

Farm Credit System Insurance Corp.

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(1) That the Corporation has received a valid claim certification from the creditor agency;

(2) The date on which salary offset will begin;

(3) The amount of the debt; and

(4) The amount of such deductions.

(b) If, after the creditor agency has submitted the claim certification to the Corporation, the employee transfers to a different agency before the debt is collected in full, the Corporation must certify the total amount collected on the debt. The Corporation shall send a copy of this certification to the creditor agency and a copy to the employee. If the Corporation is aware that the employee is entitled to payments from the Civil Service Retirement Fund and Disability Fund, or other similar payments, it shall provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount).

§ 1408.43 Nonwaiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this subpart shall not be construed as a waiver of any rights the employee may have under 5 U.S.C. 5514 or any other provisions of a written contract or law unless there are statutory or contractual provisions to the contrary.

PART 1410—PREMIUMS

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AUTHORITY: Secs. 12 U.S.C. 2020, 2277a-4, 2277a-5, 2277a-7.

SOURCE: 56 FR 3201, Jan. 29, 1991, unless otherwise noted.

§ 1410.1 Purpose and scope.

This part sets forth the rules for:

(a) The calculation of premiums;

(b) The time for payment of the premium required by sections 5.55 and 5.56

of the Farm Credit Act of 1971, as amended;

(c) Interest charges on delinquent payments;

(d) The form and content of certified statements; and,

(e) Documentation supporting certified statements.

§ 1410.2 Definitions.

(a) *Act* means the Farm Credit Act of 1971, as amended.

(b) *Average principal outstanding* means the average annual principal outstanding on a daily basis using balances as of the close of each day. In computing the average annual principal outstanding in this manner, the closing balance of the most recent past business day shall be the closing balance for days when an institution is closed.

(c) *Direct lending association* means any production credit association or any other association making direct loans under authority provided under section 7.6 of the Act, including, without limitation, agricultural credit associations and Federal land credit associations.

(d) *Government-guaranteed loans or investments* means loans or credits or investments, or portions of loans or credits or investments, that are guaranteed:

(1) By the full faith and credit of the United States Government or any State government; or,

(2) By an agency or other entity of the United States Government whose obligations are explicitly guaranteed by the United States Government; or,

(3) By an agency or other entity of a State government whose obligations are explicitly guaranteed by such State government.

(e) *Insured bank* means any Farm Credit bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 of the Act is insured under part E of title V of the Act, including, without limitation, banks that are in or are placed in receivership or conservatorship to the extent that those banks' participation in such obligations is insured.

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(f) *Loan* means any extension of credit or lease resulting from direct negotiations between a lender and a borrowing entity that is recorded as an asset of an insured bank, a direct lending association, or an other financing institution. The term “loan” includes loans, contracts of sale, notes receivable, and other similar obligations and lease financings. The term “loan” includes loans originated through direct negotiations between the insured bank, direct lending association, or other financing institution and a borrowing entity and loans or interests in loans purchased from another lender. Loans purchased subject to recourse shall be considered loans of the seller to the extent of the recourse.

(g)(1) *Nonaccrual loan* means any loan where—

(i) Any amount of outstanding principal and all past and future interest accruals, considered over the full term of the asset, are determined to be uncollectible for any reason; or,

(ii) It has been classified “loss” as a result of a periodic credit evaluation and has not been charged off; or,

(iii) The loan is severely past due and is not adequately secured, in process of collection, and fully collectible with respect to all principal and interest.

(2) For the purposes of determining whether a loan is considered as accrual or nonaccrual under this part, all loans on which a borrowing entity, or a component of a borrowing entity, is primarily obligated to the institution shall be considered as one loan unless a review of all pertinent facts supports a reasonable determination that a particular loan constitutes an independent credit risk and such determination is adequately documented in the loan file.

(h) *Other financing institution* means any bank, company, institution, corporation, union, or association described in section 1.7(b)(1)(B) of the Act.

