

Dated: December 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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FARM CREDIT ADMINISTRATION

12 CFR Parts 600, 603, 611, 614, 615, 618, and 619

RIN 3052-AB61

Organization and Functions; Privacy Act Regulations; Organization; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Definitions

AGENCY: Farm Credit Administration.

ACTION: Interim rule; request for comment.

SUMMARY: The Farm Credit Administration (FCA or Agency) through the Farm Credit Administration Board (Board) amends the current regulations in parts 600, 603, 611, 614, 615, 618, and 619 to eliminate unnecessary, outdated, duplicative, or burdensome regulatory requirements, to replace outdated regulatory language with more current terminology, and to clarify the intended meaning of certain regulatory provisions. This is an interim rule, with request for comment, because the changes cover issues that are primarily technical in nature.

DATES: The regulations shall be effective upon the expiration of 30 days after publication during which either or both houses of Congress are in session. Written comments must be received on or before January 31, 1997. Notice of effective date will be published in the Federal Register.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 or by facsimile at (703) 734-5784. Comments may also be submitted via electronic mail to "reg-comm@fca.gov". Copies of all communications received will be available for review by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102-

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or

Wendy R. Laguarda, Senior Attorney, Legal Counsel Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. Basic Objectives for Interim Regulation

The FCA is continuing efforts to streamline its regulations as part of its commitment to the principles contained in the Board's Policy Statement on Regulatory Philosophy (Policy Statement). See 60 FR 26034 (May 16, 1995). Pursuant to the Policy Statement, the FCA will strive to ensure that each regulation has a well-defined objective that addresses specific problems or risks. The Policy Statement commits the FCA to repeal regulations that prescribe detailed management and operational practices for Farm Credit System (System) institutions and that are not needed to enhance safe and sound bank operations. It is in furtherance of these objectives that the Agency is making a number of deletions, clarifications, and technical amendments to its regulations.

II. Background Information

As part of its ongoing efforts to streamline the regulatory process, the Agency took the following initiatives to determine ways to reduce regulatory burden:

A. The establishment of an FCA task force, pursuant to the Agency's Strategic Action Plan, to eliminate nonstatutory prior approvals of routine business matters;

B. A 1993 Solicitation for Public Comments concerning ways to reduce regulatory burden (See 58 FR 34003, June 23, 1993);

C. The consideration of Regulatory Petitions submitted by the public that recommended certain changes to existing regulations;

D. The establishment of an FCA task force on agricultural credit bank (ACB) issues to evaluate the need for technical changes to existing regulations in order to include ACBs; and

E. The consideration of FCA staff submissions containing suggestions for regulatory deletions and amendments.

Substantive issues arising from such actions have been incorporated into existing or new Agency regulatory projects. In order to provide regulatory relief in the most expeditious manner possible, remaining non-substantive and

technical issues are addressed in this regulation.

III. Section-by-Section Analysis

1. 12 CFR 600.5 (Subpart A)—Farm Credit Administration

This section is amended to reflect the Agency's recent organizational changes.

2. 12 CFR 603.310 (b)—Privacy Act Regulations

This section is amended to reflect the fact that the Privacy Act Officer position has moved from the Office of Congressional and Public Affairs to the Office of General Counsel.

3. 12 CFR 611.1135 (Subpart I)—Service Organizations

Section 611.1135(e) requires prior approval by the FCA for amending the bylaws of service corporations. Section 4.25 of the Farm Credit Act of 1971, as amended (Act) authorizes the FCA to charter service corporations. However, section 5.17(b) of the Act provides that the FCA shall not have the authority to approve bylaws, or amendments, modifications or changes to bylaws, of System institutions. Further, § 4.26 of the Act no longer authorizes the FCA to approve bylaws of service corporations. Thus, the FCA is deleting § 611.1135(e) and removing the FCA prior approval requirement for amendments to bylaws for service corporations.

As part of the normal chartering application process, service corporation bylaws will continue to be reviewed by the FCA. Such review will be limited, however, to whether the bylaws violate any statutory, regulatory or safety and soundness provisions.

Under the Farm Credit System Reform Act of 1996, Pub. L. 104-105, 110 Stat. 162, February 10, 1996, associations are authorized to form service corporations. Technical changes to make § 611.1135 consistent with the 1996 legislation have been incorporated into the interim rule. This rule also replaces outdated language with more current terminology. For example, the word "Chairman" is deleted, and in its place the words "Farm Credit Administration" are inserted.

4. 12 CFR 611.1140 and 611.1145 (Subpart J)—Merger and Reorganization Proposals Required by the Agricultural Credit Act of 1987

The FCA is deleting all of subpart J. These regulations were issued to facilitate the consolidation of System institutions as required by section 412 of the Agricultural Credit Act of 1987. All consolidations were required to be completed by January 1, 1990. Hence, these regulations, including the FCA

prior approval requirements in §§ 611.1140(d) and 611.1145(c), have become obsolete.

