voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries.

(b) *Subsequent referenda.* Every five years, the Secretary shall hold a referendum to determine whether blueberry producers and importers favor the continuation of the Order. The Order shall continue if it is favored by a majority of producers and importers voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries. The Secretary will also conduct a referendum if 10 percent or more of all eligible blueberry producers and importers request the Secretary to hold a referendum. In addition, the Secretary may hold a referendum at any time.

§ 1218.72 Suspension and termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that the subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of producers and importers voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1218.73 Proceedings after termination.

(a) Upon the termination of this subpart, the USABC shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the USABC. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the USABC, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the USABC under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the USABC and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all funds, property and claims vested in the USABC or the trustees pursuant to the Order.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the USABC and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to the blueberry producer organizations in the interest of continuing blueberry promotion, research, and information programs.

§ 1218.74 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1218.75 Personal liability.

No member, alternate member, or employee of the USABC shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty or willful misconduct.

§ 1218.76 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1218.77 Amendments.

Amendments to this subpart may be proposed from time to time by the USABC or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1218.78 OMB control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0581–0093, except for the USABC nominee background statement form which is assigned OMB control number 0505–001.

Dated: July 11, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–17956 Filed 7–14–00; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 940, 950, 955, 956 and 966

[No. 2000–33]

RIN 3069–AA98

Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adding regulations to authorize the Federal Home Loan Banks (Banks) to hold acquired member assets (AMA) and is amending its regulations to enumerate the types of core mission assets (CMA) that must be addressed in the Banks' strategic business plans. The Finance Board is also making related changes to

its regulations governing the Banks' investment, advances and debt issuance authorities.

DATES: This final rule is effective on July 17, 2000.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

On May 3, 2000, the Finance Board published for comment a proposed rule to: (1) Add new provisions in part 940 enumerating the Bank activities that are considered to be CMA; (2) add to the regulations a new part 955 setting forth in regulation the authority and requirements for Banks' AMA programs; (3) revise part 956 of the regulations, governing Bank investments; and (4) amend part 950 of the regulations, governing advances, so that inter-district advances activity would be subject to the same requirements as inter-district AMA activities. *See* 65 FR 25676 (May 3, 2000). The initial 30-day public comment period for the proposed rule was later extended to 43 days, see 65 FR 34127 (May 27, 2000), and closed on June 15, 2000. The Finance Board received a total of 107 comment letters about the proposed rule. Among the comment letters considered in preparing the final rule were 19 that were accepted after the official close of the comment period.

II. Analysis of Comment Letters and Changes Made in the Final Rule

A. Core Mission Activities—Part 940

1. General Commentary

As part of its statutory duty to ensure that the Banks carry out their housing finance mission, the Finance Board recently adopted a regulatory requirement, set forth in § 917.5 of the regulations, that each Bank's board of directors have in effect at all times a strategic business plan that describes how the Bank's business activities will achieve the mission of the Bank consistent with part 940 of the regulations. *See* 65 FR 25267 (May 1, 2000). At the same time, the Finance Board adopted § 940.2 of the regulations, which states the mission of the Banks in its broadest terms and, by way of cross-reference, gives meaning to the strategic business plan requirement of § 917.5. *See id.*

This final rule adds to part 940 a new § 940.3, which enumerates the specific Bank activities that qualify as core mission activities. The intent of this new regulatory provision is to further focus the Banks' strategic business plans on the activities that the Finance Board has determined are most central to the fulfillment of the Banks' statutory mission. In so doing, the Finance Board means to stress the importance that must be placed upon this category of activities as each Bank plans and undertakes its ongoing business activities. Aside from the strategic business plan requirements set forth in § 917.5, there currently are no other regulatory requirements pertaining to CMA.

In the proposed rule, activities that would have qualified as CMA were listed in § 940.3(a). Proposed § 940.3(b) stated that, should the Finance Board impose upon the Banks any future requirement regarding the level of Bank CMA holdings, the requirement would not prevent the Banks from holding to maturity, or funding with the proceeds of consolidated obligations, assets acquired under sections II.B.8 through II.B.11 of the Bank System Financial Management Policy (FMP) (consisting mostly of agency and privately-issued mortgage-backed securities (MBS) and asset-backed securities (ABS)). As discussed in detail below, this provision has been removed in the final rule. Accordingly, the list of activities that qualify as CMA, which appeared as §§ 940.3(a)(1) through (9) in the proposed rule, appears as §§ 940.3(a) through (i) in the final rule.

Of the comment letters addressing aspects of part 940, support for and opposition to the CMA provisions was about evenly divided. Most of the commenters who generally supported the CMA provisions of the proposed rule agreed with the Finance Board's goal of focusing the Banks on their housing finance and community lending mission, and especially upon extending the reach of the Banks' resources into underserved communities. One commenter (a Bank) agreed with the Finance Board that Bank members will be unable to make intelligent choices about their Banks' new capital plans without understanding the future direction of the Bank System, including the asset categories to be supported by the new capital structure.

Of those opposed to the rule, many stated as the primary reason for their opposition a belief that the Finance Board should wait until after it has promulgated new capital regulations as required by the Federal Home Loan Bank System Modernization Act of 1999 (Modernization Act), Title VI of the Gramm-Leach-Bliley Act, Pub. L. 106–102 (1999), and the Banks have adopted new capital plans under those regulations, before putting into place any further mission regulations. Most of these commenters expressed the opinion that, at a time when Congress has recently made membership in the Bank System completely voluntary and when, as a result, the Banks will need to market "Class B" stock to their members in order to establish a base of permanent capital, the Finance Board should not be implementing actual or implied asset requirements that could result in earnings volatility.

Many commenters stressed their belief that the uncertain ability of any Bank to maintain strong earnings and pay an attractive dividend while focusing upon the business activities enumerated in § 940.3 could dissuade members or potential members from purchasing Bank stock. Several commenters noted especially that the reference in proposed § 940.3(b) to possible future requirements regarding Bank CMA, combined with a failure to detail what those requirements could be, raises the possibility that a Bank may in the future be required to divest itself of legally-acquired investments, making the future balance sheet composition of the Banks particularly uncertain for potential investors.

Many of the commenters expressing generally negative reactions to proposed § 940.3 raised concerns that the CMA provisions would limit the Banks' flexibility in managing their balance sheets and, therefore, would adversely impact Bank profits and possibly the safety and soundness of the Banks. Frequently mentioned in this regard was the Finance Board's exclusion of investments in most types of MBS from the list of activities that qualify as CMA. Two commenters (both Banks) specifically requested that the Finance Board continue to permit the Banks to hold MBS in an amount up to three times capital (as is currently the limit under the FMP).

Regarding the exclusion of most MBS from the list of CMA, many commenters expressed a belief that MBS are an important balance sheet management tool for the Banks that may be especially useful in deploying Bank capital prudently during periods of cyclical business downturns. Several commenters stressed the Banks' roles as reliable sources of liquidity for their members and stated that failure to permit the Banks to continue to invest in MBS could threaten the Banks' abilities to act in this role. Others questioned whether it is appropriate for the Finance Board to restrict Bank investment in assets, like MBS, that are specifically authorized by statute as legal investments for a Bank. Still others argued that MBS do play an important role in helping Banks to carry out their mission in that, as low-risk investments with a reasonable record of return, MBS improve the Bank System's financial strength and help to reduce rates on advances. Some commenters also asserted that MBS are mission-related in that, despite the statements of the Finance Board to the contrary, the Banks' purchase of these securities do result in increased availability of funds for housing and in reduced cost of housing funds.

More generally, several Bank members commented that § 940.3, as proposed, would restrict the Banks' abilities to respond to members' needs with well-priced advances by encouraging the Banks to focus upon ''programs'' required by regulation. Several other commenters expressed the opinion that Congress has adequately addressed the ''mission'' of the Banks in the Federal Home Loan Bank Act (Bank Act) and that, by its failure to impose mission requirements as part of the Modernization Act, Congress expressed its intent that such requirements should not be imposed through regulation. Several also pointed out that the Modernization Act devolved the remaining elements of corporate governance authority to the Banks and claimed that the manner in which the Banks carry out their statutory mission is a matter of corporate governance to be decided upon by the Banks' own boards of directors, subject only to the safety and soundness regulation of the Finance Board.

Finally, one commenter stated that the CMA provisions, as proposed, would violate the spirit of an October 18, 1999 letter from Finance Board Chairman Bruce Morrison to Senator Phil Gramm and Congressman Jim Leach. In that letter, Chairman Morrison stated that, upon the enactment of the Modernization Act, the Finance Board would withdraw its Financial Management and Mission Achievement (FMMA) proposed rulemaking, *see* 64 FR 52163 (1999), and would take no action to promulgate proposed or final regulations limiting Bank assets or advances beyond those regulations currently in effect (except to the extent necessary to protect the safety and soundness of the Banks) until such time as the Finance Board's new capital regulations take effect.

2. The Final Rule—Background

The Bank Act authorizes the Finance Board to supervise the Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of the Bank Act. *See* 12 U.S.C. 1422b(a)(1). Among the provisions of the Bank Act are those outlining the duties of the Finance Board, which include the duty to ''ensure'' that the Banks carry out their housing finance mission. *See id.* at 1422a(a)(3)(B)(ii). The use of the word ''ensure'' in section 2A(a)(3)(B)(ii) of the Bank Act makes clear that, consistent with the safe and sound operation of the Banks, the Finance Board has the duty to take active measures to see to it that the Banks carry out their housing finance mission.

Because Congress has not expressly defined the term ''housing finance mission,'' it is the responsibility and the privilege of the Finance Board—as the body charged with the duty to ensure that the Banks fulfill that mission and, more generally, as the supervisory regulator of the Banks and the agency charged with the administration of the Bank Act—to construe the term reasonably in light of the totality of the Act. It is the position of the Finance Board that, when Congress amended the Bank Act in 1989 to require the Banks to offer Affordable Housing Programs (AHP) and Community Investment Programs (CIP) and authorized the Banks to offer Community Investment Cash Advance Programs (CICA), the Banks' ''housing finance mission,'' as referenced in section 2A(a)(3)(B)(ii), came to include support not only for the financing of traditional housing-related activities, but also for those types of community lending that the Banks are authorized by statute to support and that indirectly enhance traditional housing finance by helping to create and sustain thriving and livable communities. *See* 12 U.S.C. 1430(i), (j).

Having earlier set forth its construction of the Banks' mission in § 940.2 of the regulations, *see* 65 FR 25267 (May 1, 2000), the Finance Board is now further fulfilling its duty to ensure that the Banks carry out that mission by requiring that the Banks focus on the CMA listed in new § 940.3 as part of their strategic planning process. Under the Finance Board's regulations, as amended by this final rule, this is the only regulatory requirement regarding CMA.

The material formerly contained in proposed § 940.3(b) was intended to give the Banks and their members some assurance that, if the Finance Board were to promulgate at some point in the future any effective limits on non-CMA Bank activities, MBS and other investments previously made under sections II.B.8 through II.B.11 of the FMP would not adversely affected. However, based on the comments it is apparent that rather than providing reassurance, the effect of including this provision in the proposed rule has been to raise the specter of as-yet-undisclosed future limits on non-CMA activities, while obscuring the fact that no such limits are being contemplated or implemented. Accordingly, the Finance Board has eliminated proposed § 940.3(b) and its reference to possible limits on non-CMA activities from the final rule. Although this declaration of intent has been eliminated from the language of the rule, the Finance Board stresses again that: (1) It has no current plans to impose limits on non-CMA activities; and (2) if any such limits were ever to be imposed, the agency has no current plans to require any Bank to divest itself of otherwise legal and safe investments already held.

Because this rule does not limit Bank assets or activities to a greater extent than the limits to which they are subject under the FMP, the rule does nothing to violate either the spirit, or the literal language, of Chairman Morrison's letter to Senator Gramm and Congressman Leach.

