that do not qualify for the zero percent risk weight category. * * *

* * * * *

4. In appendix A to part 325, section II.D.1, the eight paragraphs are designated as paragraphs a. through h., respectively, and the newly designated paragraph h. is amended by adding a sentence to the end of the paragraph to read as follows:

* * * * *

II. * * *

D. * * *

1. *Items with a 100 Percent Conversion Factor*. a. * * *

* * * * *

h. * * * When a bank is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending bank, the transaction is deemed to be collateralized by cash on deposit with the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

5. In appendix A to part 325 under Table II—Summary of Risk Weights and Risk Categories, a period is added at the end of paragraph (6) and a new paragraph (7) is added under Category 1—Zero Percent Risk Weight to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

Category 1—Zero Percent Risk Weight

* * * * *

(7) Portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending bank or by securities issued or unconditionally guaranteed by the U.S. Treasury, U.S. Government agencies, or the central government in other OECD countries, provided that the collateralization arrangement (a) specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and (b) requires the maintenance of a positive collateral margin on a daily basis that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

6. In appendix A to part 325 under Table II—Summary of Risk Weights and Risk Categories, paragraphs (6) and (7) under Category 2—20 Percent Risk Weight are revised to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

* * * * *

Category 2—20 Percent Risk Weight

* * * * *

(6) Portions of claims (including repurchase agreements) collateralized [3] by securities issued or guaranteed by the U.S. Treasury, U.S. Government agencies, or the central government in other OECD countries that do not qualify for the zero percent risk weight category, or that are collateralized by securities issued or guaranteed by U.S. Government-sponsored agencies.

(7) Portions of loans and other claims collateralized by cash on deposit in the lending bank that do not qualify for the zero percent risk weight category.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 17th day of June, 1996.

Federal Deposit Insurance Corporation

Valerie J. Best,

Assistant Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

For the reasons set forth in the preamble, part 567 of chapter V of title 12 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

2. Section 567.6 is amended by:

a. Redesignating footnotes 8, 9, 10, and 11 as footnotes 10, 11, 12, and 13, respectively.

b. Adding paragraph (a)(1)(i)(H); and

c. Adding a sentence at the end of paragraph (a)(2)(i)(E).

The additions read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) * * *

(1) * * *

(i) * * *

(H) That portion of claims collateralized by cash on deposit with the lending savings association or by securities issued or unconditionally guaranteed by the United States Treasury, the United States Government or its agencies, or the central government in other OECD countries,[8] provided that the collateralized arrangement:

(*1*) Specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure);[9] and

(*2*) Requires the maintenance on a daily basis of a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the savings association's credit exposure and in the market value of the collateral.

* * * * *

(2) * * *

(i) * * *

(E) * * * When the savings association is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending savings association, the transaction is deemed to be collateralized by cash on deposit with the savings association for purposes of determining the appropriate risk weight category, provided that any obligation of the savings association to indemnify the customer is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the collateral is borne by the customer.

* * * * *

Dated: July 23, 1996.

Office of Thrift Supervision

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 96–20639 Filed 8–15–96; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 932 and 941

[No. 96–55]

Selection and Compensation of Federal Home Loan Bank Employees; Selection of the Director of the Office of Finance and Compensation of the Employees of the Office of Finance

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

[3] Degree of collateralization is determined by current market value.

[8] Claims collateralized by securities issued or guaranteed by the United States Treasury, the United States Government or its agencies, or the central government of an OECD country include securities lending transactions, repurchase agreements, collateralized letters of credit, such as reinsurance letters of credit, and other similar financial guarantees. Swaps, forwards, futures and options transactions are also eligible, if they meet the collateral requirements.

[9] See paragraph (a)(2)(v)of this section.

SUMMARY: The Federal Housing Finance Board (Board) is proposing to amend the provisions of its regulations governing the selection and compensation of employees of the Federal Home Loan Banks (Banks) in order to streamline regulatory requirements and transfer specific functions currently performed by the Board to the board of directors of each Bank, including the establishment of incentive payment measures for Bank Presidents based on each Bank's fulfillment of its mission. The Board is proposing also to amend its regulation governing the Federal Home Loan Bank System's Office of Finance (OF) to provide for the annual appointment of the Director of the OF and for the compensation of the Director and the other employees of the OF.

DATES: Comments on this proposed rule must be received in writing on or before October 15, 1996.

ADDRESSES: Mail comments to Elaine Baker, Executive Secretariat, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Barbara Fisher, Director, Office of Resource Management, (202) 408–2586; or David Guy, Associate General Counsel, (202) 408–2536, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

A. Selection of Employees

1. Bank Employees. Section 12(a) of the Federal Home Loan Bank Act (Bank Act) provides that each Bank may select, employ, and fix the compensation of Bank employees, subject to the approval of the Board. *See* 12 U.S.C. 1432(a). Section 932.40 of the Board's regulations, which governs the selection of Bank employees, provides that officers, legal counsel, and employees of a Bank shall be elected or appointed in accordance with the Bank's bylaws. *See* 12 CFR 932.40. Each Bank's bylaws are subject to the approval of the Board. *See* 12 U.S.C. 1432(a). Under each Bank's bylaws, the Bank elects or appoints its President subject to Board approval.

