

**TITLE 12 - BANKS AND BANKING**  
**CHAPTER 11 - FEDERAL HOME LOAN BANKS**

**§ 1441b. Resolution Funding Corporation established**

**(a) Purpose**

The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this chapter.

**(b) Establishment**

There is established a corporation to be known as the Resolution Funding Corporation.

**(c) Management of Funding Corporation**

**(1) Directorate**

The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

**(A)** The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

**(B)** 2 members selected by the Thrift Depositor Protection Oversight Board from among the presidents of the Federal Home Loan Banks.

**(2) Terms**

Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

**(3) Vacancy**

If any member leaves the office in which such member was serving when appointed to the Directorate—

**(A)** such member's service on the Directorate shall terminate on the date such member leaves such office; and

**(B)** the successor to the office of such member shall serve the remainder of such member's term.

**(4) Equal representation of banks**

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

**(5) Chairperson**

The Thrift Depositor Protection Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

**(6) Staff**

**(A) No paid employees**

The Funding Corporation shall have no paid employees.

**(B) Powers**

The Directorate may, with the approval of the Director authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

**(7) Administrative expenses**

**(A) In general**

All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

**(B) Pro rata distribution**

The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Thrift Depositor Protection Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) of this section (computed without regard to paragraphs (3) or (6) of such subsection); by

(ii) the aggregate amount the Thrift Depositor Protection Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

**(8) Regulation by Thrift Depositor Protection Oversight Board**

The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe.

**(9) No compensation from Funding Corporation**

Members of the Directorate of the Funding Corporation shall receive no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

**(d) Powers of Funding Corporation**

The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe:

**(1) Issue stock**

To issue nonvoting capital stock to the Federal Home Loan Banks.

**(2) Purchase capital stock; transfer amounts**

To purchase capital certificates issued by the Resolution Trust Corporation under section 1441a of this title, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

**(3) Issue obligations**

To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

**(4) Impose assessments**

To impose assessments in accordance with subsection (e)(7) of this section.

**(5) Corporate seal**

To adopt, alter, and use a corporate seal.

**(6) Succession**

To have succession until dissolved.

**(7) Contracts**

To enter into contracts.

**(8) Authority to sue**

To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

**(9) Incidental powers**

To exercise such incidental powers not inconsistent with the provisions of this section and section 1441a of this title as are necessary and appropriate to carry out the provisions of this section.

**(e) Capitalization of Funding Corporation, etc.**

**(1) In general**

**(A) Amount required**

The Thrift Depositor Protection Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

- (i) the Funding Corporation may transfer the amounts required under paragraph (8); and
- (ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

**(B) Purchases of stock by Federal Home Loan Banks**

Each Federal Home Loan Bank shall purchase stock in the Funding Corporation at times and in amounts prescribed by the Thrift Depositor Protection Oversight Board.

**(2) Par value; transferability**

Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Thrift Depositor Protection Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Thrift Depositor Protection Oversight Board.

**(3) Maximum investment amount limitation for each Federal Home Loan Bank**

The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

**(A) Reserves and undivided profits on December 31, 1988**

The sum on December 31, 1988, of—

- (i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in effect on December 31, 1988); and
- (ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 1441 of this title.

**(B) Subsequent additions to reserves and undivided profits**

The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

- (i) the sum of—
  - (I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in effect on December 31, 1988); and
  - (II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus
- (ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 1441 of this title.

**(C) Annual adjustment**

The amounts in subparagraph (B) shall be adjusted as follows:

- (i) Increase in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than \$300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(ii) Decrease in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than \$300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

**(4) Pro rata distribution of first \$1,000,000,000 invested in Funding Corporation by Federal Home Loan Banks**

Of the first \$1,000,000,000 of the aggregate that the Director (pursuant to section 1441 of this title) or the Thrift Depositor Protection Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Director or the Thrift Depositor Protection Oversight Board (as the case may be) by multiplying the aggregate amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank Percentage

Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

**(5) Pro rata distribution of amounts required to be invested in excess of \$1,000,000,000**

Of any amount which the Thrift Depositor Protection Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the \$1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members as of the date of funding which are members of such Bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members as of the date of funding which are members of a Federal Home Loan Bank.

