new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting construction, and operation of power generating facilities at DOE sites.

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[FR Doc. 96–31064 Filed 12–5–96; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Assessments; Continuation of Adjusted Rate Schedule for BIF-Assessable Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Continuation of adjusted rate schedule.

SUMMARY: On November 26, 1996, the Board of Directors of the FDIC (Board) adopted a resolution to continue in effect the current downward adjustment to the assessment rate schedule applicable to deposits assessable by the Bank Insurance Fund (BIF). The continuation of the downward adjustment will apply to the semiannual assessment period beginning January 1, 1997. As a result, the BIF assessment rates will continue to range from 0 to 27 basis points. The only difference between the existing adjustment and the continuing adjustment adopted by the Board is that the continuing schedule will no longer include a reference to a minimum assessment amount. This change results from recent legislation that eliminates a statutorily-imposed minimum assessment amount. With this modification, the adjusted rate schedule will result in an estimated average annual assessment rate of approximately 0.17 basis points; the estimated annual revenue produced by this rate schedule will be $43 million. In connection with the elimination of the mandatory assessment amount, the Board has also decided to refund minimum assessment payments made to BIF with respect to that portion of the current semiannual assessment period remaining after enactment of the amending legislation.

EFFECTIVE DATE: January 1, 1997, through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Steven Ledbetter, Chief, Assessment Evaluation Section, Division of Insurance, (202) 898–8658; James R. McFadyen, Senior Financial Analyst, Division of Research and Statistics, (202) 898–7027; Martha Coulter, Counsel, Legal Division, (202) 898–7348; Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

This announcement pertains to deposit insurance assessments to be paid for the semiannual assessment period beginning January 1, 1997, by insured depository institutions on deposits assessable by the Bank Insurance Fund (BIF). Invoices reflecting these assessments will be sent to BIF member institutions around December 11, 1996.[1]

These invoices will also bill for assessments to be paid to the Financing Corporation (FICO). As a result of recently-enacted legislation, BIF-assessable deposits are now also subject to assessment by FICO. As it has in the past, the FDIC will continue to collect FICO assessments on FICO's behalf.

In providing for the FICO-assessability of BIF-assessable deposits, section 2703 of the Deposit Insurance Funds Act of 1996 (DIFA)[2] further provided that the assessments imposed by FICO on insured depository institutions with respect to BIF-assessable deposits will be at a rate equal to one-fifth the assessment rate applicable to deposits assessable by the Savings Association Insurance Fund (SAIF). Thus, the upcoming FDIC assessment invoice is expected to reflect a FICO rate for BIF-assessable deposits of approximately 1.3 basis points, which is one-fifth the FICO rate of approximately 6.4 basis points anticipated for SAIF-assessable deposits.

The remainder of this announcement pertains solely to deposit insurance assessments and does not further address FICO assessments.

II. Continuation of Adjustment to BIF Rate Schedule 2

Section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), provides that the Board shall set semiannual deposit insurance assessments for insured depository institutions. On August 8, 1995, the Board adopted a new assessment rate schedule for deposits subject to assessment by BIF. 60 FR 42680 (August 16, 1995). The new schedule was codified as Rate Schedule 2 at 12 CFR 327.9(a). This schedule provided for an assessment-rate range of 4 to 31 basis points and became effective retroactively on June 1, 1995, the beginning of the month following the month in which the BIF reached its designated reserve ratio (DRR) of 1.25 percent of total estimated insured deposits.

In adopting Rate Schedule 2, the Board also amended the FDIC's assessment regulations to permit the Board to make limited adjustments to the schedule without notice-and-comment rulemaking. Any such adjustments can be made as the Board deems necessary to maintain the BIF reserve ratio at the DRR and can be accomplished by Board resolution. Under this provision, codified at 12 CFR 327.9(b), any such adjustment must not exceed an increase or decrease of 5 basis points and must be uniform across the rate schedule.

