

Fact Sheet

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Fact Sheet on Final Rule Establishing Regulations on Use of Unincorporated Business Entities

The Farm Credit Administration Board approved a final rule to establish a regulatory framework for Farm Credit System (System) institutions' use of unincorporated business entities (UBEs), organized under state law, to carry out certain functions, services or activities of a System institution.

FCA established the new rules within part 611—Organization, by creating new subpart J—Unincorporated Business Entities, and new sections 611.1150–611.1158. The FCA Board also approved conforming changes to existing regulatory sections. In adopting this final rule, FCA will accomplish the following:

1. Create a uniform approval and oversight process for FCA to consider requests by System institutions to organize or invest in UBEs for certain functions, services or business activities.
2. Affirm FCA's authority to regulate and examine the System institutions' use of UBEs, including FCA's authority to impose any conditions deemed necessary and appropriate related to UBE business activity and to take enforcement action against System institutions whose business operations use UBEs.
3. Prohibit System institutions from using UBEs to engage in direct lending or any activity that exceeds their authority under the Farm Credit Act of 1971, as amended, (Act) or circumvents the application of cooperative principles.
4. Limit the amount of a System institution's aggregate equity investments in most UBEs to 1 percent of a System institution's total loans outstanding at the time the investment is made. FCA may impose a lower percentage limit for an institution based on safety or soundness or other relevant concerns. FCA may also consider and approve a request to exceed the 1 percent limit.
5. Establish standards for the proper and adequate disclosure and reporting of System UBE activity and ensure that the System's use of UBEs remains transparent and free from conflicts of interest.

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6. Grandfather from the notice and approval provisions those UBE formations and equity investments that FCA specifically approved in writing prior to the effective date of the rule.
7. Rescind Bookletter BL—057, Use of State-Chartered Business Entities to Hold Acquired Property, when the final rule takes effect.

The final rule does not give System institutions any new powers or authorities. It recognizes institutions' rights to exercise their existing incidental powers and investment authorities under the Act and allows them to continue to establish UBEs in accordance with the new regulatory process.

The rule will be effective 30 days after publication in the Federal Register during which either or both bodies of Congress are in session. We will publish a notice of the effective date in the Federal Register.

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