**(6) Special provisions relating to maximum amount limitations**

**(A) In general**

If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a "deficient Bank") under paragraph (3) at the time of such determination (in this paragraph referred to as the "excess amount")—

- (i) the Thrift Depositor Protection Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a "remaining Bank") to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);
- (ii) the Thrift Depositor Protection Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and
- (iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

**(B) Allocation of excess amount among remaining Federal Home Loan Banks**

**(i) In general**

The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

- (I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by
- (II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

**(ii) Reallocation**

If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

**(C) Reimbursement procedure**

**(i) In general**

A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

**(ii) Determination of amounts**

The Thrift Depositor Protection Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

**(D) Transfer to account for reimbursements required**

**(i) In general**

Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Thrift Depositor Protection Oversight Board), which shall be available only for such reimbursements.

**(ii) Limitation**

The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

**(f) Obligations of Funding Corporation**

**(1) Issuance**

The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed \$30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

**(2) Interest payments**

The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

**(A) Earnings on certain assets**

Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

**(B) Proceeds from Resolution Trust Corporation**

To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

**(i)** the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Thrift Depositor Protection Oversight Board to be in excess of funds presently necessary for resolution costs; and

**(ii)** any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

**(C) Payments by Federal home loan banks**

**(i) In general**

To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.0 percent of the net earnings of

that Bank (after deducting expenses relating to section 1430 (j) of this title and operating expenses).

**(ii) Annual determination**

The Director annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of \$300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations, in consultation with the Secretary of the Treasury.

**(iii) Payment term alterations**

The Director shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

**(iv) Term beyond maturity**

If the Director extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.0 percent of its net earnings (after deducting expenses relating to section 1430 (j) of this title and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.0 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the Banks to the Treasury, the Director shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.

**(v) Semiannual reports**

The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.

**(D) Proceeds from sale of assets**

To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

**(E) Treasury backup**

**(i) In general**

To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

**(ii) Liability of Funding Corporation**

In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

**(iii) Appropriation of funds**

There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

**(3) Principal payments**

On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

**(4) Proceeds to be transferred to Resolution Trust Corporation**

Subject to terms and conditions approved by the Thrift Depositor Protection Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 1441a of this title; or

(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

**(5) Investment of United States funds in obligations**

Obligations issued under this section by the Funding Corporation, at the direction of the Thrift Depositor Protection Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

**(6) Market for obligations**

All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

**(7) Tax exempt status**

**(A) In general**

Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 1433 of this title.

**(B) Exception**

The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124 (b) of title 31 (relating to determination of tax status of interest on obligations).

**(8) Obligations not exempt securities**

**(A) In general**

For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

(ii) shall not be considered to be “exempted securities” within the meaning of section 78c (a)(12)(A)(i) of title 15, except that such obligations shall be considered to be exempted securities for purposes of section 78o of title 15.

**(B) Authority of Commission**

Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of

1933 [15 U.S.C. 77a et seq.], subject to such terms and conditions as the Commission may prescribe.

**(9) Minority participation in public or negotiated offerings**

The Thrift Depositor Protection Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

**(10) No full faith and credit of the United States**

Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

**(g) Use and disposition of assets of Funding Corporation not transferred to Resolution Trust Corporation**

**(1) In general**

Subject to regulations, restrictions, and limitations prescribed by the Thrift Depositor Protection Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 1441a of this title and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

**(2) Separate account for zero coupon instruments held to ensure payment of principal**

Except as provided in subsection (e)(8) of this section, the Funding Corporation shall invest amounts received pursuant to subsection (e) of this section in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

(A) which are direct obligations of the United States issued by the Secretary; and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

**(h) Miscellaneous provisions**

**(1) Treatment for certain purposes**

Except as provided in subsection (f)(7)(B) of this section, the Funding Corporation shall be treated as a Federal Home Loan Bank for purposes of section 1433 of this title (to the extent such section relates to State, municipal, and local taxation) and section 1443 of this title.

