

(2) Purchased through a dealer or dealer bank affiliated with a member of the selling group designated by the Federal Farm Credit Banks Funding Corporation or purchased in the secondary market.

(b) No director or employee of the Federal Farm Credit Banks Funding Corporation may purchase or otherwise acquire, directly or indirectly, except by inheritance, any joint, consolidated, or Systemwide obligation.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

Subpart A—Financing Under Titles I and II of the Farm Credit Act

Sec.

613.3000 Financing for farmers, ranchers, and aquatic producers or harvesters.

613.3005 Lending objective.

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613.3100 Domestic lending.

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Subpart C—Similar Entity Authority Under Sections 3.1(11)(B) and 4.18A of the Act

613.3300 Participations and other interests in loans to similar entities.

AUTHORITY: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart A—Financing Under Titles I and II of the Farm Credit Act

SOURCE: 62 FR 4441, Jan. 30, 1997, unless otherwise noted.

§ 613.3000 Financing for farmers, ranchers, and aquatic producers or harvesters.

(a) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) *Bona fide farmer or rancher* means a person owning agricultural land or engaged in the production of agricul-

tural products, including aquatic products under controlled conditions.

(2) *Legal entity* means any partnership, corporation, estate, trust, or other legal entity that is established pursuant to the laws of the United States, any State thereof, the Commonwealth of Puerto Rico, the District of Columbia, or any tribal authority and is legally authorized to conduct a business.

(3) *Person* means an individual who is a citizen of the United States or a foreign national who has been lawfully admitted into the United States either for permanent residency pursuant to 8 U.S.C. 1101(a)(20) or on a visa pursuant to a provision in 8 U.S.C. 1101(a)(15) that authorizes such individual to own property or operate or manage a business or a legal entity.

(4) *Producer or harvester of aquatic products* means a person engaged in producing or harvesting aquatic products for economic gain in open waters under uncontrolled conditions.

(b) *Eligible borrower.* Farm Credit institutions that operate under titles I or II of the Act may provide financing to a bona fide farmer or rancher, or producer or harvester of aquatic products for any agricultural or aquatic purpose and for other credit needs.

§ 613.3005 Lending objective.

It is the objective of each bank and association, except for banks for co-operatives, to provide full credit, to the extent of creditworthiness, to the full-time bona fide farmer (one whose primary business and vocation is farming, ranching, or producing or harvesting aquatic products); and conservative credit to less than full-time farmers for agricultural enterprises, and more restricted credit for other credit requirements as needed to ensure a sound credit package or to accommodate a borrower's needs as long as the total credit results in being primarily an agricultural loan. However, the part-time farmer who needs to seek off-farm employment to supplement farm income or who desires to supplement off-farm income by living in a rural area and is carrying on a valid agricultural operation, shall have availability of credit for mortgages, other agricultural purposes, and family needs in the preferred

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position along with full-time farmers. Loans to farmers shall be on an increasingly conservative basis as the emphasis moves away from the full-time bona fide farmer to the point where agricultural needs only will be financed for the applicant whose business is essentially other than farming. Credit shall not be extended where investment in agricultural assets for speculative appreciation is a primary factor.

§ 613.3010 Financing for processing or marketing operations.

(a) *Eligible borrowers.* A borrower is eligible for financing for a processing or marketing operation under titles I and II of the Act, only if the borrower meets the following requirements:

(1) The borrower is either a bona fide farmer, rancher, or producer or harvester of aquatic products, or is a legal entity in which eligible borrowers under § 613.3000(b) own more than 50 percent of the voting stock or equity; and

(2) The borrower or an owner of the borrowing legal entity regularly produces some portion of the throughput used in the processing or marketing operation.

(b) *Portfolio restrictions for certain processing and marketing loans.* Processing or marketing loans to eligible borrowers who regularly supply less than 20 percent of the throughput are subject to the following restrictions:

(1) *Bank limitation.* The aggregate of such processing and marketing loans made by a Farm Credit bank shall not exceed 15 percent of all its outstanding retail loans at the end of the preceding fiscal year.

