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Handbook Mailing HM-10-6

[6705-01-P]

FARM CREDIT ADMINISTRATION

12 CFR Parts 604, 607, 612, 614, 615, 618, and 627

RIN 3052-AC63

Farm Credit Administration Board Meetings; Assessment and Apportionment of Administrative Expenses; Standards of Conduct and Referral of Known or Suspected Criminal Violations; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; and Title IV Conservators, Receivers, and Voluntary Liquidations; Technical Changes

AGENCY: Farm Credit Administration.

ACTION: Direct final rule.

SUMMARY: The Farm Credit Administration (FCA or Agency) amends the current regulations in parts 604, 607, 612, 614, 615, 618, and 627 to eliminate unnecessary, redundant or outdated regulations, to correct cross-reference errors, and to clarify the intent of a regulatory provision. This direct final rule covers issues that are technical in nature.

DATES: If no significant adverse comment is received on or before July 26, 2010, these regulations shall be effective upon the expiration of 30 days after publication in the Federal Register during which either or both Houses of Congress are in session. We will publish notice of the effective date in the Federal Register. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant comment. In such a case, we would then inform you of how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this direct final rule is to carry out the FCA Board's commitment to the principles contained in the Board's Policy Statement on Regulatory Philosophy,¹ which includes the elimination of outdated regulations and technical amendments to ensure that regulations are accurate. In furtherance of this objective, the Agency is making a number of technical changes to its regulations.

II. Section-by-Section Analysis

A. Section 604.420(i)(1)--Farm Credit Administration Board Meetings; § 607.2(j)--Assessment and Apportionment of Administrative Expenses; § 612.2300(a)--Standards of Conduct and Referral of Known or Suspected Criminal Violations; §§ 615.5030(b) and 615.5560--Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; and § 627.2705(b)--Title IV Conservators, Receivers, and Voluntary Liquidations

In each of the above-listed sections, the direct final rule eliminates obsolete references or deletes obsolete regulations that directly or indirectly relate to either the Farm Credit System Assistance Board (Assistance Board) or the Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation or FAC). The Assistance Board's charter was cancelled by the FCA Board, effective December 31, 1992, as required by section 6.12 of the Farm Credit Act of 1971, as amended (Act). In addition, the Financial Assistance Corporation's charter was cancelled by the FCA Board on December 31, 2006.

B. Section 614.4265(d)(Subpart F)--Collateral Evaluation Requirements

The direct final rule amends § 614.4265(d) to correctly reference paragraph (c) of that section regarding the evaluation of the income-earning and debt-servicing capacity for real property.

C. Sections 614.4510, 614.4512, and 614.4513 (Subpart N) --Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

We previously removed §§ 614.4514 through 614.4522 of subpart N, part 614, and redesignated them to the newly created part 617 to make the borrower rights rules more readily identifiable; however, we overlooked §§ 614.4510, 614.4512 and 614.4513 in the relocation.² Therefore, this direct final rule redesignates the remaining regulations, § 614.4510 and § 614.4513 of subpart N, part 614, to § 614.4170 and § 614.4175 of subpart D, part 614. In addition, the definitions in subpart N, part 614, in § 614.4512 are redundant and are removed.

D. Section 618.8320 (Subpart G)--Releasing Information

The direct final rule amends § 618.8320(b)(4) by inserting the phrase “, administration of credit,” after “extension of credit”. This is a technical change that does not alter the intended meaning of the provision but clarifies that borrower information that is shared in connection with the extension of credit and the collection of loans would also necessarily include the administration of credit for the confidential use of Farm Credit System (System) institutions.

E. Section 627.2735 (Subpart B)--Notice to Holders of Uninsured Accounts and Stockholders

The direct final rule amends § 627.2735(a) by deleting the reference to § 614.4513 and replacing it with § 614.4175 to conform to the redesignation of that provision described in Part C of this preamble.

III. Direct Final Rule

We are amending regulations described in the “Section-by-Section Analysis” above by a direct final rulemaking. The Administrative Conference of the United States recommends direct final

rulemaking for Federal agencies to enact noncontroversial regulations on an expedited basis, without the usual notice and comment period.³ This process enables us to reduce the time and resources we need to develop, review, and publish a final rule while still affording the public an adequate opportunity to comment or object to the rule.

In a direct final rulemaking, we notify the public that the rule will become final on a specified date unless we receive a significant adverse comment during the comment period. A significant adverse comment is one where the commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the Agency in a notice-and-comment proceeding.

