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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 792

RIN 3206-A193

Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations implementing legislation which was enacted September 29, 1999. The legislation permits agencies in the Executive branch to use appropriated funds to reduce child care costs for their lower income Federal employees. The intended effect of the law is to make child care more affordable for lower income Federal employees.

DATES: Effective March 14, 2000.

FOR FURTHER INFORMATION CONTACT: Patricia Kinney, Office of Personnel Management, 1900 E St., NW., Room 7315, Washington, DC 20415-1300; Phone: (202) 606-1313; Fax: (202) 606-2091.

SUPPLEMENTARY INFORMATION: Section 643 of Public Law 106-58, September 29, 1999, requires the Office of Personnel Management to regulate Federal agency use of appropriated funds for child care costs for lower income employees. The Act allows Federal agencies in the Executive branch to assist their lower income employees with their costs of child care. The Act addresses the need for affordable child care for Federal employees. Child care is a labor-intensive service that requires adequate, trained staff to provide child care services that are safe and appropriate for children and their families. An increasing number of Federal families

are finding that affordable child care is getting more difficult to find even when their own agencies sponsor on or near-site child care centers. Vacancy rates in Federally sponsored child care centers have steadily grown due to the affordability problem. Despite efforts of non-profit organizations to raise funds through charitable contributions, the affordability of child care for lower income Federal employees remains out-of-reach since child care costs can translate to up to 50 percent of a Federal family's total family income.

Reduced child care tuition, as a result of agency contributions permitted by this law, can have significant impact on employees' ability to utilize safe and reliable child care. Benefits to the agencies include better recruitment and retention of qualified personnel, lower absenteeism, and improved morale. Improved retention can result in significant recruitment and training cost savings to agencies. An added benefit for agencies that sponsor on-site child care centers at some of their locations is that they can expect to see improved Federal employee participation in their centers. For small agencies that have been unable to provide agency-sponsored on-site child care centers, this law permits them to assist their employees with a variety of other child care choices.

Sec. 643 of Public Law 106-58 authorizes the use of appropriated funds, otherwise available for salaries, to improve the affordability of child care for lower income Federal employees. This law, enacted by Congress, became effective on September 29, 1999, and remains in effect for one year. Funds can be obligated upon the promulgation of the regulations.

In summary, the rule authorizes Federal agencies to use appropriated funds, including revolving funds, that are otherwise available to the agencies for salaries, to assist their lower income Federal employees with the costs of child care in child care centers and family child care homes that are licensed. Agencies can choose from a number of models for determining employee eligibility and the amount of the tuition assistance subsidy. In light of the fact that agencies have differing needs from one location to another, the proposed rule allows for maximum flexibility so that agencies can take different approaches for making those

determinations. OPM guidance materials provide agencies with a variety of models and approaches for determining tuition assistance eligibility and other components of their tuition assistance programs.

On December 23, 1999, OPM published proposed regulations (64 FR 72037) to establish the child care subsidy program. Under the proposed regulations, OPM would be responsible for providing agencies with guidance toward implementation of the law. OPM is responsible for providing Congress with a report on the results of the implementation no later than September 1, 2000.

OPM received comments from 12 agencies, 2 labor organizations, 1 child care provider, and 2 individuals. Following is summary of the comments:

Flexibility for Agency Implementation

Many agencies and 2 labor organizations supported the flexibility to choose their own model in defining "lower income employee." Two agencies felt that there should be a uniform definition of "lower income employee" because of concerns that there would be inequities across agencies and that some employees would not receive the benefit. We did not choose to provide a specific definition in the regulation because many agencies expressed the view that flexibility would enable them to tailor a program that best suits their needs and they pointed out that their needs could be different from one situation to another.

Definition of Child

One agency suggested that we modify the definition of "child" because our definition seemed to imply that an adopted, step or foster child did not have a "regular parent-child relationship," as did a natural child. We changed the definition to incorporate the suggestion. Based on other comments, we expanded the definition of "child" to include children who are supported by legal guardians as well as disabled children through age 18.

