$30,000 and the remaining amount ($720,000) goes to a charity. Under paragraph (e) of this section, the maximum coverage, as to each joint account owner, would be the greater of $500,000 or the aggregate amount (as to each joint owner) of the interest of each different beneficiary named in the trust, to a limit of $100,000 per account owner per beneficiary. The beneficial interests in the trust considered for purposes of determining coverage for account owner A are: $300,000 for the children (three times $100,000), $75,000 for the cousin, $15,000 for the friend and $100,000 for the charity ($360,000 subject to the $100,000 per-beneficiary limitation). As to A, the aggregate amount of the beneficial interests eligible for deposit insurance coverage, thus, is $490,000. Hence, the maximum coverage afforded to joint account owner A would be $500,000, the greater of $500,000 or $490,000 (the aggregate of all the beneficial interests attributable to A, limited to $100,000 per beneficiary). The same analysis and coverage determination also would apply to B.

(2) Notwithstanding paragraph (f)(1) of this section, where the owners of a joint revocable trust account are themselves the sole beneficiaries of the corresponding trust, the account shall be insured as a joint account under section 330.9 and shall not be insured under the provisions of this section. (Example: If A and B establish a payable-on-death account naming themselves as the sole beneficiaries of the account, the account will be insured as a joint account because the account does not satisfy the intent requirement (under paragraph (a) of this section) that the funds in the account belong to the named beneficiaries upon the owners' death. The beneficiaries are in fact the actual owners of the funds during the account owners' lifetimes.)

(g) For deposit accounts held in connection with a living trust that provides for a life-estate interest for designated beneficiaries, the FDIC shall value each such life estate interest as the SMDIA for purposes of determining the insurance coverage available to the account owner.

(h) *Revocable trusts that become irrevocable trusts.* Notwithstanding the provisions in section 330.13 on the insurance coverage of irrevocable trust accounts, a revocable trust account shall continue to be insured under the provisions of this section even if the corresponding revocable trust, upon the death of one or more of the owners thereof, converts, in part or entirely, to an irrevocable trust. (*Example:* Assume A and B have a trust account in connection with a living trust, of which they are joint grantors. If upon the death of either A or B the trust transforms into an irrevocable trust as to the deceased grantor's ownership in the trust, the account will continue to be insured under the provisions of this section.)

(i) This section shall be effective as of September 26, 2008 for all existing and future revocable trust accounts and for existing and future irrevocable trust accounts resulting from formal revocable trust accounts.

Dated at Washington DC, this 26th day of September 2008.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–23058 Filed 9–26–08; 4:15 pm]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 906

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1206

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1701

RIN 2590–AA00

Assessments

AGENCIES: Federal Housing Finance Board; Office of Federal Housing Enterprise Oversight; Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board, Office of Federal Housing Enterprise Oversight and Federal Housing Finance Agency (FHFA) are establishing policy and procedures for the FHFA to impose assessments on the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), and Federal Home Loan Banks (Banks) (collectively, Regulated Entities), through a final rule, pursuant to 12 U.S.C. 4516.

DATES: The final rule will become effective on September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Frank Wright, Senior Counsel (OFHEO), (202) 414–6439; Mark Kinsey, Chief Financial Officer (OFHEO), (202) 414–3816; Michele Horowitz, Chief Financial Officer (FHFB), (202) 408–2878; Janice A. Kaye, Associate General Counsel (FHFB), (202) 408–2505 (not toll free numbers), Fourth Floor, 1700 G Street, NW., Washington DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 30, 2008, the President signed the Federal Housing Finance Regulatory Reform Act of 2008 (Act) (Pub. L. 110–289, 122 Stat. 2564). Among other things, the Act transferred the supervisory and oversight responsibilities over the Banks, Fannie Mae, and Freddie Mac to a new independent executive branch agency known as the Federal Housing Finance Agency. To fund the operations of the FHFA, the Act amended section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act), codified at 12 U.S.C. 4516. The Act also removed the provisions of section 38 of the Federal Home Loan Bank Act, which were codified at 12 U.S.C. 1438(b), that had authorized the Federal Housing Finance Board (FHFB) to impose assessments on the Banks in an amount sufficient to provide for the payment of the FHFB's estimated expenses for the period covered by the assessment. This final rule will implement the FHFA's authority to establish and collect assessments from the Regulated Entities and will also remove the regulatory provisions that had implemented the authority of the Office of Federal Housing Enterprise Oversight (OFHEO) to assess Fannie Mae and Freddie Mac (12 CFR part 1701) and the authority of the FHFB to assess the Banks (12 CFR 906.1–2).

