

§ 528.7 Nondiscrimination in employment.

(a) No savings association shall, because of an individual's race, color, religion, sex, or national origin:

(1) Fail or refuse to hire such individual;

(2) Discharge such individual;

(3) Otherwise discriminate against such individual with respect to such individual's compensation, promotion, or the terms, conditions, or privileges of such individual's employment; or

(4) Discriminate in admission to, or employment in, any program of apprenticeship, training, or retraining, including on-the-job training.

(b) No savings association shall limit, segregate, or classify its employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect such individual's status as an employee because of such individual's race, color, religion, sex, or national origin.

(c) No savings association shall discriminate against any employee or applicant for employment because such employee or applicant has opposed any employment practice made unlawful by Federal, State, or local law or regulation or because he has in good faith made a charge of such practice or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of such practice by any lawfully constituted authority.

(d) No savings association shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such savings association indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin.

(e) This regulation shall not apply in any case in which the Federal Equal Employment Opportunities law is made inapplicable by the provisions of section 2000e-1 or sections 2000e-2 (e) through (j) of title 42, United States Code.

(f) Any violation of the following laws or regulations by a savings association shall be deemed to be a violation of this part 528:

(1) The Equal Employment Opportunity Act, as amended, 42 U.S.C. 2000e-2000h-2, and Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR part 1600;

(2) The Age Discrimination in Employment Act, 29 U.S.C. 621-633, and EEOC and Department of Labor regulations;

(3) Department of the Treasury regulations at 31 CFR part 12 and Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR part 60-

(4) The Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2011-2012, and the Vietnam Era Veterans Readjustment Assistance Act of 1974, 38 U.S.C. 2021-2026;

(5) The Rehabilitation Act of 1973, 29 U.S.C. 701 *et al.*; and

(6) The Immigration and Nationality Act, 8 U.S.C. 1324b, and INS regulations at 8 CFR part 274a.

§ 528.8 Complaints

Complaints regarding discrimination in lending by a savings association shall be referred to the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410 for processing under the Fair Housing Act, and to the Director, Consumer Affairs, Office of Thrift Supervision, Washington, DC 20552 for processing under Office regulations. Complaints regarding discrimination in employment by a savings association should be referred to the Equal Employment Opportunity Commission, Washington, DC 20506 and a copy, for information only, sent to the Director, Consumer Affairs, Office of Thrift Supervision, Washington, DC 20552.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

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FEDERAL HOUSING FINANCE BOARD**12 CFR Parts 931 and 932**

[No. FHFB 90-01]

Election of Directors of the Federal Home Loan Banks; Eligibility Requirements

AGENCY: The Federal Housing Finance Board.

ACTION: Interim Rule; solicitation of comments.

SUMMARY: The Federal Housing Finance Board ("Board") is amending the eligibility requirements for directors of the Federal home loan banks ("Banks") in order to comply with the recently enacted provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, (Pub. L. 101-73, 103 Stat. 183, August 9, 1989 ("FIRREA")). FIRREA substantially changed the eligibility requirements for appointive and elective Bank directors. These interim regulations are promulgated to implement FIRREA's changes and to codify in one place the

requirements for eligibility to serve as a Bank Director. Appointive directors may no longer have a financial interest in a Federal Home Loan Bank System member institution ("member"). Elective directors must come from members that meet their applicable minimum regulatory capital requirements. The regulations also address newly required community interest directors, general director qualifications and procedural requirements to fill director vacancies.

To further clarify the procedures for electing eligible candidates to directorship positions, the recently published regulation on the Election of Directors, 12 CFR 932.14 is amended to ensure that only eligible candidates are declared elected. This change stems from the applicable minimum regulatory capital requirements which were enacted by FIRREA.

Another change mandated by FIRREA is repeal of the indemnity regulation. The board of directors of each Bank will now determine the terms and conditions under which the Bank may indemnify its directors, officers, employees, or agents.

While the Board is adopting the new regulations set forth below as an interim rule effective January 5, 1990, the Board is also soliciting comments on these regulations with a view toward future revisions. The Board intends to consider comments submitted before promulgating the final rule which will supersede this interim rule.

DATES: This interim rule is effective January 5, 1990. Comments must be received on or before March 5, 1990.

ADDRESSES: Please send comment letters to John F. Ghizzoni, Office of the Secretariat, Federal Housing Finance Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for inspection at the Office of the Secretariat, Federal Housing Finance Board, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Amy R. Maxwell, (202) 906-7865, or James H. Gray, Jr., (202) 906-6161, Federal Housing Finance Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:**A. Statutory and Regulatory Background**

On August 9, 1989, FIRREA was enacted. Among other things, FIRREA established the Board to supervise the Banks and to promulgate such regulations and orders as are necessary to carry out the provisions of the Federal Home Loan Bank Act of 1932 ("Act"). On August 28, 1989 (54 FR 36757, September 5, 1989), the Board issued a

regulation establishing 12 CFR Ch. IX as the place for the Board's regulations.