The amount of an adjustment adopted by the Board under 12 CFR 327.9(b) is to be determined by the following considerations: (1) The amount of assessment revenue necessary to maintain the reserve ratio at the DRR; and (2) the assessment schedule that would generate such amount of assessment revenue considering the risk profile of BIF members. In determining the relevant amount of assessment revenue, the Board is to consider BIF's expected operating expenses, case resolution expenditures and income, the effect of assessments on BIF members' earnings and capital, and any other factors the Board may deem appropriate.

Having considered all of these factors, the Board decided on November 14, 1995, to adopt an adjustment factor of 4 basis points for the semiannual assessment period beginning January 1, 1996, with a resulting adjusted schedule ranging from 0 to 27 basis points. 60 FR 63400 (December 11, 1995). The Board continued the same adjustment for the semiannual period beginning July 1, 1996. 61 FR 26078 (May 24, 1996).

Until now, the adjusted schedule has included a reference to a statutory requirement in section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(2)(A)(iii), that each insured depository institution pay a minimum assessment amount of $2,000 annually. However, that requirement

[1] Normally, invoices are sent approximately one month prior to collection date, which would be December 3 for the January 2 collection date. However, in this instance the invoices are being delayed approximately one week in order to permit the FDIC to include any reduction in Savings Association Insurance Fund (SAIF) rates adopted by the Board in early December for the upcoming semiannual assessment period. The Board has decided to delay all invoices, not just invoices for SAIF-member institutions, because of the large number of BIF members with SAIF-assessable deposits and SAIF members with BIF-assessable deposits. The Board is concerned that sending bifurcated invoices approximately one week apart would result in significant confusion and additional burden for such institutions that can be avoided by a delayed, combined invoice.

[2] DIFA is Subtitle G of Title II of Pub. L. 104–208, which was enacted on September 30, 1996.

recently has been eliminated by section 2708 of DIFA, which replaced it with a new section 7(b)(2)(A)(iii). The new provision requires that, with respect to institutions posing the least risk to the deposit insurance fund,[3] semiannual assessments not be set to exceed the amount needed to maintain the reserve ratio of BIF at the designated reserve ratio, which is currently set at 1.25 percent of total estimated insured deposits.

In light of this change, and for the reasons discussed below, the Board has decided to continue the same adjustments to Rate Schedule 2 for the upcoming semiannual period beginning January 1, 1997, with the exception that the reference in the adjusted rate schedule to a minimum assessment amount has been eliminated. The adjusted rate schedule is set forth below.

BIF RATE SCHEDULE AS ADJUSTED FOR THE FIRST SEMIANNUAL PERIOD OF 1997

Capital group	Supervisory subgroup		
	A	B	C
1	0	3	17
2	3	10	24
3	10	24	27

In addition to continuing the adjusted rate schedule, the Board has also decided to refund to BIF member institutions any minimum assessment amount they paid to BIF for the September 30, 1996, quarterly assessment collection. Although the Board believes that it has the authority to retain these payments and to implement the elimination of the minimum assessment requirement beginning with the upcoming semiannual period, it has decided on a different approach.

The Board has decided that the more appropriate action is to refund that portion of the minimum assessment that corresponds with the portion of the current semiannual period remaining after the September 30, 1996, enactment of the statute—that is, the quarter beginning October 1, 1996. The Board believes that this approach promotes the intent reflected in new section 7(b)(2)(A)(iii) to assess the least risky institutions no more than necessary to maintain the BIF designated reserve ratio.

Affected institutions will be contacted with further information regarding the refund, which is expected to occur by means of an ACH credit on or about January 2, 1997. The majority of BIF members can expect to receive a refund of $500 plus interest.

III. Basis for the Adjustment

A. Maintaining at the Designated Reserve Ratio

In adopting a rate adjustment under 12 CFR 327.9(b), as mentioned above, the Board must consider the following: (1) The amount of assessment revenue necessary to maintain the reserve ratio at the DRR; and (2) the assessment schedule that would generate such amount of assessment revenue considering the risk profile of BIF members.

The BIF reserve ratio stood at 1.30 percent as of June 30, 1996, the latest date for which complete data are available. The recent strong performance of the industry and consequent growth of the BIF reserve ratio, and the outlook for the reserve ratio over the near term, have persuaded the Board to continue the existing adjusted rate schedule for the first semiannual period of 1997. Following is an analysis of the potential effect of changes in the fund balance and the rate of insured deposit growth on the reserve ratio through June 30, 1997.