Time Frame

Many of the respondents were concerned about the short time frame for implementation and urged OPM to seek immediate legislative relief from the expiration date of the law. After the proposed regulations were published,

the President, in his FY2001 budget proposal, has requested a continuation of authorization from Congress.

Agencies Without Appropriations

Two agencies asked for clarification on whether the law applied to them. We have clarified the issue by stating that agencies may use appropriated funds, including revolving funds, that are otherwise available to the agency for salaries.

Effective Date and Notice to Congress and OPM

A few respondents requested that the agencies be able to provide tuition subsidies retroactively to the date of passage of the law. It was the intent of Congress that funds could be obligated only after final regulations were published by OPM in the **Federal Register** and after notification to Congress has occurred. One agency asked for clarification about notification and suggested a change that would specify that Congress be notified of intention to initiate a program. That change has been made.

Types of Programs to Which the Law Applies

Two agencies asked for clarification about program eligibility and whether school-type programs were included. Programs that are licensed and/or regulated are eligible regardless of where they are housed. This has been clarified in the regulation.

Using OPM's Models

One agency suggested the regulations be clear that agencies are not required to use one of the models suggested by OPM and that suggestion has been incorporated.

Pooling Funds in Multi-Tenant Buildings

Two agencies made comments about pooling funds in a multi-tenant building. One agency provided revised language which would result in more flexibility and the language has been adopted in the final rule.

Restricting Funds

A few agencies made suggestions about restricting funds to one group or another. For example, one agency suggested limiting the eligibility to full-time employees. The proposed rule was written to permit maximum flexibility by the agencies and, therefore, the language was not changed. The same principle applied to suggestions there be a statutory cap on the amount of subsidies awarded. Agencies have the

flexibility to restrict funds and to choose eligibility models that meet their needs.

Child Care Boards of Directors

One agency suggested a section be added which would advise Government employees who sit on the board of directors of Federally sponsored child care centers. That guidance will appear, as suggested, in our guidance related to the law.

Executive Order 12866, Regulatory Review

The final rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would only apply to Federal agencies and employees.

List of Subjects in 5 CFR Part 792

Alcohol abuse, Alcoholism, Day care, Drug abuse, Government employees, U.S. Office of Personnel Management

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 792 of title 5 of the Code of Federal Regulations as follows:

PART 792—FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

1. The authority citation for part 792 is revised to read as follows:

Authority: Sec. 201 of Pub. L. 91-616, 84 Stat. 1849, as amended and transferred to sec. 520 of the Public Health Services Act by sec. 2 (b)(13) of Pub. L. 98-24 (42 U.S.C. 290dd-1) and sec. 413 of Pub. L. 92-255, 86 Stat. 84, as amended and transferred to sec. 525 of the Public Health Service Act by sec. 2(b)(16)(A) of Pub. L. 98-24 (42 U.S. C. 290ee-1); Sec. 643, Pub. L. 106-58, 113 Stat. 477.

2. Subpart B is added to read as follows:

Subpart B—Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees—What Is the New Child Care Legislation and to Whom Does It Apply?

Sec.

- 792.200 To whom do "we", "you", and their variants apply?
 792.201 What does the new law permit?
 792.202 What is the purpose of the new law?
 792.203 Should we notify anyone of our intention to initiate a program and when can the obligation be made?
 792.204 Are there sample memoranda and other documents available to assist us with this process?
 792.205 Are there additional materials necessary for the implementation of this

process and are there any special reporting and oversight requirements related to this law?