The Board today is issuing new regulations which effect the changes made by FIRREA to the eligibility requirements for appointive and elective directors of the Banks. These regulations replace the regulations governing directors of the Banks which were promulgated by the former Federal Home Loan Bank Board ("Bank Board") and which were carried forward by the Board and redesignated at 12 CFR 932.8 *et seq.* See 54 FR 36759 (Sept. 5, 1989). Further, these regulations are in addition to the regulations promulgated by the Board at 12 CFR part 932 which established the schedule for the 1989 election of directors cycle. See 54 FR 38590 (Sept. 19, 1989).

B. Appointive Director Eligibility

The Act as amended by FIRREA, 12 U.S.C. 1427, forbids appointive directors from having any financial interest, as that term is defined in 12 CFR 931.20, in a member of the Bank they serve, or from serving as an officer of a Bank or an officer or director of any member of a Bank. Further, the Act requires that at least two appointive directors at each Bank must be representatives chosen from organizations with more than a two year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

1. General

The regulations issued today provide that appointive directors be United States citizens residing in the district of the Bank in which they serve as a member of such Bank's board of directors. The new regulations also require appointive directors to comply with the regulations and policies of the Board and the Bank, presently in effect or to be established by the Board or a Bank's directorate.

2. Financial Interest Limitation

The regulations issued today forbid appointive directors from having financial interests in any member of the Bank they serve. The regulations permit some financial relationships with members, provided that disclosure is made in appropriate cases. The Board seeks to balance appointive directors' investment opportunities posing no risk to director independence consistent with FIRREA and its accompanying Conference Report. Section 931.20 defines financial interest to include ownership of a common or preferred stock share or other security, or equity interest, subordinated debt note, or other obligation of a member used to

raise capital funds. This definition does not preclude an appointive director from having a deposit account in a member under conditions described herein. Section 932.18(b) of the regulations issued today provides that no appointive director may be an officer of a Bank or a director or an officer of any member (including insurance companies and certain other financial institutions) of a Bank. In addition, appointive directors cannot hold shares or have any other financial interest, as defined in § 931.20, in any member of the Bank whose board they serve on.

In addition to the specific requirements concerning financial interest limitations contained in the Act section 7 (12 U.S.C. 1427), as amended by FIRREA, the Act, at section 2B (12 U.S.C. 1422B), empowers the Board, as the overseer of the Banks, to promulgate requirements for standards of conduct and avoidance of conflict of interests for appointive directors. Accordingly, the Board is supplementing the statutory requirements of section 7 with additional requirements in these regulations.

In order to further assure an appointive director's impartiality, the Board, by issuing these regulations, requires that appointive directors not hold shares in any subsidiary or affiliate of a member of that Bank, as well as any member's holding company which is not a diversified holding company. Because a diversified holding company may not derive more than fifty percent of its net worth and net earnings from the ownership of Bank members and related activities thereof, it is deemed appropriate for appointive directors to acquire or maintain a financial interest in such entities. For consistency, the Board defines affiliate, company, control, diversified holding company, holding company, person and subsidiary, with guidance from similar definitions used by the Federal Reserve Board (See 12 CFR 215.2) and the Office of Thrift Supervision (See 12 CFR 583). The Board intends to rely on the existing body of interpretive opinions or regulations defining these terms, subject to clarifications or distinctions that the Board may choose to make.

These regulations permit an appointive director to obtain credit to finance the purchase of a principal residence or other purpose, and to maintain deposits with a member, its holding companies, subsidiaries or affiliates, of a Bank as long as the director is not given terms on any transaction that are more favorable in like circumstances than those given to persons who are not Bank directors, and so long as the appointive director makes

full disclosure to the Board if required by this regulation.

Appointive directors' deposits in a member may not exceed the limits of federal deposit insurance on any account. The purpose of this restriction is to prevent the appearance of any impropriety which could possibly result. By limiting the level of deposits to the maximum insurable amount, the director is in no better or worse condition than any other person who maintains deposits at the insured institution. An appointive director may maintain a non-negotiable certificate of deposit in a member.

The proposed regulations would permit an appointive director to have contractual rights with a member providing that if such contractual right exceeds a minimum threshold of either \$10,000 or five percent of the director's total income, the appointive director shall make full disclosure to the Board. In calculating whether the threshold is reached, the regulation considers fixed as well as contingent contracts considering the previous calendar year, the current calendar year and the aggregate of contractual rights which the director has with all members of the Bank that the director serves.

Section 932.18(d)(1) extends the various prohibitions or disclosure requirements to an appointive director's immediate family and dependents. Section 932.18(d)(2) extends these prohibitions to a company owned in part or whole by an appointive director to the extent of the director's ownership interest in the company. The Board regards the specified relationships as sufficiently close to require monitoring of those individuals' financial interests to remain consistent with the Act's new requirement to avoid financial interests which may improperly influence a director. Section 932.18(e) permits an indirect financial interest that arises through participation in a mutual fund, as suggested by the Conference Report. See FIRREA, Conference Report to HR 1278, August 4, 1989, p. 425.