[56 FR 3201, Jan. 29, 1991; 56 FR 10302, Mar. 11, 1991; 74 FR 17373, Apr. 15, 2009]

§ 1410.3 Calculation and reporting of premiums due.

(a) *Reporting.* For purposes of computing premiums, each insured bank shall, without limitation, report all in-

formation concerning the insured bank; each direct lending association that is receiving (or has received) funds provided through the insured bank; and each other financing institution that is receiving (or has received) funds provided through the insured bank; that the Corporation determines is necessary in order to compute the premiums due under the Act.

(b) *Calculating the premium payment for periods from July 1, 2008 through December 31, 2008.* (1) The premium payment for the 3rd Quarter 2008 (defined for purposes of this section as the period from July 1, 2008 through September 30, 2008) and the premium payment for the 4th Quarter 2008 (defined for purposes of this section as the period October 1, 2008, through December 31, 2008) shall be equal to 25 percent of the amount computed by applying the premium calculation formulas contained in sections 5.55 and 5.56 of the Act (unless reduced by the Corporation acting under section 5.55(a)(3) of the Act or under paragraph (d) of this section) to the insured bank during the 3rd Quarter 2008 or 4th Quarter 2008, respectively.

(2) In accord with paragraph (b)(1) of this section, the premium payment for the 3rd Quarter 2008 (having been reduced by the Corporation acting under section 5.55(a)(3) of the Act) shall be equal to 25 percent of the following amount:

(i) The average outstanding insured obligations issued by the bank for the period, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in section 5.55(a)(2) of the Act, multiplied by 0.0015; and

(ii) The product obtained by multiplying—

(A) The sum of—

(1) The average principal outstanding for the period on loans made by the bank (computed in accord with section 5.55 of the Act) that are in nonaccrual status; and

(2) The average amount outstanding for the period of other-than-temporarily impaired investments made by the bank (computed in accord with section 5.55 of the Act);

(B) By 0.0010.

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(3) In accord with paragraph (b)(1) of this section, the premium payment for the 4th Quarter 2008 (having been reduced by the Corporation acting under section 5.55(a)(3) of the Act) shall be equal to 25 percent of the following amount:

(i) The average outstanding insured obligations issued by the bank for the period, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in section 5.55(a)(2) of the Act, multiplied by 0.0018; and

(ii) The product obtained by multiplying—

(A) The sum of—

(I) The average principal outstanding for the period on loans made by the bank (computed in accord with section 5.55 of the Act) that are in nonaccrual status; and

(2) The average amount outstanding for the period of other-than-temporarily impaired investments made by the bank (computed in accord with section 5.55 of the Act);

(B) By 0.0010.

(c) *Calculating the premium payment for periods in 2009 and subsequent years.*

(1) The premium payment for periods in calendar year 2009 and subsequent years shall be equal to the amount computed by applying the premium calculation formulas contained in sections 5.55 and 5.56 of the Act (unless reduced by the Corporation acting under section 5.55(a)(3) of the Act or under paragraph (d) of this section) to the insured bank during the period.

(2) In accord with paragraph (c)(1) of this section, the premium payment for the period shall (unless reduced by the Corporation acting under section 5.55(a)(3) of the Act or under paragraph (d) of this section) be equal to:

(i) The average outstanding insured obligations issued by the bank for the period, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in section 5.55(a)(2), multiplied by 0.0020; and

(ii) The product obtained by multiplying—

(A) The sum of—

(I) The average principal outstanding for the period on loans made by the bank (computed in accord with section

5.55 of the Act) that are in nonaccrual status; and

(2) The average amount outstanding for the period of other than temporarily impaired investments made by the bank (computed in accord with section 5.55 of the Act);

(B) By 0.0010.