Section 932.40 also sets forth conflicts of interest prohibitions applicable to full-time officers or employees of a Bank, and to counsel retained by a Bank. *See* 12 CFR 932.40. These provisions generally prohibit a Bank employee from acting on behalf of a member or other institution insured by the former Federal Savings and Loan Insurance Corporation (FSLIC), except under specified circumstances and with the consent of the FSLIC. Existing § 932.40 extends this prohibition to counsel and attorneys of any Bank, whether employed on a salary, fee, retainer, or other basis, unless the Board consents to such representation. *See id.*

2. OF employees. The current regulation regarding OF provides only that the Director has responsibility for the overall daily management of OF, including the employment and management of personnel. *See* 12 CFR 941.6(a)(3). It also provides that the board of directors of OF shall, subject to Finance Board approval, select and employ the Director under an annual contract of employment. *See id.* § 941.9(b)(6).

B. Compensation

1. Bank Presidents and the Director of OF. Under section 12(a) of the Bank Act, the compensation of all Bank employees is subject to Board approval. *See* 12 U.S.C. 1432(a). However, under its existing regulation on Bank employee compensation, prior Board approval is required only for compensation of a Bank's President. *See* 12 CFR 932.41(a). Section 932.41 of the Board's existing compensation regulation requires the board of directors of each Bank annually to adopt and submit to the Board for its approval an appropriate resolution showing the contemplated compensation of its President. *Id.*

In setting the compensation of their Presidents, the Banks are governed by the Bank Presidents' Compensation Plan (Compensation Plan), adopted by the Board on November 19, 1991, as amended from time to time. *See* Bd. Res. No. 91–565 (as amended). The Compensation Plan establishes base salary guidelines, merit increase (to base salary) guidelines, and criteria for incentive payments for Bank Presidents. The Compensation Plan requires each Bank annually to submit for Board approval recommendations for merit increases to its President's base salary and proposed incentive payments. The Director of OF also is subject to the Compensation Plan. *See*, e.g,. Bd. Res. No. 95–33 (Oct. 5, 1995).

2. Other bank employees. Section 932.41(b) of the Board's existing compensation regulation permits a Bank to fix the compensation of officers other than the President without prior Board approval, provided that such compensation is within ranges established by the Board and the total limits for such compensation in the Bank's approved budget. *See* 12 CFR 932.41(b). Each Bank may establish the amount and form of compensation for all other employees (including legal counsel) within the limits set forth in the Bank's approved budget. *See id.* Section 932.41(b) also prohibits a Bank from paying a bonus to any director, officer, employee, or other person. *See id.*

In Resolution No. 84–390, dated July 25, 1984, the Board's predecessor agency, the Federal Home Loan Bank Board (FHLBB), established a cap on compensation of Bank employees other than the President, providing that the salary of the second-highest-paid Bank officer may not exceed 80 percent of the Bank President's salary. This resolution currently remains in effect. *See* 12 U.S.C. 1437 note.

3. OF employees. The current regulations provide no guidance on the compensation of OF employees.

4. Benefits. Existing § 932.41(b) does not specifically address benefits provided by the Banks to their employees. It has been the Board's practice to require the Banks to obtain prior Board approval for any compensation of Bank Presidents, whether direct or indirect, and whether payable in current periods or during future periods. This may include a variety of benefits plans in which Bank Presidents are participants, exclusive of other employees. It has been the Board's practice to permit the Banks to adopt non-discriminatory qualified benefits plans for their employees without Board approval.

II. Analysis of the Proposed Rule

As part of its continuing effort to transfer to the Banks those functions currently performed by the Board that are related to Bank management and governance, the Board proposes to amend §§ 932.40 and 932.41 of its regulations to clarify the scope of the Banks' discretion in selecting and fixing the compensation of Bank Presidents and other Bank employees. The Board also proposes to amend § 941.9 of its regulations to codify the Board's existing practice regarding the annual appointment and compensation of the Director of OF. In making these proposals, the Board reiterates its position that, notwithstanding the Board's broad statutory authority to approve all aspects of the selection and compensation of Bank and OF employees, the Banks' boards of directors and the board of directors of OF are ultimately responsible for the effective and prudent management of the Banks and OF, respectively, including the selection and compensation of their officers and other employees.

A. Selection of Employees

1. Bank Presidents. The Board proposes to amend § 932.40 to clarify

the rules governing the appointment of Bank Presidents. Proposed § 932.40(a)(1) restates the Banks' statutory authority to appoint their Presidents, and makes clear that such appointments are subject to prior Board approval. Proposed §§ 932.40(a)(2) and (3) codify the Board's existing practice of approving the appointments of Bank Presidents for one-year terms. Under these provisions, all appointments expire on December 31 of the year for which the President is appointed, without opportunity for holdover. To the extent that a Bank's by-laws are inconsistent with this requirement, the by-laws are superseded by § 932.40(a)(2). Furthermore, the Board intends these provisions to make clear that a Bank President appointed to fill a mid-term vacancy is appointed to serve out the remainder of the one-year term of his or her predecessor, and is not appointed for a full one-year term. Proposed § 932.40(a)(4) codifies the Board's existing procedure for approval of appointments of the Bank Presidents. By November 1 of each year, the board of directors of each Bank must adopt and submit to the Board a resolution appointing or reappointing its President for the following year. Section 932.40(a)(5) makes clear that no appointment of a Bank President is effective until approved by the Board.