3. Ineligible Appointive Directors

Consistent with the Act, § 932.18(f)(1) specifies that when an appointive director fails to meet eligibility requirements, the office becomes vacant upon the expiration of the reporting period for the opportunity to cure in § 932.18(h), but an ineligible appointive director may continue to act as a Bank director until the vacancy is filled, or the term of such office expires, whichever occurs first. See 12 U.S.C. 1427(f)(2).

Section 932.18(f)(2) provides that Bank resolutions or other directorate actions

will not be challenged as *ultra-vires* or an unauthorized act solely because appointive director fails an eligibility requirement.

4. Certification and Reporting

To assist in monitoring appointive director eligibility, the Board requires the appointive director in § 932.18(g)(1) to certify annually that he or she meets the eligibility requirements of appointive directors. Section 932.18(g)(2) requires appointive directors who know or suspect they may be ineligible to report to the Board within thirty days the factual basis for their possible ineligibility.

5. Opportunity to Cure

Numerous appointive directors who met the eligibility criteria when appointed, have now become or may in the future become ineligible to continue to serve as appointive directors due to the stricter eligibility requirements of FIRREA. Additionally, the new member potential created by FIRREA may make other incumbent appointive directors vulnerable to subsequent ineligibility. To avoid any inequitable result, the Board will allow appointive directors a reasonable opportunity to "cure" their loss of eligibility by divesting the conflicting affiliation.

To remedy ineligibility, an appointive director must promptly report to the Board the specific facts causing the ineligibility and the specific actions the appointive director will take to remedy the ineligibility. Section 932.18(h) specifies that the ineligibility must be reported to the Board within thirty days and remedied within ninety days of the change in law or Bank membership that caused the ineligibility. The time period to cure the ineligibilities triggered by FIRREA begins upon publication of these regulations.

6. Community Interest Directors

The new "community interest" director positions were created by Congress to add a community/consumer perspective to the Banks' boards of directors. In the Bank System, directors represent the membership of the Bank and the public interest. The Act contemplates that the various interests will balance each other. Section 7 of the Act, 12 U.S.C. 1427, has always provided that most directors be elected from among the members' management, but that some of the directors be appointed by the Board as public interest directors. FIRREA created a special category of public interest directors referred to in the regulations as "community interest directors". The "community interest" is a specific category within the concept of "public interest".

Sections 931.15 and 931.17 apply the FIRREA requirements for the selection of community interest directors. A community interest director shall be a representative chosen from a consumer or community organization. The directors will bring a consumer/community perspective and expertise to the boards of the Banks. The regulation also clarifies that community interest directors are subject to all of the requirements of other appointive directors.

The regulations make clear that the community interest requirement is to be flexibly interpreted to provide for a wide array of consumer or community interests. The definition of consumer or community organization is broadly written to include consumer or community groups as well as any other group that actively promotes consumer or community interests and has at least a two year history of representing either consumer or community interests in any of four broad categories: banking services, credit needs, housing, or financial consumer protections.

By way of example and not limitation, among the groups that could qualify as consumer or community interest organizations are: consumer advocates such as Associated Community Organizations for Reform Now, the Consumer Federation of America, NAACP, and the National Urban League; foundations such as the Ford Foundation; development corporations such as Local Initiatives Support Corporation; state and local government or regional organizations such as community development corporations, local development credit unions and other community development intermediaries or state housing finance representatives.

Other organizations might also qualify. For example, an organization may not have traditionally involved itself in the types of activities required of a consumer or community interest organization, but if the organization or local chapter of a national or regional organization has been actively involved in one of the four areas for a two-year period, such as sponsoring a sustained project to house low-income people in the community, such an organization, or local chapter of an otherwise non-qualifying national organization, would then qualify as a consumer or community organization for purposes of its district Bank.

The Board interprets the requirement that community interest directors be representative "chosen from" consumer or community organizations to require that the directors come from the organization's membership, so long as

the director is actively involved in one of the organization's qualifying interests. However, this does not require that the candidate be a full time staff member, or officer or director of the organization. The Board has to date and intends to continue soliciting potential community interest directors from a broad array of consumer or community organizations. The Board seeks to ensure that, as with any director, consumer or community interest directors put his or her fiduciary duty to the Bank above any other obligation.

Section 932.19(a) applies the community interest director appointment criteria to directors appointed on or after August 9, 1989, the enactment date of FIRREA, in keeping with the Conference Report. When appointing new directors to any Bank board of directors, the Board shall first appoint directors who meet the community interest criteria until such board has at least two community interest directors. Thereafter, the Board will continue to make appointments such that there be at least two community interest directors on the Bank's board of directors. Section 932.19(c) sets forth the selection process for community interest directors.

