

(2) The borrower will immediately notify FSA of any adverse actions such as:

- (i) Anticipated default on FSA debt;
- (ii) Potential recall vote of an assessment referendum; or

(iii) Being named as a defendant in litigation;

(3) Submission of other specific financial reports for the borrower;

(4) The right of deferral under 7 U.S.C. 1981a; and

(5) Applicable liquidation procedures upon default.

(d) **Fees.** The borrower will pay all fees for recording any legal instruments determined to be necessary and all notary, lien search, and similar fees incident to loan transactions. No fees will be assessed for work performed by FSA employees.

#### **§ 1941.990 Loan monitoring.**

(a) **Annual and periodic reviews.** At least annually, the borrower will meet with FSA representatives to review the financial status of the borrower, assess the progress of the eradication program utilizing loan funds, and identify any potential problems or concerns.

(b) **Performance monitoring.** At any time FSA determines it necessary, the borrower must allow FSA or its representative to review the operations and financial condition of the borrower. This may include, but is not limited to, field visits, and attendance at Foundation Board meetings. Upon FSA request, a borrower must submit any financial or other information within 14 days unless the data requested is not available within that timeframe.

#### **§ 1941.991 Loan servicing.**

(a) **Advances.** FSA may make advances to protect its financial interests and charge the borrower's account for the amount of any such advances.

(b) **Payments.** Payments will be made to FSA as set forth in loan agreements and debt instruments. The funds from extra payments will be applied entirely to loan principal. Extra payments will not extend the time for the next scheduled payment. Funds from other payments will be applied first to any advances, then to accrued interest, and when all accrued interest is paid, the remainder of the payment will be applied to loan principal.

(c) **Restructuring.** FSA may restructure loan debts; provided:

(1) the Government's interest will be protected,

(2) the restructuring will be performed within FSA budgetary restrictions, and

(3) the loan objectives cannot be met unless the loan is restructured. The provisions of part 1951, subpart S are not applicable to loans made under this section.

(d) **Default.** In the event of default, FSA will take all appropriate actions to protect its interest.

Signed at Washington, D.C., on May 12, 1997.

**Dallas R. Smith,**

*Acting Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 97-12837 Filed 5-15-97; 8:45 am]

BILLING CODE 3410-05-P

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## **FEDERAL HOUSING FINANCE BOARD**

### **12 CFR Parts 931 and 934**

**[No. 97-38]**

**RIN 3069-AA63**

#### **Technical Amendment to Definition of Deposits in Banks or Trust Companies**

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is amending the definition of the term "deposits in banks or trust companies" to expressly include a deposit in, or a sale of federal funds to, a branch or agency of a foreign bank located in the United States that is subject to the supervision of the Board of Governors of the Federal Reserve System (Board of Governors), as an investment eligible to fulfill the liquidity requirement imposed on the Federal Home Loan Banks (FHLBanks) by section 11(g) of the Federal Home Loan Bank Act (Bank Act).

**EFFECTIVE DATE:** The final rule will become effective on May 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408-2505, or Julie Paller, Senior Financial Analyst, Office of Policy, 202/408-2842, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Statutory and Regulatory Background**

Under section 11(e)(1) of the Bank Act, the FHLBanks have the power to accept deposits from their members, other FHLBanks, or instrumentalities of the United States. See 12 U.S.C.

1431(e)(1). To ensure that each FHLBank has sufficient liquid assets to meet deposit withdrawal demands, section 11(g) of the Bank Act imposes a liquidity requirement. See *id.* 1431(g). The liquidity requirement provides that each FHLBank must invest, upon such terms and conditions as the Finance Board may prescribe, an amount equal to the current deposits the FHLBank holds in specified types of assets. *Id.*

Among the assets specified in the Bank Act are "deposits in banks or trust companies." *Id.* 1431(g)(2).

In 1978, the Finance Board's predecessor, the former Federal Home Loan Bank Board (FHLBB), defined by regulation the phrase "deposits in banks or trust companies" to include a deposit in another FHLBank, a demand account with a Federal Reserve Bank, or a deposit in a depository designated by a FHLBank's board of directors that is a member of either the Federal Reserve System or the Federal Deposit Insurance Corporation (FDIC). See 43 FR 46835, 46836 (Oct. 11, 1978), *codified at* 12 CFR 521.5 (superseded). When Congress abolished the FHLBB in 1989, see Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, sec. 401, 103 Stat. 183 (Aug. 9, 1989), the Finance Board transferred the definition, without any change in substantive or technical matters, to § 931.5 of its regulations. See 54 FR 36757 (Aug. 28, 1989), *codified at* 12 CFR 931.5. This definition remained unchanged until September 1996, when the Finance Board adopted a final rule making clear that the term "banks" includes savings associations and including federal funds transactions as eligible to fulfill the liquidity requirement imposed on the FHLBanks by section 11(g) of the Bank Act. See 61 FR 40311 (Aug. 2, 1996), *codified at* 12 CFR 931.5. In February 1997, the Finance Board published for comment an interim final rule, which became effective upon publication, modifying the definition of "deposits in banks or trust companies" to include a deposit in, or a sale of federal funds to, a branch or agency of a foreign bank located in the United States that is subject to the supervision of the Board of Governors. See 62 FR 6860 (Feb. 14, 1997). The 30-day public comment period closed on March 17, 1997. See *id.* The one comment received in response to the interim final rule is discussed in Part II of the SUPPLEMENTARY INFORMATION.