2. Other bank employees. Section 932.40(b) of the proposed rule restates the Banks' statutory authority to appoint or elect officers other than the President and to hire other employees of the Bank, and makes clear that these activities do not require prior Board approval.

3. Conflicts of interests. Proposed § 932.40(c) is intended to update the conflicts of interest provisions in existing § 932.40 by eliminating references to the FSLIC, which was abolished by Congress in 1989. *See* 12 U.S.C. 1437 note. However, the Board is retaining, in substance, the existing requirement that a Bank employee shall not act in any capacity for certain specified institutions whose interests are likely to be in conflict with the interests of the Bank. Specifically, proposed § 932.40(c) prohibits a Bank employee from being employed by, or acting in any other capacity for, a Bank member or an institution eligible to make application to become a Bank member.

In addition, the Board proposes to eliminate the final sentence in existing § 932.40, which extends the conflicts of interest provision discussed above to outside counsel hired by a Bank and to other attorneys acting on behalf of a Bank who are not Bank employees, except in cases specifically approved by the Board. *See* 12 CFR 932.40. The Board believes that the determination of whether outside counsel may have a conflict of interest in a matter in which it is representing a Bank is a decision that is properly within the purview of each Bank. Further, the existing conflicts of interest provisions, as applied to outside counsel, are duplicative of applicable requirements of state codes of professional conduct and other ethics rules. Attorneys who work for a Bank as salaried employees would continue to be subject to the conflicts of interest provisions in proposed § 932.40(c), since those provisions continue to apply to all Bank employees.

4. The Director of the OF. The Board proposes to amend § 941.9(b)(6) by deleting the language regarding an annual contract of employment for the Director of the OF, and adding a requirement for the annual appointment of the Director of the OF, subject to prior approval of the Board.

B. Compensation of Bank Employees and OF Employees

The Board proposes to amend existing § 932.41 to increase the amount of discretion the Banks may exercise in fixing the compensation of their employees. The Board proposes to eliminate its Compensation Plan for the Bank Presidents and to amend existing § 932.41 to permit each Bank to approve the base salaries, incentive payments, and benefits for its President, within regulatory limitations approved by the Board. Proposed § 932.41 also clarifies the conditions under which the Banks can fix the compensation of employees other than the President, without prior Board approval.

The Board proposes to amend its regulation governing OF to permit the board of directors of OF to establish the base salary of the Director of OF under the same rules governing the base salaries of the Bank Presidents, and to make incentive payments for the Director, subject to prior Board approval. The Board also proposes to amend its regulation to provide guidance regarding the compensation of other OF employees that is consistent with the guidance for Bank employees.

The Board has not approved any change-of-control arrangements between a Bank and its President or other officers providing for payments as a result of a merger or other event qualifying as a change of control. The Board requests detailed comments on whether the Banks should be permitted to enter into change-of-control arrangements with certain senior officers. Comments should include a detailed description of the terms of any such arrangements and a supporting rationale.

1. Base salaries. Under proposed § 932.41(b)(1), each Bank shall establish the base salary of its President within the following salary ranges, which ranges may be adjusted annually by the Board. The Board shall publish a notice in the last quarter of the year preceding the year in which adjustments are to take effect setting forth the adjustments to these ranges for the next calendar year. Proposed § 932.4(b)(1)(i) codifies the 1996 salary ranges established by the Board in Bd. Res. No. 95–33 (Oct. 5, 1995), as follows: 1) a Bank with total assets as of December 31 of the prior year equal to or greater than $40 billion shall have a base salary range for its President beginning January 1, 1996, consisting of a minimum, mid-point, and maximum dollar amount of $240,000, $305,000 and $385,000, respectively; and 2) a Bank with total assets as of December 31 of the prior year less than $40 billion shall have a base salary range for its President beginning January 1, 1996, consisting of a minimum, mid-point, and maximum dollar amount of $195,000, $245,000, and $310,000, respectively. A newly appointed Bank President may not receive a base salary higher that the mid-point of the applicable base salary range.

Beginning January 1, 1997, and annually thereafter, a Bank may adjust the base salary of its President based on a merit increase rate. The maximum merit increase rate shall be determined by the Board on an annual basis. Any annual increase in a Bank President's base salary shall not exceed the merit increase rate established by the Board, nor shall such annual increase result in a Bank President's base salary exceeding the maximum dollar amount of the applicable base salary range. No other adjustment may be made to a President's base salary during the year without prior Board approval. By January 2 of each year, a Bank must report to the Board the approved base salary of its President.

The Board is proposing to amend § 941.9 of its regulations to authorize the board of directors of OF to establish the compensation of the Director according to the base salary ranges and the merit increase rate governing the salaries of the Bank Presidents, subject to prior Board approval. For purposes of determining the applicable base salary range, OF is deemed to have assets of less than $40 billion.