C. Elective Director Eligibility

1. Allocation of Elective Directorships

The Board designates each elective directorship as representative of the members in a particular state. Members may seek an elective director position only in the state where their principal place of business is located. By resolution of its directorate, the member designates an officer or a director to represent the member as its candidate. The member's designated candidate, if elected by members from that state, is elected to represent all the members from that state. Each member in the particular state is allotted one vote for each directorship allotted to that state.

The Act requires that each state be allocated at least one elective directorship. The Act also requires that each state have at least the number of elective directorships that it had on December 31, 1960. A table showing the number of elective directorships allocated to each state on December 31, 1960 is included in these regulations at § 932.20. The Act provides for the remainder of the elective directorships to be allocated in the approximate ratio of the percentage of required stock of members located in that state to the total required stock of members in the district, both calculated as of the year preceding the election. The Board sets

each member's percentage of required stock on the basis of one percent of the aggregate unpaid principal of each member's home mortgage loans, home-purchase contracts, and similar obligations as of the previous year-end, but not less than \$500 for each such member. A percentage distribution of each state's required stockholdings is calculated to determine the number of directors allocated to each state. The allocation plus the number of directorships established in 1960 determines the total number of directorship designations for each state.

The Act provides for the members to cast a number of votes equal to the number of shares of stock that were required by the Bank at the previous year-end, but limits the number of votes to the average number of shares of stock that were held by the members in such state.

2. General

As with appointive directors, the regulations issued today require that elective directors be United States citizens residing in the Bank district where they serve as Bank directors. In addition, the regulations require that elective directors be officers or directors of a Bank member which has its principal place of business in the state the elective director represents. The regulations also require elective directors to comply with the regulations and policies of the Board and the Bank, presently in effect or to be established by the Board or a Bank's directorate.

3. Minimum Capital Requirements

Section 932.21(b)(1) codifies the FIRREA requirement that elective directors must represent members that meet any applicable minimum regulatory capital requirements as set forth by the member's appropriate regulatory agency: the Office of Thrift Supervision for thrifts, the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation for commercial banks, the National Credit Union Administration for credit unions and other appropriate regulators for other members.

To ensure that directors represent only members in strong capital positions, § 932.21(b)(1) provides that an officer or director of a member, when such member has obtained an exemption from or an exception to its applicable capital requirements, is ineligible to serve as an elective director. See e.g. 12 U.S.C. 1464(t) (7) and (8). The Board is of the opinion that the Bank System will be best served if only the strongest members serve as directors. Further, officers and directors

of members that do not meet their applicable minimum regulatory capital requirements, including those granted exemptions or exceptions, should concentrate their efforts on building the member's capital position, rather than on the affairs of the Bank.

Section 932.21(b)(2) stipulates that an elective director or director-elect whose member failed to meet the applicable minimum regulatory capital requirements shall not be eligible for election to a directorship during the calendar year in which the failure occurred. He or she is once again eligible for election in the succeeding year, provided his or her member meets the applicable minimum regulatory capital requirements during each phase of the election process.

Section 932.21(c) applies the elective director eligibility requirements to a director-elect who does not meet the eligibility requirements on the date he or she would otherwise assume the directorship.

4. Ineligible Elective Directors

Consistent with the Act, § 932.21(d)(1) specifies that when an elective director fails to meet eligibility requirements, the office becomes vacant and the ineligible Bank director must immediately cease to act as a Bank director. See 12 U.S.C. 1427(f)(3).

Section 932.21(d)(2) provides that Bank resolutions or other directorate actions will not be challenged as for an unauthorized act solely because an elective director fails an eligibility requirement.

5. Certification and Reporting

To assist in monitoring elective director eligibility, the Board requires the elective director in § 932.21(e)(1) to certify annually that he or she meets the eligibility requirements of elective directors; based on information known to his or her member including but not limited to reports pertaining to applicable minimum regulatory capital requirements as set forth by the member's appropriate regulatory agency; or any other factual basis from which the directors knows or suspects he or she may be ineligible. Section 932.21(e)(2) requires an elective director who knows or suspects that he or she may be ineligible to immediately report to the Board in writing the factual basis for the known or suspected ineligibility.

D. Vacancies

Section 932.22 of these regulations provides that vacancies in appointive directorships shall be filled by Board appointment. Vacancies in elective directorships shall be filled by a

majority of the Bank's remaining directors. An elective director replacement shall come from the same state as the vacated elective director, unless there are no eligible candidates from such state. Both appointive and elective directorship vacancies shall be filled as soon as practicable, and the new director shall serve for the unexpired term of his or her predecessor.

