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(f) *Similar entity lease transactions.* The provisions of § 613.3300 of this chapter that apply to interests in loans made to similar entities apply to interests in leases made to similar entities. In applying these provisions, the term “loan” shall be read to include the term “lease” and the term “principal amount” shall be read to include the term “lease amount.”

§ 616.6200 Out-of-territory leasing.

A System institution may make leases outside its chartered territory.

§ 616.6300 Leasing policies, procedures, and underwriting standards.

The board of each institution engaged in lease underwriting must adopt a written policy (or policies). Management, at the direction of the board, must develop procedures that reflect lease practices that control risk and comply with all applicable laws and regulations. Any leasing activity must comply with the lending policies and loan underwriting requirements in § 614.4150 of this chapter. An institution engaged in the making, buying, or syndicating of leases also must adopt written policies and procedures that address the additional risks associated with leasing. Written policies and procedures must address the following, if applicable:

- (a) Appropriateness of the lease amount, purpose, and terms and conditions, including the residual value established at the inception of the lease;
- (b) Process for estimating the leased asset's market value during the lease term;
- (c) Types of equipment and facilities the institution will lease;
- (d) Remarketing of leased property and associated risks;
- (e) Property tax and sales tax reporting;
- (f) Title and ownership of leased assets;
- (g) Title and licensing for motor vehicles;
- (h) Liability associated with ownership, including any environmental hazards or risks;
- (i) Insurance requirements for both the lessor and lessee;

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(j) Classification of leases in accordance with generally accepted accounting principles; and

(k) Tax treatment of lease transactions and associated risks.

§ 616.6400 Documentation.

Each institution must document that any asset it leases is within its statutory authority.

§ 616.6500 Investment in leased assets.

An institution may acquire property to be leased that is consistent with current or planned leasing programs.

§ 616.6600 Leasing limit.

All leases made by Farm Credit System institutions shall be subject to the lending and leasing limit in subpart J of part 614 of this chapter.

§ 616.6700 Stock purchase requirements.

(a) Each System institution, except the Farm Credit Leasing Services Corporation, making an equipment lease under titles II or III of the Act must require the lessee to buy or own at least one share of stock or one participation certificate in the institution making the lease, in accordance with its by-laws.

(b) The disclosure requirements of § 615.5250(a) and (b) of this chapter apply to stock (or participation certificates) bought as a condition for obtaining a lease.

§ 616.6800 Disclosure requirements.

(a) Each System institution must give to each lessee a copy of all lease documents signed by the lessee within a reasonable time following lease closing.

(b) Each System institution must make its decision on a lease application as soon as possible and provide prompt written notice of its decision to the applicant.

PART 617—REFERRAL OF KNOWN OR SUSPECTED CRIMINAL VIOLATIONS

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617.4 Institution responsibilities.

AUTHORITY: Secs. 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2243, 2252).

SOURCE: 62 FR 24566, May 6, 1997, unless otherwise noted.

§617.1 Purpose and scope.

(a) This part applies to all institutions of the Farm Credit System as defined in section 1.2(a) of the Farm Credit Act of 1971, as amended, (Act) (12 U.S.C. 2002(a)) including, but not limited to, associations, banks, service corporations chartered under section 4.25 of the Act, the Federal Farm Credit Banks Funding Corporation, the Farm Credit System Financial Assistance Corporation, the Farm Credit Leasing Services Corporation, and the Federal Agricultural Mortgage Corporation (hereinafter, institutions). The purposes of this part are to ensure public confidence in the Farm Credit System, to ensure the reporting of known or suspected criminal activity, to reduce potential losses to institutions, and to ensure the safety and soundness of institutions. This part requires that institutions use the Farm Credit Administration Criminal Referral Form (hereinafter FCA Referral Form) to notify the appropriate Federal authorities when any known or suspected Federal criminal violations of the type described in §617.2 are discovered by institutions.

