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PART 650—FEDERAL AGRICULTURAL MORTGAGE CORPORATION GENERAL PROVISIONS

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AUTHORITY: Secs. 4.12, 5.9, 5.17, 5.25, 8.11, 8.12, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of Pub. L. 92–181, 85 Stat. 583 (12 U.S.C. 2183, 2243, 2252, 2261, 2279aa–11, 2279aa–12, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

SOURCE: 62 FR 43636, Aug. 15, 1997. Redesignated at 70 FR 40650, July 14, 2005, unless otherwise noted.

Subpart A—Regulation, Examination and Enforcement

SOURCE: 81 FR 49151, July 27, 2016, unless otherwise noted.

§ 650.1 Definitions.

The following definitions apply to this part:

Act or *Authorizing statute* means the Farm Credit Act of 1971, as amended.

Business day means a day the Corporation is open for business, excluding the legal public holidays identified in 5 U.S.C. 6103(a).

Corporation or *Farmer Mac* means the Federal Agricultural Mortgage Corporation and its affiliates.

FCA means the Farm Credit Administration, an independent Federal agency of the executive branch.

NYSE means the New York Stock Exchange, a listing exchange.

OSMO means the FCA Office of Secondary Market Oversight, which is responsible for the general supervision of the safe and sound exercise of the Corporation's powers, functions, and duties and compliance with laws and regulations.

Our or *we* means the FCA or OSMO, as appropriate to the context of the provision employing the term.

SEC means the Securities and Exchange Commission.

Securities Act means the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) or the Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), or both, as appropriate to the context of the provision employing the term.

Signed, when referring to paper form, means a manual signature, and, when referring to electronic form, means marked in a manner that authenticates each signer's identity.

§ 650.2 Regulatory authority.

(a) *General.* The Corporation is a for-profit Government-sponsored enterprise developed to provide a secondary market for qualified agricultural, USDA-guaranteed, and rural utility loans, with public policy objectives included in its statutory charter. The Corporation is regulated by the FCA, operating through OSMO. The Corporation also lists securities on the NYSE, making it subject to certain SEC listing and disclosure requirements.

(b) *Primary regulator.* The FCA, operating through OSMO, holds primary regulatory, examination, and enforcement authority over the Corporation. The FCA, operating through OSMO, is responsible for the general supervision of the safe and sound exercise of the Corporation's powers, functions, and

duties and compliance with applicable laws and regulations.

(c) *Other regulatory authorities.* The Corporation registers its common stock and certain offerings of Farmer Mac Guaranteed Securities under the Securities Act and related regulations so must comply with certain SEC reporting requirements.

§ 650.3 Supervision and enforcement.

The Act provides FCA, acting through OSMO, with enforcement authority to protect the financial safety and soundness of the Corporation and to ensure that the Corporation's powers, functions, and duties are exercised in a safe and sound manner.

(a) *General supervision.* When we determine the Corporation has violated a law, rule, or regulation or is engaging in an unsafe or unsound condition or practice, we have enforcement authority that includes, but is not limited to, the following:

(1) Issue an order to cease and desist;

(2) Issue a temporary order to cease and desist;

(3) Assess civil monetary penalties against the Corporation and its directors, officers, employees, and agents; and

(4) Issue an order to suspend, remove, or prohibit directors and officers.

(b) *Financial safety and soundness of the Corporation.* When we determine the Corporation is taking excessive risks that adversely impact the adequacy of Regulatory Capital, we have authority to address that risk. This includes, but is not limited to, requiring capital restoration plans, restricting dividend distributions, requiring changes in the Corporation's obligations and assets, requiring the acquisition of new capital and restricting those Corporation activities determined to create excessive risk to the Corporation's Regulatory Capital.

§ 650.4 Access to Corporation records and personnel.

(a) The Corporation must make its records available promptly upon request by OSMO, at a location and in a form and manner acceptable to OSMO.

(b) The Corporation must make directors, officers, employees and other individuals or entities engaged by the Corporation to participate in the conduct of the Corporation's business available to OSMO during the course of an examination or supervisory action when OSMO determines it necessary to facilitate an examination or supervisory action.

§ 650.5 Reports of examination.

The Corporation is subject to the provisions in 12 CFR part 602 regarding FCA Reports of Examination.

§ 650.6 Criminal referrals.

The rules at 12 CFR part 612, subpart B, regarding ''Referral of Known or Suspected Criminal Violations'' are applicable to the Corporation.

Subpart B—Conservators, Receivers, and Liquidations

§ 650.10 Voluntary liquidation.

(a) The Corporation may voluntarily liquidate by a resolution of its board of directors, but only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board. Upon adoption of such resolution, the Corporation shall submit the resolution and proposed voluntary liquidation plan to the Farm Credit Administration Board for preliminary approval. The Farm Credit Administration Board, in its discretion, may appoint a receiver as part of an approved liquidation plan. If a receiver is appointed for the Corporation as part of a voluntary liquidation, the receivership shall be conducted pursuant to the regulations of this part, except to the extent that an approved plan of liquidation provides otherwise.

(b) If the Farm Credit Administration Board gives preliminary approval to the liquidation plan, the board of directors of the Corporation shall submit the resolution to liquidate to the stockholders for a vote in accordance with the bylaws of the Corporation.

(c) The Farm Credit Administration Board will consider final approval of the resolution to voluntarily liquidate and the liquidation plan after an affirmative stockholder vote on the resolution.

§ 650.13 Grounds for appointment of a receiver or conservator.

