

Farm Credit Administration

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(d) A bank for cooperatives or an agricultural credit bank engaged in foreign exchange trading shall have written policies describing the scope of trading activity authorized, delegation of authority, types of services offered, trading limits, reporting requirements, and internal accounting controls.

(e) The bank's trading guideline policies should provide for reporting procedures adequate to inform management properly of trading activities and to facilitate detection of lack of compliance with policy directives.

(f) The bank's policies shall establish foreign exchange delivery limits for eligible customers with relationship to the customer's financial capability to bear the financial risks assumed. The bank will be expected to maintain documentary evidence that a customer's delivery exposure is reasonable, and that responsible bank officers routinely review outstanding delivery exposure of individual customers.

(g) The bank's personnel policies shall include written standards of conduct for those involved with foreign exchange activities, including the following which should be prohibited:

(1) Trading with entities affiliated with the bank or with members of the board of directors.

(2) Foreign exchange and deposit transactions with other bank employees.

(3) Personal business relationships with foreign exchange and money brokers with whom the bank deals.

(h) The bank's policies should provide detailed instructions regarding the need for bank officers to disclose the limits of responsibility and liability of the bank when it holds positions or executes contracts for the account of eligible parties. The bank's policies regarding the respective procedures should provide reasonable assurance that reports on trading activities are current and complete, and that the opportunity for concealment of unauthorized transactions is kept at the absolute minimum.

(i) The banks for cooperatives and agricultural credit banks shall use the Funding Corporation for purposes of trading foreign exchange. All foreign exchange transactions shall be made by the Funding Corporation on behalf of

the banks consistent with instructions received from the respective banks.

(j) Guidelines (b) through (i) of this section will not apply if a bank purchases or sells foreign exchange through a commercial bank and has no foreign exchange risk exposure.

[46 FR 51879, Oct. 22, 1981, as amended at 55 FR 24887, June 19, 1990; 62 FR 4445, Jan. 30, 1997]

Subpart R—Secondary Market Authorities

§ 614.4910 Basic authorities.

(a) Any bank or association of the Farm Credit System, except a bank for cooperatives, with direct lending authority may originate agricultural real estate loans for sale to one or more certified agricultural mortgage marketing facilities under title VIII of the Act.

(b) Any bank or association of the Farm Credit System, except a bank for cooperatives, may operate as an agricultural mortgage marketing facility under title VIII of the Act, either acting alone or jointly with other banks and/or associations, if so certified by the Federal Agricultural Mortgage Corporation.

[54 FR 1155, Jan. 12, 1989]

Subpart S—Flood Insurance Requirements

SOURCE: 61 FR 45711, Aug. 29, 1996, unless otherwise noted.

§ 614.4920 Purpose and scope.

(a) *Purpose.* This subpart implements the requirements of the National Flood Insurance Act of 1968 (1968 Act), as amended, and the Flood Disaster Protection Act of 1973 (1973 Act), as amended (42 U.S.C. 4001–4129).

(b) *Scope.* This subpart, except for §§ 614.4940 and 614.4950, applies to loans of Farm Credit System (System) institutions that are secured by buildings or mobile homes located or to be located in areas determined by the Director of the Federal Emergency Management Agency to have special flood hazards. Sections 614.4940 and 614.4950 apply to loans secured by buildings or mobile homes, regardless of location.

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§ 614.4925 Definitions.

(a) *Building* means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, and a walled and roofed structure while in the course of construction, alteration, or repair.

(b) *Community* means a State or a political subdivision of a State that has zoning and building code jurisdiction over a particular area having special flood hazards.

(c) *Designated loan* means a loan secured by a building or a mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the 1968 Act.

(d) *Director of FEMA* means the Director of the Federal Emergency Management Agency.

(e) *Mobile home* means a structure, transportable in one or more sections, that is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term *mobile home* does not include a recreational vehicle. For purposes of this subpart, the term *mobile home* means a mobile home on a permanent foundation. The term *mobile home* includes a manufactured home as that term is used in the NFIP.

(f) *NFIP* means the National Flood Insurance Program authorized under the 1968 Act.

(g) *Residential improved real estate* means real estate upon which a home or other residential building is located or to be located.

(h) *Servicer* means the person responsible for:

(1) Receiving any scheduled, periodic payments from a borrower under the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan; and

(2) Making payments of principal and interest and any other payments from the amounts received from the borrower as may be required under the terms of the loan.