(b) The specific referral requirements of this part apply to known or suspected criminal violations of the United States Code involving the assets, operations, or affairs of an institution. This part prescribes procedures for referring those violations to the proper Federal authorities and the Farm Credit Administration. No specific procedural requirements apply to the referral of violations of State or local laws.

(c) Nothing in this part should be construed as reducing in any way an institution's ability to report known or suspected criminal activities to the appropriate investigatory or prosecuting authorities, whether Federal, State, or local, even when the circumstances in which a report is required under §617.2 are not present.

(d) It shall be the responsibility of each System institution to determine whether there appears to be a reasonable basis to conclude that a criminal violation has been committed and, if so, to report the matter to the proper law enforcement authorities for consideration of prosecution.

(e) Each referral required by §617.2(a) shall be made on the FCA Referral Form in accordance with the FCA Referral Form instructions relating to its filing and distribution.

§617.2 Referrals.

(a) Each institution and its board of directors shall exercise due diligence to ensure the discovery, appropriate investigation, and reporting of criminal activity. Within 30 calendar days of determining that there is a known or suspected criminal violation of the United States Code involving or affecting its assets, operations, or affairs, the institution shall refer such criminal violation to the appropriate regional offices of the United States Attorney, and the Federal Bureau of Investigation or the United States Secret Service or both, using the FCA Referral Form. A copy of the completed FCA Referral Form, accompanied by any relevant documentation, shall be provided at the same time to the Farm Credit Administration's Office of General Counsel. In the event that a Farm Credit bank makes a loan through a Federal land bank association which services the loan, the Federal land bank association must inform the Farm Credit bank of any known or suspected violation involving that loan and the Farm Credit bank shall refer the violation to Federal law enforcement authorities under this section. A report is required in circumstances where there is:

(1) Any known or suspected criminal activity (e.g., theft, embezzlement), mysterious disappearance, unexplained shortage, misapplication, or other defalcation of property and/or funds, regardless of amount, where an institution employee, officer, director, agent, or other person participating in the conduct of the affairs of such an institution is suspected;

(2) Any known or suspected criminal activity involving an actual or potential loss of \$5,000 or more, through false

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statements or other fraudulent means, where the institution has a substantial basis for identifying a possible suspect or group of suspects and the suspect(s) is not an institution employee, officer, director, agent, or other person participating in the conduct of the affairs of such an institution;

(3) Any known or suspected criminal activity involving an actual or potential loss of \$25,000 or more, through false statements or other fraudulent means, where the institution has no substantial basis for identifying a possible suspect or group of suspects; or

(4) Any known or suspected criminal activity involving a financial transaction in which the institution was used as a conduit for such criminal activity (such as money laundering/structuring schemes).

(b) In circumstances where there is a known or suspected violation of State or local criminal law, the institution shall notify the appropriate State or local law enforcement authorities.

(c) In addition to the requirements of paragraph (a) of this section, the institution shall immediately notify by telephone the appropriate Federal law enforcement authorities and FCA offices specified on the FCA Referral Form upon determining that a known or suspected criminal violation of Federal law requiring urgent attention has occurred or is ongoing. Such cases include, but are not limited to, those where:

(1) There is a likelihood that the suspect(s) will flee;

(2) The magnitude or the continuation of the known or suspected criminal violation may imperil the institution's continued operation; or

(3) Key institution personnel are involved.

§617.3 Notification of board of directors and bonding company.

(a) The institution's board of directors shall be promptly notified of any criminal referral by the institution, except that if the criminal referral involves a member of the board of directors, discretion may be exercised in notifying such member of the referral.

(b) The institution involved shall promptly make all required notifica-

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tions under any applicable surety bond or other contract for protection.

§617.4 Institution responsibilities.

Each institution shall establish effective policies and procedures designed to ensure compliance with this part, including, but not limited to, adequate internal controls.

PART 618—GENERAL PROVISIONS

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Subpart J—Internal Controls

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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 A—Related Services

SOURCE: 60 FR 34099, June 30, 1995, unless otherwise noted.