

Informational Memorandum



January 13, 2010

To: Chairman, Board of Directors  
Chief Executive Officer  
All Farm Credit System Banks and Associations

From: Thomas G. McKenzie, Director and Chief Examiner  
Office of Examination

A handwritten signature in black ink that reads 'Thomas G. McKenzie'. The signature is written in a cursive style and is positioned to the right of the typed name.

Subject: Consumer and Borrower Rights Regulatory Compliance Requirements

As part of OE's National Oversight Program, the Office of Examination evaluated compliance with the Federal Reserve Consumer Regulations and Farm Credit Administration Borrower Rights Regulations at selected System institutions. The results of the examination activity were communicated separately to each of the institutions examined.

Based on the findings observed, we expect all institutions to evaluate their practices related to compliance with consumer and borrower rights regulations. In particular, institutions must ensure templates and forms are fully completed with appropriate information. Additionally, institutions should also maintain an effective and ongoing training program with emphasis on new or revised laws and regulations, as well as exceptions cited in internal audits and FCA examinations. There were several findings observed at multiple institutions that should be reviewed by all institutions to ensure regulatory compliance. Specifically:

- Equal Credit Opportunity Act (ECOA) Regulation B (12 CFR Part 202) § 202.13 requires that Voluntary Monitoring Information must be collected for the applicant's (and co-applicant's) Ethnicity, Race, Sex, Marital Status, and Age. If the applicant does not complete the information, loan officers should complete the form based on visual observation.
- ECOA Regulation B (12 CFR Part 202) § 202.9 requires applicants be given a specific reason for denial or the right to a statement of specific reasons for denial. The failure to meet underwriting standards and a minimum credit score are not specific enough reasons; therefore, additional information should be communicated.
- ECOA Regulation B (12 CFR Part 202) § 202.9 also requires that the ECOA notice include the appropriate agency contact information. The correct notice for Farm Credit institutions should read:

*The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.*

- FCA Regulation 617.7410 requires that the Distressed Loan Restructuring (DLR) notice must include a statement identifying the loan as distressed. In addition, this FCA Regulation requires that borrowers in bankruptcy receive DLR notifications. Furthermore, institutions should document their analysis of restructuring requests including the least cost analysis and the timeframe for the decision. The 15-day period for the decision-making process begins **at the end** of the negotiations to develop a restructuring application, and this date must be documented.

Furthermore, the Agency would like to remind FCS institutions of the following:

- Institutions should review the updated requirements of the Real Estate Settlement Procedures Act (24 CFR Part 3500), especially the disclosure requirements for Good Faith Estimates and the Special Information Handbook as well as retention requirements for the HUD-1 and HUD-1A forms.
- Institutions should review the updated requirements of the Truth in Lending Act Regulation Z (12 CFR Part 226), especially the requirements for disclosing required deposits and security interests as well as when it is appropriate to select the assumption box.
- Institutions are encouraged to develop procedures to determine applicability of the Home Mortgage Disclosure Act on an annual basis.
- As addressed in the recently issued National Oversight Plan for Fiscal Year 2010, issued December 16, 2009, we anticipate delinquencies and borrower complaints to increase in the rising risk environment facing agriculture. As a result, we encourage institutions to review borrower rights policies and procedures especially in the areas of Distressed Loan Restructuring, Right of First Refusal, and Credit Review Committees and increase training accordingly.

FCS boards and management are encouraged to share this information with their compliance officers and Audit Committees. The examiner-in-charge will contact management teams to evaluate actions taken and to assess the adequacy of borrower rights and compliance controls. If you have any questions about this memorandum, please contact your designated examiner-in-charge or FCA Examiner Keta Mitchell at (972) 869-0550, extension 4141 ([mitchellk@fca.gov](mailto:mitchellk@fca.gov)) or Operations Risk Program Manager Michael Anderson at (303) 696-9737, extension 2081 ([andersonm@fca.gov](mailto:andersonm@fca.gov)).

cc: Federal Farm Credit Banks Funding Corporation  
All FCS Service Corporations