- 792.206 What are the benefits to an agency of providing such assistance to its lower income employees?
 792.207 Which agency funds can be used for the purpose of this law?
 792.208 Are agencies required to participate in this program?
 792.209 How can agencies take advantage of this new law and when does this law become effective?
 792.210 What is the definition of Executive agency?
 792.211 What is the definition of tuition assistance program?
 792.212 What is the definition of civilian employee?
 792.213 What is the definition of a Federally sponsored child care center?
 792.214 What is the definition of contractor?
 792.215 What is the definition of a child?
 792.216 What children are eligible for this subsidy?
 792.217 What is a disabled child?
 792.218 Are children enrolled in summer programs and part-time programs eligible?
 792.219 Are part-time Federal employees eligible?
 792.220 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?
 792.221 What is the process for helping lower income employees with child care tuition?
 792.222 Are agencies required to negotiate with their Federal labor organizations about the provisions of this law?
 792.223 Are there any conditions which the child care provider must meet in order to participate in this program?
 792.224 Is there a statutory cap on the amount or the percentage of child care tuition that will be subsidized?
 792.225 What is the definition of a lower income Federal employee and how is the amount of the tuition assistance subsidy determined?
 792.226 Who determines if a Federal employee qualifies as a lower income employee and how is the program administered?
 792.227 Are child care subsidies paid to the Federal employee using the child care?
 792.228 May we disburse funds to a child care provider or to an organization that administers our program prior to the time the employee receiving tuition assistance has enrolled his or her child in the child care center or family child care home?
 792.229 How will the disbursement covered by § 792.227 work where there is a Federally sponsored child care center in a multi-tenant building?
 792.230 For how long will the tuition assistance be in effect for a Federal employee?
 792.231 Can these funds be used for children of Federal employees who are already enrolled in child care?

792.232 Can we place special restrictions or requirements on the use of these funds, and can we restrict the disbursement of such funds to only one type of child care or to one location?

792.233 May we use the funds to improve the physical space of the family child care homes or child care centers?

792.234 For how long is the law effective?

792.235 Who will oversee the disbursement and use of these funds?

Subpart B—Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees—What Is the New Child Care Legislation and to Whom Does It Apply?

§ 792.200 To whom do “we”, “you”, and their variants apply?

Use of pronouns, “we,” “you,” and their variants throughout this part refers to the agency. OPM is always referred to as “OPM”.

§ 792.201 What does the new law permit?

Public Law 106–58 (113 Stat. 477) permits agencies to use appropriated funds, including revolving funds, that are otherwise available to the agency for salaries, to improve the affordability of child care for lower income Federal employees. Employees can benefit from reduced tuition rates at Federal child care centers, non-Federal child care centers, and in family child care homes.

§ 792.202 What is the purpose of the new law?

The law is intended to make child care more affordable for lower income Federal employees through the use of agency appropriated funds.

§ 792.203 Should we notify anyone of our intention to initiate a program and when can the obligation be made?

Yes, you must provide notice to the House Subcommittee on Treasury, Postal Service and General Government and to the Senate Subcommittee on Treasury and General Government and to your appropriations subcommittees prior to the obligation of funds. This is a Congressional notification requirement. You must also notify OPM of your intention. Funds can be obligated immediately after notifications have occurred.

§ 792.204 Are there sample memoranda and other documents available to assist us with this process?

Yes, OPM will provide you with guidance that contains sample memoranda of understanding, sample marketing tools, sample tuition assistance applications, and models for determining tuition assistance eligibility. These materials can be found in “Guide for Implementing Child Care Legislation—Pub. L. 106–58, Sec. 643.”

The Guide is available on OPM’s website, <http://www.opm.gov/wrkfam>. You may also obtain a copy by writing to OPM at: U.S. Office of Personnel Management, Family-Friendly Workplace Advocacy Office, 1900 E Street, NW., Room 7315, Washington, DC 20415.

§ 792.205 Are there additional materials necessary for the implementation of this process and are there any special reporting and oversight requirements related to this law?

Yes, you are responsible for tracking the utilization of your funds and reporting the results to OPM. OPM will provide you with a mandatory reporting form. OPM is required to provide a report to the appropriations committees no later than September 1, 2000. Therefore, you are required to report your results to OPM no later than August 1, 2000. OPM will provide you with guidance on this subpart.

§ 792.206 What are the benefits to an agency of providing such assistance to its lower income employees?

There are several benefits for the agencies beginning with improved recruitment and retention. Cost savings in recruitment and training can be significant. In addition, absenteeism rates related to child care problems can be reduced. Providing such subsidies can also increase morale, particularly among families who cannot afford the child care located at or near a child care center that is sponsored by their agency. The use of funds for lower income families who are enrolled or wish to enroll in Federal child care centers may help to increase the Federal participation rates where there is a regulatory requirement that at least 50 percent of the children enrolled have parents or guardians who are Federal employees.