5. *12 CFR 611.1155, 611.1157, 611.1158, 611.1160, 611.1161, 611.1162, 611.1163, 611.1164, 611.1166, 611.1167, 611.1168, 611.1169, 611.1170, 611.1171, 611.1172, 611.1173, 611.1174, 611.1175, 611.1176, 611.1180, 611.1181, 611.1182, and 611.1183 (Subparts K, L, M and N)—Appointment of Conservators and Receivers, Liquidation of Associations, Liquidation of Banks, and Conservators and Conservatorships of Banks and Associations*

Subparts K through N address System conservatorships or receiverships in which the identity of the conservator or receiver is left to the discretion of the FCA. Pursuant to section 4.12 of the Act, after January 5, 1993, the Farm Credit System Insurance Corporation (FCSIC) is the sole entity that may be appointed by the FCA as receiver or conservator for System institutions (except the Federal Agricultural Mortgage Corporation) placed into conservatorship or receivership. Future conservatorships or receiverships of System institutions are governed by 12 CFR part 627. As there are no outstanding System receiverships or conservatorships, the regulations in subparts K–N are obsolete. An issue was raised regarding whether a System institution may liquidate or dissolve through means other than a receivership. This issue is substantive and will be addressed at a later date.

Finally, the FCA previously proposed changes to §§ 611.1155 and 611.1157 pertaining to the definition of insolvency (See 53 FR 43897, October 31, 1988). In this rulemaking, the FCA is deleting both these sections and therefore withdrawing any outstanding proposals on these regulations. Any remaining issues pertaining to the definition of insolvency will be addressed in the Capital—Phase III (RIN 3052–AB58) regulatory project.

6. *12 CFR 611.1190, 611.1191, 611.1192, 611.1193, 611.1194, 611.1195, 611.1196, 611.1197, 611.1198 (Subpart O)—Special Reconsideration of Mergers*

The regulations in subpart O implement the provisions of the Agricultural Credit Act of 1987 relating to special reconsideration of voluntary mergers and consolidations that occurred after December 23, 1985, and prior to January 6, 1988. System associations had 1 year, until December 1989, to reconsider these mergers. As this regulation is obsolete, the FCA is deleting all of subpart O.

7. *12 CFR 614.4321 (Subpart G)—Interest Rates and Charges*

Section 614.4321 currently defines the types of interest rate programs that may be utilized by System banks and associations. This section also requires the FCA's prior approval of specific criteria for differential interest rate programs.

The FCA has concluded that defining the types of interest rate programs and requiring the FCA's prior approval are no longer necessary. Also, the last sentence in § 614.4321(d) is duplicative of direction already found in the Other Financing Institutions regulation at § 614.4640. Accordingly, the FCA is deleting most of this section. However, the section on differential interest rates is being retained in order to set forth the requirement that System institutions adhere to the principle of nondiscrimination among similarly situated borrowers in setting differential interest rates.

8. *12 CFR 614.4444 (Subpart L)—Actions on Applications; Review of Credit Decisions*

The interim regulation eliminates all references to Special Asset Groups and the National Special Assets Council, as these entities no longer exist. The interim regulation also revises the last two sentences of this paragraph to clarify that System institutions must continue to retain sufficient documentation of their reasons not to restructure a loan to permit the institution or an outside party, such as the FCA, to review each determination. The FCA considers this change to be technical in nature because this is not a new requirement. The above change permits the review of a decision not to restructure a loan to be conducted by a System institution or an outside party such as the FCA, rather than by the defunct Special Asset Groups or the National Special Asset Council.

9. *12 CFR 614.4510 (Subpart N)—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal*

Section 614.4510 prescribes guidelines for bank and association loan servicing activities. Specifically, paragraph (b) requires the district bank to provide guidelines for establishing loan servicing policies and procedures for associations. Paragraph (d)(4) of this section requires System institutions to provide the FCA with any revisions to loan servicing policies. Consistent with the FCA Board's emphasis on holding direct lender associations responsible for their lending activities, the Agency

is deleting paragraphs (b) and (d)(4). The funding bank's involvement in association loan servicing policies will continue to be monitored through its direct loan and the general financing agreement. Further, these policies will continue to be reviewed as part of the normal examination process. The interim rule also replaces outdated terminology to describe correctly the types of System institutions to which this section applies.

10. *12 CFR 614.4515(b), 614.4516, 614.4517(c), and 614.4520 (Subpart N)—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal*

The interim rule eliminates § 614.4515(a)(2), (b)(1) and (b)(2) because they contain a statutory requirement relating to restructuring policy and reporting that expired on January 6, 1993. The remainder of § 614.4515(a) is incorporated in the introductory paragraph of § 614.4516, retitled "Restructuring policy and procedures."

The FCA is adding a new paragraph (c), entitled "Documentation," to § 614.4517 regarding restructuring decisions. The new paragraph clarifies that, when an application for restructuring is denied, qualified lenders must maintain sufficient documentation to support their decision. The documentation should demonstrate that the institution considered all the applicable factors for determining whether to restructure a loan, as set forth in paragraphs (a) and (b) of this section.