(2) *Association limitation.* The aggregate of such processing and marketing loans made by all direct lender associations affiliated with the same Farm Credit bank shall not exceed 15 percent of the aggregate of their outstanding retail loans at the end of the preceding fiscal year. Each Farm Credit bank, in conjunction with all its affiliated direct lender associations, shall ensure that such processing or marketing loans are equitably allocated among its affiliated direct lender associations.

(3) *Calculation of outstanding retail loans.* For the purposes of this para-

graph, “outstanding retail loans” includes loans, loan participations, and other interests in loans that are either bought without recourse or sold with recourse.

§ 613.3020 Financing for farm-related service businesses.

(a) *Eligibility.* An individual or legal entity that furnishes farm-related services to farmers and ranchers that are directly related to their agricultural production is eligible to borrow from a Farm Credit bank or association that operates under titles I or II of the Act.

(b) *Purposes of financing.* A Farm Credit Bank, agricultural credit bank, or direct lender association may finance:

(1) All of the farm-related business activities of an eligible borrower who derives more than 50 percent of its annual income (as consistently measured on either a gross sales or net sales basis) from furnishing farm-related services that are directly related to the agricultural production of farmers and ranchers; or

(2) Only the farm-related services activities of an eligible borrower who derives 50 percent or less of its annual income (as consistently measured on either a gross sales or net sales basis) from furnishing farm-related services that are directly related to the agricultural production of farmers and ranchers.

(c) *Limitation.* The authority of Farm Credit banks and associations operating under section 1.7(a) of the Act to finance eligible farm-related service businesses under paragraphs (b)(1) and (b)(2) of this section is limited to necessary capital structures, equipment, and initial working capital.

[62 FR 4441, Jan. 30, 1997, as amended at 66 FR 28643, May 24, 2001]

§ 613.3030 Rural home financing.

(a) *Definitions.*

(1) *Rural homeowner* means an individual who resides in a rural area and is not a bona fide farmer, rancher, or producer or harvester of aquatic products.

(2) *Rural home* means a single-family moderately priced dwelling located in a

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rural area that will be owned and occupied as the rural homeowner's principal residence.

(3) *Rural area* means open country within a State or the Commonwealth of Puerto Rico, which may include a town or village that has a population of not more than 2,500 persons.

(4) *Moderately priced* means the price of any rural home that either:

(i) Satisfies the criteria in section 8.0 of the Act pertaining to rural home loans that collateralize securities that are guaranteed by the Federal Agricultural Mortgage Corporation; or

(ii) Is otherwise determined to be moderately priced for housing values for the rural area where it is located, as documented by data from a credible, independent, and recognized national or regional source, such as a Federal, State, or local government agency, or an industry source. Housing values at or below the 75th percentile of values reflected in such data will be deemed moderately priced.

(b) *Eligibility*. Any rural homeowner is eligible to obtain financing on a rural home. No borrower shall have a loan from the Farm Credit System on more than one rural home at any one time.

(c) *Purposes of financing*. Loans may be made to rural homeowners for the purpose of buying, building, remodeling, improving, repairing rural homes, and refinancing existing indebtedness thereon.

(d) *Portfolio limitations*. (1) The aggregate of retail rural home loans by any Farm Credit Bank or agricultural credit bank shall not exceed 15 percent of the total of all of its outstanding loans at any one time.

(2) The aggregate of rural home loans made by each direct lender association shall not exceed 15 percent of the total of its outstanding loans at the end of its preceding fiscal year, except with the prior approval of its funding bank.

(3) The aggregate of rural home loans made by all direct lender associations that are funded by the same Farm Credit bank shall not exceed 15 percent of the total outstanding loans of all such associations at the end of the funding bank's preceding fiscal year.

[62 FR 4441, Jan. 30, 1997, as amended at 66 FR 28643, May 24, 2001]

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Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

SOURCE: 62 FR 4442, Jan. 30, 1997, unless otherwise noted.

§ 613.3100 Domestic lending.