The Board currently determines the salary ranges for Bank Presidents using a comparability model based on the salaries of the chief operating officers of private financial subsidiaries of similar asset size and geographic location, offset by staff size. The Board specifically requests comment on whether there is a more appropriate universe of entities that should be used in establishing the comparability of the Bank Presidents' salaries. For instance, it has been suggested that the salaries of the Bank Presidents should be comparable to the salaries of the Presidents (or their equivalent) of the Federal Reserve Banks, other segments of the financial services industry, or other federally or state-created entities with similar size, functions, and mission. Comments should include specific examples of government entities on which comparability should be based and a rationale for including such entities in the universe.

In regulating the salary levels of the Bank Presidents and other Bank employees, one of the Board's objectives is to attract and retain competent individuals to the Bank System. The Board recognizes that, in setting the salary levels for the Bank Presidents, it also is affecting the salary levels of other Bank employees.

Under proposed § 932.41(b)(2), each Bank generally may establish base salaries for Bank employees other than the President without prior Board approval, provided such salaries are reasonable and comparable with the base salaries of employees of the other Banks and other similar businesses, such as similar financial institutions, with similar duties and responsibilities. Banks must maintain documentation supporting the reasonableness and comparability of their employees' base salaries. Similar provisions regarding OF employees are contained in proposed § 941.9(c).

Upon adoption of the proposed rule in final form, the Board intends to rescind FHLBB Resolution No. 84–390, which requires the annual base salary of the highest paid Bank employee other than the Bank President to be less than or equal to 80 percent of the annual base salary of that Bank President. *See* FHLBB Res. No. 84–390 (July 25, 1984). However, a Bank would be required to report to the Board the approved salary of the highest paid employee other than the Bank President by January 2 of each year.

2. Incentive payments. Proposed § 932.41(c) governs payments made to Bank Presidents based on the quality of their on-the-job performance. Such payments are defined in § 932.41(a)(3) as ''incentive payments.'' As discussed below, § 932.41(c) is intended to preclude a Bank from making an incentive payment to a Bank President based on the President's individual performance without regard to the performance of the Bank. A Bank is prohibited from making any incentive payment to its President if the most recent examination of the Bank by the Board identified an unsafe or unsound practice or condition with regard to the Bank. The Board specifically requests comment on whether there are other events or conditions that should result in a prohibition on incentive payments to Bank Presidents.

At least 20 percent of any incentive payment for a Bank President must be based on the following criteria illustrating the Bank's emphasis on the portion of its mission involved with support for member credit activities: (1) average annual advances outstanding; and (2) average annual letters of credit outstanding and average annual notional principal outstanding in swap and option contracts with members. At least 30 percent of any incentive payment must be based on the following criteria illustrating the Bank's emphasis on additional support for housing and community development finance: (1) average annual Community Investment Program (CIP) advances outstanding, which are provided in support of new CIP lending activity, not as refinancings of existing CIP-eligible loans originated more than 30 days prior to the CIP financing request, nor for the purpose of borrower balance sheet restructuring; (2) average annual consolidated obligation principal customized for and issued to state or local government agencies, non-profits, foundations, and other entities, the proceeds of which serve unmet needs; and (3) average annual balances outstanding of investments identified as fulfilling unmet needs by the Board, where such investments are in accordance with items 11 and 12 of section IIB of the Financial Management Policy for the Federal Home Loan Bank System, and other investments approved by the Board. The Bank's board of directors must assign a weight greater than zero to each of the five above-described criteria as it deems appropriate, based upon the board's view of the importance of each of these criteria in the Bank's fulfillment of its mission.

Any portion (up to 50 percent) of the incentive payment that is not based on the above-described criteria must be based on the Bank's performance in achieving other objectives established by the Bank's board of directors.

The Bank's board of directors must establish reasonable numerical measures of performance and reasonable numerical targets for the achievement of the performance criteria discussed above. Performance targets must be set at such a level as to show an improvement in the Bank's performance over the prior year or an extraordinary achievement in attaining the designated target.

By January 1 of each year, the board of directors of each Bank that intends to make any incentive payment to its President for such year shall adopt and submit to the Board a resolution establishing the performance measures and targets on which such incentive payment will be based.

Proposed §§ 932.41(c)(8) and (9) set forth the manner in which a Bank President's incentive payment is to be calculated, based on the Bank's achievement of the performance targets set by the board of directors. Under the Compensation Plan, prior to the most recent amendment, the maximum incentive payment payable to a Bank President was 37.5 percent of base salary. The Plan was amended on July 25, 1996, by Resolution Number 96–54, to limit an incentive payment to 31.25 percent of base salary. The Board specifically requests comment on the appropriateness of and reasons for setting the maximum percentage at some point in the range between zero and 37.5 percent.

Proposed §§ 932.41(c)(10) provides that by March 1 of each year, the board of directors of each Bank making any incentive payment to its President for the prior year shall adopt and submit to the Board a resolution showing the results for the individual performance measures and the amount of the incentive payment to the Bank President. Such incentive payment shall be deemed approved by the Board and payable to a Bank President only if determined in accordance with the requirements of § 932.41(c).

The Board is proposing to authorize the board of directors of OF to make incentive payments to the Director of OF, subject to prior Board approval. Proposed § 941.9(c)(2) authorizes OF board of directors to establish the criteria, performance measures, and targets on which any such incentive payment is based. OF is prohibited from making any incentive payment to the Director if the most recent examination of OF identified an unsafe or unsound practice or condition with regard to OF.