1. Fund Balance

The adjusted BIF balance was $25.888 billion on June 30, 1996 (Table 2, see note 4). Changes in the balance are largely determined by changes in insurance losses and interest income.

Insurance Losses. Insurance losses are comprised of two components: A contingent liability for future failures and an allowance for losses on institutions that have already failed. Using current staff estimates of failed assets through June 30, 1997, and a 20 percent loss rate on assets, the change in the contingent liability for future failures is estimated to be between $100 million (lower bound) and $300 million (upper bound) for the twelve months ending June 30, 1997[4].

The estimated recovery value of closed banks was $4.26 billion as of September 30, 1996. While annual changes in the allowance for losses as a percentage of the estimated net recovery value of closed banks have been as high as 13 percent and as low as −16 percent over the last five years, the change in 1994 was −5.75 percent and +10.2 percent in 1995. Proforma statements for December 31, 1996, project an increase in the allowance for losses for closed banks of $195 million from June 30, 1996. This is a +5 percent variance for the second semiannual period of 1996, which is consistent with the range of −5 percent to +10 percent assumed for purposes of this analysis. Table 1 elaborates on these two components.

Interest Income. Interest income on BIF's investment portfolio averaged $103 million a month for the first six months of 1996. Assuming relatively stable interest rates (i.e. between 5.7 percent and 6.2 percent) through the first semiannual period of 1997, interest income is projected to be between $1.210 billion and $1.316 billion for the twelve months ending June 30, 1997. Table 2 summarizes the effects on the fund balance of the lower bound and upper bound ranges assumed for interest income and insurance losses.

2. Insured Deposits

Recent experience with respect to insured deposit growth has been mixed. While the total amount of BIF-insured deposits has remained essentially unchanged since 1991, there has been substantial volatility historically. Since 1985, annual growth has been as high as 8.7 percent and annual shrinkage as much as 2 percent (see Figure 1). The recent trend has been towards growth; over the last two years there have been only two quarters when insured deposits have shrunk and then only slightly (.01 percent and .03 percent). It should also be noted that the amount of BIF-insured deposits reported for the third quarter may reflect extraordinary growth due to the results of deposit-shifting strategies implemented by

[3] New section 7(b)(2)(A)(iii) provides that the FDIC may set assessments in excess of the amount needed to maintain or achieve the DRR with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized as that term in defined in section 38 of the Federal Deposit Insurance Act, 12 U.S.C. 1831o. The Board has determined that, for purposes of the existing rate structure comprised of the current nine risk classifications, this language should be read as permitting the FDIC to set assessments in excess of the amount needed to maintain or achieve the DRR with respect to institutions other than those with an assessment risk classification of 1A.

This reading of new section 7(b)(2)(A)(iii) was proposed by the Board and published for public comment in the pending SAIF- rate rulemaking proceeding, 61 FR 53867, 53872 (October 16, 1996). The comment period for that rulemaking has now closed, with no opposing comments having been received as to this interpretation. A discussion of the Board's determination to adopt regulations reflecting this interpretation will be included in the Federal Register notice announcing the Board's decision regarding SAIF rates.

[4] In internal discussions, the FDIC staff has recently projected assets of failed BIF institutions to be between $200–$1,050 million through the first half of 1997. Table 1 assumes a 20% loss rate on these assets (staff assumption for institutions with less than $500 million in assets), rounded to the nearest $100 million, and assumes that all of these losses are in addition to the amount of the current reserve.

SAIF-insured institutions prior to enactment of DIFA. In light of this evidence and the experience over the last five years, the FDIC believes that BIF-insured deposits are likely to experience a growth rate in the range of −2 percent to +5 percent between June 1996 and June 1997.