(i) *Special flood hazard area* means the land in the flood plain within a community having at least a one percent

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chance of flooding in any given year, as designated by the Director of FEMA.

(j) *Table funding* means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

§ 614.4930 Requirement to purchase flood insurance where available.

(a) *In general.* A System institution shall not make, increase, extend or renew any designated loan unless the building or mobile home and any personal property securing the loan are covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the 1968 Act. Flood insurance coverage under the Act is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.

(b) *Table funded loans.* A System institution that acquires a loan from a mortgage broker or other entity through table funding shall be considered to be making a loan for purposes of this part.

(c) *Exemptions.* The flood insurance requirement of paragraph (a) of this section does not apply with respect to:

(1) Any State-owned property covered under a policy of self-insurance satisfactory to the Director of FEMA, who publishes and periodically revises the list of States falling within this exemption; or

(2) Property securing any loan with an original principal balance of \$5,000 or less and a repayment term of one year or less.

§ 614.4935 Escrow requirement.

If a System institution requires the escrow of taxes, insurance premiums, fees, or any other charges for a loan secured by *residential improved real estate* or a mobile home that is made, increased, extended or renewed on or after October 4, 1996, the institution shall also require the escrow of all premiums and fees for any flood insurance required under § 614.4930. The institution, or a servicer acting on behalf of

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the institution, shall deposit the flood insurance premiums on behalf of the borrower in an escrow account. This escrow account will be subject to escrow requirements adopted pursuant to section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) (RESPA), which generally limits the amount that may be maintained in escrow accounts for certain types of loans and requires escrow account statements for those accounts, only if the loan is otherwise subject to RESPA. Following receipt of a notice from the Director of FEMA or other provider of flood insurance that premiums are due, the institution, or a servicer acting on behalf of the institution, shall pay the amount owed to the insurance provider from the escrow account by the date when such premiums are due.

§ 614.4940 Required use of standard flood hazard determination form.

(a) *Use of form.* System institutions must use the standard flood hazard determination form developed by the Director of FEMA when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the 1968 Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner. A System institution may obtain the standard flood hazard determination form by written request to FEMA, P.O. Box 2012, Jessup, MD 20794-2012.

(b) *Retention of form.* System institutions shall retain a copy of the completed standard flood hazard determination form, in either hard copy or electronic form, for the period of time the institution owns the loan.

[61 FR 45711, Aug. 29, 1996, as amended at 64 FR 71274, Dec. 21, 1999]

§ 614.4945 Forced placement of flood insurance.

If a System institution, or a servicer acting on behalf of the institution, determines at any time during the term of a designated loan, that the building or mobile home and any personal property securing the designated loan are not covered by flood insurance or are

covered by flood insurance in an amount less than the amount required under § 614.4930(a), then the institution or its servicer shall notify the borrower that the borrower should obtain flood insurance, at the borrower's expense, in an amount at least equal to the amount required under § 614.4930(a), for the remaining term of the loan. If the borrower fails to obtain flood insurance within 45 days after notification, then the institution or its servicer shall purchase insurance on the borrower's behalf. The institution or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance.

§ 614.4950 Determination fees.

(a) *General.* Notwithstanding any Federal or State law other than the 1973 Act, any System institution, or a servicer acting on behalf of the institution, may charge a reasonable fee for determining whether the building or mobile home securing the loan is located or will be located in a special flood hazard area. A determination fee may also include, but is not limited to, a fee for life-of-loan monitoring.

(b) *Borrower fee.* The determination fee authorized by paragraph (a) of this section may be charged to the borrower if the determination:

(1) Is made in connection with a making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(2) Reflects the Director of FEMA's revision or updating of floodplain areas or flood-risk zones;

(3) Reflects the Director of FEMA's publication of a notice or compendium that:

(i) Affects the area in which the building or mobile home securing the loan is located; or

(ii) By determination of the Director of FEMA, may reasonably require a determination whether the building or mobile home securing the loan is located in a special flood hazard area; or

(4) Results in the purchase of flood insurance coverage under § 614.4945.

(c) *Purchaser or transferee fee.* The determination fee authorized by paragraph (a) of this section may be charged to the purchaser or transferee

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of a loan in the case of the sale or transfer of the loan.

§ 614.4955 Notice of special flood hazards and availability of Federal disaster relief assistance.

(a) *Notice requirement.* When a System institution makes, increases, extends, or renews a loan secured by a building or a mobile home located or to be located in a special flood hazard area, the institution shall mail or deliver a written notice containing the information specified in paragraph (b) of this section to the borrower and to the servicer of the loan. Notice is required whether or not flood insurance is available under the 1968 Act for the collateral securing the loan.