II. Analysis of the Final Rule

In accordance with section 1316A of the Act, part 1206 of the final rule authorizes the FHFA to impose assessments on the Regulated Entities to pay its estimated costs and expenses. *See* 12 U.S.C. 4516. The rule recognizes and addresses the differences between the Banks and the Enterprises, where appropriate.

The final rule authorizes the FHFA to establish annual assessments for the Regulated Entities to provide for the payment of the FHFA's costs and expenses and maintain a working capital fund. The final rule provides for the allocation of the annual assessments between the Enterprises and the Banks, with the Enterprises paying proportional shares sufficient to provide for payment of the costs and expenses

relating to the Enterprises, and the Banks paying proportional shares sufficient to provide for payment of the costs and expenses relating to the Banks. The shares paid by the Enterprises will be based on the proportions of total exposure for the Enterprises, and the shares paid by the Banks will be based on the proportions of their minimum required regulatory capital, a measure based on the capital that the Banks are required to hold by their regulator, rather than a measure of actual capital held. Under this rule, each Regulated Entity must pay an amount equal to one-half of its annual assessment twice each year. This represents a significant change to the assessment procedure of the FHFB, under which the FHFB made an assessment annually and the Banks made payments in monthly installments.

This final rule also establishes the procedure for the FHFA to increase or adjust the amount of the semiannual payment for a Regulated Entity or to make additional assessments for a Regulated Entity, under certain circumstances.

This final rule also implements another significant change in establishing the procedures for collecting funds for a working capital fund for the FHFA, under which the FHFA shall collect those assessments deemed necessary to establish an operating reserve that is intended to provide for the payment of large or multiyear capital and operating expenditures, as well as unanticipated expenses.

The final rule also implements notice and review provisions for the FHFA under which the FHFA will provide to each Regulated Entity written notice of the projected budget for the FHFA for the upcoming year, and the assessments and semiannual payments to be collected under this rule.

Notice and Public Participation

The notice and comment procedure required by the Administrative Procedure Act is inapplicable to this final rule because it is a rule of agency procedure. *See* 5 U.S.C. 553(b)(3)(A).

Paperwork Reduction Act

The regulation does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

Because the FHFA is promulgating part 1206 in the form of a final rule and not as a proposed rule, the provisions of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2), 603(a).

List of Subjects

12 CFR Part 906

Assessments, Federal home loan banks, Government contracts, Minority businesses, Mortgages, Reporting and recordkeeping requirements, Women and minority businesses.

12 CFR Part 1206

Assessments, Federal home loan banks, Government Sponsored Enterprises, Reporting and recordkeeping requirements.

12 CFR Part 1701

Government Sponsored Enterprises, Reporting and recordkeeping requirements.

Authority and Issuance

■ Accordingly, for the reasons stated in the preamble, the Federal Housing Finance Agency hereby amends chapters IX, XII, and XVII of Title 12, Code of Federal Regulations as follows:

Chapter IX—Federal Housing Finance Board

PART 906—OPERATIONS

■ 1. The authority citation for part 906 is revised to read as follows:

Authority: 12 U.S.C. 4516.

Subpart A—[Removed]

■ 2. Remove and reserve subpart A, consisting of §§ 906.1 through 906.2.

Chapter XII—Federal Housing Finance Agency

■ 3. Add Subchapter A, consisting of part 1206 to read as follows:

Subchapter A—Organization and Operations

PART 1206—ASSESSMENTS

Sec.

Authority: 12 U.S.C. 4516.

§ 1206.1 Purpose.