In addition, the FCA is deleting all of § 614.4520. The Farm Credit System Assistance Board (Assistance Board) established the National Special Asset Council in June 1988 to ensure that Federal financial assistance to financially distressed farmers provided loan restructuring measures as alternatives to foreclosure. The Assistance Board's charter was canceled by the FCA Board, effective December 31, 1992, as required by § 6.12 of the Act. The FCA Board also dissolved the National Special Asset Council effective December 31, 1992. There are no longer any "certified" institutions remaining in the System today and, thus, this section is no longer necessary.

11. *12 CFR 614.4525(d) (Subpart O)—Special Lending Programs*

The interim rule removes the requirement that System lenders obtain the approval of their respective banks' board of directors prior to entering into a memorandum of understanding with other lenders when processing loans to

mutual borrowers. Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe needlessly detailed management and operational practices, the FCA believes that it is reasonable for System institutions to decide their own policies on these matters. This rule also replaces outdated language with more current terminology.

12. 12 CFR 615.5140(a)(1) (Subpart E)—Investment Management

Currently § 615.5140(a)(1) permits System banks to invest in obligations that are both "issued and guaranteed" by agencies and instrumentalities of the United States. The FCA intended to preclude System banks from acquiring securities that are not guaranteed by Federal agencies or instrumentalities. However, an unintended consequence of § 615.5140(a)(1) was to prohibit System banks from investing in non-governmental obligations that are not issued, but are guaranteed or insured, by a Federal agency or instrumentality.

For this reason, the FCA is amending § 615.5140(a)(1) to include the following as eligible investments: Obligations of the United States; full-recourse obligations, other than mortgage-backed securities, of agencies, instrumentalities or corporations of the United States; or debt obligations of other obligors that are fully insured or guaranteed as to both principal and interest by the United States, its agencies, instrumentalities, or corporations. This amendment will provide System banks with the flexibility they need to achieve the investment objectives specified in § 615.5132.

13. 12 CFR 615.5250 (Subpart I)—Issuance of Equities

Section 615.5250 requires System banks and associations to disclose certain information to purchasers of an institution's equities. An exception in § 615.5250(e) relieves System institutions from making disclosures to "other financing institutions having a discount or lending relationship with the selling Farm Credit System institutions." This regulation was intended to grant System institutions relief from disclosing equity information to sophisticated or institutional investors in System equities. System institutions have inquired whether the exemption in § 615.5250(e) applies to those non-System lenders that purchase System equities as part of a loan participation transaction. In response to these inquiries, the FCA is clarifying § 615.5250(e) by including "other financing institutions" as defined in § 1.7(b) of the Act, as well as other

System institutions and non-System lenders. The interim rule is consistent with the FCA's approach concerning disclosures to shareholders because the disclosure requirements in § 615.5250 are not necessary for financial institutions and other sophisticated investors. This clarification also eliminates an unnecessary regulatory burden on the System and facilitates loan participation arrangements between System institutions and non-System institutions.

14. 12 CFR 618.8260 (Subpart F)—Miscellaneous Provisions

This section sets forth procedures by which System banks may purchase automobiles through the General Services Administration (GSA). This regulation is rarely used and contains an unnecessary prior approval in § 618.8260(b).

The authority for System banks to make such purchases exists whether or not it is specified in an FCA regulation. Accordingly, the Agency is deleting all of § 618.8260. System banks that desire guidance on how to proceed may contact the GSA directly, or may request additional information from the FCA's Contracting and Procurement Branch.

15. 12 CFR 618.8310(b) (Subpart G)—Releasing Information

In connection with the regulatory burden project (See 58 FR 34003, June 23, 1993), an association submitted comments to the FCA concerning the provisions of § 618.8310(b). This regulation prescribes circumstances under which a System institution can release lists of its stockholders. The association expressed a concern that the regulation imposed an undue burden on System institutions in determining what constitutes a "permissible purpose" and whether System institutions can enforce the regulatory provision after releasing a stockholder list. It is neither feasible nor advisable to amend this section to provide a comprehensive list of every permissible purpose for requesting and using a stockholder list. The Agency will provide additional interpretive guidance directly to the concerned association and to any other interested parties.

The interim rule also replaces outdated language with more current terminology.

16. 12 CFR 618.8320 (Subpart G)—Releasing Information

The existing regulation prohibits System institutions from releasing information regarding borrowers and loan applicants except in specified circumstances. The FCA received a

letter from a System bank requesting clarification on whether releasing borrower information to credit bureaus was permitted by this regulation, as the "reliable organization" exception in § 618.8320(b)(5) does not make this clear.

The FCA believes that credit bureaus should be among the types of reliable organizations contemplated by this regulation. To make this clear, the interim rule amends § 618.8320(b)(5) by expressly authorizing System institutions to provide borrower information to consumer reporting agencies.

