information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 crop year began on August 1, 1996, and the marketing order requires that the rate of assessment for each crop year apply to all assessable raisins handled during such crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:


2. A new subpart titled “Assessment Rates” consisting of § 989.347 is added immediately following § 989.221 to read as follows:

Note: This section will appear in the Code of Federal Regulations.

Subpart—Assessment Rates

§ 989.347 Assessment rate.

On and after August 1, 1996, an assessment rate of $5.00 per ton on raisins is added immediately following § 989.221 to read as follows:

Note: This section will appear in the Code of Federal Regulations.

Federal Housing Finance Board

12 CFR Part 935

[No. 96–61]

Terms and Conditions for Advances

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Housing Finance Board (Finance Board) is adopting a final rule that amends its regulation on terms and conditions for advances. The final rule requires a Federal Home Loan Bank (FHLBank) that offers putable advances to provide appropriate written disclosures and to offer replacement advance funding in the event that the FHLBank terminates the putable advance prior to its stated maturity date. EFFECTIVE DATE: The final rule will become effective November 7, 1996.


SUPPLEMENTAL INFORMATION:

I. Statutory and Regulatory Background

Under section 10 of the Federal Home Loan Bank Act (Bank Act), each FHLBank has the authority to make secured advances to its members. See 12 U.S.C. 1430. To ensure that the FHLBanks operate their advance programs in a safe and sound manner, 12 U.S.C. 1422a(3)(A), and pursuant to its authority to supervise the FHLBanks and ensure that the FHLBanks carry out their housing finance mission and remain adequately capitalized and able to raise funds in the capital markets, id. § 1422a(a)(3)(B), the Finance Board promulgated a final rule governing FHLBank advance programs in May 1993. See 58 FR 29456 (May 20, 1993), codified at 12 CFR part 935.

Since that time, the FHLBanks have developed a new type of advance product called a “putable advance.” A putable advance is one that a FHLBank may, at its discretion, put back to a member for immediate repayment prior to the maturity of the advance on dates specified in the advances agreement. Putable advances present to a member borrower the risk that a FHLBank will exercise the put option and terminate the advance prior to its maturity date thereby placing the borrower at a disadvantage. For example, if a FHLBank were to terminate a putable advance prior to its maturity date in a rising interest rate environment, any replacement advance funding offered to the member might be extended at higher market interest rates. On the other hand, since the member borrower is incurring the interest rate risk associated with putable advance funding, a FHLBank is able to offer a putable advance at an interest rate that can be significantly lower than that available on a regular advance. FHLBank members have expressed considerable interest in the lower cost funding available through the use of putable advances.

The Finance Board’s advances regulation does not address putable advances, and the practices with respect to this type of advance funding vary from FHLBank to FHLBank. To provide for uniformity and consistency in practice among the FHLBanks that offer putable advances and to reinforce the role of the FHLBanks as sources of liquidity for member institutions, the Finance Board approved for publication a proposed rule to amend its advances regulation to address specifically the issuance of putable advances. The proposed rule was published in the Federal Register on August 2, 1996, with a 30-day public comment period that closed on September 3, 1996. See 61 FR 40364 (Aug. 2, 1996). The Finance Board received a total of four comments in response to the notice of proposed rulemaking, two from FHLBanks and two from industry trade associations. The commenters generally supported the Finance Board’s proposal. Specific comments are discussed in § II of the Supplementary Information.

II. Analysis of Public Comments and the Final Rule

The final rule adds a new subsection (d), putable advances, to § 935.6 of its advances regulation, which concerns the terms and conditions for advances.

A. Disclosure

To ensure that members are fully apprised of the risks associated with putable advance funding, § 935.6(d)(1) requires a FHLBank that provides a putable advance to a member to disclose in writing to such member the risks associated with putable advance funding. Such risks include the option risk described in § I of the Supplementary Information and the
potentially adverse impact on a
member's liquidity if a FHLBank
terminates a putable advance prior to
the stated maturity date.

A trade association commenter
strongly supported the written
disclosure requirement and
recommended that the disclosure
contain information regarding the
interest rate environments in which a
FHLBank might exercise the put option.
The Finance Board believes that the
disclosure required by the proposed rule
already encompasses this type of
information. However, to provide
further clarification, the final rule states
that the disclosure should include detail
sufficient to describe the type and
nature of the risks associated with
putable advances.