E. Election of Directors

Section 932.14, which was effective September 15, 1989, provides the specific dates and procedures for the balloting and voting process for elective directors. Also included in this section is the requirement mandated by FIRREA that no candidate who represents a member that fails to meet any applicable minimum regulatory capital requirements as set forth by the member's appropriate regulatory agency shall be declared elected to the Board. As amended today, § 932.14(d) further stipulates in the event that the candidate receiving the highest number of votes is ineligible at the time of election, the candidate who meets the eligibility requirements and has the next highest number of votes shall be declared elected by the Board.

F. Indemnity

Section 707 of FIRREA also gives the board of directors of each Bank the authority to determine the terms and conditions for indemnity for directors, officers, employees and agents of such Bank. By this rule, the Board repeals its indemnity regulation, 12 CFR 932.42.

G. Administrative Procedures Act

The Board is adopting these regulations as an interim rule effective January 5, 1990. The Board finds that for its adoption of these rules the notice and comment procedures prescribed by the Administrative Procedures Act, 5 U.S.C. 553 (1982), may be delayed pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3).

The Board finds good cause exists to suspend the usual thirty day delayed effective date for its adoption of Federal Home Loan Bank System director eligibility regulations (12 CFR parts 931 and 932). The Board also finds that the public interest requires that this interim rule become effective January 5, 1990. The reasons in support of this finding are as follows:

First, FIRREA required upon its enactment on August 9, 1989 that appointive directors no longer be officers of a Bank, officers or directors of any member of a Bank, or hold any

financial interest in any member of a bank. In order to provide interpretive guidance on FIRREA generally, and specifically on what constitutes a financial interest in a member, it is necessary that these regulations become effective immediately.

Second, FIRREA requires that two of the appointive directors for each Bank be community interest directors; representatives chosen from an organization with more than a two-year history of representing either consumer or community interests on Banking services, credit needs, housing, or financial consumer protections. With appointive director terms expiring in December 1989, the Board needs to establish criteria now to consider community interest director candidates.

Third, FIRREA requires that elective directors come only from members that meet any applicable minimum regulatory capital requirements as set forth by a member's appropriate regulatory agency. In order to provide guidance to aspiring elective director candidates in the current election cycle (See FR 38590), the Board must make these regulations effective immediately.

Although time does not permit public comment in advance of the effective date of this interim rule, the Board recognizes the value of public comment and has provided for a sixty day comment period from the projected effective date for these regulations. The Board intends to consider comments received before promulgating the final rule which will supersede this interim rule.

H. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for these regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects

12 CFR Part 931

Federal home loan banks.

12 CFR Part 932

Conflict of interests, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends parts 931 and 932, subchapter B, chapter IX, title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 931—DEFINITIONS

1. The authority citation for part 931 is revised to read as follows:

Authority: Sec. 2B, 103 Stat. 414, as amended (12 U.S.C. 1422b).

2. Section 931.14 is added to read as follows:

§ 931.14 Affiliate.

Any person or company which controls, is controlled by, or is under common control with a member, including, but not limited to, any holding company, any subsidiary, or any service corporation of a member.

3. Section 931.15 is added to read as follows:

§ 931.15 Community interest directors.

A director who is appointed by the Board, subject to all of the requirements of other appointive directors, and is a member in good standing of a consumer or community organization that has more than a two-year history of representing consumer or community interests in any of four areas: banking services, credit needs, housing, or financial consumer protections. Community interest directors must have experience and commitment to consumer and community interests in order to provide the Banks' boards of directors with consumer and community perspective and expertise.

4. Section 931.16 is added to read as follows:

§ 931.16 Company.

Any corporation, partnership, trust, joint-stock company, similar organization, or any other form of business entity not specifically listed herein.

5. Section 931.17 is added to read as follows:

§ 931.17 Consumer or community organization.

Any organization which for a period of at least two years has advocated, represented, promoted or been actively involved in the protection, improvement or expansion of consumer or community rights, needs and interests, provided, that such organization has at least a two year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

6. Section 931.18 is added to read as follows:

§ 931.18 Control.

To own, hold with the power to vote, hold proxies representing, or otherwise hold the power to control ten percent or more of the voting shares or rights of a company.

7. Section 931.19 is added to read as follows:

§ 931.19 Diversified holding company.

A holding company whose subsidiary member and related activities listed below represented, on either an actual or pro forma basis, less than fifty percent of both its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year:

(a) Furnishing or performing management service for a subsidiary member;

(b) Conducting an insurance agency or an escrow business;

(c) Holding or managing or liquidating assets owned by or acquired from a subsidiary member;

(d) Holding or managing properties used or occupied by a subsidiary member;

(e) Acting as trustee under deed of trust; or

(f) Furnishing or performing such other services or engaging in such other activities as a member's appropriate regulatory agency may approve or may prescribe by regulation as being a proper incident to the operations of members. For purposes of the foregoing, consolidated net worth and consolidated net earnings shall be determined in accordance with generally accepted accounting principle.

8. Section 931.20 is added to read as follows:

§ 931.20 Financial interest or relationship.