3. BIF Reserve Ratio

Based on the projected BIF balance and the growth of the insured deposit base, the FDIC projects that the BIF reserve ratio will be within the range of 1.25 to 1.38 at June 30, 1997 (Table 3). The lower bound estimate, which produces a 5 basis point decrease below the June 30, 1996, ratio, reflects an assumed increase in the insured deposit base (−6 basis points) with a small offset from an increase in the fund balance (+1 basis point). The large increase in interest income and the effect on the fund balance were mitigated by increased insurance losses. The upper bound estimate, which produces an 8 basis point increase above the June 30, 1996, ratio, reflects an assumed shrinkage of the insured deposit base (+3 basis points) and a large increase in the BIF balance (+5 basis points). In this projection, the impact of the increase in interest income was accentuated by the decrease in insurance losses.

In light of recent trends and current conditions in the banking industry, the FDIC's view is that the lower-bound scenario is not likely to be realized. If this were to occur, however, the current rate schedule still would be sufficient to maintain the target DRR through midyear 1997.

B. Other Considerations

1. Risk-Based Assessment System

The adjusted rate schedule retains the current spread of 27 basis points between the highest- and lowest-rated institutions, as well as the rate spreads among other cells in the assessment rate matrix. The Board has previously determined that, relative to the rate spreads in the assessment rate schedule in effect prior to June 1, 1995—which ranged from 23 to 31 basis points, with a resulting maximum spread of 8 basis points—the current rate spreads provide greater incentives for weaker institutions to improve their condition and for all institutions to avoid excessive risk-taking, consistent with the goals of risk-based assessments. The current rate spreads also provide greater consistency with the historical variation in bank failure rates across cells of the assessment rate matrix.

The continued adjusted rate schedule, which ranges from 0 to 27 basis points, appears in Table 4 along with supplemental data. Table 5 summarizes the distribution of institutions across the risk-based assessment matrix. Estimated annual assessment revenue from this schedule is expected to be $43 million, and the average annual assessment rate is estimated to be 0.17 basis points.

2. Impact on Bank Earnings and Capital

The estimated annual revenue from the existing rate schedule is $43 million. In deciding to continue this schedule, the Board has considered the impact on bank earnings and capital and found no unwarranted adverse effects.

3. Long-Term Outlook

In the past, the Board has expressed the view that an important consideration in setting rates is the long-term revenue needs of BIF. The Board has previously indicated a belief that a balance should exist between long-term BIF revenues and long-term BIF expenses (where expenses include monies needed to prevent dilution due to deposit growth). In August of 1995, the FDIC determined that an effective average BIF assessment rate of 4 to 5 basis points would be appropriate to achieve such a balance. This determination was based on a thorough historical analysis of FDIC experience and consideration of statutory changes in the past few years that may moderate deposit insurance losses going forward. 60 FR 42680 (August 16, 1995).

While the latest available data indicate the continuation of slow growth rates for BIF-insured deposits and minimal BIF insurance losses, there is no clear indication that these developments represent long-term trends. Thus, it could be concluded that an effective average assessment rate of 4 to 5 basis points is still needed to achieve long-term balance.

However, under the existing statutory scheme, the current balance in the BIF also is directly relevant to determining the appropriate assessment schedule for the first semiannual assessment period of 1997. Moreover, in light of the favorable current conditions and the outlook for the next several months, it is anticipated that continuation of the existing rate structure will provide adequate assessment revenue over the near term to prevent BIF from falling below a reserve ratio of 1.25 percent.

For the reasons discussed above, the Board has decided to continue in effect the current adjustment to the BIF assessment rate schedule with a range of 0 to 27 basis points for the semiannual period beginning January 1, 1997.

By order of the Board of Directors.

Dated at Washington, D.C., this 26th day of November, 1996.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

TABLE 1.—CHANGES IN CONTINGENT LIABILITIES AND ALLOWANCE FOR LOSSES [1]

[$ in millions]

	Lower bound	Upper bound
Contingent Liability for Future Cases [2]	$100	$300
Allowance for Losses: Closed Banks [3]	($200)	$400
Total Provision for Losses	($100)	$700

[1] Both projections assume a continuation of current economic conditions during 1997.

[2] The June 30, 1996 BIF balance includes a $100 million reserve for institutions already identified as anticipated failures.

[3] Assumes a range of −5% to 10% of the net recovery value of closed banks ($4.26 billion as of 9/30/96).