(b) *Contents of notice.* The written notice must include the following information:

(1) A warning, in a form approved by the Director of FEMA, that the building or the mobile home is or will be located in a special flood hazard area;

(2) A description of the flood insurance purchase requirements set forth in section 102(b) of the 1973 Act (42 U.S.C. 4012a(b));

(3) A statement, where applicable, that flood insurance coverage is available under the NFIP and also may be available from private insurers; and

(4) A statement whether Federal disaster relief assistance may be available in the event of damage to the building or the mobile home caused by flooding in a Federally declared disaster.

(c) *Timing of notice.* The institution shall provide the notice required by paragraph (a) of this section to the borrower within a reasonable time before the completion of the transaction, and to the servicer as promptly as practicable after the institution provides notice to the borrower and in any event no later than the time the institution provides other similar notices to the servicer concerning hazard insurance and taxes. Notice to the servicer may be made electronically or may take the form of a copy of the notice to the borrower.

(d) *Record of receipt.* Each institution shall retain a record of the receipt of the notices by the borrower and the servicer for the period of time the institution owns the loan.

(e) *Alternate method of notice.* Instead of providing the notice to the borrower required by paragraph (a) of this section, an institution may obtain satisfactory written assurance from a seller or lessor that, within a reasonable time before the completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The institution shall retain a record of the written assurance from the seller or lessor for the period of time the institution owns the loan.

(f) *Use of prescribed form of notice.* An institution will be considered to be in compliance with the requirements of this section for notice to the borrower by providing written notice to the borrower containing the language presented in appendix A to this subpart within a reasonable time before the completion of the transaction. The notice presented in appendix A to this subpart satisfies the borrower notice requirements of the 1968 Act.

§ 614.4960 Notice of servicer's identity.

(a) *Notice requirement.* When a System institution makes, increases, extends, renews, sells, or transfers a loan secured by a building or mobile home located or to be located in a special flood hazard area, the institution shall notify the Director of FEMA (or the Director's designee) in writing of the identity of the servicer of the loan. The Director of FEMA has designated the insurance provider to receive the institution's notice of the servicer's identity. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee.

(b) *Transfer of servicing rights.* The institution shall notify the Director of FEMA (or the Director's designee) of any change in the servicer of a loan described in paragraph (a) of this section within 60 days after the effective date of the change. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee. Upon any change in the servicing of a loan described in paragraph (a) of this section, the duty to provide notice under this paragraph (b) shall transfer to the transferee servicer.

APPENDIX A TO SUBPART S OF PART
614—SAMPLE FORM OF NOTICE OF
SPECIAL FLOOD HAZARDS AND
AVAILABILITY OF FEDERAL DISASTER
RELIEF ASSISTANCE

We are giving you this notice to inform you that:

The building or mobile home securing the loan for which you have applied is or will be located in an area with special flood hazards.

The area has been identified by the Director of the Federal Emergency Management Agency (FEMA) as a special flood hazard area using FEMA's *Flood Insurance Rate Map* or the *Flood Hazard Boundary Map* for the following community: _____. This area has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year. During the life of a 30-year mortgage loan, the risk of a 100-year flood in a special flood hazard area is 26 percent (26%).

Federal law allows a lender and borrower jointly to request the Director of FEMA to review the determination of whether the property securing the loan is located in a special flood hazard area. If you would like to make such a request, please contact us for further information.

The community in which the property securing the loan is located participates in the National Flood Insurance Program (NFIP). Federal law will not allow us to make you the loan that you have applied for if you do not purchase flood insurance. The flood insurance must be maintained for the life of the loan. If you fail to purchase or renew flood insurance on the property, Federal law authorizes and requires us to purchase the flood insurance for you at your expense.

- Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance also may be available from private insurers that do not participate in the NFIP.

- At a minimum, flood insurance purchased must cover *the lesser of*:

- The outstanding principal balance of the loan; *or*

- The maximum amount of coverage allowed for the type of property under the NFIP.

Flood insurance coverage under the NFIP is limited to the overall value of the property securing the loan minus the value of the land on which the property is located.

- Federal disaster relief assistance (usually in the form of a low-interest loan) may be available for damages incurred in excess of your flood insurance if your community's

participation in the NFIP is in accordance with NFIP requirements.

_____ Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally-declared flood disaster.

**PART 615—FUNDING AND FISCAL
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