(a) A financial interest includes the ownership of:

(1) Any common or preferred capital stock shares;

(2) Any other equity security;

(3) Any debt security or obligation, including subordinated debt.

(b) A financial relationship includes:

(1) Any type of deposit or savings account;

(2) Any other contractual right to the payment of money, whether contingent or fixed, in the previous calendar year or the current calendar year.

(3) Loans or extensions of credit.

9. Section 931.21 is added to read as follows:

§ 931.21 Holding company.

Any company that directly or indirectly controls a member, or a holding company of a member but does not include:

(a) Any company by virtue of its direct or indirect ownership or control of voting stock of a member acquired in connection with the underwriting of securities if such stock is held only for such period of time (not exceeding 120 days unless extended by the appropriate

regulatory agency) as will permit the sale thereof on a reasonable basis; or

(b) Any trust (other than a pension, profit-sharing, stockholders' voting or business trust) which directly or indirectly controls a member if such trust by its terms must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, and:

- (1) Was in existence and was directly or indirectly in control of a member on June 28, 1987; or
- (2) Is a testamentary trust.

10. Section 931.22 is added to read as follows:

§ 931.22 Member.

An institution admitted to membership in a Bank.

11. Section 931.23 is added to read as follows:

§ 931.23 Person.

An individual or company.

12. Section 931.24 is added to read as follows:

§ 931.24 Principal place of business.

The principal place of business of a member is the state in which the member maintains its home office established as such in conformity with the laws under which the member is organized.

13. Section 931.25 is added to read as follows:

§ 931.25 Subsidiary.

Any company which is owned or controlled directly or indirectly by a person, and includes any service corporation owned in whole or in part by a member, or a subsidiary of such service corporation.

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 is revised to read as follows:

Authority: Sec. 2B, 103 Stat. 414, as amended (12 U.S.C. 1422b); sec. 7, 103 Stat. 417, as amended (12 U.S.C. 1427).

1a. The undesignated centerheads in part 932 (as redesignated from part 522) are removed.

2. Section 932.14 is amended by adding one sentence at the end of paragraph (d) to read as follows:

§ 932.14 Election of directors.

(d) * * * If the candidate receiving the highest number of votes cast is ineligible to be declared elected, the Board shall declare elected the candidate receiving the next succeeding highest number of

votes who is eligible to be declared elected.

3. Section 932.18 is added to read as follows:

§ 932.18 Appointive director eligibility.

(a) *General.* Each appointive director shall:

- (1) Be a citizen of the United States;
- (2) Be a bona fide resident of the district served by the Bank for which he or she is a director; and

(3) Comply with all regulations and policies of the Board and of the Bank, presently in effect or to be established by the Board or a Bank's directorate.

(b) *Financial interests.* No director who is appointed pursuant to section 7(a) of the Act may, during such director's term of office, serve as an officer of any Bank or a director or officer of any member of such Bank, or hold shares, or any other financial interest in any member of such Bank, non-diversified holding company, subsidiary or affiliate, thereof, except as provided in paragraph (c) of this section.

(c) *Prohibited transactions.* An appointive director of a Bank may not have any financial interest in any member of such Bank.

(d) *Permitted financial relationships.*

(1) An appointive director of a Bank may have a permitted financial relationship with a member of such Bank.

(2) Notwithstanding paragraph (d)(1) of this section, appointive directors must disclose the following permitted financial relationships to the Board:

(i) Any type of deposit or saving account in a member of such Bank in excess of the limits of federal deposit insurance.

(ii) Any contractual rights with a member of such Bank that exceeds a minimum threshold of either \$10,000 or 5 percent of the director's total income.

(iii) Any loans or extensions of credit by a member of such Bank to the appointive director in excess of \$50,000, except loans or extensions of credit for the purpose of purchasing or financing the director's principal residence.

Provided that all permitted financial relations are transacted in the ordinary course of business of the member, its holding companies, subsidiaries or affiliates thereof, and only so long as the terms are no more favorable than would be available in like circumstances to persons who are not Bank directors.

(e) *Attributed financial interests or financial relationships.* (1) Financial interests or financial relationships of an appointive director's spouse, child, or other dependents, shall be considered interests of the appointive director.

(2) A financial interest or a financial relationship of a company in which an appointive director has an ownership interest is deemed to be a financial interest or a financial relationship as the case may be of the director to the extent of the director's ownership interest.

(f) *Mutual funds.* Appointive directors may have an indirect interest in securities or other financial interests of a member that arises through ownership of shares or other investment units of mutual funds.

(g) *Effect of ineligibility.* (1) If any appointive director shall cease to have the qualifications set forth in section 7(a) of the Act or this part, such directorship shall become vacant upon the expiration of the reporting period for the opportunity to cure § 932.18(h), but such person may continue to act as an appointive director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first.

(2) Any vote by an appointive director during a period when such director has ceased to have the qualifications set forth in section 7(a) of the Act or this part shall not be deemed to render void or invalid any action taken by the board of directors during such period.

