§ 615.5245 Limitations on association preferred stock.

(a) The board of directors of each association offering preferred stock must adopt a policy that addresses the association’s conditions or limits on the amount of preferred stock that any one holder, or small number of holders may acquire.

(b) Each association offering preferred stock must make the stock available for purchase to each of its members on the same basis.

(c) An association may not extend credit for purchases of preferred stock in the association.

[70 FR 53908, Sept. 13, 2005]

§ 615.5250 Disclosure requirements for borrower stock.

(a) For sales of borrower stock, which for this subpart means equities purchased as a condition for obtaining a loan, an institution must provide a prospective borrower with the following documents prior to loan closing:

(1) The institution’s most recent annual report filed under part 620 of this chapter;

(2) The institution’s most recent quarterly report filed under part 620 of this chapter, if more recent than the annual report;

(3) A copy of the institution’s capitalization bylaws; and

(4) A written description of the terms and conditions under which the equity is issued. In addition to specific terms and conditions, the description must disclose:

(i) That the equity is an at-risk investment and not a compensating balance;

(ii) That the equity is retireable only at the discretion of the board of directors and only if minimum permanent capital standards established under subpart H of this part are met;

(iii) Whether the institution presently meets its minimum permanent capital standards;

(iv) Whether the institution knows of any reason the institution may not meet its permanent capital standard on the next earnings distribution date; and

(v) The rights, if any, to share in patronage distributions.

(b) Notwithstanding the provisions of paragraph (a) of this section, no materials previously provided to a purchaser (except the disclosures required by paragraph (a)(4) of this section) need be provided again unless the purchaser requests such materials.

[70 FR 53908, Sept. 13, 2005]

§ 615.5255 Disclosure and review requirements for other equities.

(a) A bank, association, or service corporation must submit a proposed disclosure statement to the Farm Credit Administration (FCA) for review and clearance prior to the proposed sale of any other equities, which for this subpart means equities not purchased as a condition for obtaining a loan.

(b) An institution may not offer to sell other equities until a disclosure statement is reviewed and cleared by FCA.

(c) A disclosure statement must include:

(1) All of the information required by part 620 of this chapter in the annual report to shareholders as of a date within 135 days of the proposed sale. An institution may incorporate by reference its most recent annual report to shareholders and the most recent quarterly report filed with the FCA in satisfaction of this requirement;

(2) The information required by § 615.5250(a)(3) and (a)(4); and

(3) A discussion of the intended use of the sale proceeds.

(d) An institution is not required to provide the materials identified in paragraphs (c)(1) and (c)(2) of this section to a purchaser who previously received them unless the purchaser requests it.

(e) For any class of stock where each purchaser and each subsequent transferee acquires at least $250,000 of the stock and meets the definition of “accredited investor” or “qualified institutional buyer” contained in 17 CFR 230.501 and 230.144A (or successor provisions), a disclosure statement submitted pursuant to this section is deemed reviewed and cleared by FCA and an institution may treat stock that meets all requirements of part 615 as permanent capital for the purpose of