



REGULATORY INTERPRETATION 2000-RI-16

Date: September 8, 2000

Subject: Election of Directors of the Federal Home Loan Bank of Cincinnati

Request Summary:

The Federal Housing Finance Board (Finance Board) has received a number of inquiries concerning recent amendments to its regulations pertaining to the election of Federal Home Loan Bank (Bank) directors. Because of those inquiries, the Finance Board has determined to provide to each Bank written guidance on how the amendments are to be applied to the Bank, which is the purpose of this regulatory interpretation.

Background:

On June 23, 2000, the Board of Directors of the Finance Board adopted a final rule implementing the amendments made by the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, 133 Stat. 1338 (Nov. 12, 1999) (GLB Act), regarding the election of directors of the Banks. 65 Fed. Reg. 41560 (July 6, 2000) (final rule). The final rule, which took effect on August 7, 2000, addresses the status of the 1999 director elections conducted by each Bank and how the terms of the elected directors are to be adjusted in order to stagger the board of directors, as required by the GLB Act.

Analysis and Interpretation:

The final rule includes a matrix for the Cincinnati Bank, which indicates that only three of the four elected directorships with terms commencing on January 1, 2001 shall have a full three-year term. The remaining directorship is to be assigned a two-year term. The matrix further indicates that only three of the five elected directorships with terms commencing on January 1, 2002 may have a full three-year term. The other two directorships from that class must have a one-year term, and the matrix indicates that one of those must be from Ohio. The final rule assigns to the board of directors of the Cincinnati Bank the responsibility for determining, as to the class commencing on January 1, 2001, which state shall be assigned the directorship with a two-year term and, as to the class commencing on January 1, 2002, which state shall be assigned the directorship with the one-year term. The board may make those determinations on any reasonable basis. Accordingly, the first action that the board of directors of the Cincinnati Bank must take under the final rule is to assign a two-year term to one of the two states for which an elected directorship is to commence on January 1, 2001, *i.e.*, Kentucky or Ohio, and to assign a one-year term to one of the two states for which an elected directorship is to commence on January 1, 2002, *i.e.*, Tennessee or Ohio. 12 C.F.R. § 915.17(a)(3), *as amended*.

After assigning the directorships with a reduced term among those states, the board of directors next must determine the manner in which to fill the Bank directorships that have terms commencing on January 1, 2001. The final rule requires the Bank to conduct a new election for those directorships only if, for any state, there are not enough eligible candidates remaining from

the 1999 election for that state (*i.e.*, those candidates who remain eligible to serve as a Bank director) to fill all of the elected directorships for that state that are to commence on January 1, 2001. Thus, the Bank must first determine whether the number of candidates from each state in the 1999 election who remain eligible to serve equals or exceeds the number of directorships for that state that are to commence on January 1, 2001. If so, then no new election is required. If not, then the Bank must conduct a new election for that state in 2000, in which election all directorships from that state that commence on that date would be included.

If no new election is required, then the board of directors, in its discretion, may determine whether to conduct new elections in 2000 (which would have to be for all states in which an elected directorship commences on January 1, 2001) or to declare elected those candidates who were elected in the 1999 elections, after confirming their eligibility to serve. The election results (either from the 1999 election or from a new election) are to be used to determine which directors within a particular state are to be assigned to a reduced term, as well as which are to be assigned to a non-guaranteed directorship. Because there are no non-guaranteed directorships in the class of directorships commencing on January 1, 2001, that is not an issue for this class of directors.

With respect to the directorships that are to commence on January 1, 2001, the board of directors of the Bank will have assigned a two-year term to either Ohio or Kentucky, as described above. For whichever state is assigned the directorship with a two-year term, the director-elect who receives the most votes must be assigned the directorship with the three-year term and the director-elect with the second most votes must be assigned to the two-year term. If the board were to adopt the results from the 1999 elections and each of the directors-elect remained eligible, and if the board were to assign the two-year term to Ohio, then Mr. Koch would receive the three-year term and Mr. Hutchison would receive the two-year term. As we understand that Mr. Hutchison has resigned from the board of the Bank, if he is no longer eligible to serve, then Mr. Harper, who received the third most votes in the 1999 election, would receive the two-year term. If Mr. Harper is not eligible to serve and there is no other eligible candidate remaining from the 1999 election, as appears to be the case, then the Bank would be required to conduct a new election for both Ohio directorships, as described previously. If the board were to assign the two-year term to Kentucky and each of the directors-elect remained eligible, then Mr. Beach would receive the three-year term and Mr. Woodford would receive the two-year term.

With respect to the directorships that are to commence on January 1, 2002, and assuming no change in the designation of directorships, the directors-elect from Ohio and Tennessee who receive the most votes in their respective state must be assigned a guaranteed directorship with a three-year term. With respect to the state to which the board of directors has assigned a one-year term, which will be either Ohio or Tennessee, the director-elect from that state who receives the second most votes in the 2001 election must be assigned that directorship, which is a guaranteed directorship with a one-year term. With respect to Ohio, the director-elect who receives the third most votes must be assigned the non-guaranteed directorship, which is to have a one-year term.

A Regulatory Interpretation applies only to the particular transaction or activity proposed by the requestor, may be relied upon only by the requestor, and is subject to modification or rescission by action of the Board of Directors of the Finance Board. 12 C.F.R. part 907.