TABLE 2.—FUND BALANCE

[$ in millions]

	Lower bound	Upper bound
Revenue:		
Assessments [1]	$43	$43
Interest Income [2]	1,210	1,316
Total revenue	1,253	1,359
Expenses & Losses:		
Operating Expenses [3]	450	450
Provision for Losses	700	(100)
Total Expenses & Losses	1,150	350
Net Income	103	1,009
Fund Balance—6/30/96 [4]	25,888	25,888
Fund Balance—6/30/97	25,991	26,897

[1] Assuming the current assessment rate schedule through June 30, 1997, assessment income is expected to be $43 million for the twelve months from June 30, 1996 to June 30, 1997.

[2] Interest rates are 5.7% (lower bound) and 6.2% (upper bound).

[3] Operating expenses were approximately $38 million a month for the first six months of 1996. Operating expenses are expected to remain the same through June 30, 1997. The savings from corporate downsizing is offset by a higher allocation of overhead expenses to corporate, a result of fewer receiverships.

[4] BIF balance increased by $60 million to reflect the fact that two institutions are no longer likely failures; FDIC expects to reverse the related reserves in the 4th quarter, 1996.

BILLING CODE 6714–01–P

Figure 1

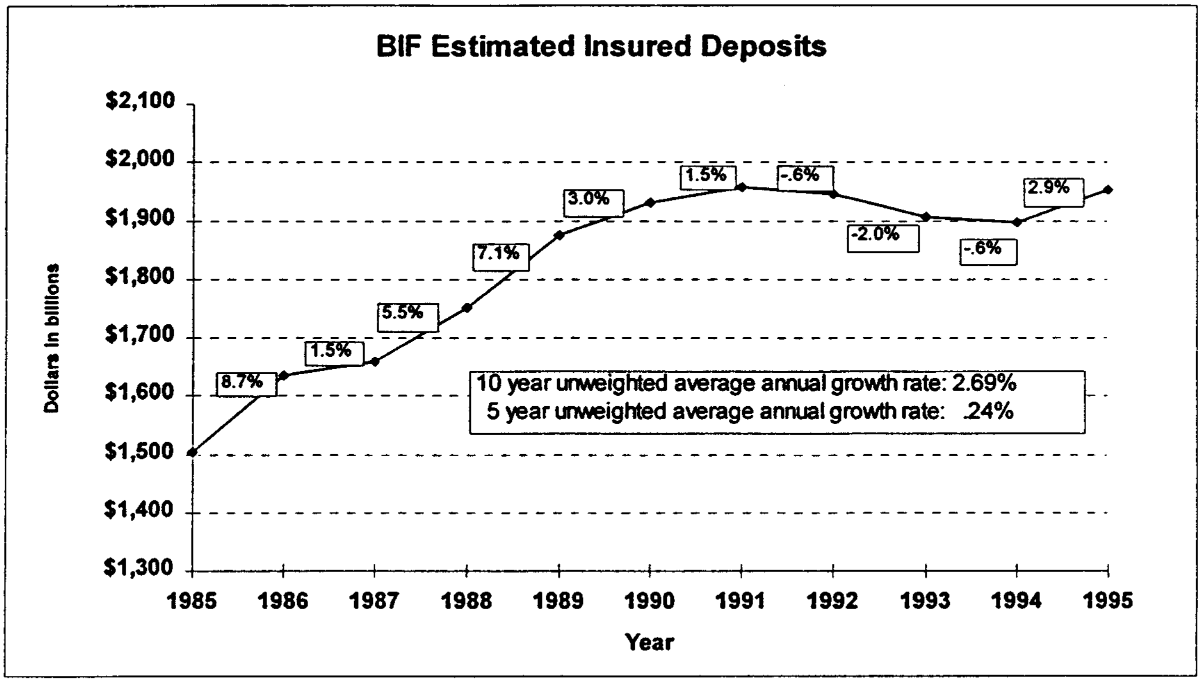

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TABLE 3.—PROJECTED BIF RATIOS

[$ in millions]

	June 30, 1996
Adjusted Fund Balance [1]	$25,888
Estimated Insured Deposits [2]	1,986,578
Adjusted BIF Ratio [1]	1.30

	Lower bound [3] June 30, 1997	Upper bound [4] June 30, 1997
Projected Fund Balance	$25,991	$26,897
Estimated Insured Deposits	2,085,907	1,946,846
Estimated BIF Ratio	1.25	1.38

[1] The BIF balance includes the $60 million reserve reversal for two institutions.