§ 792.207 Which agency funds can be used for the purpose of this law?

You are permitted to use appropriated funds, including revolving funds, that are otherwise available to the agency for salaries.

§ 792.208 Are agencies required to participate in this program?

Agencies are not required to participate in this program. The decision to participate is left to the discretion of the agency. If an agency chooses to participate, it may not use funds other than those specified in § 792.207.

§ 792.209 How can agencies take advantage of this new law and when does this law become effective?

The law became effective as of September 29, 1999. Agencies are permitted to obligate funds beginning on March 14, 2000. Agencies can take advantage of this new law by notifying Congress and OPM of their intent.

§ 792.210 What is the definition of Executive agency?

The term *Executive agency* is defined by section 105 of title 5, United States Code, but does not include the General Accounting Office.

§ 792.211 What is the definition of tuition assistance program?

The term *tuition assistance program*, for the purposes of this subpart, means the program that results from the expenditure of agency funds to assist lower income Federal employees with child care costs, including, but not limited to, such activities as: determining which employees receive a subsidy, and the size of the subsidy each employee receives; distributing agency funds to participating providers; and tracking and reporting to OPM information such as total cost and employee utilization of the program.

§ 792.212 What is the definition of civilian employee?

The term *civilian employee*, for the purposes of this subpart, means all appointive positions in an Executive agency.

§ 792.213 What is the definition of a Federally sponsored child care center?

The term *Federally sponsored child care center*, for the purposes of this subpart, is a child care center that is located in a building or space that is owned or leased by the Federal government.

§ 792.214 What is the definition of contractor?

Sec. 643 of Public Law 106–58 says that child care services provided by contract are covered by this provision. The term *contractor* applies to an organization or individual who provides child care services for which Federal families are eligible. Child care *providers* that may provide services under contract include center-based child care and family child care homes. The term *provider* is typically used to denote contractor in the child care industry. For the purposes of this subpart, the term *provider* is used to denote both center-based child care and family child care homes.

§ 792.215 What is the definition of a child?

For the purposes of this subpart, a *child* is considered to be:

- (a) A biological child who lives with the Federal employee;
- (b) An adopted child;
- (c) A stepchild;
- (d) A foster child;
- (e) A child for whom a judicial determination of support has been obtained; or
- (f) A child to whose support the Federal employee who is a parent or legal guardian makes regular and substantial contributions.

§ 792.216 What children are eligible for this subsidy?

The law covers the children of Federal employees, excluding contract employees, from birth through age 13 and disabled children through age 18.

§ 792.217 What is a disabled child?

For the purposes of this subpart a disabled child is defined as one who is unable to care for himself or herself based on a physical or mental incapacity as determined by a physician or licensed or certified psychologist.

§ 792.218 Are children enrolled in summer programs and part-time programs eligible?

Yes, Federal employees with children (birth through age 13 and disabled children through age 18) who are enrolled in summer care programs and part-time programs are eligible.

§ 792.219 Are part-time Federal employees eligible?

Yes, Federal employees who work part-time are eligible.

§ 792.220 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

No, the bill is broad in scope and includes non-Federal center-based child care as well as care in family child care homes, as long as they are licensed and/or regulated by the State and/or local regulating authorities.

§ 792.221 What is the process for helping lower income employees with child care tuition?

OPM guidance includes further explanation, but the process for the tuition assistance program can be summarized in 8 steps:

- (a) After completing your collective bargaining obligations, where applicable, notify the Congressional committees (see § 792.203) and OPM of your decision to use a specific amount of appropriated funds for this purpose;
- (b) Determine how you will structure the program and which tuition assistance model you will use;

- (c) Determine how you will administer the program;
- (d) Advertise the program;
- (e) Conduct the application process;
- (f) Make the tuition assistance determinations and notify the employees (parents are then charged a reduced tuition rate by the provider);
- (g) Provide the funds to the provider or to an organization that will administer the program for you; and
- (h) Report the results to OPM on the mandatory reporting form.

§ 792.222 Are agencies required to negotiate with their Federal labor organizations about the provisions of this law?