(a) *Definitions*. For purposes of this subpart, the following definitions apply:

(1) *Cooperative* means any association of farmers, ranchers, producers or harvesters of aquatic products, or any federation of such associations, or a combination of such associations and farmers, ranchers, or producers or harvesters of aquatic products that conducts business for the mutual benefit of its members and has the power to:

(i) Process, prepare for market, handle, or market farm or aquatic products;

(ii) Purchase, test, grade, process, distribute, or furnish farm or aquatic supplies; or

(iii) Furnish business and financially related services to its members.

(2) *Farm or aquatic supplies and farm or aquatic business services* are any goods or services normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons.

(3) *Public utility* means a cooperative or other entity that is licensed under Federal, State, or local law to provide electric, telecommunication, cable television, water, or waste treatment services.

(4) *Rural area* means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 inhabitants based on the latest decennial census of the United States.

(5) *Service cooperative* means a cooperative that is involved in providing business and financially related services (other than public utility services) to farmers, ranchers, aquatic producers or harvesters, or their cooperatives.

(b) *Cooperatives and other entities that serve agricultural or aquatic producers*.

(1) *Eligibility of cooperatives*. A bank for cooperatives or an agricultural credit bank may lend to a cooperative that satisfies the following requirements:

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(i) Unless the bank's board of directors establishes by resolution a higher voting control threshold for any type of cooperative, the percentage of voting control of the cooperative held by farmers, ranchers, producers or harvesters of aquatic products, or cooperatives shall be 80 percent except:

(A) Sixty (60) percent for a service cooperative;

(B) Sixty (60) percent for local farm supply cooperatives that have historically served the needs of a community that would not be adequately served by other suppliers and have experienced a reduction in the percentage of membership by agricultural or aquatic producers due to changed circumstances beyond their control; and

(C) Sixty (60) percent for local farm supply cooperatives that provide or will provide needed services to a community, and are or will be in competition with a cooperative specified in § 613.3100(b)(1)(i)(B);

(ii) The cooperative deals in farm or aquatic products, or products processed therefrom, farm or aquatic supplies, farm or aquatic business services, or financially related services with or for members in an amount at least equal in value to the total amount of such business it transacts with or for non-members, excluding from the total of member and non-member business, transactions with the United States, or any agencies or instrumentalities thereof, or services or supplies furnished by a public utility; and

(iii) The cooperative complies with one of the following two conditions:

(A) No member of the cooperative shall have more than one vote because of the amount of stock or membership capital owned therein; or

(B) The cooperative restricts dividends on stock or membership capital to 10 percent per year or the maximum percentage per year permitted by applicable State law, whichever is less.

(iv) Any cooperative that has received a loan from a bank for cooperatives or an agricultural credit bank shall, without regard to the requirements in paragraph (b)(1) of this section, continue to be eligible for as long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of

the cooperative is held by farmers, ranchers, producers or harvesters of aquatic products, or other eligible cooperatives.

(2) *Other eligible entities.* The following entities are eligible to borrow from banks for cooperatives and agricultural credit banks:

(i) Any legal entity that holds more than 50 percent of the voting control of a cooperative that is an eligible borrower under paragraph (b)(1) of this section and uses the proceeds of the loan to fund the activities of its cooperative subsidiary on the terms and conditions specified by the bank;

(ii) Any legal entity in which an eligible cooperative has an ownership interest, *provided that* if such interest is less than 50 percent, financing shall not exceed the percentage that the eligible cooperative owns in such entity multiplied by the value of the total assets of such entity; or

(iii) Any creditworthy private entity operated on a non-profit basis that satisfies the requirements for a service cooperative and complies with the requirements of either paragraphs (b)(1)(i)(A) and (b)(1)(iii) of this section, or paragraph (b)(1)(iv) of this section, and any subsidiary of such entity. An entity that is eligible to borrow under this paragraph shall be organized to benefit agriculture in furtherance of the welfare of the farmers, ranchers, and aquatic producers or harvesters who are its members.

