be changed without the need for a regulatory amendment.

In order to address the Funding Corporation's concern, the Secretary is revising the timing requirements in the interim final rule to allow the Banks an additional two business days to provide actual quarterly net earnings figures to the Funding Corporation after the end of each quarter. Specifically, the final rule permits the Banks to have up until the fourth business day prior to the interest payment due date to submit their actual quarterly net earnings figures to the Funding Corporation and for the Funding Corporation to then notify each Bank of the payment due from the Bank. As a result of this change, the final rule moves back by two business days the deadlines in § 1510.5(d)(2) and (3) related to the Federal Savings and Loan Insurance Corporations (FSLIC) Resolution Fund and the Secretary of the Treasury, so that any payment from the FSLIC Resolution Fund to the Funding Corporation is due no later than noon on the third business day prior to the interest payment due date. Similarly, the Funding Corporation must request payment from the Secretary no later than the third business day prior to the interest payment due date.

In the interest of reducing regulatory burden, the final rule also removes the requirement in § 1510.5(c) that the Funding Corporation obtain the Secretary's approval of the quarterly reports of funding projections it submits to the Secretary. Approval of these reports is not necessary because they are provided to the Secretary solely for informational purposes.

III. Administrative Procedure Act

This rule makes technical amendments to the regulation governing the operation of the Funding Corporation that do not affect the general public. For this reason, it has been determined that publishing this rule with notice and an opportunity for public comment is unnecessary pursuant to 5 U.S.C. 553(b). For the same reason, pursuant to 5 U.S.C. 553(d), it is determined that there is good cause for the final rule to become effective immediately upon publication.

IV. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

V. Executive Order 12866

This final rule is not a ''significant regulatory action'' for purposes of Executive Order 12866. Accordingly, a regulatory assessment is not required.

List of Subjects in 12 CFR Part 1510

Federal home loan banks, Federal Reserve System, Resolution Funding Corporation, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Secretary is adopting as a final rule the interim rule that amended 12 CFR part 1510 and that was published at 65 FR 12064 on March 8, 2000, with the following amendments:

PART 1510—RESOLUTION FUNDING CORPORATION OPERATIONS

1. The authority citation for part 1510 continues to read as follows:

Authority: 12 U.S.C. 1441b; Sec 14(d), Pub. L. 105–216, 112 Stat. 910.

2. Amend § 1510.5 as follows:

a. Remove ''for approval'' from the introductory text of paragraph (c); and

b. Revise paragraph (d) to read as follows:

§ 1510.5 How does the Funding Corporation make interest payments on its obligations?

* * * * *

(d) *The Funding Corporation must request funds from the Banks, the FSLIC Resolution Fund, and the Secretary*—(1) *Requests to the Banks.* Not less than four business days prior to the interest payment due date, the Funding Corporation must obtain from each Bank a report of its actual net earnings for the prior quarter and notify each Bank in writing of the interest payment due date and the amount of the payment due

from the Bank. To the extent funds identified in paragraph (a)(1) of this section are insufficient to pay the interest due, the amount of each Bank's payment must be 20 percent of the Bank's actual quarterly net earnings, taking into account any adjustment to the Bank's earnings for any previous quarters. The Funding Corporation must request the Bank to provide payment through wiring immediately available and finally collected funds to the Funding Corporation no later than the interest payment due date.

(2) *Request to the FSLIC Resolution Fund.* On the day the Funding Corporation notifies the Banks of the payments due from them under paragraph (d)(1) of this section, the Funding Corporation must:

(i) Notify the FSLIC Resolution Fund in writing of:

(A) The interest payment due date;

(B) The aggregate amount of the quarterly interest payment due on that date; and

(C) The amount of the quarterly interest payment that will be funded by earnings on assets of the Funding Corporation not invested in the Funding Corporation Principal Fund and payments due from the Banks; and

(ii) Request that the FSLIC Resolution Fund transfer to the Funding Corporation by noon on the third business day prior to the interest payment due date any funds available from the net proceeds from the sale of assets received from the RTC, to the extent funds identified in paragraphs (a)(1) and (2) of this section are insufficient to pay the interest due.