The Finance Board disagrees with comments that the Banks would suffer from lower profits and reduced balance-sheet management flexibility as a result of the Finance Board's failure to characterize MBS as CMA. First and foremost, the rule contains no new restrictions on the Banks' ability to invest in MBS. The only limit on the Banks' authority to invest in MBS is the current FMP ''three times capital'' limit (which will remain in effect until expressly repealed by the Finance Board). Second, the loans and pools of loans a Bank may acquire through AMA programs authorized under part 955 of the final rule (which is discussed in more detail below) would be substantially similar to loans that are normally acquired in securitized form through the purchase of MBS.

Since 1989, the Banks have gained substantial experience in managing the risks associated with MBS. This experience should be transferable to the management of what would essentially be ''self-securitized'' MBS acquired under an AMA program. While the rate of return on AMA could be lower than that on MBS depending upon the price structure of a particular AMA program, the slight difference in return would inure to the benefit of the selling member, in keeping with the cooperative nature of the Bank System. The purchase of MBS from the capital markets typically does little or nothing to enhance the availability of any reasonably-priced product or service to any member or housing associate.

Finally, the Finance Board rejects the notion that the promulgation of the CMA strategic planning requirement should be postponed until after the Banks have put into effect their new capital plans. As the Banks' mission regulator, the Finance Board has made decisions regarding the broad activities it believes are preferable for the Banks to be pursuing in the context of their housing finance and community lending mission. Having made these decisions, the Finance Board finds it most logical to state those preferences as clearly as possible and as soon as possible prior to the development of the Banks' new capital plans. In doing so, the Finance Board is enabling the Banks to structure their capital plans with specific mission considerations in mind, as opposed to amending the plans after they have already been developed. In addition, members and potential members will be aware in advance of the CMA in which the Banks are encouraged to engage. To do otherwise would serve only to undermine the capital planning process and the expectations of investors in the Bank System, and to no good purpose.

3. Definition of CMA and Government-Insured or -Guaranteed AMA Loans—§ 940.3(b)

Under § 940.3(b) of the final rule, all AMA authorized under new part 955 qualify as CMA, except for certain United States government-insured or guaranteed whole single-family residential mortgage loans acquired under a commitment entered into after April 12, 2000. The latter shall qualify as CMA only in a cumulative dollar amount up to 33 percent of: the cumulative total dollar amount of AMA acquired by a Bank after April 12, 2000, less the cumulative dollar amount of United States government-insured or guaranteed whole single-family residential mortgage loans acquired after April 12, 2000 under commitments entered into on or before April 12, 2000. At the discretion of two or more Banks, this percentage calculation may be made based on aggregate transactions among those Banks.

This provision appeared as § 940.3(a)(2) in the proposed rule. Section 940.3(b) of the final rule differs from the proposal in that the ''33 percent'' calculation regarding government-insured and -guaranteed loans has been made to apply on a cumulative basis, as opposed to a year-to-year basis.

The Finance Board received a total of 20 comments regarding the CMA definition as applied to government-insured or -guaranteed loans. Seventeen commenters were opposed to that aspect of the CMA definition that would result in only a portion of the government-insured or -guaranteed loans acquired by a Bank being considered as CMA. Two commenters supported the definition as proposed, and one noted that the issue required further discussion.

Generally, the commenters opposed to this aspect of the CMA definition noted that the Banks should be provided maximum flexibility in meeting the needs of their members. It was noted that the exclusion of a portion of government-insured or -guaranteed loans from the definition of CMA would have a detrimental effect on the ability of private sector lenders to pass the full benefits of AMA programs on to consumers. It was also noted that the Banks should have unlimited flexibility to acquire government insured or guaranteed loans, similar to the unlimited flexibility afforded Fannie Mae and Freddie Mac. One commenter added that no limitation should exist since there are no safety and soundness or mission reasons to justify such a limitation. Another commenter suggested that the April 12, 2000 date, relating to prior acquisition of government-insured and -guaranteed loans, be either deleted or moved to the date of enactment of the final rule. Yet another commenter requested that the 33 percent limitation should not take effect until 2002.

One of the comments in favor of the proposed definition noted that the Banks should be encouraged to focus on conventional and prime rate mortgages that are made to minorities and low-and moderate-income populations. Another commenter supporting the proposed definition added that the use of mortgage insurance would significantly reduce the need for Banks to purchase government-insured or -guaranteed loans, since such purchases to date have been the result of the recourse capital treatment for members selling conventional loans.

The Finance Board considered the comments received regarding the CMA definition as applied to government-insured and -guaranteed loans and decided that the definition should remain as proposed, although the calculation thereunder should be made on a cumulative, as opposed to a year-to-year, basis. The distribution of the Banks' current mortgage portfolio indicates that a high percentage of government-insured loans have been acquired when compared to the percentage of these loans in the total mortgage market. The final rule encourages the composition of the Banks' mortgage portfolios to more closely reflect the distribution of loans in the marketplace. This provision is intended to reduce the emphasis on government-insured loans that currently exists in the Banks' mortgage portfolios and to provide incentive for Bank acquisition of conventional mortgages.

The parenthetical at the end of § 940.3(b) makes clear that the calculation of the percentage of AMA loans that qualify as CMA may be made based on aggregate transactions between two or more Banks so long as the relevant Banks agree (or, even on a System-wide basis if all Banks agree). This provision is intended to provide flexibility among the Banks such that if one Bank's acquisition of government-insured or guaranteed loans exceeds 33 percent of total AMA in a given year, it may combine its portfolio for purposes of the calculation with another Bank that may not have reached the maximum allowed CMA purchase of such loans.

4. Targeted Investments—§ 940.3(e)

Under § 940.3(e) of the final rule, certain targeted debt and equity investments may qualify as CMA. As stated in § 940.3(e)(1), these include debt or equity investments that primarily benefit households having a targeted income level, or areas targeted for redevelopment by local, state, tribal or Federal government, by providing or supporting: housing; economic development; community services; permanent jobs; or area revitalization or stabilization. The term ''targeted income level'' is defined in § 940.1 by cross-referencing to the first two paragraphs of the definition of the same term under the Finance Board's CICA regulation. *See* 12 CFR 952.3. There, ''targeted income level'' is defined to refer to a household income that is at or below 115 percent of the area median income in rural areas, and at or below 100 percent of the area median income in urban areas. *See* 12 CFR 952.3. Section 940.3(e)(1) also requires that a significant proportion of the households with a targeted income level must have incomes at or below 80 percent of area median income. An example of a housing project that would meet the targeted income requirement would be a project that qualifies for a federal Low Income Housing Tax Credit where either 20 percent of the units are affordable to households with incomes at or below 50 percent of area median income or 40 percent of the units are affordable to households with incomes at or below 60 percent of area median income.

Section 940.3(e)(2) provides that, if the targeted investment is an MBS or ABS, the acquisition of these securities by the Bank must substantially contribute to expanding liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily-available or well-established secondary market in order for the investment to qualify as CMA. Whether the investment is an MBS or ABS, or a non-securitized asset, § 940.3(e)(3) requires that the investment must in all cases involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank.

Most of the comments addressing the targeted lending provision were generally supportive, although many suggested additions, clarifying language or other modifications. Many of the commenters who praised the provision specifically supported Bank debt and equity investments in Community Development Financial Institutions (CDFIs) and secondary capital in community development credit unions, which, as mentioned in the preamble to the proposed rule, would qualify as CMA under § 940.3(e). Several commenters also stated generally that the Finance Board should make clear that § 940.3(e) is intended to encompass whole loans, whole loan portfolios or participations in whole loans or whole loan portfolios, where these loans meet the requirements of the provision.

As proposed, § 940.3(e)(1) (which appeared at § 940.3(a)(5)(i) of the proposed rule) required that these investments primarily benefit ''low- or moderate-income households,'' which the proposed rule defined as a household with an income that is at or below 115 percent of area median income. With regard to these income targets, several commenters stated that the Finance Board should amend its definition of ''low- or moderate-income households'' to include only those households with incomes up to 80 percent of area median income. The commenters noted that this would correspond with the income targets under the Community Reinvestment Act (CRA) and would enhance the ability of Bank members to meet their CRA requirements by making CRA-related loans and investments.

After considering all of the relevant factors, the Finance Board decided that it was desirable to keep the parameters of ''targeted'' Bank activities like CICA programs and targeted investments consistent. Therefore, in the final rule, the Finance Board as amended the income target provision to cross-reference the CICA regulation.

As indicated, in the realm of targeted lending, the term ''low- or moderate-income households'' refers to households with an income that is at or below 80 percent of the area median income. In order to avoid confusion, the Finance Board has removed the term ''low- or moderate-income households'' and has used instead referred to households having a ''targeted income level,'' a term which is used in the Finance Board's CICA regulation. *See* 12 CFR 952.3. By cross-referencing this definition in the CICA regulation, the agency has effectively modified the income targets that were set forth in proposed § 940.3(a)(5)(i) by tightening the requirement from 115 to 100 percent of area median income for urban households. The target remains at 115 percent of area median income for rural households.

As proposed, only ''non-securitized'' debt and equity investments could have qualified as CMA under § 940.3(e). However, this provision has been revised in the final rule to include targeted MBS and ABS as CMA under this section where the requirements of § 940.3(e)(2) (described above) have been met. In the proposed rule, the Finance Board requested comment on appropriate rule language that might allow for MBS and ABS that substantially contribute to opening an underserved market to qualify as CMA, while continuing to exclude securities that, while they may be backed by loans that could qualify as ''targeted,'' actually trade in a well established and liquid market.

While two commenters provided the Finance Board with suggestions regarding income targets for loans backing securitized targeted CMA investments, these comments did not address the Finance Board's concern regarding the market in which the securities trade. The income requirements for MBS and ABS are the same as those for non-securitized assets.

Upon consideration of the issue, the Finance Board decided that MBS and ABS that are backed by mortgages or other assets that meet the targeting requirements, and the purchase of which would substantially contribute to expanding liquidity for loans that would not otherwise be adequately provided by the private sector and that do not have a readily available or well-established secondary market should be deemed to be CMA. MBS or ABS where less than half of the dollar amount of the assets underlying each of the securities meet the targeting requirements of this provision would not be considered to primarily benefit targeted areas or households with a targeted income level as required under § 940.3(e)(1).

The Banks are encouraged to invest in MBS and ABS backed by assets consisting of whole loans and loan participations that address financially underserved income-targeted households or area-targeted markets identified by a Bank. Currently, there are a number of financing opportunities where the secondary market is not fully developed and the Banks' involvement could facilitate the growth and liquidity of loans provided to underserved markets. There are many such types of MBS and ABS where the majority of the underlying assets are composed of loans for households with targeted incomes or loans in targeted areas, for example: Single-family home purchase mortgages that do not meet the underwriting standards of the secondary market Government Sponsored Enterprises (GSEs); mortgages on owner-occupied two- to four-unit homes; home equity conversion (reverse) mortgages; single-family rehabilitation or combination acquisition/rehabilitation loans; home purchase loans for households with incomes less than 80 percent of area median income in areas where GSE purchases are less than the proportion of loans made to such households in those areas; loans of less than $3 million for the acquisition, construction or rehabilitation of small multifamily buildings; homeowner and rental property loans on tribal lands; community facility and economic development loans in low-income census tracts or rural areas; and economic development and housing loans originated by nonprofit organizations.

Many commenters mentioned specific programs, agencies, non-profit organizations and other projects and investments and requested confirmation by the Finance Board that each was a type of targeted investment that could qualify as CMA under § 940.3(e). The elements to be considered under that section can in some cases be known only with respect to a specific investment. While it is impossible to list every type of investment that might qualify as CMA under § 940.3(e), there are several types of investment that would clearly qualify as CMA in most circumstances, such as investments in: Community Development Venture Capital Funds; SBIC ''fund-of-funds''; and equity investments in governmentally-aided economic development entities structured similarly to SBICs, where the investment primarily benefits low- or moderate-income individuals or areas.

Section 940.3(e)(3) of the rule (§ 940.3(a)(5)(ii) in the proposed rule) requires that, to qualify as CMA, an otherwise qualifying targeted investment by a Bank must involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank. One commenter opposed any requirement that, to qualify as CMA, a targeted investment must have the direct financial involvement of one or more members or housing associates and recommended that the rule permit a range of involvement from sponsorship through financial participation. Section 940.3(e)(3) does not require direct financial participation on the part of the member or housing associate and, in fact, clearly allows the Bank itself to determine the extent and nature of its involvement with its member or housing associate. Accordingly, the Finance Board believes that, as worded, the rule allows for levels of member or housing associate involvement from sponsorship through financial participation.

5. SBIC Investments—§ 940.3(g)

Under § 940.3(g) of the final rule, SBIC debentures, the short-term tranche of SBIC securities and other debentures guaranteed by the Small Business Administration (SBA) under Title III of the Small Business Act of 1958 are considered to be CMA. Under the proposed rule, this provision (which appeared at § 940.3(a)(7)) would have defined only the short-term tranche of SBIC securities as CMA. Two commenters (a Bank and the SBA) asked the Finance Board to broaden the provision to include all securities insured by the SBA under Title III of the Small Business Act, in order to provide needed funding for SBICs and to accommodate new programs that the Bank and the SBA are pursuing. In the final rule, the Finance Board has expanded the provision to encompass the investments that the Bank has proposed to make and other similar SBA-guaranteed debt investments. SBIC-related equity investments would not count as CMA under this provision, but could qualify under § 940.3(f).

B. Acquired Member Assets—Part 955

Part 955 of the final rule addresses AMA—that is, whole loans and certain interests in whole loans that a Bank may acquire from or through its members or housing associates in a transaction that is in purpose and economic substance functionally equivalent to the business of making advances in that: (1) It allows the member or housing associate to use its eligible assets to access liquidity for further mission-related lending; and (2) all, or a material portion of, the credit risk attached to the assets is being borne by the member or housing associate.

1. Three-Part Test—§ 955.2

Section 955.2 of the final rule sets forth a three-part test for determining whether an asset may qualify as AMA. As adopted, it is substantially similar the proposal, except for one change relating to state or local housing finance agency (HFA) bonds. This section provides that AMA must be: (a) Whole loans or certain interests in whole loans; (b) originated or held for a valid business purpose by a member or housing associate, and acquired from a member, housing associate, or another Bank; and (c) structured such that a member or housing associate is responsible for a significant portion of the credit risk of the investment and otherwise in compliance with § 955.3.

Two commenters opposed the requirement of proposed § 955.2(a)(1)(i) prohibiting the purchase of single-family mortgages where the loan amount exceeds the conforming loan limits established for Fannie Mae and Freddie Mac. *See* 12 U.S.C. 1717(b)(2). One commenter noted that this limitation would prevent the Bank from fully serving its mission. The second commenter requested relief from the loan limit specifically for ''Difficult Development Areas,'' where housing costs are a significant burden relative to other areas in the region.

The Finance Board considered these comments and decided to maintain the prohibition on the purchase of single-family mortgages where the loan amount exceeds the conforming loan limit. This provision is intended to prohibit the acquisition of ''jumbo'' loans. Additionally, the Finance Board's intent is to create a level playing field among the Banks, Fannie Mae and Freddie Mac with respect to the types of loans eligible for purchase.

At the request of one commenter, the Finance Board here clarifies that, under § 955.2(a)(1), a Bank may acquire certificates representing interests in whole loans as AMA only if: (1) The certificates are rated by an NRSRO to meet the credit enhancement requirement of § 955.3; (2) the certificates are issued following the execution of, and for the purpose of implementing an agreement between and initiated by the Bank and a Bank System member or housing associate to share risks in compliance with the requirements of § 955.3(b); and (3) the initiating Bank or Banks acquire substantially all of the certificates. It is the Finance Board's view that, in such a case, the use of a third party to securitize the whole loans would merely represent a vehicle to invest in certain types of AMA under more favorable terms and should therefore be permitted under the rule. However, if the certificates have been created as a security initially available to investors generally, they will not be considered to qualify as ''whole loans'' under § 955.2(a)(1).

Three commenters addressed the requirements of § 955.2, as applied to the acquisition of HFA bonds. All of the commenters were opposed to the proposed rule's treatment of HFA bonds to varying degrees. Of primary concern was the ''member or housing associate nexus'' requirement set forth in § 955.2(b). The commenters were generally more concerned with whether HFA bonds could qualify as CMA under § 940.3, than with the status of such bonds under the AMA provisions of part 955.

One commenter stated that HFA bonds should qualify as CMA whether or not the Bank purchased the bond from an housing associate of the Bank, or was granted permission by another Bank to purchase such bonds in its district. The commenter believes that this restriction has the potential to increase interest rates on taxable securities issued by HFAs by decreasing the competition for purchase of such securities. The commenter further noted that some Banks may be unwilling to grant permission to deal with HFAs in their district and, even where Banks are so willing, the cost of crafting a transaction would be onerous and unnecessary.

Another commenter noted that constraining the Banks to acquire HFA bonds from out-of-district housing associates only if the Bank has an agreement with the housing associate's District Bank granting permission to make such an acquisition is inappropriate and could cause transactions with housing associates to take place at non-market-clearing prices. The final commenter noted that costs and time would be reduced and HFAs would be able to access a pool of funds to provide low-interest loans for affordable housing if HFAs could privately place bonds, using the agencies' investment grade stand alone rating. The commenter further stated that it would be helpful if the rule would provide a clear description of the criteria applicable to HFAs to engage in selling bonds to Banks, in joint lending arrangements, in shared risk and credit enhancement programs for affordable housing properties, and in programs with member banks and through Banks directly.

The Finance Board considered the comments received and has, for HFA bonds only, modified the requirement that the bonds may be acquired from out-of-district housing associates only with the permission of the Bank in whose district the HFA is located (local Bank). Instead the final rule requires that the HFA first give the local Bank a right-of-first-refusal to purchase, or negotiate the terms of, a particular bond issue. If the local Bank refuses, or does not respond within three days, the HFA may then offer the bonds to an out-of-district Bank. This has been done in order to preserve the integrity of the Bank Districts, while at the same time preventing any one Bank from denying an HFA in its District financing that another Bank is willing to provide.

At any rate, under final § § 956.2(f) and 956.3(a)(4)(iii) Banks retain their existing authority to invest in AA-rated HFA bonds regardless of the District in which the issuer is located. However, HFA bonds that are acquired under Part 956 only and that do not meet the AMA requirements of § 955.2 do not qualify as CMA.

2. Required AMA Credit Risk-Sharing Structure—§ 955.3

Section 955.3 elaborates upon the credit risk-sharing requirement that is the third part of the AMA test set forth in § 955.2. The risk-sharing requirements of § 955.3 are based on risk-sharing structures that have evolved during the three-and-one-half years that the AMA pilots have been in operation. Though somewhat detailed, the credit risk-sharing requirements of § 955.3 are intended to produce a simple result: a recourse model for capital markets participation in the mortgage business that overcomes the traditional problems with the capital treatment on recourse transactions for financial institutions and results in a reasonable capital charge for the participating member or housing associate.

Although the credit risk of mortgage loans is typically low, it is still important to find the most economical way to manage that risk. The Finance Board believes that the recourse model, under which the seller of a mortgage retains all or part of the credit risk, is a more economically efficient system for bringing the benefits of the capital markets to the mortgage industry. Under the recourse model, entities that underwrite the loans benefit from good underwriting and therefore are economically disciplined to reduce credit risk. In contrast to the insurance-based secondary market model, under which Fannie Mae and Freddie Mac are paid a premium to insure against credit losses, the recourse model allows an originator to take on more credit risk (so long as that risk is adequately capitalized) and to profit from successful management of that credit risk. Thus, credit risk is dispersed among the many potential originators in the Bank System, and even further dispersed through the permitted insurance and credit derivative structures.

Section 955.3 differs from the proposed rule in several respects. These changes generally provide additional clarification and do not represent a change in the Finance Board's intent regarding AMA activities. In some sections additional requirements have been specified to ensure safe and sound operations.

In general, § 955.3 enables the Bank and the member to take best advantage of their core competencies by: (1) Requiring the member to bear most of the economic cost and the management burden associated with lowering the credit risk of AMA assets to levels comparable with investment grade rates securities; thus (2) leaving the Bank with AMA assets that have a risk profile similar to the securities that have historically been a normal part of Bank operations.

Under § 955.3(a), a Bank is required to determine, for each AMA product, the total credit enhancement needed to enhance an AMA asset or pool of assets to a credit quality that is equivalent to that of an instrument having at least the fourth highest credit rating from an NRSRO, or the credit enhancement associated with such other rating equivalent above the lowest investment grade that the Bank may choose. It further requires that the determination be made using a methodology that is confirmed in writing by an NRSRO to be comparable to a methodology that the NRSRO would use in determining credit enhancement levels when conducting a rating review of the asset or pool of assets in a securitization transaction. In addition, this determination must be made at the earlier of 270 days from the date of the Bank's acquisition of the first loan in a pool, or the date at which the amount of a pool's assets reaches $100 million.

The portion of § 955.3(a) regarding the confirmation by NRSROs combines § § 955.3(a)(1)(ii) and 955.3(a)(2) of the proposed rule. The NRSRO's confirmation of the method used to determine the required credit enhancement ensures that the Bank's estimates of credit ratings are reasonably accurate. However, the Finance Board acknowledges that an NRSRO conducting a formal rating of an asset or pool of assets may take into account qualitative factors that may not be considered by a theoretical model. Hence, the estimate of the credit enhancement requirement by a Bank would not be required to be identical to that determined by an NRSRO, but should produce roughly the equivalent rating, or equivalent ratings on average, to a formal rating review of the assets or pools of assets.

The NRSRO confirmations required by this part help ensure that AMA assets have risk and return characteristics that are more transparent, because of their similarity to rated instruments, than if the Banks simply accepted assets with unspecified levels of credit risk, or with credit risk measures that did not map to publicly available rating categories. Finance Board discussions with NRSROs indicate that it will be possible to obtain confirmations that give the Finance Board reasonable assurance regarding the soundness of the approach used to estimate the credit risk of AMA assets.

By specifying that the credit enhancement requirement be determined at the earlier of 270 days from the date of the Bank's acquisition of the first loan in a pool, or the date at which the amount of a pool's assets reaches $100 million, the rule ensures that large volumes of AMA assets cannot be acquired without a determination of their credit quality. This requirement did not appear in the proposed rule and was added to address the safety and soundness concerns that could arise if the credit enhancement determination were not performed on large pools that were formed over extended periods of time. However, the specified period in which the determination may be made still allows Banks latitude to assemble AMA assets in sufficient quantity to achieve and measure the benefit of diversification.

The rule no longer includes the text of proposed § 955.3(a)(1)(i), which specifically required the Bank to determine, at the time of acquisition of member assets, the expected credit losses on the asset or pool of assets using a method confirmed by a NRSRO. However, this determination likely still must be made to comply with § 955.3(b)(2)(ii), regarding the member's incentive to reduce actual credit losses.

Seven comments were received regarding the impact of geographic concentration and pool size on the calculation of the credit risk requirement and the resulting impact on small originators. These two diversification factors are taken into account by the NRSROs and the credit rating software that would be used to comply with § 955.3(a). Such software is likely to indicate substantially higher credit enhancement requirements for loan pools provided by smaller originators because the marketplace for such originators does not allow them to produce large numbers of geographically dispersed loans. The commenters proposed that the portion of credit enhancement requirements attributable to the lack of diversification not be included in determining compliance with § 955.3(a) for small members because such members could incur higher capital charges from the significantly higher credit enhancement requirements.

The Finance Board believes that such an approach would be detrimental to the safety and soundness of the acquiring Bank because the credit risk associated with the lack of diversification is a real risk that must be accounted for and managed. However, the Banks are not precluded from proposing a credit enhancement structure that appropriately manages the risk associated with the two diversification factors as confirmed by an NRSRO. In addition, 955.3(b)(1)(iii) of this rule now includes a provision allowing a narrow form of pool insurance, discussed more fully below, as one means for the Banks to address this issue.

A comment was also received advocating that § 955.3(a) should allow the recalculation of the amount of the credit enhancement on AMA pools some period of time after the establishment of the pool for the purpose of reducing the amount if such a reduction were found to be appropriate. The rule does not restrict the Bank from performing such recalculation. However, the timing of recalculations and any actions taken by the Bank to apply such new estimates of credit enhancements must be deemed appropriate, *a priori*, in writing, by an NRSRO.

Under § 955.3(b) of the final rule, the member must provide an enhancement to the credit quality of the prospective AMA asset that is sufficient to raise the credit quality of the asset to be comparable with a rated investment grade instrument. The final rule is similar to the provisions of § 955.3(b)(2) of the proposed rule that address the total amount of the credit enhancement. Under final § 955.3(b), the member must provide and bear the economic cost of the required amount of the credit enhancement. The amount of the credit enhancement must cover losses from the first dollar up to at least the coverage of an equivalent rated investment grade instrument and must be designed to extend for the life of the asset or pool of assets. The requirement that the amount of the credit enhancement extend for the life of the asset or pool of assets is intended to exclude, for example, structures that would comply with the credit rating requirement in the first year, but would then scale back the amount of the member's credit enhancement enough in future years so that the pool no longer meets the credit rating requirement. Furthermore, although the Bank may provide loan loss reserves for AMA assets, unless it can be demonstrated that, in substance, the economic cost of such reserves is borne by the member, such reserves would not be included in the credit enhancement for the purpose of determining compliance with this section. However, Bank reserves can be included in calculating the risk-based capital requirement associated with the asset.

Section 955.3(b) does not specify the form of the credit enhancement, only that it must be provided by the member subject to some limitations. By allowing flexibility in the form of the credit enhancement structure, the Banks can pursue alternative structures that meet member needs while providing the best overall return on the AMA activity.

Specifically, § 955.3(b)(1)(i) has been added to the final rule to authorize an insurance affiliate of the member to hold a portion of the credit enhancement obligation, to accommodate corporate structures common to some members that allow the credit enhancement obligation to be held by an entity that incurs a lower capital charge than the member. Also, § 955.3(b)(1)(ii), which replaces § 955.3(b)(ii)(2)(B)(3) of the proposed rule, allows loan-level insurance as a part of the credit enhancement but requires that the insurer be rated not lower than the second highest rating category. However, both of these insurance provisions are subject to the same limitation, which is contained in both §§ 955.3(b)(1)(i) and 955.3(b)(1)(ii)(B). The limitation requires that any insurance, regardless of the source, only absorb losses that remain after the member has economically absorbed all losses associated with the economic incentives described in § 955.3(b)(2). This limitation was added to ensure that members retain an ongoing economic interest in the actual credit losses of the asset even though much of the overall exposure to credit losses might be covered through an insurance arrangement.

Section 955.3(b)(1)(iii)(A) allows pool-level insurance as part of the credit enhancement subject to two limitations. This provision was added to the rule to permit a member to help offset the very high credit enhancement requirements that may be incurred by members that are unable to produce asset pools with sufficient pool size and geographic diversity. However, pool insurance may be used for the sole purpose of allowing groups of members, that would otherwise have to manage financially impractical credit enhancement requirements arising from a lack of diversification, to offset only that portion of the requirement that arises from a lack of diversification. Section 955.3(b)(1)(iii)(B) further requires that such pool insurance must only cover loss exposure that arises after all other credit support structures have been exhausted.

Section 955.3(b)(1)(iv) incorporates and clarifies § 955.3(b)(2)(ii)(B)(*2*) of the proposed rule by allowing a member to contract with another member or housing associate in the Bank's district or in another Bank's district, pursuant to an arrangement with that Bank, to provide a contractual enhancement or undertaking against losses to the Bank in return for some compensation.

Section 955.3(b)(2) of the final rule has been revised from proposed § 955.3(b)(2)(i) and (ii) regarding the member's incentive to reduce actual credit losses. Taken together, § 955.3(b)(2)(i) and (ii) provide that the member must bear the direct economic consequences of actual credit losses in an amount at least equal to expected losses and positioned in the credit enhancement structure no later than immediately after expected losses (and also before any loan-level or pool insurance, as required by §§ 955.3(b)(1)(ii)(B) and (iii)(B)). This design requirement for the credit enhancement structure is intended to ensure that the member retains an economic incentive to reduce actual losses that is both material in amount and early enough in the structure to be meaningful to the member.

''Expected losses'' are defined in § 955.1 as losses on the underlying assets expected under prevailing economic conditions—*i.e.,* the base loss scenario—as estimated at the time the credit enhancement requirement was determined under § 955.3(a). Expected losses may be calculated as the mean of the losses associated with economic conditions represented by the sixth ratings category (*e.g.* single-B) determined by computer rating models that map to NRSRO ratings.

Recognizing that advantages exist under each structure, the Finance Board is giving the Banks the flexibility to offer products or programs under either of the structures. However, any combination that removes the incentive to reduce actual credit losses is prohibited.

The economic responsibility of the expected credit losses may be borne by the member or housing associate in a variety of ways. For instance, under the product developed by the Federal Home Loan Bank of Chicago known as MPF 100®, a Bank establishes an account to absorb credit losses. As the Bank incurs losses, it is reimbursed by the member through the reduction of credit enhancement fees paid to the member by the Bank. Essentially, the fees paid to the member are contingent upon the performance of the asset.

The Finance Board has determined that the amount represented by expected credit losses is typically of sufficient size that members or housing associates, when responsible for such losses, have incentive to seek ways to achieve better than expected performance. In the case of acquiring mortgage loans, by requiring that the member or housing associate bear direct economic responsibility for such an amount, position early in the structure, a system of risk and reward is established that is based on the core competencies of the participating institutions. Since member financial institutions are most knowledgeable regarding their local housing markets, this structure allows members the opportunity to benefit from their expertise in underwriting mortgage loans in their communities. The credit risk sharing structure is based on the concept that different institutions have different capacities. The Banks are capital market specialists, with the ability to bear market risks well, while depository institutions are experts in credit risk evaluation since they know their communities best. Therefore, by establishing a structure where the member or housing associate from which the Bank acquired the asset or pool of assets bears economic responsibility for the amount of the expected credit losses, members or housing associates are rewarded for their credit risk management expertise.

Regardless of how credit loss coverage is allocated, the economic cost of expected credit losses must be borne by the member or housing associate from which the Bank acquired the asset or pool of assets. In the case of an FHA-insured loan, the loan would meet the risk-sharing requirements since it is insured by the government; however, the member or housing associate would have to bear the economic responsibility of all unreimbursed servicing expenses, up to the amount of expected losses on the loan or loan pool. In the case of HFA bonds, the Banks are only permitted to purchase bonds that have been assigned a credit rating of at least investment grade, and that rating cannot be achieved unless the housing associate selling the bonds has somehow credit enhanced the underlying loans in an amount sufficient to earn the credit rating. In particular, HFA bonds are usually rated in at least the third highest credit rating category based on the fact that the bonds are backed by FHA-insured, VA-guaranteed or private mortgage insurance (PMI)-insured whole loans. In many cases the bonds are backed by loans securitized by the Government National Mortgage Association (Ginnie Mae), Fannie Mae or Freddie Mac and are rated in the highest credit rating category. Additional bondholder protections frequently include mortgage reserve funds.

Section 955.3(b)(3) of the final rule adds a provision requiring the member's credit enhancement obligation to be fully secured. This provision was added to address the concern that the Bank might be exposed to credit risk if the member were not able to comply with its contractual credit enhancement obligation. This provision requires that the member's credit enhancement obligation must be secured in parallel with the requirement for advances to members under part 950.

Section 955.3(b)(4) requires the Bank to obtain written confirmation from an NRSRO regarding the sufficiency of the credit enhancement. This section generally expands and clarifies § 955.3(b) of the proposed rule. The rule clarifies that the confirmation must be satisfactory to the Finance Board and must be based on the underlying economic terms of the credit enhancement structure as represented by the Bank for each AMA product. This confirmation may be provided in two forms. Section 955.3(b)(4)(i) allows the NRSRO to verify that the level of credit enhancement provided by the member or housing associate is generally sufficient to enhance the asset or pool of assets to a credit quality that is equivalent to that of an instrument having the fourth highest credit rating from an NRSRO, or such higher rating as the Bank may require. In this case the NRSRO is, in essence, describing the value of the credit enhancement structure hypothetically for the purpose of determining a credit rating.

Section 955.3(b)(4)(ii) allows that the NRSRO may confirm that the methodology used by the Bank for estimating the level of credit enhancement provided by the member or housing associate is in accordance with the practices established by the NRSRO. In this approach the NRSRO does not provide the value of the credit enhancement but rather indicates whether the Bank is estimating the value of the credit enhancement structure in a way that is comparable to the methodology used by the NRSRO in determining the sufficiency of credit enhancements.

Section 955.3(c), regarding the timing of NRSRO confirmations, was added to the rule to ensure that the confirmations are received on a timely basis for already-established programs. It requires that ongoing AMA programs shall acquire these confirmations within 90 days of the effective date of this rule. This provision was added because established AMA programs have acquired large portfolios even as of the date of the proposed rule.

Two comments were received advocating that certain mortgage financing instruments, if backed by member loans, should be included within the general definition of AMA assets. One of the comments specifically discussed securitized structures in which the Bank would acquire an investment grade senior portion and the member would retain the credit support tranches necessary to support the investment grade tranches. A Bank would not be in compliance with part 955 if it the transaction were merely a capital markets purchase of senior tranches resulting from securitizations of this type. However, it is expected that such structures would meet the requirements of part 955 if the structure were implemented through a Bank's AMA program using assets that conform with the AMA requirements that were previously held by the member for a valid business purpose. In this regard, the structure contemplated by the comment is similar to a ''sequential'' loan participation program previously approved by the Finance Board. The fact that such a structure might include rated subordinate credit tranches would not constitute non-compliance with part 955 as long as the structure were arranged cooperatively with the Bank and the member bore the risk of holding or selling the credit support tranches.

Six comments were received advocating a provision in part 955 that would give members participating in AMA programs the ability to transfer credit enhancement obligations and the servicing of AMA loans to other members in the same or other Bank districts. The final rule does not explicitly address, nor does it restrict, such transfers, though they may only be undertaken with the concurrence of the Bank of which the transferee is a member. In addition, such transfers must be accompanied by a similar undertaking by the transferee of the incentive requirements in § 955.3(b)(2). Finally, the credit enhancement obligations must be secured according to the same requirements that apply to advances pursuant to part 950.

3. AMA Reporting Requirements—§ 955.4

A total of 24 comment letters were received regarding the AMA reporting requirements set forth in § 955.4 of the rule, and in appendices A and B to part 955. Eighteen of the comments, while not opposed to reporting requirements in general, were opposed to certain aspects of the requirements. Six commenters supported all of the reporting requirements.

In general, the commenters that stated some opposition to the reporting requirements were most concerned with the burden of requiring data elements in addition to those already required by the Department of Housing and Urban and Development (HUD) and Office of Federal Housing Enterprise Office (OFHEO) of Fannie Mae and Freddie Mac. The commenters noted that any data elements in excess of what was already required of members selling loans to Fannie Mae and Freddie Mac would require expensive computer programming and procedural changes. It was further noted that any such changes required to be made to members' systems would make AMA programs less attractive in the marketplace. Some commenters also objected to the lack of a transition period within which the Banks would be required to begin reporting to the Finance Board.

Some commenters were supportive of the reporting requirements in the proposal. These commenters generally were in favor of collecting of ''prepayment penalty'' data on single-family mortgages, noting that predatory lending is a problem in the U.S. and the collection of prepayment penalty data will help prevent the Banks from engaging in anti-borrower activities. One commenter stated that the data elements submitted by the Banks to the Finance Board should be made publicly available and that the Finance Board should consider mandating reporting requirements on all CMA activities. Another commenter supporting the reporting requirements suggested additional data elements to be collected.

The Finance Board has considered the comments received regarding reporting requirements and has made a number of revisions to the final rule in response. In the proposed rule, the Finance Board based its list of data elements on HUD's and OFHEO's requirements of Fannie Mae and Freddie Mac. In addition to the data elements required by HUD and OFHEO for single-family and multifamily mortgage loans, the Finance Board included a total of ten additional data elements to the two lists. Six of these data elements, ''originating lender institution,'' ''originating lender city'' and ''originating lender state'' for both single-family and multifamily acquisitions, are not regularly reported to Fannie Mae and Freddie Mac by financial institutions selling loans. Given the comments received, the Finance Board has decided it would be too burdensome to require the members to provide this data to the Banks and has eliminated these data elements from both the single-family and multifamily data element lists in the rule (Appendices A and B). The Finance Board's original intent was to use this information to monitor compliance with the valid business purpose requirement set forth in § 955.2(b)(1)(ii). The Finance Board has determined that the cost burden on members and housing associates would exceed the benefits of collecting such data on a System-wide and regular basis.

The additional four items not reported to HUD or OFHEO include, ''front-end ratio,'' ''back-end ratio,'' ''self-employment indicator,'' and ''prepayment penalties.'' Although not reported to either HUD or OFHEO, financial institutions selling loans to Fannie Mae and Freddie Mac currently report front-end ratio, back-end ratio, and self-employment indicator to the GSEs. The prepayment penalties data element is currently reported by Fannie Mae and Freddie Mac to OFHEO for multifamily loans. Although not reported by Fannie Mae and Freddie Mac for single-family loans, prepayment penalties for single-family loans have become more prevalent in the marketplace.

Upon consideration, the Finance Board has determined that the collection of the four above-mentioned data elements does not cause undue burden on members and is necessary to evaluate the risk of the loans acquired under AMA programs. Therefore, these four items will remain on the list of required data elements for reporting purposes.

The Finance Board has added three data elements to the single-family and multifamily lists published in the proposed rules. These items are ''owner-occupied'' on the single-family list and ''construction loan'' and ''total number of units'' on the multifamily list. All three of these data elements are reported by Fannie Mae and Freddie Mac to HUD, but were inadvertently omitted from the proposed rule.

In addition to the changes made to the data elements by the Finance Board, the Finance Board has specified in the final rule the date on which Banks must begin to collect and report information to the Finance Board. The Banks must begin collecting from their members the required information on loans acquired as of January 1, 2001. By allowing this transition period, the Finance Board is providing the Banks ample time to design and implement the systems necessary for this type of data collection. The first mortgage report the Banks must submit to the Finance Board will be due no later than May 31, 2001, which is 60 days after the end of the first quarter.

4. Risk-Based Capital Requirements for AMA—§ 955.6

Section 955.6(a) of the rule sets forth capital requirements for AMA that shall apply until the Finance Board's new capital rule is finalized later in 2000. In the proposed rule, the provision would have required each Bank to hold retained earnings plus specific loan loss reserves as support for the credit risk of all AMA estimated by the Bank to be below the second highest credit rating, in an amount equal to or greater than: the outstanding balance of the assets or pools of assets times a factor associated with the credit rating of the assets or pools of assets as determined by the Finance Board. In the final rule, the reference to specific loan loss has been changed to refer to ''general'' loan loss reserves, as was originally intended and a table has been added setting forth the factors applying to single-family AMA.

The Finance Board received three comments regarding the proposed risk-based capital requirement, all of which were opposed in varying degrees to the provision. One of the comments noted that the proposed rule, because it stated that the amount of retained earnings the Banks would be required to hold would be ''as determined by the Finance Board,'' provided little real guidance and made it difficult for the Banks to comply in an effective manner. Another commenter suggested that the Finance Board's risk-based capital requirements were overly complex since they were included in separate regulations. The commenter further noted that loan-loss reserves established under GAAP should be deducted from risk-based capital.

After considering the comments, the Finance Board has included in final § 955.6(a) a table stipulating the percentage applicable to the on-balance sheet equivalent value of single-family AMA rated below the second highest rating category. The percentages included in the table for the third through sixth categories take into account the difference, in a sample of AMA assets, between the credit enhancement requirement for these grades and the second highest investment grade with a base requirement of 100 percent for pools below the sixth highest investment grade. The sample of AMA assets used to produce these percentages is thought to be representative of the general level of credit risk in AMA. The percentage in the table for AMA with credit quality below the sixth national grade coincides with the requirement that all AMA have credit quality estimated to be equal to or better than similar investment grade instruments. The Finance Board may adjust this requirement going forward if there is information indicating that higher or lower percentages are necessary.

The percentages in table differ from those set forth in the table for single-family mortgage loans contained in the proposed capital regulation. At this time, while the Bank System is still largely subject to the restrictive safety and soundness parameters of the FMP, the Banks will not be required to hold capital against AMA that have a putative rating (calculated in accordance with the requirements of § 955.3) in the second highest credit rating category or higher. Correspondingly, the factors listed for AMA having a rating below the second highest credit rating category are intended to result in a Bank's entire AMA portfolio having the same risk of uncapitalized loss as an instrument rated in at least the second highest credit rating category. Thus, the interim risk-based capital requirement for AMA has been calibrated to be consistent with the risk management regime now in place under the FMP. Once the Finance Board's new capital regulations are in place, banks will need to hold risk based capital against all assets, including those rated in the second highest category or higher, but in amounts determined on a different basis than that reflected in § 955.6(a).

The Finance Board also modified the provision for risk-based capital requirements for AMA by adding § 955.6(b), which requires that, for risk-based capital purposes, each Bank shall recalculate the estimated credit rating of a pool of AMA if there is evidence that a decline in the credit quality of the may have occurred. This provision was added to ensure that any downgrade in credit status of a pool would be reflected in the risk-based capital charge.

5. Removal of Pilot Status of AMA Programs

A total of 13 comments were received regarding the pilot status of the AMA programs. Eleven commenters were in favor of removing the pilot status and two commenters were opposed.

In general, the commenters in favor of converting the AMA programs from pilot to permanent status noted the success of the current MPF program in terms of Bank and member cooperation, allocation of risk, and safety and soundness. It was noted that the AMA cap of $9 billion needed to be lifted so that AMA programs could provide further benefits to members and consumers. It was also noted that pilot status of the AMA program creates unnecessary concern and uncertainty about the Banks' ability to fulfill its obligations.

Two commenters opposed the removal of the pilot status on AMA programs. One commenter noted that the Finance Board should defer any action on the cap until the changes to the Banks' capital structures mandated by the Modernization Act are put into place. The second commenter noted that the cap on AMA programs should not be removed since the performance of the MPF program has not been fully evaluated.

The Finance Board considered the comments received on the removal of the pilot status of these programs and determined that existing AMA programs had, in their pilots stages, proved to be a safe and sound investment for the Banks, as well as a valuable, alternative means for its members and housing associates to sell loans to the secondary market. Accordingly, the Finance Board finds it appropriate to authorize AMA programs on a permanent basis and to ensure the safety and soundness of these programs through appropriate risk-based capital, collateral and credit-risk sharing requirements, as well as through thorough supervisory examinations.

6. Effect of New Business Activities Requirement of Part 980 on AMA

Section 955.2 of the rule makes all Bank AMA activities subject to the ''new business activity'' requirements of part 980 of the Finance Board's regulations. Part 980 is being finalized as part of the Finance Board's rule on advances collateral, which was approved at the Board of Directors meeting of June 29, 2000. Thereunder, Banks are required to provide 60 days notice to the Finance Board before undertaking any new business activity (defined in § 980.1). To the extent that an AMA transaction involves acquisition of a new class of asset, new types of risk or risk structures, or new types of operations, Banks will need to follow the notice procedures set out in part 980 before proceeding. It is anticipated that new AMA products will almost always be new business activities for purposes of part 980. In addition, new classes of transactions engaged in under existing AMA programs may also be new business activities, and thus subject to part 980, if they expose the Bank to new loans types, risks, or operations.

The Finance Board received eight comments on the 60-day approval period for new business activities. All commenters found the approval period was to be lengthy and thought it would hinder product innovation and development. However, the Finance Board believes that this requirement is most needed as a safety and soundness measure where, as with AMA, the Banks will be taking part in transactions with which they have little past experience.

7. Predatory Lending

On June 20, 2000, HUD and the Department of Treasury released a report entitled ''Curbing Predatory Home Mortgage Lending—A Joint Report'' that describes the damaging impact predatory lending practices have on individuals and whole neighborhoods. Predatory lending practices include loan flipping (refinancing borrowers' loans repeatedly in a short period of time), excessive fees, financing single premium credit life insurance products in the mortgage, lending without regard to the borrower's ability to repay, and outright fraud.

The report included recommendations for actions that the Finance Board, working to assure consistency with any requirements that HUD will impose on Fannie Mae and Freddie Mac, could apply to the Federal Home Loan Banks to help end predatory lending. Specifically, the Finance Board could prohibit purchases of high cost mortgages with excessive fees, prepayment penalties (except in circumstances that benefit the borrower, where the terms are fully disclosed, and alternative options are offered), and prepaid single-premium credit life insurance products, as well as mortgages from a seller/servicer that fails to document monthly that it is submitting payment information to a credit bureau.

Six commenters to the proposed rule recommended that the Finance Board consider prohibitions on the purchase or funding of predatory loans, or that certain information be added to the reporting requirements for AMA so the Finance Board could determine whether AMA included predatory loans.

On June 26, 2000, the Federal Home Loan Banks of Chicago, Atlanta, Boston, Dallas, Des Moines, Indianapolis, New York, Pittsburgh, and Topeka voluntarily agreed to adopt guidelines pertaining to predatory lending, which will be consistent with the relevant secondary market guidelines. In particular, these guidelines will focus on not purchasing or funding loans through the MPF Program that meet the characteristics of a high cost mortgage under the Home Owners' Equity Protection Act of 1994.

The Finance Board anticipates that in a future rulemaking it, working closely with HUD as it develops regulatory requirements for Fannie Mae and Freddie Mac, will propose for public comment parallel requirements for the AMA and Bank debt investments to assure that they will not include predatory loans or contribute to predatory lending practices.

C. Investments—Part 956

Part 956 of the final rule governs Bank investments. Along with the advances, AMA and standby letter of credit regulations (parts 950, 955 and 961, respectively), part 956 provides the authority necessary for the Banks to carry out several of the core mission activities listed in § 940.3. The final provision remains largely unchanged from the that in the proposed rule. However, three modifications have been made.

First, the investment authorization set forth in § 956.2 has been amended to make explicit that, except for those provisions in the FMP that are directly overridden by this proposed rule, all provisions of the FMP will remain in effect until expressly repealed by the Finance Board. Accordingly, Bank investment in agency and private MBS, CMOs and REMICs and in asset-backed securities secured by manufactured housing or home equity loans would continue to be limited to a total amount equal to 300 percent of a Bank's capital. It is anticipated that the remaining provisions of the FMP will be repealed, or at least codified as regulations, at such time as the Finance Board promulgates a final rule on capital and risk management.

Second, § 956.4(a)(4) has been changed in the final rule so that targeted investments described in § 940.3(e) of the CMA regulation are exempted from the list from the general prohibition on Bank investment in whole loans or interests in loans other than pursuant to the AMA requirements. The omission of this provision from the proposed rule was merely an oversight. Its inclusion ensures that targeted loan purchase programs such as the Federal Home Loan Bank of Atlanta's AMPP will qualify as CMA.

Finally, under proposed § 956.4, the Banks must hold retained earnings plus specific loan loss reserves as support for the credit risk of all investments that are not rated by an NRSRO, or are rated below the second highest credit rating, in an amount equal to or greater than the outstanding balance of the investments times a factor associated with the credit rating of the investments as determined by the Finance Board. The Finance Board has clarified in the final provision that the factor shall be 0.08 for unrated assets. It is expected that this specific § 956.4 will be superceded at the time that a final capital rule is promulgated, to be replaced by specific requirements set forth in the capital regulation relating to each credit rating category.

III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

In the proposed rule, the Finance Board inadvertently failed to include a notice and request for comment regarding the Paperwork Reduction Act implications of the information collection contained in § 955.4 of the rule, described more fully in part II of the SUPPLEMENTARY INFORMATION. That notice and request for comment are being provided here.

The data collected are intended to be used to create a data base and reporting infrastructure for monitoring the Banks' risk management and achievement of the public purpose of the residential mortgage-related AMA programs. Responses are required in order obtain or retain a benefit. The Finance Board will maintain the confidentiality of information obtained from respondents pursuant to the collection of information as required by applicable statute, regulation, and agency policy. Books or records relating to this collection of information must be retained as provided in the regulation.

Likely respondents and/or recordkeepers will be Banks, institutions that are members or housing associates of a Bank and the Finance Board. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by the OMB. *See* 44 U.S.C. 3512(a).

The estimated annual reporting and recordkeeping hour burden is:

a. Number of respondents: 412.

b. Total annual responses: 1600.

Percentage of these responses collected electronically: 75%.

c. Total annual hours requested: 38,880.

d. Current OMB inventory: n/a.

e. Difference: n/a.

The estimated annual reporting and recordkeeping cost burden is:

a. Total annualized capital/startup costs: $300,000.00.

b. Total annual costs (O&M): 0.

c. Total annualized cost requested: $1,212,297.94.

d. Current OMB inventory: n/a.

e. Difference: n/a.

The Finance Board will accept written comments concerning the accuracy of the burden estimates and suggestions for reducing the burden at the address listed above.

The Finance Board submitted an analysis of the information collection to the Office of Management and Budget (OMB) for review. Subsequent to submitting the analysis to OMB, the Finance Board decided to reduce the level of reporting required in the final rule and, therefore, has reduced the estimated annual reporting and recordkeeping hour and cost burden. OMB assigned a control number, 3069–0058, and temporarily approved the information collection with an expiration date of December 31, 2000. Prior to the expiration of this temporary approval, the Finance Board will again submit the collection of information to OMB for review, with the intent of obtaining a full three-year approval and will publish a final notice regarding the information collection.

Comments regarding the proposed collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503 by September 15, 2000.

List of Subjects in 12 CFR Parts 900, 940, 950, 955 and 956

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby amends title 12, chapter IX, Code of Federal Regulations, as follows:

PART 900—GENERAL DEFINITIONS

1. The authority citation for part 900 is revised to read as follows:

Authority: 12 U.S.C. 1422, 1422b(a)(1).

2. Amend § 900.1 by adding, in alphabetical order, definitions of the term ''acquired member assets or AMA'' and ''NRSRO'' to read as follows:

§ 900.1 Definitions applying to all regulations.

* * * * *

Acquired member assets or *AMA* means those assets that may be acquired by a Bank under part 955 of this chapter.

* * * * *

NRSRO means a credit rating organization regarded as a Nationally Recognized Statistical Rating Organization by the Securities and Exchange Commission.

* * * * *

PART 940—CORE MISSION ACTIVITIES

3. The heading for part 940 is revised to read as set forth above.

4. The authority citation for part 940 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1430, 1430b, 1431.

5. In part 940, amend § 940.1 by adding, in alphabetical order, definitions of the terms ''Financial Management Policy (FMP)'', ''low- or moderate-income household'', ''SBIC'', and ''Targeted income level'' to read as follows:

§ 940.1 Definitions.

* * * * *

Financial Management Policy (FMP) has the meaning set forth in § 956.1 of this chapter.

SBIC means a small business investment company formed pursuant to 15 U.S.C. 681(d).

Targeted income level has the meaning set forth in paragraphs (1) and (2) of the definition of ''targeted income level'' in § 952.3 of this chapter.

6. Amend part 940 by adding a new § 940.3, to read as follows:

§ 940.3 Core mission activities.

The following Bank activities qualify as core mission activities:

(a) Advances;

(b) Acquired member assets (AMA), except that United States government-insured or guaranteed whole single-family residential mortgage loans acquired under a commitment entered into after April 12, 2000 shall qualify only in a cumulative dollar amount up to 33 percent of: The cumulative total dollar amount of AMA acquired by a Bank after April 12, 2000, less the cumulative dollar amount of United States government-insured or guaranteed whole single-family residential mortgage loans acquired after April 12, 2000 under commitments entered into on or before April 12, 2000 (which calculation, at the discretion of two or more Banks, may be made based on aggregate transactions among those Banks);

(c) Standby letters of credit;

(d) Intermediary derivative contracts;

(e) Debt or equity investments:

(1) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

(i) Housing;

(ii) Economic development;

(iii) Community services;

(iv) Permanent jobs; or

(v) Area revitalization or stabilization;

(2) In the case of mortgage- or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(3) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(f) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(g) SBIC debentures, the short term tranche of SBIC securities, ore other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq.*);

(h) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308); and

(i) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

PART 950—ADVANCES

7. The authority citation for part 950 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b and 1431.

8. Amend part 950 by adding a new subpart C consisting of § 950.25 to read as follows:

Subpart C—Advances to Out-of-District Members and Housing Associates

§ 950.18 Advances to out-of-district members and housing associates.

(a) *Establishment of creditor/debtor relationship.* Any Bank may become a creditor to a member or housing associate of another Bank through the purchase of an outstanding advance, or a participation interest therein, from the other Bank, or through an arrangement with the other Bank that provides for the establishment of such a creditor/debtor relationship at the time an advance is made.

(b) *Applicability of advances requirements.* Any debtor/creditor relationship established pursuant to paragraph (a) of this section shall be subject to all of the provisions of this part that would apply to an advance made by a Bank to its own members or housing associates.

9. In subchapter G, add a new part 955 to read as follows:

PART 955—ACQUIRED MEMBER ASSETS

Sec.

Appendix B to Part 955—Reporting requirements for multi-family acquired member assets that are residential mortgages: loan-level data elements

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1430, 1430b, 1431.

§ 955.1 Definitions.

As used in this section:

Affiliate has the meaning set forth in § 950.1 of this chapter.

Expected losses means the base loss scenario in the methodology of an NRSRO applicable to that type of AMA asset.

Residential real property has the meaning set forth in § 950.1 of this chapter.

State has the meaning set forth in § 925.1 of this chapter.

§ 955.2 Authorization to hold acquired member assets.

Subject to the requirements of part 980 of this chapter, each Bank may hold assets acquired from or through Bank System members or housing associates by means of either a purchase or a funding transaction (AMA), subject to each of the following requirements:

(a) *Loan type requirement.* The assets are either:

(1) Whole loans that are eligible to secure advances under §§ 950.7 (a)(1)(i), (a)(2)(ii), (a)(4), or (b)(1) of this chapter, excluding:

(i) Single-family mortgages where the loan amount exceeds the limits established pursuant to 12 U.S.C. 1717(b)(2); and

(ii) Loans made to an entity, or secured by property, not located in a state;

(2) Whole loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property; or

(3) State and local housing finance agency bonds;

(b) *Member or housing associate nexus requirement.* The assets are:

(1) Either:

(i) Originated or issued by, through, or on behalf of a Bank System member or housing associate, or an affiliate thereof; or

(ii) Held for a valid business purpose by a Bank System member or housing associate, or an affiliate thereof, prior to acquisition by a Bank; and

(2) Acquired either:

(i) From a member or housing associate of the acquiring Bank;

(ii) From a member or housing associate of another Bank, pursuant to an arrangement with that Bank, which, in the case of state and local finance agency bonds only, may be reached in accordance with the following process:

(A) The housing finance agency shall first offer the Bank in whose district the agency is located (local Bank) a right of first refusal to purchase, or negotiate the terms of, its proposed bond offering;

(B) If the local Bank indicates, within a three day period, that it will negotiate in good faith to purchase the bonds, the agency may not offer to sell or negotiate the terms of a purchase with another Bank; and

(C) If the local Bank declines the offer, or has failed to respond within the three day period, the acquiring Bank will be considered to have an arrangement with the local Bank for purposes of this section and may offer to buy or negotiate the terms of a bond sale with the agency;

(iii) From another Bank; and

(c) *Credit risk-sharing requirement.* The transactions through which the Bank acquires the assets either:

(1) Meet the credit risk-sharing requirements of § 955.3 of this part; or

(2) Were authorized by the Finance Board under section II.B.12 of the FMP and are within any total dollar cap established by the Finance Board at the time of such authorization.

§ 955.3 Required credit risk-sharing structure.

(a) *Determination of necessary credit enhancement.* At the earlier of 270 days from the date of the Bank's acquisition of the first loan in a pool, or the date at which the amount of a pool's assets reaches $100 million, a Bank shall determine the total credit enhancement necessary to enhance the asset or pool of assets to a credit quality that is equivalent to that of an instrument having at least the fourth highest credit rating from an NRSRO, or such higher credit rating as the Bank may require. The Bank shall make this determination for each AMA product using a methodology that is confirmed in writing by an NRSRO to be comparable to a methodology that the NRSRO would use in determining credit enhancement levels when conducting a rating review of the asset or pool of assets in a securitization transaction.

(b) *Credit risk-sharing structure.* A Bank acquiring AMA shall implement, and have in place at all times, a credit risk-sharing structure for each AMA product under which a member or housing associate of the Bank or, with the approval of both Banks, a member or housing associate of another Bank, provides a sufficient credit enhancement from the first dollar of credit loss for each asset or pool of assets such that the acquiring Bank's exposure to credit risk for the life of the asset or pool of assets is no greater than that of an asset rated in the fourth highest credit rating category, as determined pursuant to paragraph (a) of this section, or such higher rating as the acquiring Bank may require. This credit enhancement structure shall meet the following requirements:

(1) A portion of the credit enhancement may be provided by:

(i) Contracting with an insurance affiliate of that member or housing associate to provide an enhancement or undertaking against losses to the Bank, but only where such insurance is positioned in the credit enhancement structure so as to cover only losses remaining after the member or housing associate has borne losses as required under paragraph (b)(2) of this section;

(ii) Purchasing loan-level insurance, which may include United States government insurance or guarantee, but only where:

(A) The member or housing associate is legally obligated at all times to maintain such insurance with an insurer rated not lower than the second highest credit rating category; and

(B) Such insurance is positioned in the credit enhancement structure so as to cover only losses remaining after the member or housing associate has borne losses as required under paragraph (b)(2) of this section;

(iii) Purchasing pool-level insurance, but only where such insurance:

(A) Insures that portion of the required credit enhancement attributable to the geographic concentration and size of the pool; and

(B) Is positioned last in the credit enhancement structure so as to cover only those losses remaining after all other elements of the credit enhancement structure have been exhausted; or

(iv) Contracting with another member or housing associate in the Bank's district or in another Bank's district, pursuant to an arrangement with that Bank, to provide an enhancement or undertaking against losses to the Bank in return for some compensation;

(2) The member or housing associate that is providing the credit enhancement required under paragraph (b)(1) of this section shall in all cases bear the direct economic consequences of actual credit losses on the asset or pool of assets:

(i) From the first dollar of loss up to the amount of expected losses; or

(ii) Immediately following expected losses, but in an amount equal to or exceeding the amount of expected losses; and

(3) The portion of the credit enhancement that is an obligation of a

Bank System member or housing associate shall be fully secured;

(4) The Bank shall obtain written verification from an NRSRO that concludes to the satisfaction of the Finance Board, based on the underlying economic terms of the credit enhancement structure as represented by the Bank for each AMA product, that either:

(i) The level of credit enhancement provided by the member or housing associate is generally sufficient to enhance the asset or pool of assets to a credit quality that is equivalent to that of an instrument having the fourth highest credit rating from an NRSRO, or such higher rating as the Bank may require; or

(ii) The methodology used by the Bank for estimating the level of credit enhancement provided by the member or housing associate is in accordance with the practices established by the NRSRO.

(c) *Timing of NRSRO opinions.* For AMA programs already in operation at the time of the effective date of this rule, a Bank shall have 90 days from the effective date of this rule to obtain the NRSRO verifications required under paragraphs (a) and (b)(4) of this section.

§ 955.4 Reporting requirements for acquired member assets.

(a) *Loan-Level Data Elements.* Each Bank that acquires AMA that are residential mortgages shall collect and maintain loan-level data on each mortgage held, as specified in appendix A (for single-family mortgage assets) or appendix B (for multifamily mortgage assets) to this part.

(b) *Quarterly Mortgage Reports.* Beginning with calendar year 2001, within 60 days of the end of every quarter of every calendar year, each Bank that acquires AMA that are residential mortgages shall submit to the Finance Board a Mortgage Report, which shall include:

(1) Aggregations of the loan-level mortgage data compiled by the Bank pursuant to paragraph (a) of this section for year-to-date mortgage acquisitions, in a format specified by the Finance Board;

(2) Year-to-date dollar volume, number of units and number of mortgages on owner-occupied and rental properties relating to AMA acquired by the Bank; and

(3) For the second and fourth quarter Mortgage Reports only, year-to-date loan-level data that:

(i) Comprises the data elements required to be collected and maintained by the Bank under paragraph (a) of this section; and

(ii) Appears in a machine-readable format specified by the Finance Board.

(c) *Additional Reports.* The Finance Board may at any time require a Bank to submit reports in addition to those required under paragraph (b) of this section.

§ 955.5 Administrative and investment transactions between Banks.

(a) *Delegation of administrative duties.* A Bank may delegate the administration of an AMA program to another Bank whose administrative office has been examined and approved by the Finance Board to process AMA transactions. The existence of such a delegation, or the possibility that such a delegation may be made, must be disclosed to any potential participating member or housing associate as part of any AMA-related agreements are signed with that member or housing associate.

(b) *Terminability of Agreements.* Any agreement made between two or more Banks in connection with any AMA program shall be made terminable by either party after a reasonable notice period.

(c) *Delegation of Pricing Authority.* A Bank that has delegated its AMA pricing function to another Bank shall retain a right to refuse to acquire AMA at prices it does not consider appropriate.

§ 955.6 Risk-based capital requirement for acquired member assets.

(a) *General.* Each Bank shall hold retained earnings plus general allowance for losses as support for the credit risk of all AMA estimated by the Bank to represent a credit risk that is greater than that of comparable instruments that have received the second highest credit rating from an NRSRO in an amount equal to or greater than the outstanding balance of the assets or pools of assets times a factor associated with the putative credit rating of the assets or pools of assets as determined by the Finance Board on a case-by-case basis. For single-family mortgage assets, the factors are as set forth in Table 1 of this part.

TABLE 1

Putative rating of single-family mortgage assets	Percentage applicable to on-balance sheet equivalent value of AMA
Third Highest Investment Grade	0.90
Fourth Highest Investment Grade	1.50
If Downgraded to Below Investment Grade After Acquisition By Bank:	
Highest Below Investment Grade	2.25
Second Highest Below Investment Grade	2.60
All Other Below Investment Grade	100.00

(b) *Recalculation of credit enhancement.* For risk-based capital purposes, each Bank shall recalculate the estimated credit rating of a pool of AMA if there is evidence that a decline in the credit quality of that pool may have occurred.

Appendix A to Part 955—Reporting Requirements for Single-Family Acquired Member Assets That Are Residential Mortgages: Loan-Level Data Elements

1. *Bank District Flag*—Two-digit numeric code designating the District Bank that originally acquired the loan.

2. *Participating Bank District Flag*—Two-digit numeric code designating the District Bank that purchased a participation in the loan.

3. *Loan Number*—Unique numeric identifier used by the Banks for each mortgage acquisition.

4. *US Postal State*—Two-digit numeric Federal Information Processing Standard (FIPS) code.

5. *US Postal Zip Code*—Five-digit zip code for the property.

6. *MSA Code*—Four-digit numeric code for the property's metropolitan statistical area (MSA) if the property is located in an MSA.

7. *Place Code*—Five-digit numeric FIPS code.

8. *County*—County, as designated in the most recent decennial census by the Bureau of the Census.

9. *Census Tract/Block Numbering Area (BNA)*—Tract/BNA number as used in the most recent decennial census by the Bureau of the Census.

10. *Census Tract-Percent Minority*—Percentage of a census tract's population that is minority based on the most recent decennial census by the Bureau of the Census.

11. *Census Tract-Median Income*—Median family income for the census tract based on the most recent decennial census.

12. *Local Area Median Income*—Median income for the area based on the most recent decennial census.

13. *Tract Income Ratio*—Ratio of the census tract median income based on the most recent decennial census to that year's local area median income (*i.e.,* loan-level data element number 11 divided by loan-level data element number 12).

14. *Borrower(s) Annual Income*—Combined income of all borrowers.

15. *Area Median Family Income*—Current median family income for a family of four for the area as established by HUD.

16. *Borrower Income Ratio*—Ratio of Borrower(s) annual income to area median family income.

17. *Acquisition Unpaid Principal Balance (UPB)*—UPB in whole dollars of the mortgage when acquired by the Bank.

18. *Loan-to-Value (LTV) Ratio at Origination*—LTV ratio of the mortgage at the time of origination.

19. *Participation Percentage*—Where the mortgage acquisition is a participation, the percentage of the mortgage for each Bank listed in loan-level data element number 2.

20. *Date of Mortgage Note*—Date the mortgage note was created.

21. *Date of Acquisition*—Date the Bank acquired the mortgage.

22. *Purpose of Loan*—Indicates whether the mortgage was a purchase money mortgage, a refinancing, a construction mortgage, or a financing of property rehabilitation.

23. *Cooperative Unit Mortgage*—Indicates whether the mortgage is on a dwelling unit in a cooperative housing building.

24. *Product Type*—Indicates the product type of the mortgage (*i.e.,* fixed rate, adjustable rate mortgage (ARM), balloon, graduated payment mortgage (GPM) or growing equity mortgages (GEM), reverse annuity mortgage, or other).

25. *Federal Guarantee*—Numeric code that indicates whether the mortgage has a Federal guarantee, and from which agency.

26. *Term of Mortgage at Origination*—Term of the mortgage at the time of origination in months.

27. *Amortization Term*—For amortizing mortgages, the amortization term of the mortgage in months.

28. *Acquiring Lender Institution*—Name of the institution from which the Bank acquired the mortgage.

29. *Acquiring Lender City*—City location of the institution from which the Bank acquired the mortgage.

30. *Acquiring Lender State*—State location of the institution from which the Bank acquired the mortgage.

31. *Type of Acquiring Lender Institution*—Type of institution that the Bank acquired the mortgage from (*i.e.,* mortgage company, Savings Association Insurance Fund (SAIF) insured depositary institution, Bank Insurance Fund (BIF) insured depositary institution, National Credit Union Association (NCUA) insured credit union, or other seller).

32. *Number of Borrowers*—Number of borrowers.

33. *First-Time Home Buyer*—Numeric code indicating whether the mortgagor(s) are first-time homebuyers (second mortgages and refinancings are not treated as first-time homebuyers).

34. *Mortgage Purchased under the Banks' Community Investment Cash Advances (CICA) Programs*—Indicates whether the mortgage is on a project funded under an AHP, CIP or other CICA program.

35. *Acquisition Type*—Indicates whether the Bank acquired the mortgage with cash, by swap, with a credit enhancement, a bond or debt purchase, reinsurance, risk-sharing, real estate investment trust (REIT), or a real estate mortgage investment conduit (REMIC), or other.

36. *Bank Real Estate Owned*—Indicates whether the mortgage is on a property that was in the Bank's real estate owned (REO) inventory.

37. *Borrower Race or National Origin*—Numeric code indicating the race or national origin of the borrower.

38. *Co-Borrower Race or National Origin*—Numeric code indicating the race or national origin of the co-borrower.

39. *Borrower Gender*—Numeric code that indicates whether the borrower is male or female.

40. *Co-Borrower Gender*—Numeric code that indicates whether the co-borrower is male or female.

41. *Age of Borrower*—Age of borrower in years.

42. *Age of Co-Borrower*—Age of co-borrower in years.

43. *Occupancy Code*—Indicates whether the mortgaged property is an owner-occupied principal residence, a second home, or a rental investment property.

44. *Number of Units*—Indicates the number of units in the mortgaged property.

45. *Unit—Number of Bedrooms*—Where the property contains non-owner-occupied dwelling units, the number of bedrooms in each of those units.

46. *Unit—Affordable Category*—Where the property contains non-owner-occupied dwelling units, indicates under which, if any, of the special affordable goals the units qualified.

47. *Unit—Reported Rent Level*—Where the property contains non-owner-occupied dwelling units, the rent level for each unit in whole dollars.

48. *Unit—Reported Rent Plus Utilities*—Where the property contains non-owner-occupied dwelling units, the rent level plus the utility cost for each unit in whole dollars.

49. *Unit—Owner Occupied*—Indicates whether each of the units are owner-occupied.

50. *Geographically Targeted Indicator*—Numeric code that indicates loans made in census tracts classified as underserved by HUD.

51. *Interest Rate*—Note rate on the loan.

52. *Loan Amount*—Loan balance at origination.

53. *Front-end Ratio*—Ratio of principal, interest, taxes, and insurance to borrower(s) income.

54. *Back-end Ratio*—Ratio of all debt payments to borrower(s) income.

55. *Borrower FICO Score*—Fair, Isaacs, Co. credit score of borrower.

56. *Co-Borrower FICO Score*—Fair, Isaacs, Co. credit score of co-borrower.

57. *PMI Percent*—Percent of original loan balance covered by private mortgage insurance.

58. *Credit Enhancement*—Numeric code indicating type of credit enhancement.

59. *Self-Employed Indicator*—Numeric indicator for whether the borrower is self-employed.

60. *Property Type*—Numeric indicator for whether the property is single-family detached, condominium, townhouse, PUD, etc.

61. *Default Status*—Numeric indicator for whether the loan is currently in default.

62. *Termination Date*—Date on which the loan terminated.

63. *Termination Type*—Numeric indicator for whether the loan terminated in a prepayment, foreclosure, or other types of termination.

64. *ARM Index*—Index used for the calculation of interest on an ARM.

65. *ARM margin*—Margin added to the index for calculation of the interest on an ARM.

66. *Prepayment Penalty Terms*—Numeric indicator for types of prepayment penalties.

Appendix B to Part 955—Reporting Requirements for Multi-Family Acquired Member Assets That Are Residential Mortgages: Loan-Level Data Elements

1. *Bank District Flag*—Two-digit numeric code designating the District Bank that originally acquired the loan.

2. *Participating Bank District Flag*—Two-digit numeric code designating the District Bank that purchased a participation in the loan.

3. *Loan Number*—Unique numeric identifier used by the Banks for each mortgage acquisition.

4. *US Postal State*—Two-digit numeric Federal Information Processing Standard (FIPS) code.

5. *US Postal Zip Code*—Five-digit zip code for the property.

6. *MSA Code*—Four-digit numeric code for the property's metropolitan statistical area (MSA) if the property is located in an MSA.

7. *Place Code*—Five-digit numeric FIPS code.

8. *County*—County, as designated in the most recent decennial census by the Bureau of the Census.

9. *Census Tract/Block Numbering Area (BNA)*—Tract/BNA number as used in the most recent decennial census by the Bureau of the Census.

10. *Census Tract-Percent Minority*—Percentage of a census tract's population that is minority based on the most recent decennial census by the Bureau of the Census.

11. *Census Tract-Median Income*—Median family income for the census tract based on the most recent decennial census.

12. *Local Area Median Income*—Median income for the area based on the most recent decennial census.

13. *Tract Income Ratio*—Ratio of the census tract median income based on the most recent decennial census to that year's local area median income (*i.e.,* loan-level data element number 11 divided by loan-level data element number 12).

14. *Area Median Family Income*—Current median family income for a family of four for the area as established by HUD.

15. *Affordability Category*—Indicates under which, if any, of the special affordable goals mandated by HUD for Fannie Mae and Freddie Mac, the property would qualify.

16. *Acquisition Unpaid Principal Balance (UPB)*—UPB in whole dollars of the mortgage when purchased by the Bank.

17. *Loan-to-Value (LTV) Ratio at Origination*—LTV ratio of the mortgage at the time of origination.

18. *Participation Percentage*—Where the mortgage acquisition is a participation, the percentage of the mortgage when the note was created for each Bank listed in loan-level data element number 2.

19. *Date of Mortgage Note*—Date the mortgage note was created.

20. *Date of Acquisition*—Date the Bank acquired the mortgage.

21. *Purpose of Loan*—Indicates whether the mortgage was a purchase money mortgage, a refinancing, a construction mortgage, or a financing of property rehabilitation.

22. *Cooperative Project Loan*—Indicates whether the mortgage is a project loan on a cooperative housing building.

23. *Mortgagor Type*—Indicates the type of mortgagor (*i.e.,* an individual, a for-profit entity such as a corporation or partnership, a nonprofit entity such as a corporation or partnership, a public entity, or other type of entity).

24. *Product Type*—Indicates the product type of the mortgage (*i.e.,* fixed rate, adjustable rate mortgage (ARM), balloon, graduated payment mortgage (GPM) or growing equity mortgages (GEM), reverse annuity mortgage, or other).

25. *Construction Loan*—Indicates whether the mortgage is for a construction loan.

26. *Government Insurance*—Indicates whether any part of the mortgage has government insurance.

27. *FHA Risk Share Percent*—The percentage of the risk assumed for the mortgage purchased under a risk-sharing arrangement with FHA.

28. *Mortgage Purchased under the Banks' Community Investment Cash Advances (CICA) Programs*—Indicates whether the mortgage is on a project under an AHP, CIP or other CICA program.

29. *Acquisition Type*—Indicates whether the FHLBank acquired the mortgage with cash, by swap, with a credit enhancement, a bond or debt purchase, reinsurance, risk-sharing, real estate investment trust (REIT), or a real estate mortgage investment conduit (REMIC), or other.

30. *Term of Mortgage at Origination*—Term of the mortgage at the time of origination in months.

31. *Amortization Term*—For amortizing mortgages, the amortization term of the mortgage in months.

32. *Acquiring Lender Institution*—Name of the entity from which the Bank acquired the mortgage.

33. *Acquiring Lender City*—City location of the entity from which the Bank acquired the mortgage.

34. *Acquiring Lender State*—State location of the institution from which the Bank acquired the mortgage.

35. *Type of Acquiring Lender Institution*—Type of institution that the Bank acquired the mortgage from (*i.e.,* mortgage company, Savings Association Insurance Fund (SAIF) insured depositary institution, Bank Insurance Fund (BIF) insured depositary institution, National Credit Union Association (NCUA) insured credit union, or other seller).

36. *Bank Real Estate Owned*—Indicates whether the mortgage is on a property that was in the Bank's real estate owned (REO) inventory.

37. *Number of Units*—Indicates the number of units in the mortgaged property.

38. *Geographically Targeted Indicator*—Numeric code that indicates loans made in census tracts classified as underserved by HUD.

39. *Public Subsidy Program*—Indicates whether the mortgage property is involved in a public subsidy program and which level(s) of government are involved in the subsidy program (*i.e.,* Federal government only, other only, Federal government, etc.).

40. *Unit Class Level*—The following data apply to unit types in a particular mortgaged property. The unit types are defined by the Banks for each property and are differentiated based on the number of bedrooms in the units and on the average contract rent for the units. A unit type must be included for each bedroom size category in the property;

A. Unit Type XX-Number of Bedroom(s)—the number of bedrooms in the unit type;

B. Unit Type XX-Number of Units—the number of units in the property within the unit type;

C. Unite Type XX-Average Reported Rent Level—the average rent level for the unit type in whole dollars; and

D. Unit Type XX-Average Reported Rent Plus Utilities—the average reported rent level plus the utility cost for each unit in whole dollars; and

E. Unit Type XX-Affordability Level—the ratio of the average reported rent plus utilities for the unit type to the adjusted area median income;

F. Unit Type XX-Tenant Income Indicator—indicates whether the tenant's income is less than 60 percent of area median income, greater than or equal to 60 percent but less than 80 percent of area median income, greater than or equal to 80 percent but less than 100 percent of area median income, or greater than or equal to 100 percent of area median income.

41. *Interest Rate*—Note rate on the loan.

42. *Debt Service Coverage Ratio*—Ratio of net operating income to debt service.

43. *Total Number of Units*—Indicates the number of dwelling units in the mortgaged property.

44. *Default Status*—Numeric indicator for whether the loan is currently in default.

45. *Termination Date*—Date on which the loan terminated.

46. *Termination Type*—Numeric indicator for whether the loan terminated in a prepayment, foreclosure, or other types of termination.

47. *ARM Index*—Index used for the calculation of interest on an ARM.

48. *ARM margin*—Margin added to the index for calculation of the interest on an ARM.

49. *Prepayment Penalty Terms*—Numeric indicator for types of prepayment penalties.

10. In subchapter G, revise part 956 to read as follows:

PART 956—FEDERAL HOME LOAN BANK INVESTMENTS

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1431, 1436.

§ 956.1 Definitions.

As used in this part:

Deposits in banks or trust companies has the meaning set forth in § 969.3 of this chapter.

Financial Management Policy means the Financial Management Policy For The Federal Home Loan Bank System approved by the Finance Board pursuant to Finance Board Resolution No. 96–45 (July 3, 1996), as amended by Finance Board Resolution No. 96–90 (Dec, 6, 1996), Finance Board Resolution No. 97–05 (Jan. 14, 1997), and Finance Board Resolution No. 97–86 (Dec. 17, 1997).

GAAP means Generally Accepted Accounting Principles.

Investment grade means:

(1) A credit quality rating in one of the four highest credit rating categories by an NRSRO and not below the fourth highest credit rating category by any NRSRO; or

(2) If there is no credit quality rating by an NRSRO, a determination by a Bank that the issuer, asset or instrument is the credit equivalent of investment grade using credit rating standards available from an NRSRO or other similar standards.

NRSRO has the meaning set forth in § 966.1 of this chapter.

§ 956.2 Authorized investments.

In addition to assets enumerated in parts 950 and 955 of this chapter and subject to the applicable limitations set forth in this part, in the Financial Management Policy and in part 980 of this chapter, each Bank may invest in:

(a) Obligations of the United States;

(b) Deposits in banks or trust companies;

(c) Obligations, participations or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

(d) Mortgages, obligations, or other securities that are, or ever have been, sold by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. 1454 or 1455;

(e) Stock, obligations, or other securities of any small business investment company formed pursuant to 15 U.S.C. 681(d), to the extent such investment is made for purposes of aiding members of the Bank; and

(f) Instruments that the Bank has determined are permissible investments for fiduciary or trust funds under the laws of the state in which the Bank is located.

§ 956.3 Prohibited investments and prudential rules.

(a) *Prohibited investments.* A Bank may not invest in:

(1) Instruments that provide an ownership interest in an entity, except for investments described in § § 940.3(e) and (f) of this chapter;

(2) Instruments issued by non-United States entities, except United States branches and agency offices of foreign commercial banks;

(3) Debt instruments that are not rated as investment grade, except:

(i) Investments described in § 940.3(e) of this chapter;

(ii) Debt instruments that were downgraded to a below investment grade rating after acquisition by the Bank; or

(4) Whole mortgages or other whole loans, or interests in mortgages or loans, except:

(i) Acquired member assets;

(ii) Investments described in § 940.3(e) of this chapter;

(iii) Marketable direct obligations of state, local, or tribal government units or agencies, having at least the second highest credit rating from a NRSRO, where the purchase of such obligations by the Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community lending;

(iv) Mortgage-backed securities, or asset-backed securities collateralized by manufactured housing loans or home equity loans, that meet the definition of the term ''securities'' under 15 U.S.C. 77b(a)(1); and

(v) Loans held or acquired pursuant to section 12(b) of the Act (12 U.S.C. 1432(b)).

(b) *Foreign currency or commodity positions prohibited.* A Bank may not take a position in any commodity or foreign currency. If a Bank participates in consolidated obligations denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, the currency, commodity and equity risks must be hedged.

§ 956.4 Risk-based capital requirement for investments.

Each Bank shall hold retained earnings plus general allowance for losses as support for the credit risk of all investments that are not rated by a NRSRO, or are rated or have a putative rating below the second highest credit rating, in an amount equal to or greater than the outstanding balance of the investments multiplied by:

(a) A factor associated with the credit rating of the investments as determined by the Finance Board on a case-by-case basis for rated assets to be sufficient to raise the credit quality of the asset to the second highest credit rating category; and

(b) 0.08 for assets having neither a putative nor actual rating.

PART 966—CONSOLIDATED OBLIGATIONS

11. The authority citation of part 966 continue to read as follows:

Authority: 12 U.S.C. 1442a, 1422b, and 1431.

12. Amend section 966.1 by removing the definition of the term ''NRSRO''.

Dated: June 29, 2000.

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

Bruce A. Morrison,

Chairman.

[FR Doc. 00–17663 Filed 7–14–00; 8:45 am]

BILLING CODE 6725–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–100–7390a; FRL–6735–3]

Approval and Promulgation of Implementation Plans; Texas; Permitting of New and Modified Sources in Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Texas State Implementation Plan (SIP) for the permitting of new major sources and major modifications in areas which do not meet the national ambient air quality standards (NAAQS) promulgated by EPA (nonattainment areas). The EPA is approving these revisions to satisfy the provisions of the Clean Air Act (Act) which relate to the permitting of new and modified sources which are located in nonattainment areas. Today's action approves the recodification of and revisions to the nonattainment permitting regulations. Today's action also approves revisions relating to when nonattainment area permitting requirements apply to emissions of nitrogen oxides (NO_X) as a precursor to ozone in an ozone nonattainment area.

EFFECTIVE DATE: This rule is effective on August 16, 2000.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of EPA Region 6 Air Permits Section at (214) 665–7212 at the address above, or at spruiell.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means EPA.

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