

## Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

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### II. \* \* \*

h. Notwithstanding anything in this appendix to the contrary, a bank may deduct from its average total consolidated assets the amount of any asset-backed commercial paper (i) purchased by the bank between September 19, 2008, and January 30, 2009 (unless extended by the Board), from an SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7) and (ii) pledged by the bank to a Federal Reserve Bank to secure financing from the ABCP lending facility established by the Board on September 19, 2008.

## PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3907, and 3909; 15 U.S.C. 6801 and 6805.

■ 2. In Appendix A to part 225, amend section III.C.1. by adding a new third paragraph to read as follows:

## Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

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### III. \* \* \*

#### C. \* \* \*

##### 1. \* \* \*

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This category also includes ABCP (i) purchased by a bank holding company between September 19, 2008, and January 30, 2009 (unless extended by the Board), from an SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7) and (ii) pledged by the bank holding company to a Federal Reserve Bank to secure financing from the ABCP lending facility established by the Board on September 19, 2008.

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■ 3. In Appendix D to part 225, amend section II by adding new paragraph d to read as follows:

## Appendix D to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Tier 1 Leverage Measure

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### II. \* \* \*

d. Notwithstanding anything in this appendix to the contrary, a bank holding company may deduct from its average total consolidated assets the amount of any asset-backed commercial paper (i) purchased by

the bank holding company between September 19, 2008, and January 30, 2009 (unless extended by the Board), from an SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7) and (ii) pledged by the bank holding company to a Federal Reserve Bank to secure financing from the ABCP lending facility established by the Board on September 19, 2008.

By order of the Board of Governors of the Federal Reserve System, September 19, 2008.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. E8-22702 Filed 9-25-08; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 223

[Regulation W; Docket No. R-1331]

## Transactions Between Member Banks and Their Affiliates: Exemption for Certain Purchases of Asset-Backed Commercial Paper by a Member Bank From an Affiliate

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interim final rule with request for public comment.

**SUMMARY:** To reduce liquidity and other strains being experienced by money market mutual funds, the Federal Reserve System adopted on September 19, 2008, a special lending facility that enables depository institutions and bank holding companies to borrow from the Federal Reserve Bank of Boston on a non-recourse basis if they use the proceeds of the loan to purchase certain types of asset-backed commercial paper (ABCP) from money market mutual funds (ABCP Lending Facility). To facilitate use of the ABCP Lending Facility by member banks, the Board of Governors of the Federal Reserve System (Board) also has adopted, on an interim final basis, regulatory exemptions for member banks from certain provisions of sections 23A and 23B of the Federal Reserve Act and the Board's Regulation W. The exemptions would increase the capacity of a member bank to purchase ABCP from affiliated money market mutual funds in connection with the ABCP Lending Facility.

**DATES:** The exemption became effective on September 19, 2008. Comments must be received on or before October 31, 2008.

**ADDRESSES:** You may submit comments, identified by Docket No. R-1331, by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov> Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- **Federal eRulemaking Portal:** <http://www.regulations.gov> Follow the instructions for submitting comments.

- **E-mail:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov).

Include docket number in the subject line of the message.

- **Fax:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board's Martin Building (20th and C Street, NW) between 9 a.m. and 5 p.m. on weekdays.

### FOR FURTHER INFORMATION CONTACT:

Mark E. Van Der Weide, Assistant General Counsel, (202) 452-2263, or Andrea R. Tokheim, Counsel, (202) 452-2300, Legal Division; or Norah M. Barger, Deputy Director, (202) 452-2402, Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** In light of the ongoing dislocations in the financial markets, and the impact of such dislocations on the functioning of the ABCP markets and on the operations of money market mutual funds, the Board adopted the ABCP Lending Facility on September 19, 2008. Under the facility, depository institutions and bank holding companies (banking organizations) are able to borrow from the Federal Reserve Bank of Boston on a non-recourse basis on condition that the organizations use the proceeds of the Federal Reserve credit to purchase, at amortized cost, certain highly rated U.S. dollar-denominated ABCP from money market mutual funds. The ABCP purchased must be used to secure the borrowing from the Reserve Bank. The purpose of the ABCP Lending Facility is to assist money market mutual funds to obtain liquidity by enabling them to sell some of their high-credit-quality secured assets at amortized cost. The

ABCP Lending Facility will expire on January 30, 2009 (unless extended by the Board).

To facilitate usage of the ABCP Lending Facility, the Board has adopted on an interim basis exemptions from sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c-1) and the Board's Regulation W (12 CFR part 223). The exemptions increase the capacity of a member bank to purchase ABCP from an affiliated money market mutual fund in connection with the ABCP Lending Facility. In addition, a member bank may use the exemptions only if the bank has not been specifically informed by the Board, after consultation with the bank's appropriate Federal banking agency, that the bank may not use these exemptions. If the Board believes, after such consultation, that use of the exemptions would not be appropriate for the member bank, the Board may withdraw the exemptions for the bank or may impose supplemental conditions on the bank's use of the exemptions.