Section 618.8320(b)(2) permits System institutions to provide borrower data to specified Federal agencies in connection with official investigations. The list in the regulation is outdated and restrictive. To facilitate communications between the System and Federal law enforcement authorities investigating possible borrower misconduct, § 618.8320(b)(2) has been modified to replace the list of Federal agencies with a generic reference to all Federal agencies with a legitimate law enforcement inquiry.

Finally, a technical change was made to delete § 618.8320(b)(9) because it refers to the National Special Asset Council, an entity which no longer exists.

17. 12 CFR 618.8330 and 618.8340 (Subpart G)—Releasing Information

During the regulatory burden project (See 58 FR 34003, June 23, 1993), the FCA received two letters from System institutions requesting clarification of the legal circumstances under which System institution personnel could be summoned as witnesses. Their first concern was that requiring System personnel to formally inform the court of the FCA's regulations was burdensome. After reviewing the issue the Agency has determined that, contrary to being a burden, this regulation provides System directors, officers or employees with a means to resist complying with a subpoena that requests the disclosure of confidential information in violation of FCA regulations, except as ordered by a court of law. Their second concern pertains to the requirements of § 618.8330(b) to consult with an attorney at their funding bank when System personnel are summoned as a witness. The Agency agrees that this requirement is burdensome and unnecessary. Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe needlessly detailed management and operational

practices, the FCA is deleting § 618.8330(b).

Upon review of the regulation at § 618.8340, which requires the approval of the supervising funding bank before releasing lists of bank and association employees, the FCA has determined to delete it in its entirety. Consistent with the FCA Board's regulatory philosophy, the FCA believes that it is reasonable for System institutions to decide their own policies on these matters.

18. 12 CFR 618.8360 and 618.8370 (Subpart H)—Disposition of Obsolete Records

This subpart currently requires System institutions to maintain records indefinitely and to maintain an "up-to-date records disposal schedule." Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe unnecessarily detailed management and operational practices, the FCA is proposing to delete this subpart, including the list of appropriate records retention practices in the current § 618.8360. The FCA believes that System institutions have the discretion to dispose of any records that are not required for research, legal, audit or examination purposes. In accordance with good business practices, records retention policies should be set forth in written procedures approved by an institution's board.

The FCA may issue further guidance (such as in a booklet or examination manual) regarding what records System institutions should retain so that they may be adequately examined for safety and soundness purposes.

Section 618.8360(a)(3) requires System institutions to retain basic personnel records, including personnel folders, service records, cards, and earning records for all active and former employees covered under the Civil Service Retirement Act (CSRA). These records were necessary to ensure that employees eligible for Civil Service retirement received appropriate benefits. The FCA is deleting this requirement because our research indicates that there are only three remaining System employees eligible for CSRA benefits, and their personnel offices are aware of the appropriate Office of Personnel Management requirements.

Finally, § 618.8360(a)(6) currently requires System institutions to keep financial reports as of June 30 and December 31 of each year. Although the FCA is deleting § 618.8360(a)(6), the call report instructions will continue to require System institutions to keep such financial reports.

19. 12 CFR 618.8380, 618.8390, 618.8400, 618.8410, and 618.8420 (Subpart I)—Federal Records

This subpart pertains to the maintenance and disposal of Federal records. The Federal records held by the System institutions are the property of the Federal government rather than the property of the System or the FCA. These records must be handled in accordance with the laws and regulations governing all Federal records, and there are penalties attached to the unauthorized disposal of Federal records. The National Archives and Records Administration is the Federal agency responsible for promulgating rules and regulations on the management and disposal of Federal records.

Although no new Federal records are being created in the System today, some System institutions may still be in possession of Federal records as described in current § 618.8390. Because most of these records would be over 40 years old, the FCA assumes that their number is limited and that most, if not all, could be destroyed or archived. The FCA believes that future guidance on their maintenance and disposition is more appropriately the subject of a booklet. Therefore, the Agency is deleting all of subpart I. The FCA requests that any System institution with records as described in § 618.8390 notify the Agency during the comment period of the types of Federal records in their possession. The goal is to identify all Federal records still retained by System institutions so that they can either be destroyed (at the institution's discretion) or archived, as appropriate.

IV. Agricultural Credit Banks

In 1987, the Act was amended to allow the System to form agricultural credit banks (ACBs). An ACB is formed by the merger of a Farm Credit Bank (FCB) and a bank for cooperatives (BC). Pursuant to section 7.2 of the Act, an ACB is granted all of the powers of its constituent FCB and BC. The FCA reviewed its regulations to determine whether or not technical changes were needed to adapt the rules to ACBs. The ACB review highlighted the need for technical amendments to the regulations. Set forth below is a discussion of issues involving ACBs that are technical in nature. A complete listing of the technical edits can be found in the amendatory language following the preamble.