The Board wishes to make clear that the proposed rule does not require a Bank or OF to make an incentive payment, but if a Bank or OF chooses to make such a payment, it must meet the requirements of proposed § 932.41(c) or § 941.9(c)(2), respectively.

Proposed § 932.41(d) carries forward the Board's current practice of permitting the Banks to make incentive payments to employees other than the President without prior Board approval, and adds the requirement that such incentive payments must be reasonable and comparable with incentive payments made to employees of the other Banks and other similar businesses (including financial institutions) with similar duties and responsibilities. Banks must maintain documentation supporting the reasonableness and comparability of their employees' incentive payments. Similar provisions regarding OF employees are contained in proposed § 941.9(c).

3. Benefits. Proposed § 932.41(e) is intended to permit the Banks to establish certain kinds of benefits plans for their employees, and to provide benefits pursuant to such plans, without prior Board approval. This section provides that a Bank may make payments in the nature of benefits to its President and other Bank employees only pursuant to a ''benefit plan'' or a ''bona fide deferred compensation plan or arrangement,'' which are specifically defined in proposed §§ 932.41(a)(1) and (2). Proposed § 932.41(e) codifies the Board's current practice of permitting the Banks to adopt benefit plans without prior Board approval if such plans are open for participation by all Bank employees. However, this section changes the Board's current practice of requiring the Banks to obtain prior Board approval of plans that limit participation to a Bank's President and other selected officers. Similar provisions regarding OF employees are contained in proposed § 941.9(c).

4. Severance. Proposed § 932.41(f) is intended to permit the Banks to establish severance plans for their employees without prior Board approval. Similar provisions regarding OF employees are contained in proposed § 941.9(c).

5. General Limits on Payments. Proposed § 932.41(g)(1) is intended to clarify that the provisions of § 932.41 govern all payments, as that term is defined in § 932.41(a)(5), to Bank employees, and any payments made to a Bank employee that are not in accordance with § 932.41 are prohibited. Proposed § 932.41(g)(2) requires the total amount of base salaries, incentive payments, and benefits paid to Bank employees to be within the limit set forth in the Bank's approved budget. The board of directors of each Bank must review annually the compensation plan for its employees, including appropriate documentation, prior to approving the Bank's annual budget. Proposed § 932.40(h) carries forward the existing prohibition on the payment of bonuses to Bank employees and other persons. A bonus is defined as a payment to an employee, other than base salary, benefits and severance, that is not based on performance. Similar provisions regarding OF employees are contained in proposed § 941.9(c).

III. Regulatory Flexibility Act

The proposed rule applies only to the twelve Banks, which do not come within the meaning of ''small entities,'' as defined by the Regulatory Flexibility Act (RFA). 5 U.S.C. 601. Therefore, in accordance with the RFA, the Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 932

Conflict of interests, Federal home loan banks.

12 CFR Part 941

Organization and functions (Government agencies).

Accordingly, chapter IX, title 12, subchapter B, Code of Federal Regulations, is hereby proposed to be amended as follows:

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 932—ORGANIZATION OF THE BANKS

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

Authority: 12 U.S.C. 1422a, 1422b, 1426, 1427, 1432; 42 U.S.C. 8101 *et seq.*

2. Section 932.40 is revised to read as follows:

§ 932.40 Selection.

(a) *Bank Presidents.* (1) Each Bank may appoint or reappoint a President, subject to prior Board approval.

(2) A President of a Bank shall be appointed initially for a term not to exceed one calendar year, expiring on December 31 of the year in which the President takes office.

(3) A President may be reappointed to succeeding one-year terms, each expiring on December 31 of the year for which the President is reappointed.

(4) By November 1 of each year, the board of directors of each Bank shall adopt and submit to the Board a resolution appointing or reappointing its President for the following year.

(5) No appointment or reappointment of a Bank President shall be effective until approved by the Board.

(b) *Bank employees other than the President.* Each Bank may appoint or elect officers other than the President and may hire other employees of the Bank without prior Board approval.

(c) *Conflicts of interest.* A Bank employee shall not also be employed by, or otherwise act in any capacity for, a member or an institution eligible to make application to become a member.

3. Section 932.41 is revised to read as follows:

§ 932.41 Compensation.

(a) *Definitions.* The following definitions apply for purposes of this section:

(1) *Benefit plan. Benefit plan* means any plan, contract, agreement, or other arrangement which is an ''employee welfare benefit plan,'' as that term is defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (as amended) (29 U.S.C. 1002(1)), or other usual and customary plans such as dependent care, tuition reimbursement, group legal services or cafeteria plans.

(2) *Bona fide deferred compensation plan or arrangement.* (i) *Bona fide deferred compensation plan or arrangement* means:

(A) Any plan, contract, agreement, or other arrangement whereby a Bank employee voluntarily elects to defer all or a portion of the base salary or incentive payment paid for services rendered which otherwise would have been paid to such employee at the time the services were rendered (including a plan that provides for the crediting of a reasonable investment return on such elective deferrals) and the Bank either:

(*1*) Recognizes compensation expense and accrues a liability for the benefit payments according to generally accepted accounting principles (GAAP); or

(*2*) Segregates or otherwise sets aside assets in a trust which may only be used to pay plan and other benefits, except that the assets of such trust may be available to satisfy claims of the Bank's creditors in the case of insolvency; or

(B) A nonqualified deferred compensation or supplemental retirement plan established by a Bank, other than an elective deferral plan described in paragraph (a)(2)(i)(A) of this section:

(*1*) Primarily for the purpose of providing benefits for certain employees in excess of the limitations on contributions and benefits imposed by sections 415, 401(a)(17), 402(g) or any other applicable provision of the Internal Revenue Code of 1986 (26 U.S.C. 415, 401(a)(17), 402(g)); or

(*2*) Primarily for the purpose of providing supplemental retirement benefits or other deferred compensation for a select group of management or highly compensated employees (excluding payments under a severance plan described in paragraph (a)(6) of this section).