(c) *Electric and telecommunication utilities.* (1) *Eligibility.* A bank for cooperatives or an agricultural credit bank may lend to:

(i) Electric and telephone cooperatives as defined by section 3.8(a)(4)(A) of the Act that satisfy the eligibility criteria in paragraph (b)(1) of this section;

(ii) Cooperatives and other entities that:

(A) Have received a loan, loan commitment, insured loan, or loan guarantee from the Rural Utilities Service of the United States Department of Agriculture to finance rural electric and telecommunication services;

(B) Have received a loan or a loan commitment from the Rural Telephone Bank of the United States Department of Agriculture; or

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(C) Are eligible under the Rural Electrification Act of 1936, as amended, for a loan, loan commitment, or loan guarantee from the Rural Utilities Service or the Rural Telephone Bank.

(iii) The subsidiaries of cooperatives or other entities that are eligible under paragraph (c)(1)(ii) of this section.

(iv) Any legal entity that holds more than 50 percent of the voting control of any public utility that is an eligible borrower under paragraph (c)(1)(ii) of this section, and uses the proceeds of the loan to fund the activities of the eligible subsidiary on the terms and conditions specified by the bank.

(v) Any legal entity in which an eligible utility under paragraph (c)(1)(ii) of this section has an ownership interest, provided that if such interest is less than 50 percent, financing shall not exceed the percentage that the eligible utility owns in such entity multiplied by the value of the total assets of such entity.

(2) *Purposes for financing.* A bank for cooperatives or agricultural credit bank may extend credit to entities that are eligible to borrow under paragraph (c)(1) of this section in order to provide electric or telecommunication services in a rural area. A subsidiary that is eligible to borrow under paragraph (c)(1)(iii) of this section may also obtain financing from a bank for cooperatives or agricultural credit bank to operate a licensed cable television utility.

(d) *Water and waste disposal facilities.*

(1) *Eligibility.* A cooperative or a public agency, quasi-public agency, body, or other public or private entity that, under the authority of State or local law, establishes and operates water and waste disposal facilities in a rural area, as that term is defined by paragraph (a)(5) of this section, is eligible to borrow from a bank for cooperatives or an agricultural credit bank.

(2) *Purposes for financing.* A bank for cooperatives or agricultural credit bank may extend credit to entities that are eligible under paragraph (d)(1) of this section solely for installing, maintaining, expanding, improving, or operating water and waste disposal facilities in rural areas.

(e) *Domestic lessors.* A bank for cooperatives or agricultural credit bank

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may lend to domestic parties to finance the acquisition of facilities or equipment that will be leased to shareholders of the bank for use in their operations located inside of the United States.

[62 FR 4442, Jan. 30, 1997; 62 FR 33746, June 23, 1997]

§ 613.3200 International lending.

(a) *Definition.* For the purpose of this section only, the term “farm supplies” refers to inputs that are used in a farming or ranching operation, but excludes agricultural processing equipment, machinery used in food manufacturing or other capital goods which are not used in a farming or ranching operation.

(b) *Import transactions.* The following parties are eligible to borrow from a bank for cooperatives or an agricultural credit bank pursuant to section 3.7(b) of the Act for the purpose of financing the import of agricultural commodities or products therefrom, aquatic products, and farm supplies into the United States:

(1) An eligible cooperative as defined by § 613.3100(b);

(2) A counterparty with respect to a specific import transaction with a voting stockholder of the bank for the substantial benefit of the shareholder; and

(3) Any foreign or domestic legal entity in which eligible cooperatives hold an ownership interest.

(c) *Export transactions.* Pursuant to section 3.7(b)(2) of the Act, a bank for cooperatives or an agricultural credit bank is authorized to finance the export (including the cost of freight) of agricultural commodities or products therefrom, aquatic products, or farm supplies from the United States to any foreign country. The board of directors of each bank for cooperatives and agricultural credit bank shall adopt policies that ensure that exports of agricultural products and commodities, aquatic products, and farm supplies which originate from eligible cooperatives are financed on a priority basis. The total amount of balances outstanding on loans made under this paragraph shall not, at any time, exceed 50 percent of the capital of the

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bank for cooperatives or agricultural credit bank for loans that:

(1) Finance the export of agricultural commodities and products therefrom, aquatic products, or farm supplies that are not originally sourced from an eligible cooperative; and

(2) At least 95 percent of the loan amount is not guaranteed by a department, agency, bureau, board, or commission of the United States or a corporation that is wholly owned directly or indirectly by the United States.