A. Definition of Bank for Cooperatives

Currently, the definition of a bank for cooperatives in § 619.9060 reads as follows, "Banks operating under title III of the Act, including the National Bank for Cooperatives, individual and regional banks for cooperatives and agricultural credit banks." There is a separate definition of ACBs in § 619.9020 that reads as follows, "Agricultural credit banks are those banks created by the merger of a Farm Credit Bank and a bank for cooperatives pursuant to section 7.0 of the Act." The current definition of a BC serves to ensure that an ACB is subject to the same constraints as a BC on its title III lending authorities. However, this BC definition is insufficient because it does not address the title I authorities of an ACB. As currently written, § 619.9060 has the effect of excluding ACBs from various regulatory provisions. For example, BCs are not subject to the regulations relating to borrower rights, loan disclosures, and secondary market activities.

For all the foregoing reasons, the FCA is keeping the definitions of an ACB and a BC separate by revising the definition of BC to read as follows, "A bank for cooperatives is a bank that is operating under section 3.0 of the Act." The definition of an ACB will continue to read as currently set forth in § 619.9020. The definition of a BC also strikes the obsolete reference to the National Bank for Cooperatives, whose charter was canceled in 1994, when CoBank and the Springfield FCB and BC merged to create CoBank, ACB.

B. Borrower Rights

When the FCA approved the formation of the first ACB in 1994, it addressed the issue of whether borrower rights provisions would apply to the new entity. In approving the new charter, the FCA confirmed that the ACB would not be subject to the borrower rights provisions of title IV, part C of the Act, except to the extent that it lends to farmers, ranchers, and producers and harvesters of aquatic products. Thus, the FCA concluded that the borrower rights provisions attach to all loans made under an ACB's title I lending authorities.

Many of the current regulations pertaining to borrower rights exclude a BC from the definition of "qualified lender." By revising the definition of a BC as discussed above, ACBs would now be included in the definition of "qualified lender" to the extent of their title I lending authorities. Therefore, no additional regulatory language changes have been made to the borrower rights

provisions, except for technical corrections in §§ 614.4440(h)(1) and 614.4510, in which outdated language is replaced by more current terminology.

C. Termination of Farm Credit Status

Several technical changes have been made to the regulatory provisions pertaining to the termination of Farm Credit status at §§ 611.1200(c), 611.1250(b) and (c), 611.1255, 611.1266(c). These changes include adding the phrase “or agricultural credit bank” and deleting or replacing outdated language with more current terminology, where necessary.

D. Miscellaneous Technical Changes

Several technical changes have been made to various regulatory provisions at §§ 615.5120(a), 615.5143, 615.5280, 615.5290(a), 618.8310(b)(1) and 618.8325(c). These changes include adding the phrase “or agricultural credit bank” and deleting or replacing outdated language with more current terminology, as appropriate.

List of Subjects

12 CFR Part 600

Organization and functions (Government agencies).

12 CFR Part 603

Privacy.

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

For the reasons stated in the preamble, parts 600, 603, 611, 614, 615, 618, and 619 of chapter VI, title 12 of the Code of Federal Regulations, are amended to read as follows:

PART 600—ORGANIZATION AND FUNCTIONS

1. The authority citation for part 600 is revised to read as follows:

Authority: Secs. 5.7, 5.8, 5.9, 5.10, 5.11, 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2241, 2242, 2243, 2244, 2245, 2252, 2279aa–11).

Subpart A—Farm Credit Administration

2. Section 600.5 is amended by removing the words “Special Supervision and Corporate Affairs” and adding in their place the words “Policy Development and Risk Control” in the fourth sentence of paragraph (b); removing the words “coordinates the agency’s preparation of rules and regulations;” in the first sentence of paragraph (d)(1); and by revising paragraph (d)(2) to read as follows:

§ 600.5 Organization of the Farm Credit Administration.

* * * * *

(d) * * *

(2) *Office of Policy Development and Risk Control.*

The Office of Policy Development and Risk Control (OPDRC) develops policies and regulations for the FCA Board’s consideration and promotes risk management policies and practices by the Farm Credit System. The OPDRC has primary responsibility for developing regulatory proposals and public policy statements that effectively implement applicable statutes and promote the safety and soundness of the System. Other major functions include evaluating requests for regulatory and charter approvals and managing the FCA’s corporate activities; ensuring that risks associated with chartering activities are properly disclosed to System shareholders and the FCA Board; managing the FCA’s formal enforcement activities and providing economic and financial analyses that identify risk and contribute to the effective management of such risks. The OPDRC also facilitates the FCA’s strategic planning function.

* * * * *

PART 603—PRIVACY ACT REGULATIONS

3. The authority citation for part 603 is revised to read as follows:

Authority: Secs. 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2243, 2252); 5 U.S.C. app. 3, 5 U.S.C. 552a (j)(2) and (k)(2).

§ 603.310 [Amended]

4. Section 603.310 is amended by removing the words “Congressional and Public Affairs” and adding in their place the words “General Counsel” in paragraph (b).

PART 611—ORGANIZATION

5. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

Subpart F—Bank Mergers, Consolidations and Charter Amendments

§ 611.1030 [Amended]

6. Section 611.1030 is amended by removing the words “Agricultural Credit Bank” and adding in their place, the words “agricultural credit bank” in the heading and the first sentence.