(ii) The following requirements shall apply to any nonqualified deferred compensation or supplemental retirement plans as described in paragraph (a)(2)(i)(B) of this section:

(A) The plan must have been in effect at least one year prior to a payment of benefits under the plan;

(B) Any payment made pursuant to such plan must be made in accordance with the terms of the plan and any amendments to such plan made during such one year period that do not increase the benefits payable thereunder;

(C) The employee must have a vested right, as defined under the applicable plan document, at the time of termination of employment, to payments under such plan;

(D) Benefits under such plan must be accrued each period only for current or prior service rendered to the employee;

(E) The Bank must have previously recognized compensation expenses and accrued a liability for the benefit payments according to GAAP or segregated or otherwise set aside assets in a trust which may only be used to pay plan benefits, except that the assets of such trust may be available to satisfy claims of the Bank's creditors in the case of insolvency; and

(F) Payments pursuant to such plans shall not be in excess of the accrued liability computed in accordance with GAAP.

(3) *Incentive payment. Incentive payment* means a direct or indirect transfer of funds by a Bank to a Bank employee, in addition to base salary, based on the employee's on-the-job performance.

(4) *Nondiscriminatory. Nondiscriminatory* means that the plan, contract or arrangement in question applies to all employees of a Bank who meet reasonable and customary eligibility requirements applicable to all employees, such as minimum length of service requirements. A nondiscriminatory plan, contract, or arrangement may provide different benefits based only on objective criteria such as base salary, total compensation, length of service, job grade or classification, which are applied on a proportionate basis.

(5) *Payment.* Payment means:

(i) Any direct or indirect transfer of any funds or any asset;

(ii) Any forgiveness of any debt or other obligation;

(iii) The conferring of any benefit; and

(iv) Any segregation of any funds or assets, the establishment or funding of any trust or the purchase of, or arrangement for, any letter of credit or other instrument for the purpose of making, or pursuant to any agreement to make, any payment on or after the date on which such funds or assets are segregated, or at the time of or after such trust is established or letter of credit or other instrument is made available, without regard to whether the obligation to make such payment is contingent on:

(A) The determination, after such date, of the liability for the payment of such amount; or

(B) The liquidation, after such date, of the amount of such payment.

(6) *Severance plan.* A nondiscriminatory pay plan or arrangement which provides for payment of severance benefits to all eligible employees upon involuntary termination other than for cause, voluntary resignation, or early retirement; provided, however, that no employee shall receive any such payment which exceeds the base compensation paid to such employee during the 12 months immediately preceding termination of employment, resignation or early retirement.

(b) *Base salary*—(1) *Bank President.* (i) Each Bank shall establish the base salary of its President within the following salary ranges, which ranges may be adjusted annually by the Board:

(A) A Bank with total assets as of December 31 of the prior year equal to or greater than $40 billion shall have a base salary range for its President beginning January 1, 1996, consisting of a minimum, mid-point, and maximum dollar amount of $240,000, $305,000 and $385,000, respectively; and

(B) A Bank with total assets as of December 31 of the prior year less than $40 billion shall have a base salary range for its President beginning January 1, 1996, consisting of a minimum, mid-point, and maximum dollar amount of $195,000, $245,000, and $310,000, respectively.

(ii) A newly appointed Bank President may not receive a base salary higher than the mid-point of the applicable base salary range.

(iii) Beginning January 1, 1997, and annually thereafter, a Bank may adjust the base salary of its President based on a merit increase rate. The maximum merit increase rate shall be determined by the Board on an annual basis. Any annual increase in a Bank President's base salary shall not exceed the merit increase rate established by the Board, nor shall such annual increase result in a Bank President's base salary exceeding the maximum dollar amount of the applicable base salary range under paragraph (b)(1)(i)(A) or (B) of this section. No other adjustment may be made to a President's base salary during the year without prior Board approval.

(iv) By January 2 of each year, a Bank must report to the Board the approved base salary of its President.

(2) *Other Bank employees.* (i) Each Bank may establish base salaries for employees other than the President without prior Board approval, provided that such base salaries are reasonable and comparable with the base salaries of employees of the other Banks and other similar businesses (including financial institutions) with similar duties and responsibilities. Banks shall maintain documentation supporting the reasonableness and comparability of their employees' base salaries.

(ii) By January 2 of each year, a Bank must report to the Board the approved salary of the highest paid employee other than the Bank President.