(d) *Secure base amount.* In addition to the Corporation's authority to reduce premiums under section 5.55(a)(3) of the Act, upon reaching the secure base amount determined by the Corporation in accordance with section 5.55 of the Act, the annual premium to be paid by each insured bank, computed in accordance with paragraphs (b) and (c) of this section, shall be reduced by a percentage determined by the Corporation so that the aggregate of the premiums payable by all of the Farm Credit banks for the following calendar year is sufficient to ensure that the Insurance Fund balance is maintained at not less than the secure base amount. The Corporation shall announce any such percentage no later than December 31 of the year prior to the January in which such premiums are to be paid.

[74 FR 17373, Apr. 15, 2009]

§ 1410.4 Payment of premiums.

(a) *Payments.* Each insured bank shall pay to the Corporation the amount of the premium due to the Corporation computed in accordance with sections 5.55 and 5.56 of the Act, and §1410.3 of this part, and shown on its certified statement, at the time the statement is filed. Certified statements shall be considered to have been filed and payments made in a timely manner if they are received on or before January 31 following the end of the calendar year on which the certified statement is based.

(b) *Premiums as obligations of insured banks.* Premiums required to be paid by §1410.3 are obligations of the insured banks, and are to be paid at the times required by this section, regardless of whether the insured bank has assessed and collected any assessments under section 1.12 of the Act.

[56 FR 3201, Jan. 29, 1991; 56 FR 10302, Mar. 11, 1991; 74 FR 17374, Apr. 15, 2009]

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§ 1410.5 Delinquent premium payments and premium overpayments.

(a) *Delinquent payments.* Each insured bank shall pay to the Corporation interest on delinquent premium payments. All premiums will be considered delinquent if they are received after the time for payment specified in § 1410.4 of this part, including late payments caused by bank errors in the certified statement. The interest rate will be the United States Treasury Department's current value of funds rate, which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published quarterly in the FEDERAL REGISTER. The interest rate will be determined as follows:

(1) *Current year.* (i) For delinquent days occurring on or prior to March 31, the rate will be the TFRM rate that is published in the preceding December.

(ii) For delinquent days occurring from April 1 to June 30, the rate will be the TFRM rate that is published in March for the second quarter of the year.

(iii) For delinquent days occurring from July 1 to September 30, the rate will be the TFRM rate that is published in June for the third quarter.

(iv) For delinquent days occurring from October 1 to December 31, the rate will be the TFRM rate that is published in September for the fourth quarter.

(2) *Prior years.* The interest will be calculated quarterly and compounded annually at the rates applicable for each quarter as issued under the TFRM. For the initial year, the rate will be applied to the gross amount of the delinquent payment. For each additional year or portion thereof the rate will be applied to the net amount of the delinquent payment after it has been reduced by any premium credit under paragraph (c) of this section.

(b) *Other rights and remedies.* Payment of the interest specified in paragraph (a) of this section does not affect any other rights and remedies available to the Corporation.

(c) *Overpayments.* To the extent that any payment by a bank exceeds the required amount:

(1) The excess shall be credited against future premium payments by the bank which overpaid; or,

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(2)(i) Upon written request to the Corporation by the bank which overpaid, the excess shall be refunded to the bank within 30 days of receipt of the written request; and

(ii) If the Corporation fails to make a refund within such 30-day period, and the Corporation determines that a refund is in order, the Corporation shall pay to the bank interest on the amount of the overpayment, from the end of such 30-day period through the date the refund is issued.

§ 1410.6 Certified statements.

(a) *Forms.* The certified statements required to be filed by insured banks under the provisions of section 5.56 of the Act shall be filed with the Corporation. The certified statement forms will be furnished to all insured banks by, or may be obtained from, the Corporation.

(b) *Amendments to certified statements.* In the event of an amendment or correction of a previously submitted certified statement, the amending insured bank shall resubmit to the Corporation the appropriate certified statement along with a letter of explanation regarding the amendment or correction.