The Board has determined that these exemptions are in the public interest and consistent with the purposes of sections 23A and 23B. The substantial protections provided to intermediaries by the Federal Reserve in connection with the ABCP Lending Facility largely mitigate the safety-and-soundness concerns that sections 23A and 23B were designed to address. Because Federal Reserve extensions of credit to a member bank under the ABCP Lending Facility are on a non-recourse basis, the bank should bear no risk of loss from purchases of ABCP under the facility. Therefore, the Board believes that it is appropriate to exempt a member bank that serves as an intermediary in the ABCP Lending Facility from the requirements of sections 23A and 23B and Regulation W.

Consistent with its purpose to mitigate temporary stresses faced by money market mutual funds, the interim final rule will expire on January 30, 2009, unless extended by the Board.

#### Administrative Procedure Act

Pursuant to sections 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Board finds that there is good cause for making the rule effective immediately on September 19, 2008, and that it is impracticable, unnecessary, or contrary to the public interest to issue a notice of proposed rulemaking and provide an opportunity to comment before the effective date. The Board has adopted the rule in light of, and to help address, the continuing unusual and exigent circumstances in

the financial markets. The rule will provide immediate relief to depository institutions that elect to participate in the ABCP Lending Facility. The Board is soliciting comment on all aspects of the rule and will make any changes that it considers appropriate or necessary after review of any comments received.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act requires an agency that is issuing a final rule to prepare and make available a regulatory flexibility analysis that describes the impact of the final rule on small entities. 5 U.S.C. 603(a). The Regulatory Flexibility Act provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b), the Board certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. The rule reduces regulatory burden on large and small insured depository institutions by granting exemptions from the Federal transactions with affiliates regime for insured depository institutions that purchase ABCP from affiliated money market mutual funds pursuant to the ABCP Lending Facility.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3506; 5 CFR Part 1320 Appendix A.1), the Board has reviewed the interim final rule under authority delegated to the Board by the Office of Management and Budget. The rule contains no collections of information pursuant to the Paperwork Reduction Act.

#### Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Board to use "plain language" in all proposed and final rules. In light of this requirement, the Board has sought to present the interim final rule in a simple and straightforward manner. The Board invites comment on whether it could take additional steps to make the rule easier to understand.

#### List of Subjects in 12 CFR Part 223

Banks, Banking, Federal Reserve System.

#### Authority and Issuance

■ For the reasons set forth in the preamble, the Board amends Chapter II of Title 12 of the Code of Federal Regulations as follows:

### PART 223—TRANSACTIONS BETWEEN MEMBER BANKS AND THEIR AFFILIATES (REGULATION W)

■ 1. The authority citation for part 223 continues to read as follows:

**Authority:** 12 U.S.C. 371c and 371c-1.

■ 2. In § 223.42, add paragraph (o) to read as follows:

**§ 223.42 What covered transactions are exempt from the quantitative limits, collateral requirements, and low-quality asset prohibition?**

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(o) *Purchases of certain asset-backed commercial paper.* Purchases of asset-backed commercial paper from an affiliated SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7), if the member bank:

(1) Purchases the asset-backed commercial paper between September 19, 2008, and January 30, 2009 (unless extended by the Board), pursuant to the asset-backed commercial paper lending facility established by the Board on September 19, 2008; and

(2) Has not been specifically informed by the Board, after consultation with the member bank's appropriate Federal banking agency, that the member bank may not use this exemption.

■ 3. Add a new § 223.56 to subpart F to read as follows:

**§ 223.56 What transactions are exempt from the market-terms requirement of section 23B?**

The following transactions are exempt from the market-terms requirement of § 223.51.

(a) *Purchases of certain asset-backed commercial paper.* Purchases of asset-backed commercial paper from an affiliated SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7), if the member bank:

(1) Purchases the asset-backed commercial paper between September 19, 2008, and January 30, 2009 (unless extended by the Board), pursuant to the asset-backed commercial paper lending facility established by the Board on September 19, 2008; and

(2) Has not been specifically informed by the Board, after consultation with the member bank's appropriate Federal banking agency, that the member bank may not use this exemption.

(b) [Reserved]

By order of the Board of Governors of the Federal Reserve System, September 19, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8-22701 Filed 9-25-08; 8:45 am]

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## FEDERAL HOUSING FINANCE BOARD

### 12 CFR Part 915

### FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1261

RIN 2590-AA03

### Federal Home Loan Bank Boards of Directors: Eligibility and Elections

**AGENCIES:** Federal Housing Finance Board; Federal Housing Finance Agency.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is issuing and seeking comment on an interim final regulation to implement section 1202 of the Housing and Economic Recovery Act of 2008, which revises section 7 of the Federal Home Loan Bank Act (Bank Act). Section 7 governs the eligibility and election of individuals to serve on the boards of directors of the 12 Federal Home Loan Banks (Banks).