(c) *Incentive payments for Bank President.* (1) Any incentive payment made to a Bank President shall be based solely on the performance of the Bank during the year in which the incentive payment is earned, and shall be determined in accordance with the requirements of this paragraph (c). A Bank shall not make any incentive payment to its President if the most recent examination of the Bank by the Board identified an unsafe or unsound practice or condition with regard to the Bank.

(2) At least 20 percent of a Bank President's incentive payment shall be based on the following criteria:

(i) Average annual advances outstanding; and

(ii) Average annual letters of credit outstanding and average annual notional principal outstanding in swap and option contracts with members.

(3) At least 30 percent of a Bank President's incentive payment shall be based on the following criteria:

(i) Average annual Community Investment Program (CIP) advances outstanding, which are provided in support of new CIP lending activity, not as refinancings of existing CIP-eligible loans originated more than 30 days prior to the CIP financing request, nor for the purpose of borrower balance sheet restructuring;

(ii) Average annual consolidated obligation principal customized for and issued to state or local government agencies, non-profits, foundations, and other entities, the proceeds of which serve unmet needs; and

(iii) Average annual balances outstanding of investments identified as fulfilling unmet needs by the Board, where such investments are in accordance with items 11 and 12 of section IIB of the Financial Management Policy for the Federal Home Loan Bank System, and other investments approved by the Board.

(4) Up to 50 percent of a Bank President's incentive payment may be based upon criteria identified by the Bank's board of directors, provided such criteria reflect the Bank's performance in achieving its mission during the year for which the incentive payment is being made.

(5) A Bank board of directors shall assign a weight greater than zero for each of the criteria in paragraphs (c)(2) and (4) of this section, as it deems appropriate based upon its view of the importance of each of these activities in enabling the FHLBank to fulfill its mission.

(6) The Bank's board of directors shall establish reasonable numerical measures of performance under the performance criteria listed in paragraphs (c) (2) and (3) of this section, as well as for any criteria identified by the Bank's board of directors pursuant to paragraph (c)(4) of this section, and shall establish reasonable numerical targets for the achievement of such criteria. Performance targets shall be set at such a level as to show an improvement in the Bank's performance over the prior year or an extraordinary achievement in attaining the designated target.

(7) By January 1 of each year, the board of directors of each Bank that intends to make any incentive payment to its President for such year shall adopt and submit to the Board a resolution establishing the performance measures and targets on which such incentive payment will be based.

(8) The amount of an incentive payment shall be based upon the extent to which a Bank achieves the performance targets. A Bank must achieve at least 100 percent of the target for a performance criterion in order for any payment to be made based upon that criterion. A Bank may increase the incentive payment to the extent that the Bank exceeds the performance targets, as set forth in the following table [The percentages in the right hand column of the table will be determined by the Board, after review of public comments on this proposed rule.]:

INCENTIVE PAYMENT LEVEL

Bank performance as a percent of target	Total incentive payment as a percent of base salary
150.0%	
149.0%	
148.0%	
147.0%	
146.0%	
145.0%	
144.0%	
143.0%	
142.0%	
141.0%	
140.0%	
139.0%	
138.0%	
137.0%	
136.0%	
135.0%	
134.0%	
133.0%	
132.0%	
131.0%	
130.0%	
129.0%	
128.0%	
127.0%	
126.0%	
125.0%	
124.0%	
123.0%	
122.0%	
121.0%	
120.0%	
119.0%	
118.0%	
117.0%	
116.0%	
115.0%	
114.0%	
113.0%	
112.0%	
111.0%	
110.0%	
109.0%	
108.0%	
107.0%	
106.0%	
105.0%	
104.0%	
103.0%	
102.0%	
101.0%	
100.0%	

(9) The total incentive payment earned by a Bank President for a given year may not exceed [A percentage of base salary, to be determined by the Board after review of public comments, from 0 to 37.5 percent.] of the President's base salary for that year.

(10) By March 1 of each year, the board of directors of each Bank making any incentive payment to its President for the prior year shall adopt and submit to the Board a resolution showing the results for the individual performance measures and the amount of the incentive payment to the Bank President. Such incentive payment shall be deemed approved by the Board and payable to a Bank President only if determined in accordance with the requirements of this paragraph (c).

(d) *Incentive payment for other bank employees.* Each Bank may make incentive payments to employees other than the President without prior Board approval, provided that such incentive payments are reasonable and comparable with incentive payments made to employees of the other Banks and other similar businesses (including financial institutions) with similar duties and responsibilities. Banks shall maintain documentation supporting the reasonableness and comparability of their employees' incentive payments.

(e) *Benefits.* A Bank may make payments in the nature of benefits to its President and to other Bank employees only pursuant to a benefit plan and a bona fide deferred compensation plan or arrangement, as defined in paragraphs (a)(1) and (2) of this section.

(f) *Severance plans.* A Bank may make payments in the nature of severance to its President and to other Bank employees only pursuant to a severance plan, as defined in paragraph (a)(6) of this section.

(g) *General limits on payments.* (1) No Bank shall make any payment to a Bank employee, except as provided in this section.

(2) The total amount of base salaries, incentive payments, and benefits paid to Bank employees shall be within the limit set forth in the Bank's approved budget. The board of directors of each Bank shall review annually the compensation plan for its employees, including appropriate documentation, prior to approving the Bank's annual budget.