##### **II. Analysis of Public Comments and the Final Rule**

For the reasons set forth in detail in the interim final rulemaking, the Finance Board believes that all U.S. branches and agencies of foreign banks should be treated equally, which was not the case under the prior rule. Accordingly, the Finance Board is adopting the amendments to the definition of "deposits in banks or trusts" made by the interim final rule without substantive change. In addition,

as part of its ongoing regulatory reorganization, the Finance Board is redesignating the definition to part 934 of its regulations, which concerns the operations of the FHLBanks. See 12 CFR part 934.

As amended, the definition of the term "deposits in banks or trusts" includes FHLBank deposits in any U.S. branch or agency of a foreign bank that has legal authority to accept deposits or engage in federal funds transactions as eligible investments for purposes of section 11(g) of the Bank Act. To achieve this result, the Finance Board has added a new paragraph (c)(3) that includes expressly a deposit in, or federal funds transactions with, a U.S. branch or agency of a foreign bank that is subject to the supervision of the Board of Governors and is designated by a FHLBank's board of directors. The terms "branch," "agency," and "foreign bank" have the same meaning as in the International Banking Act of 1978, as amended. See 12 U.S.C. 3101 (1), (3), (7).

The commenter urged the Finance Board to encourage the FHLBanks to place deposits with small, domestic FDIC-insured financial institutions rather than U.S. branches and agencies of foreign banks in order to provide these community banks with needed liquidity and to facilitate the FHLBanks' mission of extending credit for housing in the United States. Because provisions of federal law require the treatment of all U.S. branches and agencies of foreign banks to be similar to the treatment of domestic depository institutions, the Finance Board believes that the amendment permitting FHLBank deposits in U.S. branches and agencies of foreign banks is consistent with federal law. The commenter also suggested that placing deposits in uninsured U.S. branches and agencies of foreign banks might create additional unnecessary risk for the FHLBanks. As pointed out in the interim final rulemaking, a foreign bank may establish a U.S. branch or agency only with the prior approval of the Board of Governors and an appropriate licensing authority, i.e., either the Comptroller of the Currency or a state banking regulator, and such branches and agencies are subject to the supervision of the Board of Governors and must meet many of the rules and regulations, including safety and soundness rules and regulations, applicable to domestic commercial banks. In addition, because FHLBank deposits generally exceed the \$100,000 FDIC deposit insurance limit, and U.S. branches of foreign banks principally accept only wholesale deposits, FDIC insurance would be of

little benefit, and the absence thereof would pose little additional risk, to the FHLBanks.

### III. Notice and Public Participation

The Finance Board finds that the notice and comment procedure required by the Administrative Procedure Act is unnecessary, impracticable, and contrary to the public interest in this instance because the changes made by the final rule are technical in nature and apply only to the FHLBanks. See 5 U.S.C. 553(b)(3)(B). In addition, as explained above, the changes made by the final rule are necessary to comply with various provisions of federal law.

### IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the interim final rule should become effective on May 16, 1997. See 5 U.S.C. 553(d)(3).

### V. Regulatory Flexibility Act

The Finance Board is adopting the technical amendment in the form of a final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2), 603(a).

### VI. Paperwork Reduction Act

This final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. See 44 U.S.C. 3501, *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

### List of Subjects

#### 12 CFR Part 931

Banks, Banking, Federal home loan banks.

#### 12 CFR Part 934

Federal home loan banks, Securities, Surety bonds.

Accordingly, the Federal Housing Finance Board hereby adopts the interim final rule amending 12 CFR part 931 that was published at 62 FR 6860 on February 14, 1997 as a final rule with the following changes, and amends 12 CFR part 934 of the Code of Federal Regulations as follows:

### PART 931—DEFINITIONS

1. Revise the authority citation for part 931 to read as follows:

**Authority:** 12 U.S.C. 1422a and 1422b.

### PART 934—OPERATIONS OF THE BANKS

1. Revise the authority citation for part 934 to read as follows:

**Authority:** 12 U.S.C. 1422a, 1422b, 1431(g), and 1442.

#### §§ 934.4 through 934.14 [Redesignated as §§ 934.5 through 934.15]

2. Redesignate §§ 934.4 through 934.14 as §§ 934.5 through 934.15, respectively.

#### § 931.5 [Redesignated as § 934.4]

3. Redesignate § 931.5 as § 934.4 and revise to read as follows:

#### § 934.4 Deposits in banks or trust companies.

For purposes of section 11(g) of the Act, the term "deposits in banks or trust companies" means:

- (a) A deposit in another Bank;
- (b) A demand account in a Federal Reserve Bank; and
- (c) A deposit in, or a sale of federal funds to:

(1) An insured depository institution, as defined in section 2(12)(A) of the Act, that is designated by a Bank's board of directors;

(2) A trust company that is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation, and is designated by a Bank's board of directors; or

(3) A U.S. branch or agency of a foreign bank, as defined in the International Banking Act of 1978, as amended (12 U.S.C. 3101 *et seq.*), that is subject to the supervision of the Board of Governors of the Federal Reserve System, and is designated by a Bank's board of directors.

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

**Bruce A. Morrison,**

*Chairperson.*

[FR Doc. 97-12550 Filed 5-15-97; 8:45 am]

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### DEPARTMENT OF COMMERCE

#### Bureau of Export Administration

#### 15 CFR Part 744

[Docket No. 970428099-7099-01]

RIN 0694-AB60

**Revisions to the Export Administration Regulations: Addition of Bharat Electronics, Ltd., (aka Bharat Electronics, Ltd.) India, to Entity List**

**AGENCY:** Bureau of Export Administration, Commerce.