[2] As a result of the DIFA, the SAIF insured deposits of certain Oakar institutions have been decreased by $28.2 billion and their BIF insured deposits have been increased by the same amount. Estimated insured deposits as of 6/30/96 have thus been adjusted by this amount.

[3] The lower bound refers to the scenario of lower interest income (interest rate: 5.7%), higher insurance losses ($700 million) and a higher insured deposit growth rate (+5%).

[4] The upper bound refers to the scenario of higher interest income (interest rate: 6.2%), a reduction in insurance losses (−$100 million) and a shrinkage of the insured deposit base (−2%).

TABLE 4.—ASSESSMENT RATE SCHEDULE FIRST SEMIANNUAL 1997 ASSESSMENT PERIOD BIF-INSURED INSTITUTIONS

Capital group	Supervisory risk subgroups: Group A (bp)	Group B (bp)	Group C (bp)
Well	0	3	17
Adequate	3	10	24
Under	10	24	27

TABLE 5.—BIF ASSESSMENT BASE DISTRIBUTION [1]; DEPOSITS AS OF JUNE 30, 1996 [2]; SUPERVISORY AND CAPITAL RATINGS IN EFFECT JULY 1, 1996

Capital group	Supervisory risk subgroups: A		B		C	
		(percent)		(percent)		(percent)
Well:						
Number	9,538	94.4	368	3.6	59	0.6
Base ($ billion)	2,415.7	96.8	35.9	1.4	3.8	0.2
Adequate:						
Number	73	0.7	19	0.2	17	0.2
Base ($ billion)	32.6	1.3	2.4	0.1	1.5	0.1
Under:						
Number	6	0.1	1	0.0	18	0.2
Base ($ billion)	0.5	0.0	0.3	0.0	1.7	0.1

Estimated annual assessment revenue [3]: $43 million.
Assessment Base: $2,494 billion.
Average annual assessment rate (bp) [3]: 0.17 basis points.

[1] "Number" reflects the number of BIF members and SAIF-member Oakar institutions; "Base" reflects the BIF-assessable deposits of BIF members and SAIF-member Oakar institutions.

[2] Figures do not reflect the adjusted attributable deposit amount reduction for certain BIF-member Oakars, effective 9/30/96.

[3] Assumes a refund of $500 with interest, for BIF 1A institutions and no $1,000 minimum semiannual BIF assessment in 1997.

[FR Doc. 96–30906 Filed 12–5–96; 8:45 am]
BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 902

[No. 96–81]

Procedure for Consideration of Regulatory Waivers

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting a final rule amending its agency operations regulation to include a provision setting forth guidelines for requesting waivers of Finance Board regulatory provisions not required by statute in appropriate circumstances. This final rule is being published in compliance with the Freedom of Information Act, which requires publication of agency rules of procedure.

EFFECTIVE DATE: January 6, 1997.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel (202) 408–2932, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Analysis

Although, as a general rule, an agency may not grant exceptions to its rules in individual cases, even to achieve what the agency believes to be justice in an individual case, courts have held that an agency may, in particular cases of hardship, exercise its discretion and waive regulatory provisions that are not required by statute, where the agency has established a rational process for the granting of waivers. In order to establish guidelines for such a process and to inform interested parties of such guidelines, the Finance Board is amending part 902 of its regulations, 12 CFR part 902, to add a provision governing Finance Board consideration of requests for waivers of provisions of its regulations, 12 CFR ch. IX, that do not implement mandatory statutory requirements.

Any decision to suspend, waive, or grant an exception to a consistently applied general rule is subject to close and careful scrutiny by a reviewing court, although a waiver of a rule that affects the substantive rights or interests of a party is typically subject to a higher