Subpart I—Service Organizations

7. Section 611.1135 is amended by removing paragraph (e) and revising paragraphs (a), (b)(1), (b)(2), (b)(3)(v), (b)(6), (b)(7), (c), (d)(1) introductory text, (d)(1)(iv), and (d)(2) to read as follows:

§ 611.1135 Incorporation of service organizations.

(a) *General.* Any Farm Credit bank(s) or association(s) may organize a corporation to perform, for or on behalf of the bank(s) or association(s), any function or service that the bank(s) or association(s) is authorized to perform under the Act and the regulations, except extending credit and providing the sale of insurance services. The bank(s) or association(s) wishing to organize such a corporation shall submit an application to the Farm Credit Administration according to the application requirements of paragraph (b) of this section. If the proposal meets the requirements of the Act, the regulations, and any other conditions that the Farm Credit Administration may impose, the Agency may issue a charter for the service corporation making it a federally chartered instrumentality of the United States. Such service corporation shall be subject to examination, supervision, and regulation by the Farm Credit Administration. Only Farm Credit banks or associations are eligible to become stockholders in such a corporation. Each bank or association shall be eligible to become a stockholder of each service corporation organized under this section.

(b) * * *

(1) The certified resolution of the board of each organizing bank or

association authorizing the incorporation.

(2) A request signed by the president(s) of the organizing bank(s) or association(s) to the Farm Credit Administration to issue a charter, supported by a detailed statement demonstrating the need and the justification for the proposed entity.

(3) * * *

(v) The procedures under which a bank or association may become a stockholder;

* * * * *

(6) Any agreements between the organizing banks or associations relating to the organization or the operation of the corporation.

(7) Any other supporting documentation as may be requested by the Farm Credit Administration.

(c) *Approval.* The Farm Credit Administration may condition the issuance of a charter as it deems appropriate and for good cause may deny the application. Upon approval by the Farm Credit Administration of a completed application, which shall be kept on file at the Farm Credit Administration, the Agency shall issue a charter for the service corporation which shall thereupon become a corporate body and a Federal instrumentality.

(d) * * *

(1) The board of directors of the corporation may request that the Farm Credit Administration amend the articles of incorporation by sending with its request a certified resolution of the board of directors of the service corporation and stating:

* * * * *

(iv) That the requisite shareholder approval has been obtained. The request shall be subject to the approval of the Farm Credit Administration as stated in paragraphs (a) and (c) of this section.

(2) The Farm Credit Administration may at any time make any and all changes in the articles of incorporation of a service corporation that are necessary and appropriate for the accomplishment of the purposes of the Act.

Subparts J, K, L, M, N, and O [Reserved]

8. Subparts J, K, L, M, N, and O of part 611 are removed and reserved.

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 [Amended]

9. Section 611.1200 is amended by adding the words “or agricultural credit bank” after the words “Farm Credit

Bank” each place they appear in paragraph (c).

§ 611.1250 [Amended]

10. Section 611.1250 is amended by adding the words “or agricultural credit bank” after the words “Farm Credit Bank” in the first sentence of paragraph (b) and in the first and third place they appear in paragraph (c); and by removing the words “Farm Credit Bank” the second place they appear and adding in their place the words “appropriate bank” in the first sentence of paragraph (c).

11. Section 611.1255 is revised to read as follows:

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank or agricultural credit bank may retire all equities of the bank that are owned by the terminating association on the termination date or may enter into an agreement with the terminating association that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur of the date on which the terminating association repays all indebtedness to the bank or the date that is 3 years from the termination date, provided that no retirement shall occur during that period if any such retirement would result in the Bank’s failure to meet minimum capital requirements.

(b) If the Farm Credit Bank or agricultural credit bank, and the terminating association are unable to reach agreement regarding the retirement of the bank’s equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating association equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank or the agricultural credit bank would threaten the viability of the bank.

(d) The amount to be paid to a terminating association in the retirement of equities owned in the Farm Credit Bank or the agricultural credit bank shall be equal to the amount of the allocated equities owned by the terminating association in the bank, less any impairment, at the date the request for retirement is made by the terminating association.

(e) If the terminating association has outstanding stock issued to another Farm Credit institution, the association shall retire all such investment prior to termination.

(f) A Farm Credit Bank’s or agricultural credit bank’s equities obligated to be retired under any agreement between the terminating association and the bank shall not be considered as part of the permanent capital of the Farm Credit Bank or agricultural credit bank for purposes of § 615.5240.

§ 611.1266 [Amended]

12. Section 611.1266 is amended by removing the words “district Farm Credit Bank” and adding in their place the words “funding bank” in the last sentence of paragraph (c).

PART 614—LOAN POLICIES AND OPERATIONS

13. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4014a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 2.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639; sec. 207 of Pub. L. 104–105, 110 Stat. 162.

