

## Farm Credit Administration

## §614.4510

(b) Loans to any borrower shall be subject to the prior approval of the bank supervising the association in which the loan application originates whenever a director or an employee of the association or an employee of the bank supervising the association:

(1) Will receive proceeds of the loan in excess of the amount prescribed by the supervising bank board, or

(2) Has a significant personal or beneficial interest in the loan, the proceeds, or the security, or controls the borrower, or

(3) Is an endorser, guarantor, or comaker with respect to the loan in excess of an amount prescribed by the supervising bank board.

(c) Any loan which will result in any one borrower being obligated (as defined in subpart J of this part) in excess of an amount established by the supervising bank under its policies for delegation of authority to associations shall be subject to prior approval of the supervising bank.

[47 FR 49832, Nov. 3, 1982, as amended at 58 FR 40324, July 28, 1993; 60 FR 20010, Apr. 24, 1995]

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

#### §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.

(b) The servicing of loans which are participated in by Farm Credit System institutions shall be in accordance with §614.4325.

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

(1) *Term loans.* The objective shall be to provide borrowers with prompt and efficient service with respect to actions in such areas as personal liability, partial release of security, insurance requirements or adjustments, loan divisions or transfers, or conditional payments. Procedures shall provide for adequate inspections, reanalyses, reappraisals, controls on payment of insurance and taxes (and for payment when necessary), and prompt exercise of legal options to preserve the lender's collateral position or guard against loss. Loan servicing policies for rural home loans shall recognize the inherent differences between agricultural and rural home lending.

(2) *Operating loans.* The objective shall be to service such loans to assure disbursement in accordance with the basis of approval, repayment from the sources obligated or pledged, and to minimize risk exposure to the lender. Procedures shall require:

(i) The procurement of periodic operating data essential for maintaining control, for the proper analysis of such data, and prompt action as needed;

(ii) Inspections, reappraisals, and borrower visits appropriate to the nature and quality of the loan; and

(iii) Controls on insurance, margin requirements, warehousing, and the prompt exercise of legal options to preserve the lender's collateral position and guard against loss.

(3) *Legal entity loans.* In addition to the foregoing servicing objectives for term and operating loans, procedures for servicing these loans shall require procurement of data on changes in ownership, control, and management; review of business objectives, financing programs, organizational structure,

## § 614.4511

and operating methods, and appropriate analysis of such changes with provision for action as needed.

[37 FR 11424, June 7, 1972, as amended at 40 FR 17745, Apr. 22, 1975. Redesignated at 46 FR 51878, Oct. 22, 1981 and amended at 48 FR 54475, Dec. 5, 1983; 51 FR 39502, Oct. 28, 1986; 57 FR 38250, Aug. 24, 1992; 61 FR 67187, Dec. 20, 1996]

## § 614.4511 [Reserved]

## § 614.4512 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Application for restructuring* means a written request—

(1) From a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

(2) Submitted on the appropriate forms prescribed by the qualified lender; and

(3) Accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

(b) *Certified lender* means a qualified lender that has been certified for financial assistance under section 6.4 of the Act.

(c) *Cost of foreclosure* means:

(1) The difference between the outstanding balance due as provided by the loan documents on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

(2) The estimated cost of maintaining a loan classified as a high-risk asset;

(3) The estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

(4) The estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

## 12 CFR Ch. VI (1–1–10 Edition)

(5) All other costs incurred as the result of the foreclosure or liquidation of a loan.

(d) *Distressed loan* means a loan for which the borrower does not have the financial capacity, as determined by the lender, to pay according to its terms and which exhibits one or more of the following characteristics:

(1) The borrower is demonstrating adverse financial and repayment trends;

(2) The loan is delinquent or past due under the terms of the loan contract;

(3) One or both of the factors listed in paragraphs (d) (1) and (2) of this section, together with inadequate collateralization, present a high probability of loss to the lender.

(e) *Foreclosure proceeding* means:

(1) A foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a noninterest-earning asset or distressed loan; or

(2) The seizing of and realizing on non-real property collateral, other than collateral subject to a statutory lien arising under title I or II of the Act to effect collection of a nonaccrual or distressed loan.

(f) *Loan* means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

(g) *Qualified lender* means:

(1) A System institution that makes loans (as defined in paragraph (f) of this section) except a bank for cooperatives; and

(2) Each bank, institution, corporation, company, union, and association described in section 1.7(b)(1)(B) of the Act, but only with respect to loans discounted or pledged under section 1.7(b)(1) of the Act.

(h) *Restructure* or *restructuring* means rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of