This part sets forth the policy and procedures of the FHFA with respect to the establishment and collection of the assessments of the Regulated Entities under 12 U.S.C. 4516.

§ 1206.2 Definitions.

As used in this part:

Act means the Federal Housing Finance Regulatory Reform Act of 2008.

Adequately capitalized means the adequately capitalized capital classification under 12 U.S.C. 1364 and related regulations.

Director means the Director of the Federal Housing Finance Agency or his or her designee.

Enterprise means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and ''Enterprises'' means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Federal Home Loan Bank, or *Bank,* means a Federal Home Loan Bank established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432).

FHFA means the Federal Housing Finance Agency.

Minimum required regulatory capital means the highest amount of capital necessary for a Bank to comply with any of the capital requirements established by the Director and applicable to it.

Regulated Entity means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any of the Federal Home Loan Banks.

Surplus funds means any amounts that are not obligated as of September 30 of the fiscal year for which the assessment was made.

Total exposure means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets and off-balance sheet obligations that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

(1) On-balance sheet assets;

(2) Guaranteed mortgage-backed securities; and

(3) Other off-balance sheet obligations as determined by the Director.

Working capital fund means an account for amounts collected from the Regulated Entities to establish an operating reserve that is intended to provide for the payment of large or multiyear capital and operating expenditures, as well as unanticipated expenses.

§ 1206.3 Annual assessments.

(a) *Establishing assessments.* The Director shall establish annual assessments on the Regulated Entities in an amount sufficient to maintain a working capital fund and provide for the payment of the FHFA's costs and expenses, including, but not limited to:

(1) Expenses of any examinations under 12 U.S.C. 4517 and section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440);

(2) Expenses of obtaining any reviews and credit assessments under 12 U.S.C. 4519;

(3) Expenses of any enforcement activities under 12 U.S.C. 3645;

(4) Expenses of other FHFA litigation under 12 U.S.C. 4513;

(5) Expenses relating to the maintenance of the FHFA records relating to examinations and other reviews of the Regulated Entities;

(6) Such amounts in excess of actual expenses for any given year deemed necessary to maintain a working capital fund;

(7) Expenses relating to monitoring and ensuring compliance with housing goals;

(8) Expenses relating to conducting reviews of new products;

(9) Expenses related to affordable housing and community programs;

(10) Other administrative expenses of the FHFA;

(11) Expenses related to preparing reports and studies;

(12) Expenses relating to the collection of data and development of systems to calculate the House Price Index (HPI) and the conforming loan limit;

(13) Amounts deemed necessary by the Director to wind up the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board; and

(14) Expenses relating to other responsibilities of the FHFA under the Safety and Soundness Act, the Federal Home Loan Bank Act and the Act.

(b) *Allocating assessments.* The Director shall allocate the annual assessments as follows:

(1) *Enterprises.* Assessments collected from the Enterprises shall not exceed amounts sufficient to provide for payment of the costs and expenses relating to the Enterprises as determined by the Director. Each Enterprise shall pay a proportional share that bears the same ratio to the total portion of the annual assessment allocated to the Enterprises that the total exposure of each Enterprise bears to the total exposure of both Enterprises.

(2) *Federal Home Loan Banks.* Assessments collected from the Banks shall not exceed amounts sufficient to provide for payment of the costs and expenses relating to the Banks as determined by the Director. Each Bank shall pay a *pro rata* share of the annual assessments based on the ratio between its minimum required regulatory capital and the aggregate minimum required regulatory capital of every Bank.

(c) *Timing and amount of semiannual payment.* Each Regulated Entity shall pay on or before October 1 and April 1 an amount equal to one-half of its annual assessment.

(d) *Surplus funds.* Surplus funds shall be credited to the annual assessment by reducing the amount collected in the following semiannual period by the amount of the surplus funds. Surplus funds shall be allocated to all Regulated Entities in the same proportion in which they were collected, except as determined by the Director.

§ 1206.4 Increased costs of regulation.

