

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL HOUSING FINANCE BOARD

### 12 CFR Part 910

[No. 92-305]

#### Leverage Ratio on Consolidated Federal Home Loan Bank Debt

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) proposes to revise its regulations regarding leverage of the Federal Home Loan Bank (FHLBank) System by expanding the definition of debt to include certain prior unsecured liabilities and to increase the permitted debt to capital ratio to 20:1. The proposed leverage constraints provide meaningful protection to FHLBank System bondholders. The proposed change would increase the availability of housing finance and increase the attractiveness of System membership.

**DATES:** Comments must be received by July 10, 1992.

**ADDRESSES:** Send comments to: Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Higgins, Director of Strategic Planning (202) 408-2962, or James H. Gray Jr., Associate General Counsel, (202) 408-2552.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

##### A. Background

Section 702 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 183 (August 9, 1989) (FIRREA) charges the Federal Housing Finance Board (Finance Board), *inter alia*, with the duty to ensure that the Federal Home Loan Banks (FHLBanks) carry out their housing finance mission and " \* \* \* remain adequately capitalized and able to raise funds in the

capital markets \* \* \*." 12 U.S.C. 1422(a)(3). The Finance Board issues consolidated obligations for which the FHLBanks are jointly and severally liable. The funds so raised enable the FHLBanks to make competitively priced advances available to members. The proposed change in the leverage ratio will provide the FHLBanks with greater flexibility to make more efficient use of their capital. In the view of the Finance Board, this flexibility is necessary for the FHLBanks to continue to provide reasonably priced advances to current and prospective members, in furtherance of the Finance Board's Congressionally-imposed duties to ensure that the FHLBanks carry out their housing finance mission and remain adequately capitalized and able to raise funds in the capital markets.

Through the first fifteen years of the FHLBank System's existence, the FHLBanks raised funds in the capital markets through the issuance of consolidated debentures under 12 U.S.C. 1431(b). The proceeds of the consolidated debentures were divided among the twelve FHLBanks to finance their operations. Each FHLBank received a portion of the consolidated debentures based on its anticipated operational needs. However, the ability of the FHLBank System to issue consolidated debentures was limited statutorily to an amount equal to five times the total paid-in capital of the twelve FHLBanks. See 12 U.S.C. 1431(b). Since each FHLBank member could then borrow up to twelve times the amount of its FHLB Bank stock, there was concern that the FHLBank System could become unable to borrow additional funds to meet member advance demand. See 47 Stat. 725, 731 (1932); formerly at 12 U.S.C. 1431 (c) (repealed by Pub. L. No. 97-320, sec. 352, 96 Stat. 1507 (October 15, 1982)).

In 1946, the former Federal Home Loan Bank Administration (Bank Administration), the predecessor to the former Federal Home Loan Bank Board (Bank Board), retired the consolidated debentures issued pursuant to 12 U.S.C. 1431(b) to allow for the issuance of consolidated bonds under 12 U.S.C. 1431(c).<sup>1</sup>

<sup>1</sup> 12 U.S.C. 1431(c) authorizes the Finance Board to issue consolidated bonds only if there are no outstanding debentures at the time of the issuance

To facilitate these changes, the former Bank Administration promulgated regulations which set forth the conditions and limitations under which it would issue FHLBank consolidated bonds. The regulations were first published § 4.3(a) and § 4.3(f) of title 24 of the Code of Federal Regulations in substantially the same form as they remain today. See 11 FR 9925 (Sept. 10, 1946). More recently, these conditions were codified in the former Bank Board's regulations at 12 CFR 506.1 and 506.6 (1989 redesignated). After the enactment of FIRREA, the Bank Board's regulations were redesignated as § 910.1 and § 910.6 of the regulations for the newly created Finance Board. The only revision to the regulations at that time was the change in the agency's name. See 54 FR 36757 (Sept. 5, 1989).

Under the current regulations, there are two conditions for the issuance of consolidated obligations. First, there is a "leverage ratio requirement" that the Finance Board cannot issue consolidated obligations in excess of 12 times the FHLBanks' total paid-in capital stock and reserves set out in 12 U.S.C. 1436. In addition to the leverage ratio requirement, § 910.1 also requires that the FHLBanks hold eligible assets, free and clear of any liens or pledges, in an amount greater than or equal to the amount of consolidated obligations outstanding (the "negative pledge requirement"). Although the Finance Board proposes to make changes in both the leverage ratio and negative pledge requirements, the Finance Board intends to retain both. Along with the FHLBanks' excellent credit record of never having suffered a credit loss, these limitations will continue to provide substantial protection to FHLBank System bondholders. These are in addition to the protections provided by the FHLBank System's strong capital position.