Subpart G—Interest Rates and Charges

14. Section 614.4321 is revised to read as follows:

§ 614.4321 Differential interest rate programs.

Pursuant to policies approved by the board of directors, differential interest rates may be established for loans based on a variety of factors that may include type, purpose, amount, quality, funding or operating costs, or similar factors or combinations of factors. Differential interest rate programs should achieve equitable rate treatment within categories of borrowers. In the adoption of differential interest rate programs, institutions may consider, among other things, the effect that such interest rate structures will have on the achievement of objectives relating to the special credit needs of young, beginning or small farmers.

Subpart K—Disclosure of Loan Information

§ 614.4440 [Amended]

15. Section 614.4440 is amended by removing the reference to “paragraph (f)” and adding in its place the reference “paragraph (g)” in paragraph (h)(1).

Subpart L—Actions on Applications: Review of Credit Decisions

16. Section 614.4444 is amended by revising the last two sentences to read as follows:

§ 614.4444 Records.

* * * The file shall include minutes of each credit review committee meeting, and sufficient documentation of the basis for each determination not to restructure a loan to permit the institution or the FCA to review each determination.

Subpart N—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

17. Section 614.4510 is amended by removing paragraphs (b) and (d)(4); by redesignating paragraphs (c) and (d) as paragraphs (b) and (c); and by revising the introductory paragraph, paragraph (a), and newly designated paragraph (c) introductory text to read as follows:

§ 614.4510 General.

Direct lenders shall be responsible for the servicing of the loans that they make. However, loan participation agreements may designate specific loan servicing efforts to be accomplished by a participating institution. Each direct lender shall adopt loan servicing policies and procedures to assure that loans will be serviced fairly and equitably for the borrower while minimizing the risk for the lender. Procedures shall include specific plans that help preserve the quality of sound loans and that help correct credit deficiencies as they develop.

(a) The Farm Credit Bank shall provide guidelines for the servicing of loans by the Federal land bank associations. The servicing may be accomplished either under the direct supervision of the bank or under delegated authority.

(c) In the development of loan servicing policies and procedures, the following criteria shall be included:

§ 614.4515 [Reserved]

18. Section 614.4515 is removed and reserved.

19. Section 614.4516 is amended by revising the heading and adding the following introductory paragraph before paragraph (a) to read as follows:

§ 614.4516 Restructuring policy and procedures.

Loan restructurings are to be accomplished with the policy adopted by the bank board of directors under section 4.14A(g) of the Act.

20. Section 614.4517 is amended by adding paragraph (c) as follows:

§ 614.4517 Restructuring decision.

(c) *Documentation.* In the event that an application for restructuring is denied, a qualified lender shall maintain sufficient documentation to demonstrate its compliance with paragraphs (a) and (b) of this section, as applicable.

§ 614.4520 [Reserved]

21. Section 614.4520 is removed and reserved.

Subpart O—Special Lending Programs

§ 614.4525 [Amended]

22. Section 614.4525 is amended by adding the words “and agricultural credit associations” after the words “Production credit associations” in the first sentence of paragraph (c); and by removing the words “Subject to the approval of the respective banks board of directors, Federal land banks, Federal intermediate credit banks, for cooperatives, and production credit associations” and adding in their place the words “Farm Credit System institutions that are direct lenders” in the first sentence of paragraph (d).

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

23. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-3, 2279aa-4, 2279aa-6, 2279aa-7, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a) of Pub. L. 100-233, 101 Stat. 1568, 1608; sec. 105 of Pub. L. 104-105, 110 Stat. 162, 163-64.

Subpart D—Other Funding

§ 615.5120 [Amended]

24. Section 615.5120 is amended by adding the words “or agricultural credit bank” after the words “Farm Credit Bank” in the fourth sentence of paragraph (a).

25. Section 615.5140 is amended by revising paragraph (a)(1) to read as follows:

§ 615.5140 Eligible investments and risk diversification.

(a) * * * (1) Obligations of the United States; full-recourse obligations, other than mortgage-backed securities, of agencies, instrumentalities or corporations of the United States; or debt obligations of other obligors that are fully insured or guaranteed as to both principal and interest by the United States, its agencies, instrumentalities, or corporations;

Subpart E—Investment Management

§ 615.5143 [Amended]

26. Section 615.5143 is amended by adding the words “and agricultural credit banks” at the end of the heading; by adding the words “or agricultural credit banks” after the words “banks for cooperatives” in the first sentence; and by adding the words “or agricultural credit bank” after the words “bank for cooperatives” in the fourth and fifth sentences of the paragraph.

Subpart I—Issuance of Equities

27. Section 615.5250 is amended by revising paragraph (e) to read as follows:

§ 615.5250 Disclosure requirements.

(e) The requirements of this section shall not apply to the sale of Farm Credit System institution equities to other Farm Credit System institutions, other financing institutions, or non-Farm Credit System lenders.