(a) *Increase for inadequate capitalization.* The Director may, at his or her discretion, increase the amount of a semiannual payment allocated to a Regulated Entity that is not classified as adequately capitalized to pay additional estimated costs of regulation of that Regulated Entity.

(b) *Increase for enforcement activities.* The Director may, at his or her discretion, adjust the amount of a semiannual payment allocated to a Regulated Entity to ensure that the Regulated Entity bears the estimated costs of enforcement activities under the Act related to that Regulated Entity.

(c) *Additional assessment for deficiencies.* At any time, the Director may make and collect from any Regulated Entity an assessment, payable immediately or through increased semiannual payments, to cover the estimated amount of any deficiency for the semiannual period as a result of increased costs of regulation of a Regulated Entity due to its classification as other than adequately capitalized, or as a result of enforcement activities related to that Regulated Entity. Any amount remaining from such additional assessment and the semiannual payments at the end of any semiannual period during which such an additional assessment is made shall be deducted *pro rata* (based upon the amount of the additional assessments) from the assessment for the following semiannual period for that Regulated Entity.

§ 1206.5 Working capital fund.

(a) *Assessments.* The Director shall establish and collect from the Regulated Entities such assessments he or she deems necessary to maintain a working capital fund.

(b) *Purposes.* Assessments collected to maintain the working capital fund shall be used to establish an operating reserve and to provide for the payment of large or multiyear capital and operating expenditures as well as unanticipated expenses.

(c) *Remittance of excess assessed funds.* At the end of each year for which an assessment under this section is made, the Director shall remit to each Regulated Entity any amount of assessed and collected funds in excess of the amount the Director deems necessary to maintain a working capital fund in the same proportions as paid under the most recent annual assessment.

§ 1206.6 Notice and review.

(a) *Written notice of budget.* The Director shall provide to each Regulated Entity written notice of the projected budget for the Agency for the upcoming fiscal year. Such notice shall be provided at least 30 days before the beginning of the applicable fiscal year.

(b) *Written notice of assessments.* The Director shall provide each Regulated Entity with written notice of assessments as follows:

(1) *Annual assessments.* The Director shall provide each Regulated Entity with written notice of the annual assessment and the semiannual payments to be collected under this part. Notice of the annual assessment and semiannual payments shall be provided before the start of the new fiscal year.

(2) *Immediate assessments.* The Director shall provide each Regulated Entity with written notice of any immediate assessments to be collected under § 1206.4 of this chapter. Notice of any immediate assessment and the required payments shall be provided at such reasonable time as determined by the Director.

(3) *Changes to assessments.* The Director shall provide each Regulated Entity with written notice of any changes in the assessment procedures that the Director, in his or her sole discretion, deems necessary under the circumstances.

(c) *Request for review.* At the written request of a Regulated Entity, the Director, in his or her discretion, may review the calculation of the proportional share of the annual assessment, the semiannual payments, and any partial payments to be collected under this part. The determination of the Director upon such review is final. Except as provided by the Director, review by the Director does not suspend the requirement that the Regulated Entity make the semiannual payment or partial payment on or before the date it is due. Any adjustments determined appropriate shall be credited or otherwise addressed by the following year's assessment for that entity.

§ 1206.7 Delinquent payment.

The Director may assess interest and penalties on any delinquent semiannual payment or other payment assessed under this part in accordance with 31 U.S.C. 3717 (interest and penalty on claims) and part 1704 of this title (debt collection).

§ 1206.8 Enforcement of payment.

The Director may enforce the payment of any assessment under 12 U.S.C. 4631 (cease-and-desist proceedings), 12 U.S.C. 4632 (temporary cease-and-desist orders), and 12 U.S.C. 4626 (civil money penalties).

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development

PART 1701—[REMOVED]

■ 4. Remove part 1701.

Dated: September 25, 2008.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E8–23046 Filed 9–26–08; 4:15 pm]

BILLING CODE 4220–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 163, and 178

[Docket No. USCBP–2007–0062; CBP Dec. 08–24]

RIN 1505–AB82

Haitian Hemispheric Opportunity Through Partnership Encouragement Acts of 2006 and 2008

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, interim amendments to title 19 of the Code of Federal Regulations which were published in the **Federal Register** on June 22, 2007, as CBP Dec. 07–43 to implement the duty-free provisions of the Haitian Hemispheric Opportunity through Partnership Encouragement (''HOPE I'') Act of 2006. The regulatory amendments adopted as a final rule in this document include changes necessitated by enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement (''HOPE II'') Act of 2008.