[56 FR 3201, Jan. 29, 1991, as amended at 56 FR 57233, Nov. 8, 1991; 74 FR 17374, Apr. 15, 2009]

§ 1410.7 Documentation.

Each insured bank shall:

(a) Prepare and maintain accurate and complete records as necessary to prepare certified statements, including, but not limited to, records relating to the loans of each direct lending association and other financing institution that are able to make such loans because they are receiving, or have received, funding from the insured bank.

(b) Prepare and maintain on its premises books and records in such a manner as to facilitate reconciliation with certified statements prepared from them.

(c) Maintain in its books and records documentation supporting its certified statement for a period no less than 5 years following the date of each certified statement, unless the bank shall have requested in writing, and the Corporation shall have granted to the bank, written permission to dispose of

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such documentation prior to the expiration of 5 years.

(d) Make all records and any supporting documentation available, without limitation, to Corporation officials upon request.

PART 1411—RULES OF PRACTICE AND PROCEDURE

AUTHORITY: Secs. 5.58(10), 5.65(c) and (d) of the Farm Credit Act; 12 U.S.C. 2277a-7(10), 2277a-14(c) and (d); 28 U.S.C. 2461 note.

Subpart A—Rules and Procedures for Assessment and Collection of Civil Money Penalties

§ 1411.1 Inflation adjustment of civil money penalties for failure to file a certified statement, pay any premium required or obtain approval before employment of persons convicted of criminal offenses.

In accordance with the Federal Civil Money Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, a civil money penalty imposed pursuant to section 5.65(c) or (d) of the Act for a violation occurring on or after October 23, 1996 shall not exceed \$117 per day for each day the violation continues.

[66 FR 44027, Aug. 22, 2001]

PART 1412—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

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1412.2 Definitions.

1412.3 Golden parachute payments prohibited.

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1412.6 Permissible indemnification payments.

1412.7 Filing instructions.

1412.8 Application in the event of receivership.

AUTHORITY: 12 U.S.C. 2277a-10b.

SOURCE: 71 FR 7405, Feb. 13, 2006, unless otherwise noted.

§ 1412.1 Scope.

(a) This part limits and/or prohibits, in certain circumstances, the ability of

Farm Credit System (System) institutions, their service corporations, subsidiaries and affiliates from making golden parachute and indemnification payments to institution-related parties (IRPs).

(b) This part applies to System institutions in a troubled condition that seek to make golden parachute payments to their IRPs.

(c) The limitations on indemnification payments apply to all System institutions, their service corporations, subsidiaries and affiliates regardless of their financial health.

§ 1412.2 Definitions.

(a) *Act* or *Farm Credit Act* means Farm Credit Act of 1971 (12 U.S.C. 2002(a)), as amended by the Farm Credit System Reform Act of 1996, amending 12 U.S.C. 2277a-10.

(b) *Farm Credit System institution* or *System institution* means any “institution” enumerated in section 1.2 of the Act including, but not limited to, associations, banks, service corporations, the Federal Farm Credit Banks Funding Corporation, the Farm Credit Leasing Services Corporation and their subsidiaries and affiliates, as well as, the Federal Agricultural Mortgage Corporation and its subsidiaries and affiliates, as described in 12 U.S.C. 2279aa-1(a).

(c) *Benefit plan* means any plan, contract, agreement or other arrangement which is an “employee welfare benefit plan” as that term is defined in section 3(1) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1002(1)), or other usual and customary plans such as dependent care, tuition reimbursement, group legal services or other benefits provided under a cafeteria plan sponsored by the System institution; provided however, that such term shall not include any plan intended to be subject to paragraph (f)(2)(iii), (vii) and (viii) of this section.

(d) *Bona fide deferred compensation plan or arrangement* means any plan, contract, agreement or other arrangement whereby:

(1) An IRP voluntarily elects to defer all or a portion of the reasonable compensation, wages or fees paid for services rendered which otherwise would