

## § 617.7505

### **§ 617.7505 How will the qualified lender know when FCA is considering issuing a distressed loan restructuring directive?**

When FCA intends to issue a distressed loan restructuring directive, it will notify the qualified lender in writing. The notice will state:

- (a) The reasons FCA intends to issue a distressed loan restructuring directive;
- (b) The proposed contents of the distressed loan restructuring directive; and
- (c) Any other relevant information.

### **§ 617.7510 What should the qualified lender do when it receives notice of a distressed loan restructuring directive?**

(a) A qualified lender should respond to the notice by stating why FCA should not issue a distressed loan restructuring directive, by proposing changes to the directive, or by seeking other suitable relief. The response must include any information, documentation, or other relevant evidence that supports the qualified lender's position. The response may include a plan for achieving compliance with the distressed loan restructuring requirements of the Act. The response must be in writing and delivered to FCA within 30 days after the date on which the qualified lender received the notice. In its discretion, FCA may extend the time period for good cause. FCA may shorten the 30-day period with the consent of the qualified lender or when FCA determines that providing the full 30 days would result in a borrower not receiving distressed loan restructuring rights.

(b) If the qualified lender fails to respond within 30 days or such other time period specified by FCA, this failure will constitute a waiver of any objections to the proposed distressed loan restructuring directive.

### **§ 617.7515 How does the FCA decide whether to issue a directive?**

After the closing date of the qualified lender's response period, or following receipt of the qualified lender's response, FCA must decide if there is sufficient information to support the issuance of a directive or if additional

## 12 CFR Ch. VI (1–1–10 Edition)

information is necessary. Once FCA has received sufficient information, it must decide whether to issue a directive as originally proposed or as modified.

### **§ 617.7520 How does the FCA issue a directive and when will it be effective?**

A distressed loan restructuring directive is effective immediately on receipt by the qualified lender, or on such later date as may be specified by FCA, and will remain effective and enforceable until it is stayed, modified, or terminated by FCA.

### **§ 617.7525 May FCA use other enforcement actions?**

FCA may issue a distressed loan restructuring directive in addition to, or instead of, any other action allowed by law, including cease and desist proceedings, civil money penalties, or the granting or conditioning of any application or other requests by the System institution.

## **Subpart G—Right of First Refusal**

### **§ 617.7600 What are the definitions used in this subpart?**

In addition to the definitions in § 617.7000, the following definitions apply to this subpart.

*Acquired agricultural real estate or property* means agricultural real estate acquired by a System institution as a result of a loan foreclosure or a voluntary conveyance by a borrower who, as determined by the institution, does not have the financial resources to avoid foreclosure.

*Previous owner* means:

- (1) The prior record owner who was a borrower from a System institution and did not have the financial resources, as determined by the institution, to avoid foreclosure on acquired agricultural real estate; or
- (2) The prior record owner who is not a borrower and whose acquired agricultural real estate was used as collateral for a loan to a System borrower.

*System institution* means a Farm Credit System institution, except a bank for cooperatives, which makes loans as defined in § 617.7000.