We believe that a direct final rulemaking is the appropriate method for amending the regulations in Section II above because the changes are technical in nature and do not substantively alter the rights or responsibilities of any party. We do not anticipate there will be significant adverse comments. If, however, we receive a significant adverse comment during the comment period, we will publish a notice of withdrawal of the relevant provisions of this rule that will also indicate how further rulemaking will proceed. If we receive no significant adverse comments, we will publish notice of the effective date of the rule following the required Congressional waiting period under section 5.17(c)(1) of the Farm Credit Act of 1971, as amended.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

¹See 70 FR 71142, November 25, 2005.

²See 69 FR 10901, March 9, 2004.

³Recommendation 95-4, referencing the Administrative Procedure Act “good cause” exemption at 5 U.S.C. 553(b)(B), adopted June 15, 1995.

List of Subjects in 12 CFR Parts 604, 607, 612, 614, 615, 618, and 627

Accounting, Agriculture, Archives and records, Banks, banking, Claims, Conflict of Interest, Credit, Crime, Foreign trade, Government securities, Insurance, Investigations, Investments, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas, Sunshine Act, Technical assistance.

For the reasons stated in the preamble, parts 604, 607, 612, 614, 615, 618, and 627 of chapter VI, title 12 of the Code of Federal Regulations are amended as follows:

PART 604--FARM CREDIT ADMINISTRATION BOARD MEETINGS

1. The authority citation for part 604 continues to read as follows:

Authority: Secs. 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2243, 2252).

2. Amend § 604.420 by revising paragraph (i)(1) to read as follows:

§ 604.420 Exemptive provisions.

* * * * *

(i) * * *

(1) Significantly endanger the stability of any Farm Credit System institution, including banks, associations, service organizations, or the Funding Corporation; or

* * * * *

PART 607--ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

3. The authority citation for part 607 continues to read as follows:

Authority: Secs. 5.15, 5.17 of the Farm Credit Act (12 U.S.C. 2250, 2252) and 12 U.S.C. 3025.

§ 607.2 [Amended]

4. Amend § 607.2 by removing the words “the Farm Credit System Financial Assistance Corporation,” in paragraph (j).

PART 612--STANDARDS OF CONDUCT AND REFERRAL OF KNOWN OR SUSPECTED CRIMINAL VIOLATIONS

5. The authority citation for part 612 continues to read as follows:

Authority: Secs. 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2243, 2252, 2254).

Subpart B--Referral of Known or Suspected Criminal Violations

§ 612.2300 [Amended]

6. Amend § 612.2300 by removing the words “the Farm Credit System Financial Assistance Corporation,” in the first sentence of paragraph (a).

PART 614--LOAN POLICIES AND OPERATIONS

7. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

Subpart F--Collateral Evaluation Requirements

§ 614.4265 [Amended]

8. Section 614.4265(d) is amended by removing the reference to “paragraph (d)” and adding in its place, a reference to “paragraph (c).”

Subpart I--Loss-Sharing Agreements

§ 614.4341 [Removed]

9. Section 614.4341 is removed.

Subpart N--[Removed and Reserved]

§§ 614.4510 and 614.4513 [Redesignated as §§ 614.4170 and 614.4175 of subpart D]

10. Subpart N is amended by redesignating §§ 614.4510 and 614.4513 as newly designated §§ 614.4170 and 614.4175 in subpart D of part 614, removing § 614.4512, and reserving subpart N.

PART 615--FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

11. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-3, 2279aa-4, 2279aa-6, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a) of Pub. L. 100-233, 101 Stat. 1568, 1608.

Subpart A--Funding

§ 615.5030 [Amended]

12. Amend § 615.5030 by removing paragraph (b) and the designation for paragraph (a).

Subpart R--[Removed and Reserved]

13. Subpart R, consisting of § 615.5560, is removed and reserved.

PART 618--GENERAL PROVISIONS

14. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, and 2252).

Subpart G--Releasing Information

§ 618.8320 [Amended]

15. Amend § 618.8320 by adding the phrase “, administration of credit,” after the phrase “extension of credit” in paragraph (b)(4).

PART 627--TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

16. The authority citation for part 627 continues to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a-7, 2277a-10).

Subpart A--General

17. Section 627.2705 is amended by revising paragraph (b) to read as follows:

§ 627.2705 Definitions.

* * * * *

(b) *Farm Credit institution(s)* or *institution(s)* means all associations, banks, service corporations chartered under title IV of the Act, and the Federal Farm Credit Banks Funding Corporation.

* * * * *

Subpart B--Receivers and Receiverships

§ 627.2735 [Amended]

18. Section 627.2735(a) is amended by removing the reference “§ 614.4513” and adding in its place, the reference “§ 614.4175”.

Dated: June 18, 2010

**Roland E. Smith,
Secretary,**

Farm Credit Administration Board.