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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 943

[No. 95-40]

Pricing of Services

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation regarding the pricing of item processing services by the Federal Home Loan Banks (Banks). The amendment eliminates the requirement for Finance Board approval of prices for item-processing and other services authorized in this regulation and deletes the reference to a specifically designated office to act on behalf of the Finance Board regarding this section. The approval requirement is eliminated as it constitutes an unnecessary administrative burden.

EFFECTIVE DATE: November 17, 1995.

FOR FURTHER INFORMATION CONTACT: Edwin J. Avila, Financial Analyst, (202) 408-2871; Edward J. Reedy, Associate Director, (202) 408-2959, Regulatory Oversight Division; or Eric M. Raudenbush, Attorney-Advisor, (202) 408-2932, Office of General Counsel; Federal Housing Finance Board, 1777 F Street NW., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. General

Section 11(e)(2)(A) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1431(e)(2)(A), authorizes the Banks to engage in the collection and settlement of any negotiable or nonnegotiable items or instruments of payment drawn on or issued by Bank members or institutions eligible to apply for membership under section 4 of the Bank Act. *Id.* section 1424. In order to preclude the Banks' status as

Government-Sponsored Enterprises from providing a competitive advantage over private institutions, section 11(e)(2)(B) of the Bank Act requires that the Banks make charges for these item-processing services that are to be determined and regulated by the Finance Board consistent with the statutory pricing principles established for Federal Reserve Banks. Section 943.6 of the Finance Board's regulations implements this requirement by providing that, in addition to covering operating expenses, service pricing must cover other costs that would have been borne, and reflect the imputed rate of return that would have been earned, if the Banks were private corporations. See 12 CFR 943.6. As currently written, § 943.6(a) requires that Banks charge for item-processing services in a manner "approved by the [Finance] Board or its designee." *Id.* § 943.6(a). More specifically, § 943.6(c) requires that the Director of the Finance Board's District Banks Directorate (DBD) at least annually review and approve Banks' prices for item-processing services, in accordance with the established pricing principles. *Id.* § 943.6(c). All prices for Bank services authorized by Part 943 must be published annually in the Federal Register. *Id.*

Pursuant to the Bank Act and the regulations, the Finance Board has established and promulgated a methodology for allocating the imputed costs and rates of return, whereby a cost of capital adjustment factor, commonly referred to as the Private Sector Adjustment Factor (PSAF), is applied to assets used in providing these services. See 58 FR 59468 (1993). Under the PSAF Methodology, the FHLBanks are required to impute debt, income taxes and a required return on equity (ROE), which are based on the average rates from a bank holding company (BHC) sample developed by the Federal Reserve Board for use in its PSAF calculation. If a Bank's prior year ROE from its item-processing services equals or exceeds the average ROE attained by the BHC sample group, then the Finance Board considers that Bank's prices for the current year to be in compliance with the regulation. Once a Bank's pricing has been determined to be in compliance with the regulation, any subsequent Finance Board approval is merely perfunctory and, therefore, constitutes an unnecessary

administrative burden. The Bank Act does not require Finance Board "approval" of the Banks' prices.

Under current practice, approval of current prices is contingent upon and determined by compliance with the PSAF compliance test. Thus, the Finance Board need go no further than monitor for compliance with this test. The Finance Board is, therefore, amending §§ 943.6 (a) and (c) of its regulations to eliminate the requirement for approval of prices for item-processing and other services authorized in this section, although § 943.6(c) will continue to require Finance Board "review" of such prices for compliance with the regulation. Under the current PSAF Methodology, if a Bank fails the compliance test, it must submit for Finance Board review either: a revised pricing schedule for item processing services; a business plan designed to resolve the non-compliance; or an explanation of the unanticipated or temporary event which led to the failure. The Bank's proposal for dealing with the non-compliance requires the endorsement of the Finance Board or its designee prior to implementation. Accordingly, under the regulation as revised and the PSAF Methodology, explicit Finance Board approval of prices will be required only when a Bank has failed the compliance test.

In addition, the Finance Board is further amending § 943.6(c) to eliminate reference to the Director of DBD or his or her designee. Both the position and office have been changed since the last publication of the rule. The Finance Board finds it to be unnecessarily confusing and burdensome to revise the regulation every time the office or official changes, and believes that the naming of a specific office serves no useful purpose. Hence, the regulation will now refer simply to the Finance Board, as opposed to a specifically designated office within the agency.

II. Administrative Procedure Act

This rulemaking simply removes an existing provision of § 943.6 of the Finance Board regulations that is unnecessary and burdensome to both the agency and the Banks and deletes reference to a specifically designated office to act on behalf of the Finance Board. No additional reporting is required of the Banks. Since the Banks must still comply with the pricing

principles of the regulation, private providers of item processing services will not be adversely impacted. As a result, the Finance Board hereby finds that notice and public comment is unnecessary. Therefore, for good cause shown under 5 U.S.C. 553(b)(B), this rule is exempt from the notice and comment requirements of the Administrative Procedure Act, as well as from the 30-day delay in the effective date pursuant to 5 U.S.C. 553(d)(3).

III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, et. seq., do not apply.

List of Subjects in 12 CFR Part 943

Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends chapter IX, title 12, *Code of Federal Regulations*, as set forth below.