##### B. Proposed Change

The Finance Board has determined that the FHLBank System needs the ability to increase the FHLBank System's leverage. Increasing the FHLBank System's ability to leverage its capital will enable the FHLBanks to offer lower advance rates, which will make advances more attractive and thus

of consolidated bonds or if the consolidated bonds are issued to refund all outstanding debentures.

able the FHLBank System to better accomplish its housing mission. The proposed changes will not take effect until thirty days after publication of a final rule.

Section 910.0 defines certain terms. "Senior bonds" are the bonds subject to the leverage ratio, which currently includes all consolidated bonds outstanding. "Unsecured, senior liabilities" refers to certain obligations accounted for as liabilities under Generally Accepted Accounting Principles, such as deposits.

Section 910.1 of the revised regulations would increase the leverage ratio ceiling from 12:1 to 20:1. In addition, the debt component of the ratio is being changed to include not only senior bonds, but also unsecured, senior liabilities. The reference to senior bonds would exclude any liabilities subordinated to the then outstanding consolidated obligations.

In 1946, when the current regulation was originally promulgated, consolidated obligations comprised virtually all of the obligations of the FHLBank System. However, as the services offered by the FHLBanks have evolved over the last 45 years, member deposits have become a more significant item on the balance sheet. By modifying the leverage formula to take into account senior bonds and unsecured, senior liabilities, the proposed rule provides a more comprehensive debt limitation test than current § 910.1. This enhances bondholder protection.

The proposed rule would also change the definition of capital for purposes of this calculation to include all paid-in capital stock, retained earnings, and reserves, rather than just paid-in capital stock and reserves under 12 U.S.C. 1436 as in the current regulation.

The proposed rule would not make any change in the Finance Board's control over the issuance of FHLBank obligations, including the terms of issuance, and would retain a negative pledge requirement. However, the proposed rule clarifies that the Finance Board can delegate this responsibility. To account for certain conservative investment opportunities that have emerged since 1946, the proposed rule would increase the types of assets that qualify for the negative pledge requirement. The proposed rule would add assets that are suitable investments of the FHLBanks under 12 U.S.C.

1436(a). These assets include obligations, participations or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association; mortgages, obligations or other securities which are or ever have

been sold by the Federal Home Loan Mortgage Corporation, and such securities as fiduciary and trust funds may invest in under the laws of the state in which the FHLBank holding the investment is located.

Paragraph (c)(6) adds an additional category of qualifying assets which permits the use of other assets to meet the negative pledge requirement. The bondholders' assurance that these investments will have a relatively conservative risk profile is the requirement that such investments have a rating or assessment at least equal to senior bonds, which currently enjoy the highest investment rating. Finally, under the last clause of § 910.1(c), any assets securing certain obligations may be used to meet the negative pledge requirement. This final clause acknowledges that assets segregated for the repayment of consolidated obligations reduce, dollar for dollar, the amount of consolidated obligations to be repaid from unpledged assets.

The defeasance language in § 910.6 is made more precise in the proposed rule to clarify that if the Finance Board ever does decide to retire bonds by defeasance, it could use a "net defeasance," whereby the anticipated interest on the defeasance escrow would be taken into account in determining the amount of obligations required for defeasance.

In addition to the mechanisms in § 910.6 that have historically permitted limited changes in the leverage ratio or the negative pledge requirement, the proposed rule would allow the Finance Board to make changes in the leverage ratio requirement if the Finance Board receives written evidence from at least one nationally recognized securities rating firm that the change will not cause a reduction in the then current rating of senior bonds issued by the FHLBank System or next to be issued; or a written opinion from an investment banking firm that the proposed change would not have a materially adverse effect on the creditworthiness of senior bonds outstanding or those next to be issued.

The Finance Board has considered a number of alternatives in developing the proposed rule, including defeasance of the senior bonds which is not feasible now and allowing the FHLBanks to issue individual non-consolidated debt pursuant to 12 U.S.C. 1431(a). The Finance Board believes that the approach selected is the one best suited to accomplish the Finance Board's housing finance mission prescribed by Congress.

#### Request for Public Comments

The Finance Board hereby requests comment on all aspects of the proposed rule. Interested parties are invited to submit their comments within the sixty-day comment period.

#### Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in the proposed rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

#### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 12 CFR Part 910

Federal home loan banks.

Accordingly, the Federal Housing Finance Board proposes to amend title 12, chapter IX, subchapter A, part 910 of the Code of Federal Regulations as set forth below:

#### Part 910—CONSOLIDATED BONDS AND DEBENTURES

1. The authority citation for part 910 is revised to read as follows:

Authority: Sec. 2B, as added by 103 Stat. 183, 413 (12 U.S.C. 1422b); sec. 11 as amended by 103 Stat. 183, 418 (12 U.S.C. 1431).