**(2) Federal Reserve banks as depositaries and fiscal agents**

The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

**(3) Applicability of certain provisions relating to Government corporations**

The Funding Corporation shall be treated, for purposes of sections 9105,<sup>1</sup> 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

**(4) Jurisdiction and power to remove**

**(A) Federal court jurisdiction**

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

**(B) Removal**

The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

**(i) Annual report**

**(1) In general**

The Thrift Depositor Protection Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

**(2) Contents**

The report required under paragraph (1) shall include—

**(A)** audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

**(B)** the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

**(C)** the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105 (a) of title 31.

**(3) Submission to Congress and President**

The Thrift Depositor Protection Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

**(j) Termination of Funding Corporation**

**(1) In general**

The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

**(2) Authority of Thrift Depositor Protection Oversight Board to conclude affairs of Funding Corporation**

Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Thrift Depositor Protection Oversight Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Thrift Depositor Protection Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

**(k) Definitions**

For purposes of this section, the following definitions shall apply:

**(1) Administrative expenses**

The term “administrative expenses” does not include—

**(A)** any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

**(B)** issuance costs.

**(2) Custodian fee**

The term “custodian fee” means—

**(A)** any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g) of this section; and

(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

**(3) Funding Corporation**

The term “Funding Corporation” means the Resolution Funding Corporation established in subsection (b) of this section.

**(4) Funding Corporation Principal Fund**

The term “Funding Corporation Principal Fund” means the separate account established under subsection (g)(2) of this section.

**(5) Issuance costs**

The term “issuance costs”—

(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

**(6) Net earnings**

The term “net earnings” means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f) of this section.

**(7) Thrift Depositor Protection Oversight Board**

The term “Thrift Depositor Protection Oversight Board” means—

(A) the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation under section 1441a of this title; and

(B) after the termination of the Resolution Trust Corporation—

(i) the Secretary of the Treasury;

(ii) the Chairman of the Board<sup>2</sup> of Governors of the Federal Reserve System; and

(iii) the Secretary of Housing and Urban Development.

**(8) Secretary**

The term “Secretary” means the Secretary of the Treasury.

**(9) Undivided profits**

The term “undivided profits” means earnings retained after dividends have been paid minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 1436 of this title; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 1441 (d)(7) of this title.

**(l) Regulations**

The Thrift Depositor Protection Oversight Board may prescribe any regulations necessary to carry out this section.

**Footnotes**

<sup>1</sup> See References in Text note below.

<sup>2</sup> See 2008 Amendment note below.

(July 22, 1932, ch. 522, § 21B, as added Pub. L. 101–73, title V, § 511(a), Aug. 9, 1989, 103 Stat. 394; amended Pub. L. 102–233, title III, § 302(b), Dec. 12, 1991, 105 Stat. 1767; Pub. L. 102–550, title XVI, § 1613(a)(7), (9), Oct. 28, 1992, 106 Stat. 4092; Pub. L. 104–208, div. A, title II, § 2704(d)(5), (11)(E), (F), Sept. 30, 1996, 110 Stat. 3009–488, 3009–489; Pub. L. 106–102, title VI, § 607(a), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 109–171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, § 9(d)(7), (8), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 110–289, div. A, title II, §§ 1204(8)–(10), (12), 1213, July 30, 2008, 122 Stat. 2786, 2791.)

## References in Text

The Securities Act of 1933, referred to in subsec. (f)(8)(B), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Section 9105 of title 31, referred to in subsec. (h)(3), was amended generally by Pub. L. 101–576, title III, § 305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, no longer contains provisions relating to mixed-ownership Government corporations having capital of the Government.

## Amendments

2008—Subsecs. (c)(6)(B), (e)(4). Pub. L. 110–289, § 1204(12), substituted “Director” for “Federal Housing Finance Board” wherever appearing.

Subsec. (f)(2)(C)(ii) to (iv). Pub. L. 110–289, § 1204(8)–(10), substituted, in cls. (ii) and (iii), “The Director” for “The Board” and, in cl. (iv), “the Director” for “the Board” before “extends” and “the Director” for “the Finance Board” before “shall reduce”.