(h) *Certification and reporting.* (1) By January 15 of each year, each appointive director must certify in writing to the Board that he or she continues to meet all applicable qualifications for his or her appointment set forth in section 7 of the Act and this part.

(2) If a director knows or suspects that he or she is ineligible, the director must report the factual basis for the ineligibility, with specificity, to the Board in writing within thirty days of the event that caused or may have caused his or her ineligibility and the specific actions the appointive director will take to remedy the ineligibility.

(3) Prior to the initial appointment, and annually thereafter by January 15 of each year, each appointive director of a Bank shall fully disclose the existence of:

(i) A contractual right as defined in paragraph (b)(2) of § 931.20; and

(ii) Any type of deposit or savings account that the appointive director has with any member of such Bank. Failure to make such disclosure shall render the appointive director ineligible under this part; and

(iii) Any loan or extension of credit from any member of such Bank.

(1) *Opportunity to cure.* Notwithstanding paragraph (f) of this section, if an appointive director ceases to have the requisite qualifications set forth in section 7 of the Act or this part

because of changes in law, Bank membership, marital status, inheritance or gift which occur subsequent to appointment and such director reports the ineligibility as provided in paragraph (g)(2) of this section and the proposed method to eliminate the cause of ineligibility with specificity by the latter of within thirty days of the change in law, Bank membership, marital status, inheritance or gift; or within thirty days of the effective date of this section, the Board shall give such director a reasonable opportunity, not to exceed the latter of ninety days from the date of the change in law, Bank membership, marital status, inheritance or gift; or within ninety days from the effective date of this section, to eliminate the cause of the ineligibility.

4. Section 932.19 is added to read as follows:

§ 932.19 Community interest directors.

(a) *Requirements.* The designation of community interest directors shall apply to the appointive directorships which become vacant on or after August 9, 1989, until there are at least two such directors on each Bank's board of directors. Thereafter at least two of the appointive directors for each Bank shall be community interest directors.

(b) *Effect of ineligibility.* If a community interest director ceases his or her personal involvement or ceases to be affiliated with a consumer or community organization, as defined in § 931.17, or if the organization the community interest director was chosen from shall change its principal purpose to something other than consumer or community interests on banking services, credit needs, housing, or financial consumer protections, or shall cease to operate, be dissolved, or declared insolvent, such director shall cease to have the qualifications to be a community interest director.

(c) *Selection process.* Each Bank shall forward to the Board a list of qualified candidates compiled after active solicitation of nominations from qualified consumer or community organizations within its district. The Board may on its own also solicit nominations of qualified candidates. Final selection shall be in the sole direction of the Board.

5. Section 932.20 is added to read as follows:

§ 932.20 Minimum number of elective directorships.

Under section 7(c) of the Act, the number of elective directorships allocated to members located in each state cannot be less than the number of directorships that were filled by the

members from the state in 1960. The following list sets forth the number of elective directorships that were filled by members from each state in 1960:

Federal home loan bank—State	No. of Elective Directorships in 1960
Atlanta:	
Alabama.....	1
Dist. of Columbia.....	1
Florida.....	1
Georgia.....	1
Maryland.....	1
North Carolina.....	1
South Carolina.....	1
Virginia.....	1
Boston:	
Connecticut.....	1
Maine.....	1
Massachusetts.....	3
New Hampshire.....	1
Rhode Island.....	1
Vermont.....	1
Chicago:	
Illinois.....	4
Wisconsin.....	4
Cincinnati:	
Kentucky.....	2
Ohio.....	4
Tennessee.....	2
Dallas:	
Arkansas.....	1
Louisiana.....	2
Mississippi.....	1
New Mexico.....	1
Texas.....	3
Des Moines:	
Iowa.....	2
Minnesota.....	2
Missouri.....	2
North Dakota.....	1
South Dakota.....	1
Indianapolis:	
Indiana.....	5
Michigan.....	3
New York:	
New Jersey.....	4
New York.....	4
Puerto Rico and Virgin Islands.....	0
Pittsburgh:	
Delaware.....	1
Pennsylvania.....	6
West Virginia.....	1
San Francisco:	
Arizona.....	1
California.....	3
Nevada.....	1
Seattle:	
Alaska.....	1
Hawaii and Guam.....	1
Idaho.....	1
Montana.....	1
Oregon.....	1
Utah.....	1
Washington.....	1
Wyoming.....	1
Topeka:	
Colorado.....	2
Kansas.....	3
Nebraska.....	1
Oklahoma.....	2

6. Section 932.21 is added to read as follows:

§ 932.21 Elective director eligibility.

(a) *General.* Each elective director shall:

(1) Be a citizen of the United States,
 (2) Be a bona fide resident of the district served by the Bank for which he or she is a director,

(3) Be an officer or a director of a member with its principal place of business in the state the elective director represents, and

(4) Comply with all regulations and policies of the Board and of the Bank, presently in effect or to be established by the Board or a Bank's directorate.