You are reminded of your obligation to negotiate or consult, as appropriate, with the exclusive representatives of your employees on the implementation of the regulations in this subpart under 5 U.S.C. 7117.

§ 792.223 Are there any conditions which the child care provider must meet in order to participate in this program?

Yes, the provider, whether center-based or family child care, must be licensed and/or regulated by the State and/or local authorities where the child care service is delivered.

§ 792.224 Is there a statutory cap on the amount or the percentage of child care tuition that will be subsidized?

No, the law does not specify a cap.

§ 792.225 What is the definition of a lower income Federal employee and how is the amount of tuition assistance subsidy determined?

Each agency makes the determination of the definition of *lower income* Federal employee. *Lower income* Federal employee can be defined by an agency in a number of ways. The process for determining both eligibility and the amount of tuition assistance subsidy for each family will usually involve consideration of total family income along with other factors such as total child care costs, depending on the tuition assistance model(s) you use. Agencies are not required to use one of the models that OPM suggests. If an agency uses a model OPM has suggested in its guidance, you may wish to change the threshold amounts, or percentages of total family income or other factors. In their guidance to this subpart, OPM will provide examples of models with detailed explanations. OPM's guidance on this subpart is a supplement to this subpart.

(a) If the model or models you select includes a total family income threshold, you can use criteria such as those from:

- (1) The Child Care Development Block Grant as defined (42 U.S.C. 9858);
- (2) A formula based on a percentage of the State poverty level (as many States do for certain programs); or
- (3) A set amount of total family income the agency chooses depending on the agency demographics and need to assist lower income Federal employees.

(b) Some models do not require a threshold amount, since eligibility is determined as a function of the relationship between total family income, actual child care tuition costs, and an amount or percentage the agency is willing to pay.

(c) In order to determine the amount of tuition assistance subsidy by which tuition will be reduced for a Federal employee, a number of approaches can be taken. The size of the subsidy is dependent on different income levels. It can be based on a tuition sliding scale such as that used in the military formula (10 U.S.C. 1791-1798); a formula based on a specific percentage of total family income the family is expected to pay with the agency paying the remaining amount; or a formula based on a specific percentage of child care tuition the family is expected to pay with the agency paying the remaining amount. Each of these approaches is based on different philosophical assumptions and it will be up to the agency to determine which model or models best fits its needs. The models are described in detail in OPM's guidance.

(d) Besides total family income, you may consider extraordinary financial situations to determine eligibility and the subsidy amount.

§ 792.226 Who determines if a Federal employee qualifies as a lower income employee and how is the program administered?

The agency or another appropriately identified organization determines eligibility using certain income and/or tuition criteria chosen by the agency. If the agency itself does not administer the program, it must select another organization to do so, using procedures that are in accordance with the Federal Acquisition Regulations. Regardless of what organization administers the program, the model for determining both the tuition assistance eligibility and the amount of the subsidy is always determined by the Federal agency.

§ 792.227 Are child care subsidies paid to the Federal employee using the child care?

No, the child care subsidy is paid to the child care provider. If you choose to have an organization administer your program (see § 792.226), the subsidy is

paid to the organization and they, in turn, pay the provider. In any case, the provider will invoice the organization that administers the program.

§ 792.228 May we disburse funds to a child care provider or to an organization that administers our program prior to the time the employee receiving tuition assistance has enrolled his or her child in the child care center or family child care home?

Yes, you may wish to disburse one lump sum to the organization administering the tuition assistance program and they will be responsible for tracking the utilization and providing you with regular reports. An agency contract should specify that any unexpended funds shall be returned to the agency after contract completion.

§ 792.229 How will the disbursement covered by § 792.227 work where there is a Federally sponsored child care center in a multi-tenant building?

In a multi-tenant building, funds from the agencies could be pooled together for the benefit of the employees qualified for tuition assistance.

§ 792.230 For how long will the tuition assistance be in effect for a Federal employee?

The tuition assistance, in the form of a reduced tuition rate, will be in effect from the time the decision for a particular Federal employee is made and the child is enrolled in the program, until the child is no longer enrolled, but not later than September 30, 2000. These funds are not available to pay for services performed after September 30, 2000.