B. Replacement Funding

To preclude the possibility that
putable advance funding might cause
liquidity problems for members, § 935.6(d)(2) of the proposed rule would have required a FHLBank that
terminates a putable advance prior to its
maturity date to offer replacement
funding to the member at the market
rate for the remaining term to maturity
of the putable advance. To provide
maximum utility to FHLBank members
and flexibility to both members and the
FHLBanks, one FHLBank commenter
suggested that the term to maturity of the
replacement funding should be
determined through negotiations
between the FHLBank and the member.
The other FHLBank commenter
suggested that, in order to provide
FHLBank members with some
protection from interest rate changes, a
member should be permitted to elect at
the time of origination of the putable
advance whether replacement funding
will be priced at the market rate or a
predetermined rate negotiated between
the FHLBank and the member. The
Finance Board has decided to
incorporate these suggestions into the
final rule.

Section 935.6(d)(2) of the final rule
requires a FHLBank to offer replacement
funding, it does not obligate the member
to accept the offer.

In the notice of proposed rulemaking,
the Finance Board stated that the
FHLBanks should consider replacement
funding to be a conversion of the
outstanding advance rather than a new
extension of credit. To ensure that there
is no conflict between the putable
advances provision and § 935.5 of the
Finance Board's advances regulation, 12
CFR 935.5, which establishes
limitations on access to FHLBank
advances, a FHLBank commenter
suggested clarifying the final rule. The
Finance Board agrees with this
suggestion and has added a new
paragraph to the final rule,
§ 935.6(d)(2)(iii), providing that, for
purposes of part 935, replacement
funding is the conversion of an
outstanding advance, not the renewal of
an existing advance or the extension of
a new advance.

A trade association commenter
supported the development of new
advance products that help FHLBank
members to meet their liquidity and
credit needs. The commenter
recommended that, in addition to
putable advances, the FHLBanks should
offer "callable advances" that would be
callable at the option of the FHLBank
member. A FHLBank would factor the
cost of the call provision into the
coupon, much as it includes the cost of
the put in the price of a putable
advance, rather than through a
prepayment penalty. All of the
FHLBanks currently offer callable
advances and all but two factor the full
cost of the option into the advance
coupon.

C. Definition of "Putable Advance"
The Finance Board adopted the
definition of the term "putable
advance" in § 935.6(d)(3) of the
proposed rule without change. For
purposes of § 935.6(d), the term
"putable advance" means an advance
that a FHLBank may, at its discretion,
terminate and require the member to
repay prior to the stated maturity date
of the advance.

III. Regulatory Flexibility Act

Under the Regulatory Flexibility Act
(RFA), 5 U.S.C. 601, et seq., the
FHLBanks are not "small entities." Id.
section 601(6). Since this final rule
contains only technical revisions to an
existing rule that applies only to the
FHLBanks, it does not impose any
additional regulatory requirements on
small entities. Thus, in accordance with
the provisions of the RFA, the Board of
Directors of the Finance Board hereby
certifies that this final rule will not have
a significant economic impact on a
substantial number of small entities. Id.
section 605(b).

List of Subjects in 12 CFR Part 935

Credit, Federal home loan banks.

Accordingly, the Board of Directors of
the Finance Board hereby amends part
935, chapter IX, title 12, Code of Federal
Regulations, as follows:

PART 935—ADVANCES

1. The authority citation for part 935
continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1), 1426,
1429, 1430, 1430(b), and 1431.

2. In § 935.6, paragraph (d) is added
to read as follows:

§ 935.6 Terms and conditions for
advances.

(d) Putable advances. (1) Disclosure.
A Bank that offers a putable advance to
a member shall disclose in writing to
such member the type and nature of the
risks associated with putable advance
funding. The disclosure should include
detail sufficient to describe such risks.

(2) Replacement funding. If a Bank
terminates a putable advance prior to
the stated maturity date of such
advance, the Bank shall offer to provide
replacement funding to the member.

(i) Term to maturity. At the option of the
member, a Bank shall offer
replacement funding: (A) For the
remaining term to maturity of the
putable advance; or (B) For a term to
maturity agreed upon between the Bank
and the member.

(ii) Interest rate. At the option of the
member, a Bank shall price replacement
funding: (A) At the market rate of interest;
or (B) At a predetermined rate of interest
agreed upon between the Bank and the
member.

(iii) Conversion. For purposes of this
paragraph (d), the term putable advance
means an advance that a Bank may, at
its discretion, terminate and require the
member to repay prior to the stated
maturity date of the advance.

(3) Definition. For purposes of this
paragraph (d), the term putable advance
means an advance that a Bank may, at
its discretion, terminate and require the
member to repay prior to the stated
maturity date of the advance.

By the Board of Directors of the Federal
Housing Finance Board.

Bruce A. Morrison,
Chairperson.
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