PART 943—COLLECTION, SETTLEMENT, AND PROCESSING OF PAYMENT INSTRUMENTS

1. The authority citation for part 943 is revised to read as follows:

Authority: 12 U.S.C. 1430, 1431.

2. In Section 943.6, paragraphs (a) and (c) are revised to read as follows:

§ 943.6 Pricing of services.

(a) *General.* Federal Home Loan Banks shall charge for services authorized in this part in a manner consistent with the principles of section 11(A)(c) of the Federal Reserve Act (12 U.S.C. 248a(c)), as interpreted by this part.

* * * * *

(c) *Review and publication.* The Finance Board shall from time to time and at least annually review the cost of capital adjustment factor and review prices for services authorized in this part for compliance with the principles set forth in paragraphs (a) and (b) of this section. All prices for Bank services authorized in this part will be published annually in the Federal Register.

Dated: November 8, 1995.

By the Federal Housing Finance Board.

Bruce A. Morrison,
Chairman.

[FR Doc. 95-28176 Filed 11-16-95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33-7241; 34-36479; 35-26407; IC-21500]

RIN 3235-AC48

Adoption of Updated EDGAR Filer Manual and Technical Rule Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") is announcing the adoption of an updated EDGAR Filer Manual ("Filer Manual") and providing for its incorporation by reference into the Code of Federal Regulations. It also is adopting technical amendments to rules governing electronic filing on the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.

EFFECTIVE DATE: The amendments to Regulation S-T and the new edition of the EDGAR Filer Manual (Release 4.40) will be effective on December 18, 1995. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of December 18, 1995.

FOR FURTHER INFORMATION CONTACT: With respect to the EDGAR Filer Manual, version 4.40: in the Office of Information Technology, David T. Copenhafer at (202) 942-8800; in the Division of Corporation Finance, Sylvia J. Reis or Serena C. Swegle at (202) 942-2940; in the Division of Investment Management, Anthony A. Vertuno or Ruth Armfield Sanders at (202) 942-0591. With respect to the technical rule amendments, in the Division of Corporation Finance, Barbara C. Jacobs or James R. Budge, Office of Disclosure Policy, at (202) 942-2910; in the Division of Investment Management, Anthony A. Vertuno or Ruth Armfield Sanders at (202) 942-0591.

SUPPLEMENTARY INFORMATION: The Commission is announcing the adoption of an updated EDGAR Filer Manual, version 4.40, and technical amendments to Rules 101¹ and 301² of Regulation S-T.³

I. Updated Edgar Filer Manual, Version 4.40

The Commission today announces the adoption of an updated EDGAR Filer

¹ 17 CFR 232.101.

² 17 CFR 232.301.

³ 17 CFR Part 232.

Manual ("Filer Manual"), which sets forth the technical formatting requirements governing the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.⁴ Compliance with the provisions of the Filer Manual is required to assure the timely acceptance and processing of filings made in electronic format.⁵ Filers should consult the Filer Manual in conjunction with the Commission's rules governing mandated electronic filing when preparing documents for electronic submission.⁶

Significant changes to the Filer Manual in this update are as follows: acceptable form types have been modified to accommodate filings made pursuant to Rule 462⁷ of Regulation C,⁸ adopted in connection with the Commission's T+3 initiatives;⁹ form types have been added to allow electronic filing of Forms 3, 4 and 5¹⁰ pursuant to Section 16¹¹ of the Securities Exchange Act of 1934¹² and notices of securities sales¹³ filed pursuant to Rule 144¹⁴ under the Securities Act of 1933 ("Securities Act").¹⁵ Rule 301 of Regulation S-T also is being amended to provide for the incorporation by reference of this version of the Filer Manual into the Code of Federal Regulations, which incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. As explained more fully below, the revised Filer

⁴ The Filer Manual originally was adopted on April 1, 1993, and became effective on April 26, 1993. Release No. 33-6986 (April 1, 1993) [58 FR 18638]. Updates to the Filer Manual have been adopted as necessary since that time; the most recent update was adopted on May 22, 1995. Release No. 33-7169 (May 25, 1995) [60 FR 27691].

⁵ See Rule 301 of Regulation S-T.

⁶ See Release Nos. 33-6977 (February 23, 1993) [58 FR 14628], IC-19284 (February 23, 1993) [58 FR 14848], 35-25746 (February 23, 1993) [58 FR 14999], and 33-6980 (February 23, 1993) [58 FR 15009] for a comprehensive treatment of the rules adopted by the Commission governing mandated electronic filing. See also Release No. 33-7072 (July 8, 1994) [59 FR 36258], relating to implementation of Financial Data Schedules, and Release No. 33-7122 (December 19, 1994) [59 FR 67752], in which the Commission made the EDGAR rules final and applicable to all domestic registrants and adopted minor amendments to the EDGAR rules.

⁷ 17 CFR 230.462.

⁸ 17 CFR 230.400 to 230.497, inclusive.

⁹ See Release No. 33-7168 (May 11, 1995) [60 FR 26604].

¹⁰ 17 CFR 249.103, 249.104 and 249.105, respectively.

¹¹ 15 U.S.C. 78p.

¹² 15 U.S.C. 78a et seq.

¹³ Form 144, 17 CFR 239.144.

¹⁴ 17 CFR 230.144.

¹⁵ 15 U.S.C. 77a et seq.