**DATES:** This interim final rule is effective on September 26, 2008. The FHFA will accept written comments on the interim final rule on or before November 25, 2008.

**ADDRESSES:** Submit comments to the FHFA using any *one* of the following methods:

E-mail: [comments@fhfb.gov](mailto:comments@fhfb.gov). Please include RIN 2590-AA03 in the subject line of the message.

Fax: 202-408-2580.

Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006, Attention: Public Comments/RIN 2590-AA03.

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to the FHFA at [comments@fhfb.gov](mailto:comments@fhfb.gov) to ensure timely receipt by the FHFA. Include the following information in the subject line of your submission: Federal Housing Finance Agency. Interim Final Rule: Federal Home Loan Bank Boards of Directors: Eligibility and Elections. RIN Number 2590-AA03.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the FHFA Web site at <http://www.fhfb.gov/Default.aspx?Page=93&Top=93>.

#### FOR FURTHER INFORMATION CONTACT:

Thomas P. Jennings, Senior Attorney Advisor (FHFB), [jennings@fhfb.gov](mailto:jennings@fhfb.gov), (202) 408-2553; or Patricia L. Sweeney, Management Analyst (FHFB), [sweeney@fhfb.gov](mailto:sweeney@fhfb.gov) or (202) 408-2872. You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006.

#### SUPPLEMENTARY INFORMATION:

#### I. Statutory and Regulatory Background

Effective July 30, 2008, the Federal Housing Finance Regulatory Reform Act of 2008 (Act), Division A of the Housing and Economic Recovery Act of 2008, Public Law No. 110-289, 122 Stat. 2654 (2008), transferred the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board over the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, Enterprises), and the Banks to a new independent executive branch agency known as the Federal Housing Finance Agency (FHFA). The FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including being capitalized adequately, and carry out their public policy missions, including fostering liquid, efficient, competitive, and resilient national housing finance markets. The Enterprises and the Banks continue to operate under regulations promulgated by OFHEO and the FHFB until the FHFA issues its own regulations.

Section 1101 of the Act revised section 7 of the Bank Act. 12 U.S.C. 1427. The FHFB regulation implementing section 7 is codified at 12 CFR part 915. Part 915 governed the nomination and election only of those directors who are chosen from among the officers and directors of members of the Banks, which this interim final rule refers to as member directors. The Act amended section 7(b) of the Bank Act, 12 U.S.C. 1427(b), to give the members the right to also elect all of the other directors on the boards of directors of the Banks, which other directors are referred to in this interim final rule as independent directors. The FHFA has kept the basic process of elections that exists in part 915 as it applies to member directorships, making changes as necessary to comply with the

amendments to section 7 of the Bank Act. The FHFA has added provisions to govern the process for nominating individuals for independent directorships and for conducting the election of independent directors in conjunction with the election of member directors. The organizational structure of part 915 also has been revised.

Section 1201 of the Act (*codified at* 12 U.S.C. 4513(f)) requires the Director of the FHFA to consider the differences between the Banks and the Enterprises in rulemakings that affect the Banks with respect to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure, and joint and several liability. In preparing the interim final rule, the Director considered these factors and determined that the rule is appropriate, particularly because this interim final rule implements a statutory provision of the Bank Act that applies only to the Banks. *See* 12 U.S.C. 1427.

#### II. Description of the Interim Final Rule

The interim final regulation removes part 915 of the FHFB regulations and establishes part 1261 of the FHFA regulations, which will contain the rules governing the eligibility and election of Bank directors. The name of new part 1261 will read "Federal Home Loan Bank Director Eligibility and Elections."

##### A. Definitions: Section 1261.1

The FHFA has made technical changes to the definitions of "bona fide resident," "guaranteed directorship," "stock directorship," and "voting state," but their meanings remain the same as they were in part 915. The meaning of "record date" has not changed. The identification number for the Banks is the same, except that it is now the number assigned by the FHFA.

The Act's amendments to section 7 of the Bank Act, 12 U.S.C. 1427, divide the directorships of the Banks into two categories—member directorships and independent directorships. Both types of directorships are filled by a vote of the members; however, elections for member directors are held on a state-by-state basis, whereas independent directors are elected at large by all the members of a Bank without regard to whether the members located in a particular voting state may be voting on member directors in any particular year. The definitions of "independent directorship" and "member directorship" reflect that difference.

The definitions of "guaranteed directorship" and "stock directorship"