§ 792.231 Can these funds be used for children of Federal employees who are already enrolled in child care?

Yes, the funds can be used for children currently enrolled in child care as long as their families meet the tuition assistance eligibility requirements established by your agency.

§ 792.232 Can we place special restrictions or requirements on the use of these funds, and can we restrict the disbursement of such funds to only one type of child care or to one location?

(a) Yes, depending on your staffing needs and your employees' situations, including the local availability of child care, you may choose to place restrictions on the use of your funds in a number of ways including, but not limited to:

- (1) Fund Federal employees using family child care homes;
- (2) Fund Federal employees using your on-site child care center;
- (3) Fund Federal families using community, non-Federal child care centers; or

(4) Restrict the use of such funds to one or more locations.

(b) It is up to you to determine whether there will be any restrictions on the use of your appropriated funds for child care tuition costs.

§ 792.233 May we use the funds to improve the physical space of the family child care homes or child care centers?

No, the legislation specifically addresses making the child care more affordable for lower income Federal employees.

§ 792.234 For how long is the law effective?

The law is effective for one year, ending September 30, 2000.

§ 792.235 Who will oversee the disbursement and use of these funds?

You will be responsible for tracking the utilization of these funds. OPM's guidance which was issued on December 23, 1999, and which was reissued with updates on March 14, 2000, contains details about the oversight of this program and the mandatory reporting requirements. The guidance contains sample marketing materials, sample tuition assistance documents, the OPM reporting form, as well as suggestions for determining eligibility.

[FR Doc. 00-6192 Filed 3-9-00; 3:45 pm]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Chapter IX

[No. 2000-09]

RIN 3069-AA-96

Devolution of Corporate Governance Responsibilities

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting as final, with several changes, the Interim Final Rule amending its regulations to devolve certain corporate governance responsibilities from the Finance Board to the Federal Home Loan Banks (Banks), pursuant to the requirements of the Federal Home Loan Bank System Modernization Act of 1999.

EFFECTIVE DATE: This final rule shall be effective on March 14, 2000.

FOR FURTHER INFORMATION CONTACT: James L. Bothwell, Director, (202) 408-2821, or Scott L. Smith, Deputy Director, (202) 408-2991, Office of Policy, Research and Analysis; or

Sharon B. Like, Senior Attorney-Advisor, (202) 408-2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Bank System and Finance Board Roles and Responsibilities; Regulatory Background

Under the Federal Home Loan Bank Act (Bank Act), the Finance Board is responsible for the supervision and regulation of the 12 Banks. *See* 12 U.S.C. 1422a(a)(3), 1422b(a)(1) (1994). Specifically, the Finance Board's primary duty is to ensure that the Banks operate in a financially safe and sound manner. Consistent with that primary duty, the Finance Board also is responsible for ensuring that the Banks carry out their housing finance and community lending mission, and that they remain adequately capitalized and able to raise funds in the capital markets. *See id.* § 1422a(a)(3).

Historically, the Bank Act has required the Finance Board to be involved in varying degrees in the corporate governance of the Banks, typically by requiring Finance Board approval for a host of Bank practices. However, the recently enacted Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act)¹ repealed most of those requirements, thereby removing most of the last vestiges of governance responsibilities from the Finance Board. *See* Pub. L. No. 106-102, §§ 604(a)(6); 606(d), (f), (g) (1999). Accordingly, the Finance Board adopted the Interim Final Rule, which amended its regulations to remove the corresponding Finance Board approval requirements for such corporate governance functions, consistent with the Modernization Act. *See* 64 FR 71275 (Dec. 21, 1999). The Interim Final Rule maintained or imposed standards or requirements on the Banks where deemed necessary for reasons of safety and soundness and sound corporate governance practice. *See id.*

The Interim Final Rule provided for a 30-day comment period, which closed on January 20, 2000. The Finance Board received a total of 8 comment letters on the Interim Final Rule. Commenters included six Banks, a trade association representing 10 of the 12 Banks, and a banking institutions trade association. The provisions of the Interim Final Rule on which significant comments were received are discussed below.

¹ The Modernization Act is Title VI of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, 113 Stat. 1338, enacted into law on November 12, 1999.