Subpart J—Retirement of Equities

28. Section 615.5280 is amended by revising paragraphs (a), (b), (c), (d) and (e) to read as follows:

§ 615.5280 Retirement in event of default.

(a) When the debt of a holder of eligible borrower stock issued by a production credit association, Federal land association, Federal land credit association or agriculture credit association is in default, such institution may, but shall not be required to, retire at par eligible borrower stock owned by such borrower

on which the institution has a lien, in total or partial liquidation of the debt.

(b) When the debt of a holder of stock, participation certificates or other equities issued by a production credit association, Federal land bank association, Federal land credit association or agricultural credit association is in default, such institution may, but shall not be required to, retire at book value not to exceed par all or part of such equities, other than eligible borrower stock as defined in § 615.5260(a)(1), owned by such borrower on which the institution has a lien, in total or partial liquidation of the debt.

(c) When the debt of a holder of equities or guaranty fund certificates issued by a bank for cooperatives or agricultural credit bank is in default the bank may, but shall not be required to, retire all or part of such equities qualify or guaranty fund investments owned by the borrower on which the bank has a lien, in total or partial liquidation of the debt. If such investments qualify as eligible borrower stock, it shall be retired at par, as defined in § 615.5260(a)(3). All other investments shall be retired at a rate determined by the institution to reflect its present value on the date of retirement.

(d) When the debt of a holder of the equities of a Farm Credit Bank or agricultural credit bank is in default the bank may, but shall not be required to, retire all or part of such equities owned by the borrower on which the bank has a lien, in total or partial liquidation of the debt. If such equities qualify as eligible borrower stock or are retired solely to permit a Federal land bank association to retire eligible borrower stock under § 615.5280(a), they shall be retired at par. All other equities shall be retired at book value not to exceed par.

(e) Any retirements made under this section by a Federal land bank association shall be made only upon the specific approval of, or in accordance with, approval procedures issued by the association's funding bank.

* * * * *

§ 615.5290 [Amended]

29. Section 615.5290 is amended by adding the words "or agricultural credit bank" after each reference to "Farm Credit Bank" in paragraph (a).

PART 618—GENERAL PROVISIONS

30. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093,

2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart F—Miscellaneous Provisions

§ 618.8260 [Reserved]

31. Section 618.8260 is removed and reserved.

Subpart G—Releasing Information

§ 618.8310 [Amended]

32. Section 618.8310 is amended by adding the words "agricultural credit bank" before the words "bank for cooperatives" in paragraph (b)(1).

33. Section 618.8320 is amended by removing paragraph (b)(9); by redesignating paragraphs (b)(10) and (b)(11) as new paragraphs (b)(9) and (b)(10) consecutively; and by revising paragraphs (b)(2) and (b)(5) to read as follows:

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *

(2) In connection with a legitimate law enforcement inquiry, accredited representatives of any agency or department of the United States may be given access to information upon presentation of official identification and a written request specifying:

(i) The particular information desired; and

(ii) That the information is relevant to the law enforcement inquiry and will be used only for the purpose for which it is sought.

* * * * *

(5) Impersonal information based solely on transaction or experience with a borrower, such as amounts of loans, terms and payment records, may be given by a bank or association to a consumer reporting agency, or any other reliable organization for its confidential use in contemplation of the extension of credit.

* * * * *

§ 618.8325 [Amended]

34. Section 618.8325 is amended by removing the commas after the words "offices", "charter", and "inspection" in paragraph (c).

§ 618.8330 [Amended]

35. Section 618.8330 is amended by removing paragraph (b) and removing the designation from paragraph (a).

§ 618.8340 [Reserved]

36. Section 618.8340 is removed and reserved.

Subpart H—Disposition of Obsolete Records

§ 618.8360 [Reserved]

37. Section 618.8360 is removed and reserved.

§ 618.8370 [Reserved]

38. Section 618.8370 is removed and reserved.

Subpart I [Reserved]

39. Subpart I, consisting of §§ 618.8380 through 618.8420, is removed and reserved.

PART 619—DEFINITIONS

40. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b-1, 2279b-2).

41. Section 619.9060 is revised to read as follows:

§ 618.9060 Bank for cooperatives.

A bank for cooperatives is a bank that is operating under section 3.0 of the Act.

Dated: December 12, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.
[FR Doc. 96-32309 Filed 12-19-96; 8:45 am]

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12 CFR Part 615

RIN 3052-AB73

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-entry Procedures for Farm Credit Securities

AGENCY: Farm Credit Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA) adopts an interim rule that revises procedures governing the issuance, maintenance, and transfer of Farm Credit securities on the book-entry system of the Federal Reserve Banks (Book-entry System). The revisions are necessary to conform FCA book-entry procedures to the recently revised book-entry procedures of the Department of the Treasury (Treasury), which regulates the Book-entry System for Treasury securities. The interim rule also makes conforming amendments in the book-entry regulations governing securities of the Farm Credit System Financial Assistance Corporation (FAC) and the Federal Agricultural Mortgage Corporation (Farmer Mac).