(3) *Request to the Secretary.* No less than three business days prior to the interest payment due date, the Funding Corporation must request payment from the Secretary by providing a certification, in a form satisfactory to the Secretary, stating the total amounts of the quarterly interest payment to be paid by the Funding Corporation from sources other than the Secretary and the amounts necessary to make up the deficiency. Any amount paid by the Secretary becomes a liability of the Funding Corporation to be repaid to the Secretary upon the dissolution of the Funding Corporation, to the extent of its remaining assets.

Dated: September 4, 2001.

Peter R. Fisher,

Under Secretary of the Treasury.

[FR Doc. 01–22796 Filed 9–10–01; 8:45 am]

BILLING CODE 4810–25–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120 and 134

RIN 3245–AE51

Business Loan Program and Office of Hearings and Appeals

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: SBA is implementing changes to the microloan program as required by law. This final rule terminates the designation of the microloan program as a ''demonstration,'' allows a nonprofit child care business to qualify for the microloan program, and authorizes a microloan intermediary to use up to 25 percent of grant funds for technical assistance to prospective microloan borrowers. This final rule also establishes procedures for SBA to revoke or suspend a microloan intermediary or non-lending technical assistance provider.

DATES: This rule is effective October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, Chief, Microenterprise Development Branch, Office of Financial Assistance, Office of Capital Access, 202–205–6497.

SUPPLEMENTARY INFORMATION: Pub. L. 105–135, enacted on December 2, 1997, (1997 legislation) amends SBA's microloan program in section 7(m) of the Small Business Act (15 U.S.C. 636(m)) (Act). On August 11, 1999, SBA published a proposed rule in the **Federal Register** (64 FR 43636), to implement: (1) Changes to the microloan program as required by the 1997 legislation, and (2) standards and procedures SBA could use to suspend or revoke the status of a non-lending technical assistance provider (hearing and appeal regulatory proposal). SBA received three comments in response to this proposed rule, all of which addressed the hearing and appeal regulatory proposal.

The following is a summary of the portion of the proposed rule relating to the implementation of the 1997 legislation which SBA is publishing as final.

The 1997 legislation terminated the designation of the microloan program as a ''demonstration.'' This final rule deletes that designation wherever it was in SBA's rules, including the heading for subpart G of this part.

SBA is amending § 120.706 of its regulations (13 CFR 120.706) to increase the aggregate amount that a microloan intermediary may borrow from SBA from the previous statutory limit of $2,500,000 to the new statutory limit of $3,500,000.

Generally, microloan borrowers must engage in for profit activities. However, SBA is amending § 120.707(a) of its regulations to implement the 1997 legislation which authorizes microloan assistance to a borrower to establish a nonprofit child care business.

The 1997 legislation increases, from 15 percent to 25 percent, the amount of grant funds a microloan intermediary may use for technical assistance to prospective microloan borrowers. This final rule amends § 120.712 to reflect the increased percentage. SBA is also implementing another provision from the 1997 legislation by amending § 120.712 to allow an intermediary to use up to 25 percent of the grant funds it receives from SBA to contract with third parties to provide technical assistance to microloan borrowers.

Under section 7(m) of the Act, SBA may give grants to a maximum of 25 non-lending technical assistance providers. Under prior rules, SBA could provide the 25 grants for a maximum of 5 annual terms. The final rule amends § 120.714 of SBA's regulations to reflect the changes in the 1997 legislation that authorize SBA to provide the annual grants without any maximum term limits.

Section 7(m)(12) of the Act authorizes SBA, on a pilot basis, to guarantee loans made to microloan intermediaries. Currently, § 120.715 of SBA's regulations incorrectly places a limit on the number of loans to intermediaries that SBA may guarantee. SBA is amending § 120.715 of its regulations to clarify that there is no statutorily prescribed limit on the number of loans which SBA is authorized to guarantee to microloan intermediaries.

SBA had proposed adding § 120.716 to its regulations to implement the 1997 legislation's welfare-to-work initiative. The 1997 legislation envisioned that funding would be appropriated through fiscal year 2000. Since this initiative was not funded, and by its own terms was scheduled to terminate at the end of the current fiscal year, SBA is not including it in this final rule.

In the proposed rule, SBA proposed adding a new section to the regulations describing the procedures that SBA would use to suspend or revoke a microloan intermediary or non-lending technical assistance provider (NTAP). The new provision also would have given such an entity the right to appeal any such suspension or revocation to the agency's Office of Hearings and Appeals (OHA). A commenter advised that OHA, under its present rules, did