Subsec. (f)(2)(C)(v). Pub. L. 110–289, § 1213, added cl. (v).

Subsec. (k)(7)(B)(ii). Pub. L. 110–289, § 1204(8), which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting “the Director” for “the Board” wherever appearing, was not executed to subsec. (k)(7)(B)(ii), to reflect the probable intent of Congress.

2006—Subsec. (e). Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(11)(E). See 1996 Amendment note below.

Subsec. (e)(5). Pub. L. 109–173, § 9(d)(7)(A), inserted “as of the date of funding” after “Savings Association Insurance Fund members” in subpars. (A) and (B).

Subsec. (e)(7), (8). Pub. L. 109–173, § 9(d)(7)(B), struck out pars. (7) and (8) which related to additional sources to fund the Funding Corporation Principal Fund and a transfer of funds to the Resolution Trust Corporation in fiscal year 1989, respectively.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(5). See 1996 Amendment note below.

Subsec. (k). Pub. L. 109–173, § 9(d)(8)(A), in introductory provisions, inserted before colon “, the following definitions shall apply”.

Subsec. (k)(8) to (10). Pub. L. 109–173, § 9(d)(8)(B), (C), redesignated pars. (9) and (10) as (8) and (9), respectively, and struck out heading and text of former par. (8). Text read as follows: “The term ‘Savings Association Insurance Fund member’ means a Savings Association Insurance member as such term is defined by section 1817 (l) of this title.”

Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(11)(F). See 1996 Amendment note below.

1999—Subsec. (f)(2)(C). Pub. L. 106–102 amended subpar. (C) generally, substituting present provisions for provisions requiring Federal Home Loan Banks to pay to the Funding Corporation each calendar year an amount sufficient to cover amount of interest payments made by the Corporation in that year, and provisions relating to determination of each Bank’s individual share of such annual amount.

1996—Subsec. (e). Pub. L. 104–208, § 2704(d)(11)(E), which directed the amendment of subsec. (e) by inserting, in par. (5), “as of the date of funding” after “Savings Association Insurance Fund members” in two places and by striking par. (7) and redesignating par. (8) as (7), was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 104–208, § 2704(d)(5), which directed the amendment of subcls. (I) and (II) by substituting “to insured depository institutions, and their successors, which were Savings Association Insurance Fund

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

members on September 1, 1995” for “to Savings Associations Insurance Fund members”, was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below.

Subsec. (k)(8) to (10). Pub. L. 104–208, § 2704(d)(11)(F), which directed the amendment of subsec. (k) by striking par. (8) and redesignating pars. (9) and (10) as (8) and (9), respectively, was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1992—Subsecs. (c)(8), (j)(2). Pub. L. 102–550, § 1613(a)(7), inserted “Thrift Depositor Protection” before “Oversight” in headings.

Subsec. (k)(7). Pub. L. 102–550, § 1613(a)(9), substituted “Thrift Depositor Protection Oversight” for “Oversight” in heading.

1991—Pub. L. 102–233 substituted “Thrift Depositor Protection Oversight Board” for “Oversight Board” wherever appearing in text.

### **Effective Date of 2006 Amendment**

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

### **Effective Date of 1999 Amendment**

Pub. L. 106–102, title VI, § 607(b), Nov. 12, 1999, 113 Stat. 1456, provided that: “The amendment made by subsection (a) [amending this section] shall become effective on January 1, 2000. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that Bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act [12 U.S.C. 1441b (f)(2)(C)], as amended by this section.”

### **Effective Date of 1996 Amendment**

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

### **Effective Date of 1992 Amendment**

Amendment by Pub. L. 102–550 effective as if included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Pub. L. 102–233, as of Dec. 12, 1991, see section 1618 of Pub. L. 102–550, set out as a note under section 1441 of this title.

### **Effective Date of 1991 Amendment**

Amendment by Pub. L. 102–233 effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as a note under section 1441 of this title.

### **Abolition of Thrift Depositor Protection Oversight Board**

Thrift Depositor Protection Oversight Board abolished, see section 14 (a)–(d) of Pub. L. 105–216, set out as a note under section 1441a of this title.