(d) *International business operations.* A bank for cooperatives or an agricultural credit bank may finance a domestic or foreign entity which is at least partially owned by eligible cooperatives described in §613.3100(b), and facilitates the international business operations of such cooperatives.

(e) *Restrictions.* (1) When eligible cooperatives own less than 50 percent of a foreign or domestic legal entity, the amount of financing that a bank for cooperatives or agricultural credit bank may provide to the entity for imports, exports, or international business operations shall not exceed the percentage of ownership that eligible cooperatives hold in such entity multiplied by the value of the total assets of such entity; and

(2) A bank for cooperatives or agricultural credit bank shall not finance the relocation of any plant or facility from the United States to a foreign country.

Subpart C—Similar Entity Authority Under Sections 3.1(11)(B) and 4.18A of the Act

§ 613.3300 Participations and other interests in loans to similar entities.

(a) *Definitions.* (1) *Participate* and *participation*, for the purpose of this section, refer to multi-lender transactions, including syndications, assignments, loan participations, subparticipations, other forms of the purchase, sale, or transfer of interests in loans, or other extensions of credit, or other technical and financial assistance.

(2) *Similar entity* means a party that is ineligible for a loan from a Farm Credit bank or association, but has operations that are functionally similar to the activities of eligible borrowers

in that a majority of its income is derived from, or a majority of its assets are invested in, the conduct of activities that are performed by eligible borrowers.

(b) *Similar entity transactions.* A Farm Credit bank or a direct lender association may participate with a lender that is not a Farm Credit System institution in loans to a similar entity that is not eligible to borrow directly under §613.3000, 613.3010, 613.3020, 613.3100, or 613.3200, for purposes similar to those for which an eligible borrower could obtain financing from the participating FCS institution.

(c) *Restrictions.* Participations by a Farm Credit bank or association in loans to a similar entity under this section are subject to the following limitations:

(1) *Lending limits.* (i) *Farm Credit banks operating under title I of the Act and direct lender associations.* The total amount of all loan participations that any Farm Credit bank, agricultural credit bank, or direct lender association has outstanding under paragraph (b) of this section to a single credit risk shall not exceed:

(A) Ten (10) percent of its total capital; or

(B) Twenty-five (25) percent of its total capital if a majority of the shareholders of the respective Farm Credit bank or direct lender association so approve.

(ii) *Farm Credit banks operating under title III of the Act.* The total amount of all loan participations that any bank for cooperatives or agricultural credit bank has outstanding under paragraph (b) of this section to a single credit risk shall not exceed 10 percent of its total capital;

(2) *Percentage held in the principal amount of the loan.* The participation interest in the same loan held by one or more Farm Credit bank(s) or association(s) shall not, at any time, equal or exceed 50 percent of the principal amount of the loan; and

(3) *Portfolio limitations.* The total amount of participations that any Farm Credit bank or direct lender association has outstanding under paragraph (b) of this section shall not exceed 15 percent of its total outstanding

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assets at the end of its preceding fiscal year.

(d) *Approval by other Farm Credit System institutions.* (1) No direct lender association shall participate in a loan to a similar entity under paragraph (b) of this section without the approval of its funding bank. A funding bank shall deny such requests only for safety and soundness reasons affecting the bank.

(2) No Farm Credit bank or direct lender association shall participate in a loan to a similar entity that is eligible to borrow under §613.3100(b) without the prior approval of the bank for cooperatives or agricultural credit bank that, at the time the loan is made, has the greatest volume of loans made under title III of the Act in the State where the headquarters office of the similar entity is located.

(3) No bank for cooperatives or agricultural credit bank shall participate in a loan to a similar entity that is eligible to borrow under §613.3010 or 613.3020 without the prior consent of the Farm Credit bank(s) in whose chartered territory the similar entity conducts operations.

(4) All approvals required under paragraph (d) of this section may be granted on an annual basis and under such terms and conditions as the various Farm Credit System institutions may agree.

[62 FR 4444, Jan. 30, 1997]

PART 614—LOAN POLICIES AND OPERATIONS

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- 614.4080 Loans and chartered territory—banks for cooperatives.

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