(h) *Prohibition on bonuses.* A Bank shall not pay any employee or other person a bonus. For purposes of this paragraph (h), a bonus is a payment to an employee, other than base salary, benefits, and severance payments, that is not based on performance.

PART 941—OPERATIONS OF THE OFFICE OF FINANCE

4. The authority citation for Part 941 is revised to read as follows:

Authority: 12 U.S.C. 1422b, 1431.

5. Section 941.9 is amended by revising paragraph (b)(6) and by adding paragraph (c) to read as follows:

§ 941.9 Duties of the Office of Finance Board of Directors.

* * * * *

(b) * * *

(6) Select and employ the Director, subject to the following requirements:

(i) The Director shall be appointed initially for a term not to exceed one calendar year, expiring on December 31 of the year in which the Director takes office;

(ii) A Director may be reappointed to succeeding one-year terms, each expiring on December 31 of the year for which the Director is reappointed;

(iii) By November 1 of each year, the OF Board of Directors shall adopt and submit to the Finance Board a resolution appointing or reappointing its Director for the following year; and

(iv) No appointment or reappointment of a Director shall be effective until approved by the Finance Board;

* * * * *

(c) *Compensation*—(1) *Definitions.* The definitions which appear in § 932.41 of this chapter apply to this paragraph (c).

(2) *The Director.* (i) Subject to prior Finance Board approval, the OF Board of Directors shall establish and pay the base salary of the Director, including any merit increase, in accordance with the provisions of § 932.41(b) of this chapter. For purposes of § 932.41(b) of this chapter, the OF shall be deemed to have total assets of less than $40 billion. By January 2 of each year, OF must report to the Finance Board the approved base salary of its Director.

(ii) Any incentive payment made to the Director shall be based solely on the performance of the OF during the year in which the incentive payment is earned, and shall be determined in accordance with the requirements of this paragraph (c)(2)(ii), subject to prior Finance Board approval. The OF shall not make any incentive payment to the Director if the most recent examination of OF by the Finance Board identified an unsafe or unsound practice or condition with regard to OF. The Director's incentive payment shall be based upon criteria identified by OF Board of Directors, which must establish reasonable numerical measures and targets for the achievement of such criteria. Performance targets shall be set at such a level as to show an improvement in the performance of OF over the prior year or an extraordinary achievement in attaining the designated target.

(iii) By January 1 of each year, the OF Board of Directors shall adopt and submit to the Finance Board for approval a resolution establishing the performance measures and targets on which any incentive payment will be based.

(iv) The amount of an incentive payment shall be calculated in accordance with the provisions of § 932.41(c)(8) and (9) of this chapter.

(v) By March 1 of each year, the OF Board of Directors shall adopt and submit to the Finance Board a resolution showing the results for the individual performance measures and the amount of the proposed incentive payment to the Director.

(3) *Other OF Employees.* (i) The OF Board of Directors may establish base salaries for employees other than the Director without prior Finance Board approval, provided that such base salaries are reasonable and comparable with the base salaries of employees of the Banks and other similar businesses (including financial institutions) with similar duties and responsibilities. The OF Board of Directors shall maintain documentation supporting the reasonableness and comparability of OF employees' base salaries.

(ii) By January 2 of each year, the OF must report to the Finance Board the approved salary of the highest paid employee other than the Director.

(iii) The OF board of directors may make incentive payments to employees other than the Director without prior Finance Board approval, provided that such incentive payments are reasonable and comparable with incentive payments made to employees of the Banks and other similar businesses (including financial institutions) with similar duties and responsibilities. The OF Board of Directors shall maintain documentation supporting the reasonableness and comparability of their employees' incentive payments.

(4) *Benefits.* The OF may make payments in the nature of benefits to its Director and to other OF employees only pursuant to a benefit plan and a bona fide deferred compensation plan or arrangement, as defined in § 932.41(a) of this chapter.

(5) *Severance plans.* The OF may make payments in the nature of severance to its Director and to other OF employees only pursuant to a severance plan, as defined in § 932.41(a) of this chapter.

(6) *General limits on payments.* (i) The OF shall not make any payment to any OF employee, except as provided in this section.

(ii) The total amount of base salaries, incentive payments, and benefits paid to OF employees shall be within the limit set forth in the OF's approved budget. The OF Board of Directors shall review annually the compensation plan for its employees, including appropriate documentation, prior to approving the OF annual budget.

(7) *Prohibition on bonuses.* The OF shall not pay any employee or other person a bonus. For purposes of this paragraph (c)(7), a bonus is a payment to an employee, other than base salary, benefits, and severance payments, that is not based on performance.

Dated: August 6, 1996.

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

Bruce A. Morrison,

Chairman.

[FR Doc. 96–20486 Filed 8–15–96; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–131, Notice No. SC–96–4–NM]

Special Conditions: LET Aeronautical Works L610G Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This document proposes special conditions for the LET Aeronautical Works Model L610G airplane. This airplane will have a novel or unusual design feature associated with the use of the landing gear fairing as an assist means during an emergency evacuation. This notice contains the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR).

DATES: Comments must be received on or before September 30, 1996.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attention: Rules Docket (ANM–7), Docket No. NM–131, 1601 Lind Avenue SW, Renton, Washington 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–131. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Frank Tiangsing, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW, Renton, WA 98055–4056, (206) 227–121.