(b) *Minimum capital requirements.* (1) No person who is an officer or director of a member that fails to meet any applicable minimum regulatory capital requirements as set forth by a member's appropriate regulatory agency is eligible to hold the office of Bank director, regardless of any exemption or exception granted by any appropriate regulatory agency.

(2) A person whose member failed to meet the applicable minimum regulatory capital requirements shall not be eligible for election to a directorship during the calendar year in which the failure occurred. This person is once again eligible for election in the succeeding year, provided his or her member continues to meet the applicable minimum regulatory capital requirements during each phase of the election process.

(c) *Ineligible director-elect.* A person declared elected pursuant to 12 CFR 932.14(d) will not be eligible to take office or serve as a director if, as of the date he or she would otherwise assume the directorship, he or she does not meet the eligibility requirements set forth in section 7 of the Act or this part.

(d) *Effect of ineligibility.* (1) If any elective director shall cease to have the qualifications set forth in section 7 of the Act or this part, such directorship shall immediately become vacant and such person shall not continue to act as a Bank director.

(2) Any vote by an elective director during a period when such director has ceased to have the qualifications set forth in section 7(a) of the Act or this part shall not be deemed to render void or invalid any action taken by the board of directors during such period.

(e) *Certification and reporting.* (1) By January 15 of each year, each elective director must certify in writing to the Board that he or she continues to meet all applicable qualifications set forth in section 7 of the Act and this part.

(2) If a director knows or suspects that he or she is ineligible, the director must immediately report the factual basis for the known or suspected ineligibility, with specificity, to the Board in writing.

7. Section 932.22 is added to read as follows:

§ 932.22 Vacancies in directorships.

(a) *Appointive director vacancy.* A vacancy in an appointive directorship shall be filled through appointment by the Board as soon as practicable.

(b) *Elective director vacancy.* A vacancy in an elective directorship shall be filled by the affirmative vote of a majority of the remaining Bank directors as soon as practicable. Such vacancy shall be filled with a director from the state of the vacated director, unless there are no eligible candidates from such state.

(c) *Appointive and elective director vacancies.* The newly appointive or elective director shall serve for the unexpired term of his or her predecessor in the vacated office.

§ 932.42 [Removed]

8. Section 932.42 is removed.

By the Federal Housing Finance Board.

Dated: January 5, 1990.

Jack Kemp,
Chairman.

[FR Doc. 90-987 Filed 1-12-90; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ASW-69; Amdt. 39-6465]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 205A, 205A-1, 212 and 412 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD), which was previously made effective as to all known U.S. owners and operators of certain BHTI Model 205A, 205A-1, 212 and 412 helicopters by three separate priority letter AD's. The priority letter AD's required inspection of the tail rotor (T/R) trunnion bearing housing for cracks and were necessary to prevent failure of the T/R trunnion bearing housing, which could result in the loss of tail rotor control and subsequent loss of the helicopter.

DATES: Effective February 13, 1990, as to all persons except those persons to whom it was made immediately

effective by Priority Letter AD's 86-16-11, issued August 14, 1986; and 86-17-09 and 86-17-10, issued August 21, 1986, which contained this amendment.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

ADDRESSES: Applicable AD-related material may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Bldg. 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Henry, Rotorcraft Directorate, Rotorcraft Certification Office, ASW-170, FAA, Southwest Region, Fort Worth, Texas 76193-0170, telephone (817) 624-5168.

SUPPLEMENTARY INFORMATION: On August 14, 1986, priority letter AD 86-16-11 was issued and made effective immediately as to all known U.S. owners and operators of certain BHTI Model 412 helicopters. Subsequently, on August 21, 1986, priority letter AD's 86-17-09 and 86-17-10 were issued and made effective immediately to all known U.S. owners and operators of certain BHTI Model 212 and 205A and 205A-1 helicopters, respectively. These AD's required visual inspection of the T/R trunnion bearing housing assembly for cracks or undersized end webs, and an additional inspection for excess balance washers. These AD's were prompted by the reported failure of an improperly machined T/R trunnion bearing housing assembly. AD action was necessary to detect cracks and undersized end webs in the trunnion bearing housing assembly that could result in loss of T/R control and subsequent loss of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD's effective immediately by individual letters issued August 14, 1986, to all known U.S. owners and operators of certain BHTI Model 412 helicopters, and August 21, 1986, to all known U.S. owners and operators of certain BHTI Model 205A, 205A-1, and 212 helicopters. Subsequently, it has been determined that the inspection for excess balance washers should no longer be required. Since the other conditions still exist, a consolidated AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make the requirements of the priority letter AD's effective as to all

persons. The first two paragraphs of the priority letter AD's have, however, been revised for clarification, and the inspection for excess balance washers has been removed because it is no longer necessary.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policy and Procedures, a final regulatory evaluation will be prepared and placed in the Regional Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD: