

## FEDERAL HOUSING FINANCE BOARD

OPEN MEETING

Board Room 230  
Federal Housing Finance Board  
1777 F Street, N.W.  
Washington, D.C.

Wednesday,  
February 23, 2000

The parties met, pursuant to the notice of the  
Chairman, at 10:17 a.m.

PRESENT: Bruce A. Morrison, Chairman  
William C. Apgar, Director  
William W. Ginsberg  
Sharon Like  
Deborah F. Silberman  
Joseph A. McKenzie  
Neil R. Crowley

## C O N T E N T S

Interim Final Rule: Amendments to Membership  
Regulation and Advances Regulation

Sharon Like

Deborah F. Silberman

Office of Finance Debt Authorization

Joseph A. McKenzie

Interim Final Rule: Amendment to Election Regulation

Neil R. Crowley

P R O C E E D I N G S

(10:17 a.m.)

CHAIRMAN MORRISON: The meeting will come to order. The first item on the agenda is the "Interim Final Rule: Amendments to Membership Regulation and Advances Regulation. Mr. Managing Director.

MR. GINSBERG: Mr. Chairman, Members of the Board, good morning. Item one is part of our continuing program to conform our regulations to the requirements of the Gramm-Leach-Bliley amendments to the Federal Home Loan Bank Act and to amend our regulations to reflect changes in those provisions of the Federal Home Loan Bank Act.

In this case this interim final rule deals with issues related to the all voluntary nature of the Federal Home Loan Bank System to the distinctions involving community financial institutions for membership purposes and to the removal of disparate treatment of what were under the law formally non-QTL members of the Federal Home Loan Bank System and several other provisions.

To flesh that out specifically, Sharon Like of the Office of the General Counsel.

MS. LIKE: Thank you. Good morning. We are presenting for your consideration an interim final rule that would make largely

1 technical amendments to the Finance Board's membership and  
2 advance this regulation to conform certain provisions to  
3 requirements of the Modernization Act that was recently enacted.

4 Specifically, the Modernization Act amended the Home Owners  
5 Loan Act to provide that federal savings association are no  
6 longer required to become members of the Federal Home Loan Bank  
7 System and existing federal savings association members may  
8 withdraw from the System after May 12, 2000.

9 The interim final rule removes the provision in the Finance  
10 Board's membership regulation that conferred automatic membership  
11 on federal savings associations. Thus, federal savings  
12 associations seeking to become Bank members now must apply for  
13 membership, like any other potential members and must satisfy all  
14 of the applicable membership eligibility requirements contained  
15 in the statute and the Finance Board's membership regulation.

16 Existing federal savings association members seeking to  
17 withdraw from the System must provide six months prior notice, as  
18 has been and continues to be required for all other withdrawing  
19 voluntary members. The interim final rule provides that existing  
20 federal savings association members may submit their withdrawal  
21 notice prior to May 13, 2000.

22 The Modernization Act also amended the Federal Home Loan  
23 Bank Act to exempt certain institutions called "community  
24 financial institutions" from the membership eligibility  
25 requirements that they have at least 10 percent of their assets

1 in residential mortgage loans. The Modernization Act defines a  
2 community financial institution, generally, as a FDIC insured  
3 institution with less than \$500 million in average total assets.

4 The interim final rule adds a definition of community  
5 financial institution to the membership regulation and amends  
6 various sections of the regulation to include the exemption from  
7 the 10 percent tax for community financial institutions.

8 We are also taking the opportunity in this interim final to  
9 make a technical change, which is not related to the  
10 Modernization Act amendments, to clarify the conditional approval  
11 requirement for de novo applicants for membership.

12 The Bank Act provides that newly chartered insured depository  
13 institutions that are approved for membership must meet the 10  
14 percent test within one year after commencement of operations.

15 An institution that fails to satisfy the test within the  
16 one-year period, thus would not have met one of the statutory  
17 criteria for membership and the conditional approval would be  
18 deemed null and void by operation of law. The membership  
19 regulation is silent as to the consequences of a de novo  
20 institution's failure to meet the 10 percent test within that  
21 one-year period. This apparently has caused some confusion among  
22 the Banks as to how they should deal with such situations so the  
23 interim final rule amends  
24 the membership regulation to remove any doubt about the  
25 conditional nature of the de novo membership application

1 approval, as required by the statute.

2 The Modernization Act also amended the Bank Act, reduced  
3 from 10 to 5 years the period of time that former members must  
4 wait before they are eligible to reapply for Bank membership.  
5 The Modernization Act also provides that an institution that  
6 withdrew from membership before December 31, 1997 that does not  
7 meet the 5-year requirement may require membership subject to  
8 Finance Board approval. Former members that reapply for  
9 membership are still required to satisfy the applicable  
10 eligibility requirements.

11 The interim final rule amends membership regulation to  
12 reflect the changes in that statutory lock out period for  
13 readmission. We have not yet received any requests from former  
14 members seeking readmission under the approval provision. Staff,  
15 therefore, has not had the opportunity to consider what factors  
16 should be evaluated in such a proceeding. The interim final  
17 provides that any such requests would be submitted pursuant to  
18 the Finance Board's procedures in 12(c) of our part 907.

19 The Modernization Act also repealed Section 10(e) of the  
20 Bank Act which had imposed a number of restrictions on members  
21 that did not meet the qualified thrift lender or QTL test. Under  
22 the QTL test, which is contained in the Homeowners Loan Act,  
23 savings associations are required to maintain at least 60 percent  
24 of their assets in housing related investments.

1           Section 10(e) of the Bank Act limited the purposes for  
2           which a member that failed the test could obtain a Bank advance.  
3           It also limited System wide advances to non-QTL members to 30  
4           percent of total System advances outstanding and gave QTL members  
5           a priority over non-QTL members in obtaining advances. In  
6           addition, Section 10(e) limited the dollar amount of advances  
7           that a non-QTL member could obtain by progressively reducing its  
8           ability to leverage its investment in Bank Capital Stock.

9           Separately, Section 10(e)3 of the Bank Act established a  
10          statutory presumption that each member has at least 30 percent of  
11          its assets in home mortgage loans. The presumption was used in  
12          determining the minimum amount of capital stock that a member was  
13          required to purchase under Section 6(b) of the Act. 6(b)  
14          requires all members to purchase capital stock equal to at least  
15          one percent of their home mortgage loans, home purchase  
16          contracts, and similar obligations.

17          In practice the 30 percent provision would have applied  
18          only to non-QTL members as QTL members likely would have had more  
19          than 30 percent of their assets in home mortgage loans.

20          The repeal of Section 10(e) is one of several  
21          provisions of the Modernization Act that were intended to  
22          equalize access to the Bank System for all members. The  
23          legislative history of the QTL provisions in the Bank Act  
24          indicates that the amendments repealing those provisions

1 were intended to take effect upon enactment, November 12, 1999.  
2 Accordingly, the interim final rule removes from the  
3 membership and advances regulations the additional capital  
4 stock purchase requirement and the limitations on advances  
5 applicable to non-QTL members.

6 The interim final rule amends the membership regulation to  
7 set forth the new minimum capital stock purchase requirement for  
8 all members as the greater of \$500 dollars, 1 percent of the  
9 members home mortgage loans, home purchase contracts or similar  
10 obligations or 5 percent of the members aggregate amount of  
11 outstanding advances.

12 The staff is aware that the repeal of the QTL limitations  
13 could result in excess capital stock positions or as much as 40  
14 percent of Bank members. This will necessitate active management  
15 capital and business operations by the Banks during the  
16 transition period until final capital regulations and Bank  
17 capital plans are in place as required by the Modernization Act.  
18 It will also require the Finance Board to monitor the Banks  
19 closely during this transition period. Any safety and soundness  
20 concerns raised as a result of the repeal will be addressed by  
21 the Finance Board through the supervisory process.

22 In conclusion, staff is recommending that the interim final  
23 rule, which is set forth in your Board books, be adopted and  
24 published in the Federal Register to be effective immediately

1 upon publication with a 30-day public comment period. We would  
2 be happy to answer any questions you have.

3 CHAIRMAN MORRISON: Questions?

4 MR. APGAR: No. Seems like these changes have been in the  
5 works for the legislation and it's nice that we were able to move  
6 quickly, a lot of useful adjustments.

7 CHAIRMAN MORRISON: Mr. O'Neill?

8 MR. O'NEILL: A couple of things. On page 16 of the  
9 Section 933.10, at the end it says, "Accept that any assets used  
10 to secure mortgage debt securities described in Section 903, of  
11 this part should not be used to meet this requirement." What are  
12 those securities that were not included in the presumption?

13 MS. LIKE: First let me say that that's not anything that  
14 was changed from what's been in the regulation for probably four  
15 or five years. That was a determination that was made quite some  
16 time back about what counts and what doesn't count as a  
17 residential mortgage loan.

18 CHAIRMAN MORRISON: Well, can we do better than that?

19 MS. LIKE: I think we're talking about.

20 CHAIRMAN MORRISON: Well, why don't you make sure  
21 what we're talking about?

22 MS. LIKE: 950.1(b)6.

23 CHAIRMAN MORRISON: It sounds like this is mortgages that  
24 are backing separate MBS. I haven't looked at the underlying.  
25 Could we look at 933.1(b)(b)6?

1 CHAIRMAN MORRISON: Do you have that?

2 MS. LIKE: Yes. "Mortgage debt securities secured by  
3 loans, provided that at the time of issuance substantially all  
4 the loans meet the requirements."

5 CHAIRMAN MORRISON: Is that a collateral for membership?

6 MS. LIKE: It's in the definitions in the membership  
7 regulations.

8 CHAIRMAN MORRISON: I think this is a double counting  
9 issue.

10 MS. LIKE: It is.

11 CHAIRMAN MORRISON: In other words.

12 MS. LIKE: It's in the definition of residential mortgage  
13 loans.

14 CHAIRMAN MORRISON: If you're only MBS, you're only MBS but  
15 if somebody else owns the MBS you are basically, you're loans are  
16 either been sold or they're in trust so they can't count for 10  
17 percent.

18 MS. LIKE: It is in the definition of residential mortgage  
19 loans. It is a sub-section of the definition of residential  
20 mortgage loans.

21 MR. O'NEILL: Okay. One other thing, you say that we  
22 haven't had anybody that has wanted to come back yet under this  
23 but my memory was around the end of the year we had Rosslyn in  
24 New York that wanted to come back in. We granted it. Wasn't  
25 that under?

1 MS. LIKE: They met the five year requirement. They didn't  
2 need Finance Board approval.

3 MS. SILBERMAN: Right.

4 CHAIRMAN MORRISON: They met the new statutory requirement.  
5 Even though we had changed our regulation, they met the statutory  
6 five-year requirement. These are for people who don't meet the  
7 five-year requirement, which is the 10-year and the 5-year, 10  
8 year goes away and there is this group of people who don't have  
9 to do 5 years.

10 MS. LIKE: Right.

11 CHAIRMAN MORRISON: And that's the group that requires our  
12 approval.

13 MS. LIKE: Right.

14 CHAIRMAN MORRISON: Rosslyn wasn't one of those.

15 MR. GINSBERG: So in the Rosslyn and Roosevelt case in New  
16 York we gave the Bank a regulatory interpretation to the effect  
17 that that member was eligible to rejoining the Bank under the  
18 laws amended last fall?

19 MR. O'NEILL: That's all. I agree. I said it at the  
20 directors' orientation, I think that we continue to be ahead of  
21 the curve as far as doing these things much quicker than the  
22 other regulators. I know that's a lot of work for the Office of  
23 General Counsel but at least this director thanks you for moving  
24 so quickly.

1 CHAIRMAN MORRISON: Okay, any further questions or  
2 comments? Could I have a motion to approve the publication of  
3 this as an interim final rule?

4 MR. APGAR: I move.

5 CHAIRMAN MORRISON: All in favor please say, "Aye."

6 MR. APGAR: Aye.

7 MR. O'NEILL: Aye.

8 CHAIRMAN MORRISON: The ayes have it. The motion is  
9 adopted. I ask unanimous consent that the staff have permission  
10 to make technical and conforming changes to the regulation just  
11 adopted. Without objection so worded.

12 The motion was approved.)

13 CHAIRMAN MORRISON. Okay. Item number two.

14 MR. GINSBERG: Item No. 2, Mr. Chairman and Members of the  
15 Board, is extension of existing authorization to the Office of  
16 Finance to issue debt on behalf of the Finance Board for the  
17 benefit of the Federal Home Loan Banks. The current debt  
18 organization, which was adopted in late 1998, extends through  
19 March 31, 2000. The resolution before the board would extend  
20 that authorization to the end of this calendar year and the same  
21 terms and conditions as the current authorization and consistent  
22 with the request of the Office of Finance. Joe McKenzie.

23 MR. MCKENZIE: Good morning. The staff is requesting  
24 Finance Board approval of a resolution that would authorize the  
25 Office of Finance Board of Directors to approve the issuance of

1 Federal Home Loan Bank System debt from April 1, 2000 through  
2 December 31, 2000.

3 The Office of Finance Board of Directors has requested the  
4 authority to issue consolidated obligations as required by  
5 Finance Board Resolution 98-59. This debt assurance  
6 authorization sets forth the terms and conditions of the Office  
7 of Finance Board's authority to issue debt. The Office of Finance  
8 Board has requested no changes in its authorization, other than  
9 to extend the limit through December 31, 2000.

10 The Finance Board issues consolidated obligations for the  
11 Federal Home Loan Banks under Section 11(c) of the Federal Home  
12 Loan Bank Act. The Finance Board has delegated the ministerial  
13 function of issuing consolidated obligations to the Office of  
14 Finance.

15 The Finance Board has also had the practice of adopting  
16 annual resolutions authorizing the Office of Finance to issue  
17 consolidated obligations within the parameters set forth in the  
18 resolution.

19 The current debt issuance authorization runs from January  
20 1, 1999 through March 31, 2000. The 15 month term of the current  
21 authorization was established to reduce uncertainties about  
22 System funding at the turn of the  
23 century.

24 On December 14, 1999 the Finance Board authorized the  
25 publication of Notice of Proposed Rulemaking to restructure the

1 Office of Finance. One of the principle features of the proposal  
2 would be to change the issuer of consolidated obligations. If  
3 adopted the rule would authorize the Federal Home Loan Banks to  
4 issue consolidated obligations under Section 11(a) of the Federal  
5 Home Loan Bank Act in their own name through the Office of  
6 Finance.

7 Currently the Finance Board issues obligations under  
8 Section 11(c) of the Act for the Bank and the Finance Board has  
9 delegated almost all of the ministerial tasks associated with  
10 issuing these consolidated obligations to the Office of Finance.

11 If the proposed restructuring of the Office of Finance is  
12 adopted the implication is that the annual authorization to the  
13 Office of Finance to issue debt would no longer be necessary.  
14 The proposed resolution would authorize the Office of Finance to  
15 issue debt for the Finance Board until December 31, 2000 with no  
16 substantive changes in the authorization now in place. However,  
17 the proposed resolution requires the Office of Finance to  
18 request, no later than November 15 of this year, approval to  
19 issue debt in 2001 if the restructuring of the Office of  
20 Finance is not approved by that date.

21 I'd be happy to answer any questions you may have.

22 CHAIRMAN MORRISON: Okay. Questions?

23 MR. O'NEILL: When is it that we stopped having a set  
24 amount of debt?

1 MR. MCKENZIE: About six years ago the Office of Finance  
2 debt authorization was specified an activity, that for instance,  
3 the Office of Finance could not issue more than \$300 billion  
4 worth of debt in a year. With the advent of the discount note  
5 program, activity based restrictions no longer made any sense  
6 because the discount notes were rolled over frequently. So, the  
7 debt authorization went from activity to amount of debt  
8 outstanding and that worked fine for about a year or two but then  
9 System advances just kept growing and growing and the System had  
10 to raise more and more debt to fund the advances and so about  
11 four years ago all numerical limitations were removed.

12 MR. O'NEILL: So now that we have four years under this new  
13 System you continue to believe that the System we're in right now  
14 works a lot better than finite amounts of debt?

15 MR. MCKENZIE: Well, last year the net increase in  
16 advances was more than \$100 billion. A year ago we couldn't  
17 have foreseen the System would need to raise that much more  
18 money so, yes, I think the current System is better.

19 MR. O'NEILL: Thank you.

20 MR. APGAR: I just want to note that, obviously we're doing  
21 this awaiting our changes in the structure of the Office of  
22 Finance and so in the interim this is a necessary move but  
23 hopefully we'll move forward with this restructuring and put us  
24 where we ought to be in terms of the Federal Home Loan Banks

1 issuing their own debt. This is where we are now so we move  
2 ahead.

3 CHAIRMAN MORRISON: Okay. Just a comment about that  
4 regulation which is still pending. One of the things that the  
5 Board might consider, the Office of Finance restructuring  
6 regulation has two aspects to it. One aspect is the complete  
7 delegation of debt issuance to the Banks and the other involves  
8 creating an optional facility for joint asset activities.

9 I think both of them are quite important but one is not  
10 dependent on the other and something that has arisen in  
11 conversations about this is that it might be prudent to move the  
12 debt portion of the changes in the Office of Finance more  
13 expeditiously than the other since one generates almost no  
14 controversy and the other generates plenty of controversy. I  
15 don't know whether that indicates  
16 that one is more important than the other or better than the  
17 other but, in any case.

18 MR. APGAR: It shows they're paying attention to what we're  
19 up to.

20 CHAIRMAN MORRISON: Right. So it does mean that  
21 bifurcating those issues may be useful in order to put the debt  
22 issue behind us and be able to focus more attention on what is  
23 creating the discomfort about the other part of the proposal. So  
24 the closing of the comment period is March 6, I believe, so I  
25 think the board can expect that the staff will try to put

1 together the first half of that fairly expeditiously because I  
2 doubt that there'll be very much beyond technical comments on  
3 that piece of it and we may be able to move that expeditiously  
4 and obviate the need for the November 15 deadline that we're  
5 about to vote on.

6 Anything further on that? If not, could I have someone  
7 move the resolution that's in the Board book?

8 MR. O'NEILL: So moved.

9 CHAIRMAN MORRISON: All in favor of the resolution  
10 please say, "aye."

11 MR. O'NEILL: Aye.

12 MR. APGAR: Aye.

13 CHAIRMAN MORRISON: Opposed? No. Resolution is agreed to.

14 (The motion was approved.)

15 We move to the final item of the agenda, which is item  
16 number three. I want to apologize in advance to my colleagues  
17 that this rule and its preamble have been slow to emerge from the  
18 drafting process. That is not because Neil hasn't been beating  
19 his brains out trying to get it done, because he has, but because  
20 unbeknownst to those who changed the statutory provisions, we  
21 have a very complicated structure having to do with state-by-  
22 state allocations, grandfathered allocations from that magic year  
23 1960, for some reason, and also certain discretionary powers that  
24 the board has exercised from time-to-time, and staggering terms  
25 among these different categories seems easy when you write it

1 down, as you can tell from the length of the appendices involved  
2 here is somewhat harder. So what we have is, I think, regulatory  
3 language that has been massaged and is in very good shape and  
4 shouldn't require anything but perhaps technical changes that  
5 will arise.

6 The preamble is, well, not a first draft, is not  
7 better than a second draft. We will provide in our action  
8 on it a review by the Board members so that it won't be  
9 published until everybody has had a chance to sign off on  
10 it.

11 So, that's where we are. With that introductory matter I  
12 think we might as well turn the baton over to Neil.

13 MR. CROWLEY: Thank you. This is something of a follow-up  
14 piece to the action that you took on December 14 in which we  
15 explained the effect of Gramm-Leach on the terms of the  
16 directorship to the Federal Home Loan Banks, which was to change  
17 all the three year terms, effective on the date of enactment.

18 That raised one question which we deferred at that time  
19 which was what to do with the 1999 elections which each of the  
20 Banks had conducted. Initially those elections would have chosen  
21 people to fill terms starting in January of this year. Because  
22 of Gramm-Leach those terms do not open until January of next  
23 year.

24 The Board, on December 14, indicated that its preference  
25 was to leave that decision to the Banks, subject to whatever

1 conditions and restrictions we felt appropriate and the proposed  
2 rule would implement that thought from the December 14 meeting.  
3 The proposed rule would also address a second related issue,  
4 which is staggering of the boards of directors.

5 As you know, the Banks are required by Gramm-Leach to have  
6 staggered boards. The boards are to be staggered into  
7 approximately three equal classes. The proposed rule would  
8 address that as well.

9 With respect to the election in 1999 and 2000, the proposed  
10 rule has, first, two requirements that are more procedural in  
11 nature. The first is that before the Banks can make any decision  
12 about what to do they have to wait until we complete the  
13 designation of directorships in the spring, which is based on a  
14 stock required to be held by the members of each Bank as of  
15 December 31, 1999.

16 That designation of directorships will tell us that  
17 allocates the directorships among the states in each district and  
18 it may or may not be the same as the designation of directorships  
19 in 1999. Some states may have more or less directorships  
20 allocated than they had previously. So, the first thing the  
21 Banks have to do is wait to see how the 2000 designations turn  
22 out, if there is a conflict between those in the 1999  
23 designations the 2000 designations will control.

24 The second procedural requirement relates to certain of

1 the Banks that are going to have to assign short terms among  
2 directorships for different states. Not all of the Banks are  
3 going to need to do that but the proposed rule would require them  
4 to decide which of the states are to get the short terms, which  
5 is necessary to achieve the staggering and to do that before they  
6 decide the process for the election in 2000.

7 After they have done that, after the Banks have received  
8 the designation of directorships. The proposed rule would  
9 largely allow them to adopt the 1999 election results if they so  
10 chose, so long as there are enough eligible nominees remaining  
11 from the 1999 election to fill all of the seats designated to  
12 each state in the 2000 designations.

13 There is only one instance in which the rule would require  
14 the Bank to hold a new election and that would be a decision made  
15 on a state-by-state basis and that would only arise if the number  
16 of directorships in the 2000 designation is greater than the  
17 number of eligible nominees from the 1999 election.

18 For example, if in 1999 election there was a state that was  
19 entitled to 1 directorship and there was only 1  
20 nominee in 1999 but in 2000 the stock shift among members  
21 gives that state 2 directorships there obviously is nobody from  
22 the 1999 nominees, there is only 1 nominees, there were 2 seats,  
23 the rule would require the Bank for that state only  
24 to conduct a new election in 2000 and to do so for both of  
25 those seats.

1           In all cases where the Bank's board of directors looks to  
2 the 1999 election results they would have to confirm that each  
3 individual nominee remains eligible to assume the seat in the  
4 2000 election and they would have to confirm his or her  
5 eligibility. If the board decides to adopt the 1999 results for  
6 purposes of the 2000 election it also would have to provide  
7 certain notice to us, to the individual members, and to the  
8 directors-elect.

9           The notice would include the sort of information typically  
10 provided in report of election, they would also be  
11 required to indicate which of the terms had been shortened  
12 to achieve staggering and to require that the staggering or  
13 the adjustment be done according to the second rule that we  
14 have which addresses staggering.

15           As you are aware, Gramm-Leach requires the boards to be  
16 staggered in three approximately equal classes, but the problem  
17 that has arisen is that Gramm-Leach also retained  
18 the state based directorship provisions that we have in  
19 current law, under those provisions the directorships are  
20 allocated to the different states based on the stock held by  
21 the members in those states. Each state is entitled to at  
22 least one directorship but some 20 states are entitled to  
23 additional seats under the grandfather provisions. The effect of  
24 all of these things is that as the stock moves, shifts among  
25 states with the members, you can have a directorship allocated to

1 one state in one year be designated as representing another state  
2 in another year. You can also have a directorship that is  
3 designated to one state in one year disappear the next year.

4 Those are the elective directorships. There is also  
5 another class of elective directorships which are created at the  
6 discretion of the Finance Board. Those can be created only in  
7 districts where there are five or more states and you have done  
8 that in four districts and, I believe, you have created five of  
9 those seats. Those seats are discretionary, they can go away at  
10 anytime.

11 To further compound the complexity here, those elective  
12 discretionary seats also carry with them one or two discretionary  
13 appointive directorships. As a result of this, I mean, it is  
14 possible at some Banks, for example, that in a given year the  
15 board of directors could lose one, two, three, or four seats.  
16 Now, where you have a board 18 directors in 3 classes of 6. That  
17 sounds like it should be easily staggered but if you lose some of  
18 the discretionary seats which carry with them a couple of  
19 appointive seats you could find yourself with a class of 6, 2,  
20 and 6. The Gramm-Leach gives us no way to restagger or rebalance  
21 that board.

22 Recognizing the possibility that some seats can disappear  
23 or move to another state, we've focused on the core seats which  
24 cannot move and those are the seats that are grandfathered to the  
25 20 states, some number greater than 1, as well as for all the

1 other 30 states with 1 seat per state. That, for most Banks, is  
2 eight seats. For the New York Bank I think it is nine and the  
3 San Francisco Bank I think it is five. The proposed rule heeds  
4 off that core of directorships that cannot be changed.

5 We have constructed a matrix for each Bank which breaks out  
6 the seats by state and assigns certain of them to different  
7 terms, for certain other ones it requires the Bank's board of  
8 directors to assign the short terms.

9 Where we have directorships from different states all up in  
10 the same year where the board has to assign a short term to one  
11 or more of those states, the rule requires that to be done first.  
12 The board can do that, the Bank's board of directors can do that  
13 on any reasonable basis, so long as it's consistent.

14 In other instances the short terms may be allocated among  
15 directorships from the same state. The proposed rule in that  
16 case would require that the Banks assign the short and long term  
17 space around the votes cast for the people in that state. For  
18 example, if Massachusetts has two guaranteed directorships but  
19 one of them has to receive a two year term and one has to receive  
20 a three year term, the person with the most votes gets the three  
21 year term, the person with the next lowest votes gets  
22 the two-year term.

23 The same methodology would be used where we have a state  
24 which has one guaranteed seat and one non-guaranteed seat. The  
25 person with the most votes gets the guaranteed seat and the

1 person with the fewer votes gets the non-guaranteed seat. The  
2 risk of having a non-guaranteed seat is that if that directorship  
3 is eliminated at some point in the future, either through the  
4 discretion of the Finance Board or through the shift of stock  
5 ownership, that's the seat that goes.

6 The way we have tried to do this is that the loss of any of  
7 these non-guaranteed seats should not cause the board as a whole  
8 to become unstaggered because underlying the total staggering is  
9 the staggering of these core guaranteed seats which should always  
10 remain.

11 I know this is rather complicated and it is perhaps even  
12 harder to explain than it is to understand.

13 CHAIRMAN MORRISON: And everyone in the process will take a  
14 test on it.

15 MR. APGAR: The housing finance part is easy, it is all the  
16 rest that's tough.

17 CHAIRMAN MORRISON: Right.

18 MR. CROWLEY: The rule has a couple of other provisions,  
19 one of which would address the eligibility of directors when  
20 they're seat is either redesignated to another state or is  
21 eliminated. Where the seat is redesignated to another state the  
22 rule provides that the seat would become vacant as of the end of  
23 that year. The board of directors of the Bank would fill it with  
24 an eligible individual, which would be an officer or director of  
25 an institution in the newly designated state.

1           If the seat is eliminated then it is simply eliminated at  
2 the end of the year. There is a corresponding change made to the  
3 appointive directorships which would provide that appointed  
4 directorships that are discretionary would have to terminate  
5 at the same time that the elective discretionary seats that  
6 support them must terminate.

7           I think that right now I will just ask if you have any  
8 questions.

9           CHAIRMAN MORRISON: Are there any questions?

10          MR. O'NEILL: I think, Neil, that you have done an  
11 excellent job, considering the legislative layers that were  
12 put on you. I have no questions but you have my undying  
13 thanks for going through all of this because it was an  
14 interesting assignment.

15          CHAIRMAN MORRISON: I don't think mastery of this acrania  
16 has any market value.

17          I have one technical question. On page 14 of the rule and  
18 page 11 of the preamble you make reference to before conducting  
19 the elections in the year 2001, I think you mean in the year  
20 2000, therefore the year 2001.

21          MR. CROWLEY: You are on page?

22          CHAIRMAN MORRISON: Up at the top at B of page 14.

23          MR. CROWLEY: Yeah, I may have a different pagination than  
24 you. It's in the reg text?

25          CHAIRMAN MORRISON: Right, reg text, it's 215.21(a)3(b).

1 MR. CROWLEY: I believe that should refer to 2001. There is  
2 an election, if you will, in 2000, but that election is either  
3 choosing to uphold the 1999 election or have a new one.

4 CHAIRMAN MORRISON: Or have a new one.

5 MR. CROWLEY: We would ask the parts this relates to where  
6 we have two or more guaranteed directorships filled by people  
7 from different states, one of which is going to have a short  
8 term, that can occur both in 2000 as well as in 2001. The intent  
9 there is that the board does its elections next year also will  
10 allocate the short term to the seats.

11 CHAIRMAN MORRISON: Well, shouldn't we have a do  
12 it all at once? Why would we wait until 2000? I thought  
13 this said, in other words, may or may not conduct elections in  
14 2000. Why would they do it once in 2000 and again in 2001? It's  
15 one set of decisions.

16 MR. CROWLEY: It's one set of decisions. The boards would  
17 be different next year, I suppose. I think it's a decision, the  
18 election in 2001 is to be run in part by people who are not yet  
19 on the board. I think my rationale there was that we would let  
20 them make that decision. We can change that. There is nothing  
21 legally that requires it to be that way.

22 CHAIRMAN MORRISON: Yeah, I'm going to propose that we do  
23 it the other way. The reason being that we don't want the short  
24 term process to be a popularity contest or a picking and choosing  
25 states based on personalities, that is one of the reasons that

1 they have to do this first. It seems to me to have it done twice  
2 leads to the potential of lobbying among states. Let's do it all  
3 at once and whatever horse trading has to happen let's have one  
4 horse trade.

5 MR. CROWLEY: Okay, I will make that change.

6 CHAIRMAN MORRISON: I think if it says "2000" you've solved  
7 the problem.

8 MR. CROWLEY: Okay.

9 CHAIRMAN MORRISON: Any objection to that change?

10 MR. APGAR: I have a question. Is there any thought to  
11 work to provide a simpler structure for this on a going forward  
12 basis? Because the fact that it took us 20  
13 minutes to describe a process which sorted through all the  
14 historical remnants of old Board rules, the new Board rules,  
15 clearly Congress avoided taking serious about this and then we  
16 have to do the consequences of not inconsistencies, but  
17 complexity added by the new structure. It seems like maybe this  
18 is a situation where somebody ought to sit down with a blank  
19 piece of paper and at a technical amendment level work through  
20 how this ought to be.

21 CHAIRMAN MORRISON: Well, the reason is that this was a  
22 proposed area for statutory simplification in several of the  
23 Baker/Kanjorsky drafts, bills and markups, et cetera.  
24 Unfortunately, there are both the one state one vote and the  
25 grandfathering have some adherence out there in the country and

1 every time a simplification was proposed there was a great hue  
2 and cry from somewhere that basically led to backing away from  
3 simplification and putting a new complexity back in. So that is  
4 why it never got fixed in the legislation when it finally passed,  
5 it got dropped out.

6 However, Section 6 of the Federal Home Loan Bank Act, as  
7 amended, makes part of the capital plan process various  
8 provisions related to passing out voting rights and board  
9 memberships, et cetera, as is essentially necessary if you're  
10 going to have two classes of stock and they have different rights  
11 and the notion of whether the holders of Class B stock could be  
12 unrepresented on the board and things like that.

13 While Congress did not repeal Section 7, it did not amend  
14 Section 7. They did authorize the Bank and the Finance Board,  
15 through Section 6, to in some fashion change this. That's an  
16 ambiguity that the Finance Board will have to wrestle with when  
17 writing the rules about the capital plans but it would be  
18 possible to create options for the Banks to adopt as part of  
19 their new capital plans. It might render the System simpler.

20 On the other hand, the same vested interest in the current  
21 spectrum may have an impact in the other direction  
22 to that. I guess what I would say, your underlying implication  
23 that this could be a technical amendment to the Bank Act, I  
24 suggest that it would not be viewed as technical. We can  
25 authorize the Banks through their boards of directors and through

1 their membership to make changes as part of the capital plan and  
2 that's probably the best that we can do.

3 MR. APGAR: Thank you.

4 CHAIRMAN MORRISON: Any other questions?

5 MR. GINSBERG: Mr. Chairman?

6 CHAIRMAN MORRISON: Yes?

7 MR. GINSBERG: I just wanted to put on the record  
8 one point, which is that there is language in Gramm-Leach-  
9 Bliley, as adopted by the Congress and signed into law, that  
10 makes reference to the Finance Board and the Banks putting these  
11 staggering provisions into place, working together, language to  
12 that effect.

13 I just wanted to point out for the Board members and have  
14 on the record, I don't know if this is in the preamble or not in  
15 its current draft form that the proposed rule that you have in  
16 front of you reserves certain decisions, as Neil said, in this  
17 process going forward to the boards of the Federal Home Loan  
18 Banks. So the view is that, of course the Banks have the ability  
19 to comment on this in the normal course of a rulemaking, but  
20 going beyond the normal course of the rulemaking there are also  
21 certain provisions, certain decisions that, as I said, are  
22 reserved to the Banks through their boards of directors. So the  
23 view is that that requirement of Gramm-Leach-Bliley has been  
24 addressed in this proposed rule that you have in front of you.

1           CHAIRMAN MORRISON:  What has not been delegated to the  
2 Banks is to adopt a staggering rule that won't work.  If anybody  
3 wants to do the work that Neil did and propose a  
4 different staggering rule that does work, that's okay but we  
5 do not feel that we can just say to the Banks, "Get the  
6 staggering right." because when that circulated the first  
7 time as a possibility I asked what they could do.  The

1 matrices are the result of the analysis. There aren't a  
2 whole lot of options that will actually work at creating a  
3 stable staggered System over time.

4 So what can be reserved is reserved and what really has to  
5 be defined. If anybody cares enough to come up with another set  
6 of matrices, we can look at them but it is a proposed rule.

7 The proposal is that the rule be for 30 days comment. The  
8 reason for the relatively short, although statutory appropriate  
9 time period, is that in order to get this all done and have an  
10 election this year for those who need to have an election or  
11 choose to have an election we need to be prepared to put out a  
12 final rule in April or May at the latest. We can't do that  
13 unless we move the ball. It takes a couple of weeks to get this  
14 in the Federal Register.

15 The Banks, of course, are on notice as of this meeting and  
16 if we can make the rule available sooner they will be the ones  
17 who are most likely to pay attention to all this detail.

18 So, if I might have a motion to approve the publication of  
19 the rule with a preamble, with a proviso that the usual consent  
20 to technical and conforming changes on the rule itself will be  
21 granted the staff but that the preamble and the rule will not be  
22 published until the preamble has been reviewed by the three Board  
23 members and they have signed off on the final text.

24 MR. APGAR: So moved.

1 MR. O'NEILL: So moved.

2 CHAIRMAN MORRISON: Okay. Apgar so moves. All in favor  
3 please say "aye."

4 MR. O'NEILL: Aye.

5 MR. APGAR: Aye.

6 CHAIRMAN MORRISON: Opposed? No. The "ayes" have it. The  
7 proposed rule is agreed to. We are done.

8 (Motion approved.)

9 (Whereupon, at 11:02 a.m., the meeting was  
10 23 adjourned.)

11 24 //

12 25 //

## 1 REPORTER'S CERTIFICATE

2

3 DOCKET NO.: N/A

4 CASE TITLE: Board Meeting

5 HEARING DATE: February 23, 2000

6 LOCATION: Washington, D.C.

7

8 I hereby certify that the proceedings and evidence are  
9 contained fully and accurately on the tapes and notes  
10 reported by me at the hearing in the above case before the  
11 Federal Housing Financing Board.

12

13

14 Date: February 23, 2000

15 Sharon Bellamy

16 Official Reporter

17 Heritage Reporting Corporation

18 Suite 600

19 1220 L Street, N. W.

20 Washington, D. C. 20005