2. Section 910.0 is added to read as follows:

#### § 910.0 Definitions.

(a) *Board* means the Federal Housing Finance Board.

(b) *Consolidated bonds* means bonds or notes issued on behalf of all Federal Home Loan Banks.

(c) *Senior bonds* means consolidated bonds issued pursuant to 12 U.S.C. 1431 and this part and not defeased, other than bonds specifically subordinated to any then outstanding consolidated bonds which are not subordinated.

(d) *Unsecured, senior liabilities* means all obligations of the Banks recognized as a liability under generally accepted accounting principles, except:

- (1) Liabilities that are covered by a perfected security interest;
- (2) Consolidated bonds; and
- (3) Bonds issued pursuant to 12 U.S.C. 1431(a).

3. Section 910.1 is revised to read as follows:

**910.1 Issuance of consolidated bonds.**

(a) *General.* The Board will determine and authorize the issuance of all consolidated bonds, dates of issue, maturities, rates of interest, terms and conditions thereof, and the manner in which such bonds shall be issued, subject to the provisions of 31 U.S.C. 9108. The Board in its discretion may delegate this responsibility.

(b) *Leverage limit.* The Board shall not issue senior bonds, other than bonds issued to refund consolidated bonds previously issued, if, immediately following such issuance, the aggregate amount of senior bonds and unsecured senior liabilities of the Federal Home Loan Banks exceeds twenty (20) times the total paid-in capital stack, retained earnings and reserves of all the Federal Home Loan Banks.

(c) *Negative pledge requirement.* The Federal Home Loan Banks shall at all times maintain assets of the following types, free from any lien or pledge, in a total amount at least equal to the amount of senior bonds outstanding:

- (1) Cash;
- (2) Obligations of or fully guaranteed by the United States;
- (3) Secured advances;
- (4) Mortgages as to which one or more Federal Home Loan Banks have any guaranty or insurance, or commitment therefore, by the United States or any agency thereof;
- (5) Investments described in section 16(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1436(a)); and
- (6) Other securities which have been assigned a rating or assessment by a major nationally recognized securities rating agency that is equivalent to or higher than the rating or assessment assigned by such agency on senior bonds outstanding.

*Provided, however,* That any assets of the types described in paragraphs (c)(1) through (6) of this section which are subject to a lien or pledge for the benefit of the holders of any issue of senior bonds shall be treated as if they were assets free from any lien or pledge for purposes of compliance with this provision.

4. Section 910.6 is revised to read as follows:

**§ 910.6 Reservation of right to revoke or amend; limitations thereon.**

(a) *General.* The right to revoke or amend this part, or to prescribe and issue supplemental or amendatory rules and regulations thereto, is hereby reserved.

(b) *Limitation on amendment of leverage limit or negative pledge*

*requirement.* No revocation or relaxation of any of the restrictions or requirements contained in or imposed by § 910.1(b) or (c) shall be effected except:

- (1) If there are no senior bonds then outstanding or if there shall have been deposited with the Treasurer of the United States, noncallable (or called) direct obligations of the United States of America or obligations fully guaranteed by the United States of America of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient to pay in full (together with any other moneys placed in trust and irrevocably committed for such payment and without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom) the principal of and interest to date of maturity or to such date designated for redemption and any redemption premium on all senior bonds the holders of which have not consented to such revocation or relaxation; or
- (2) Section 910.1(b) may be changed by the Board in any manner if the Board receives either:
  - (i) Written evidence from at least one major nationally recognized securities rating agency which rates or makes an assessment of the senior bonds that such change in that provision will not result in the lowering of its then-current rating or assessment on senior bonds outstanding or next to be issued; or
  - (ii) A written opinion from an investment banking firm that such change would not have a materially adverse effect on the creditworthiness of senior bonds outstanding or next to be issued.

By the Federal Housing Finance Board.

Dated: May 1, 1992.

Daniel F. Evans, Jr.  
*Chairman.*

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 92-CE-24-AD]

**Airworthiness Directives; Beech Models A36 and B36TC Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to adopt a new airworthiness directive (AD) that

would be applicable to certain Beech Models A36 and B36TC airplanes. The proposed action would require sealing the cabin door upper hinge cavity. The Federal Aviation Administration (FAA) has received several reports of water leakage in the cabin door upper hinge cavity on the affected airplanes, which could collect in the electrical wiring and inverted cover of the annunciator print board circuit and short out electrical circuits, including the circuit for operating the landing gear. The actions specified by the proposed AD are intended to prevent failure of the landing gear circuit, which could result in the inability to extend the landing gear.

**DATES:** Comments must be received on or before July 15, 1992.

**ADDRESSES:** Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-28-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4122; Facsimile (316) 936-4407.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by