DATES: This final rule is effective on September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Textile Operational Aspects: Robert Abels, Office of International Trade, (202) 863–6503.

Other Operational Aspects: Heather Sykes, Office of International Trade, (202) 863–6099.

Legal Aspects: Cynthia Reese, Office of International Trade, (202) 572–8812, or Craig Walker, Office of International Trade, (202) 572–8836.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 2007, interim regulations were promulgated to implement the duty-free provisions of the Haitian Hemispheric Opportunity through Partnership Encouragement (''HOPE I'') Act of 2006. The regulatory amendments adopted as a final rule in this document include changes necessitated by the June 18, 2008 enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement (''HOPE II'') Act of 2008. Detailed information on both the HOPE I and HOPE II Acts follows.

Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2006

On December 20, 2006, the President signed into law the Tax Relief and Health Care Act of 2006 (''the 2006 Act''), Public Law 109–432, 120 Stat. 2922. Title V of the Act concerns the extension of certain trade benefits to Haiti and is referred to in the Act as the ''Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006'' (''HOPE I Act'').

Section 5002 of the Act amended the Caribbean Basin Economic Recovery Act (the CBERA, also referred to as the Caribbean Basin Initiative, or CBI, statute codified at 19 U.S.C. 2701–2707) by adding a new section 213A, entitled ''Special Rules for Haiti'' and codified at 19 U.S.C. 2703A, to authorize the President to extend additional trade benefits to Haiti for a five-year period (ending on December 19, 2011) if the President determines that the country meets certain specified eligibility conditions and requirements. As created by the HOPE I Act, section 213A of the CBERA consisted of six principal subsections, each of which is summarized below.

Subsection (a) of section 213A of the CBERA set forth definitions of several terms used in section 213A. Subsection (b) of section 213A specified the conditions and requirements that must be met for certain apparel articles from Haiti to receive duty-free treatment. Subsection (c) of section 213A of the CBERA provided for the duty-free treatment of any article classifiable in subheading 8544.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS) (wiring sets), as in effect on December 20, 2006, that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States, provided a specified value-content requirement is met.

Subsection (d) of section 213A set forth certain eligibility requirements that Haiti must meet as a prerequisite for articles to receive duty-free treatment under this section. This subsection required that the President determine whether Haiti met these requirements within 90 days after the date of enactment of the HOPE Act (or by March 20, 2007).

Subsection (e) of section 213A (redesignated as subsection (f) by HOPE II Act) provided that preferential tariff treatment for apparel articles under this section shall not apply unless the President certifies to Congress that Haiti is meeting certain conditions, such as the adoption of an effective visa system, that are primarily intended to avoid illegal transshipment situations.

Subsection (f) of section 213A (redesignated as subsection (g) by HOPE II Act) provided that the President shall issue regulations to carry out this section not later than 180 days after the date of enactment of the HOPE Act. Section 213A(f) further provided that the President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such regulations. CBP consulted with the Committee on Ways and Means and the Committee on Finance regarding the implementing interim regulations.

For a more detailed description of the statutory provisions set forth in the HOPE I Act, please see CBP Dec. 07–43.

On March 19, 2007, the President signed Proclamation 8114 to implement the provisions of the HOPE I Act, among other purposes. The Proclamation, which was published in the **Federal Register** on March 22, 2007 (72 FR 13655), included determinations by the President that Haiti (1) meets the eligibility requirements set forth in section 213A(d) of the CBERA and (2) is meeting the conditions set forth in section 213A(e) (redesignated as section 213A(f) by HOPE II). The Proclamation also modified subchapter XX of Chapter 98 of the Harmonized Tariff Schedule of the United States (''HTSUS'') as set forth in Annex 1 to the Proclamation. The