(a) The grounds for the appointment of a receiver or conservator for the Corporation are:

(1) The Corporation is insolvent. For purposes of this paragraph, insolvent means:

(i) The assets of the Corporation are less than its obligations to its creditors and others; or

(ii) The Corporation is unable to pay its debts as they fall due in the ordinary course of business;

(2) There has been a substantial dissipation of the assets or earnings of the Corporation due to the violation of any law, rule, or regulation, or the conduct of an unsafe or unsound practice;

(3) The Corporation is in an unsafe or unsound condition to transact business;

(4) The Corporation has committed a willful violation of a final cease-and-desist order issued by the Farm Credit Administration Board;

(5) The Corporation is concealing its books, papers, records, or assets, or is refusing to submit its books, papers, records, assets, or other material relating to the affairs of the Corporation for inspection to any examiner or any lawful agent of the Farm Credit Administration Board.

(b) In addition to the grounds set forth in paragraph (a) of this section, a receiver can be appointed for the Corporation if the Farm Credit Administration Board determines that the appointment of a conservator would not be appropriate when one of the following conditions exists:

(1) The authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

(2) The Corporation is classified under section 8.35 of the Act as within enforcement level III or IV and the alternative actions available under subtitle B of title VIII of the Act are not satisfactory.

(c) In addition to the grounds set forth in paragraph (a) of this section, a conservator can be appointed for the Corporation if:

(1) The Corporation is classified under section 8.35 of the Act as within enforcement level III or IV; or

(2) The authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended.

[62 FR 43636, Aug. 15, 1997. Redesignated at 70 FR 40650, July 14, 2005. Further redesignated at 81 FR 49151, July 27, 2016]

§ 650.14 Action for removal of receiver or conservator.

Upon the appointment of a receiver or conservator for the Corporation by the Farm Credit Administration Board pursuant to § 650.50 of this subpart, the Corporation may, within 30 days of such appointment, bring an action in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration Board to remove the receiver or conservator and, if the charter has been canceled, to rescind the cancellation of the charter. Notwithstanding any other provision of this part, the Corporation's board of directors is empowered to meet subsequent to such appointment and authorize the filing of an action for removal. An action for removal may be authorized only by the Corporation's board of directors.

[62 FR 43636, Aug. 15, 1997. Redesignated at 70 FR 40650, July 14, 2005. Further redesignated at 81 FR 49151, July 27, 2016]

§ 650.15 Appointment of a receiver.

(a) The Farm Credit Administration Board may in its discretion appoint, ex parte and without prior notice, a receiver for the Corporation provided that one or more of the grounds for appointment as set forth in § 650.50 of this subpart exist.

(b) Upon the appointment of the receiver, the Chairman of the Farm Credit Administration Board shall immediately notify the Corporation and shall publish a notice of the appointment in the FEDERAL REGISTER.

(c) Upon the issuance of the order placing the Corporation into liquidation and appointing the receiver, all rights, privileges, and powers of the board of directors, officers, and employees of the Corporation shall be vested exclusively in the receiver. The Farm Credit Administration Board may cancel the charter of the Corporation on such date as the Farm Credit Administration Board determines is

appropriate, but not later than the conclusion of the receivership and discharge of the receiver.

§ 650.20 Powers and duties of the receiver.

(a) *General*. (1) Upon appointment as receiver, the receiver shall take possession of the Corporation in order to wind up the business operations of the Corporation, collect the debts owed to the Corporation, liquidate its property and assets, pay its creditors, and distribute the remaining proceeds to stockholders. The receiver is authorized to exercise all powers necessary to the efficient termination of the Corporation's operation as provided for in this part.

(2) Upon its appointment as receiver, the receiver automatically succeeds to:

(i) All rights, titles, powers, and privileges of the Corporation and of any stockholder, officer, or director of the Corporation with respect to the Corporation and the assets of the Corporation; and

(ii) Title to the books, records, and assets of the Corporation in the possession of any other legal custodian of the Corporation.

(3) The receiver of the Corporation serves as the trustee of the receivership estate and conducts its operations for the benefit of the creditors and stockholders of the Corporation.

(b) *Specific powers*. The receiver may:

(1) Exercise all powers as are conferred upon the officers and directors of the Corporation under law and the charter, articles, and bylaws of the Corporation.

(2) Take any action the receiver considers appropriate or expedient to carry on the business of the Corporation during the process of liquidating its assets and winding up its affairs.

(3) Borrow funds in accordance with section 8.41(f) of the Act to meet the ongoing administrative expenses or other liquidity needs of the receivership.

(4) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the Corporation's assets or property or rehabilitate or improve such property and assets.

(5) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the Corporation has a lien or in which the Corporation has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property.

(6) Investigate any matter related to the conduct of the business of the Corporation, including, but not limited to, any claim of the Corporation against any individual or entity, and institute appropriate legal or other proceedings to prosecute such claims.

(7) Institute, prosecute, maintain, defend, intervene, and otherwise participate in any legal proceeding by or against the Corporation or in which the Corporation or its creditors or stockholders have any interest, and represent in every way the Corporation, its stockholders and creditors.

(8) Employ attorneys, accountants, appraisers, and other professionals to give advice and assistance to the receivership generally or on particular matters, and pay their retainers, compensation, and expenses, including litigation costs.

(9) Hire any agents or employees necessary for proper administration of the receivership.

(10) Execute, acknowledge, and deliver, in person or through a general or specific delegation, any instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effective as if it had been executed by the Corporation's officers by authority of its board of directors.

(11) Sell for cash or otherwise any mortgage, deed of trust, chose in action, note, contract, judgment or decree, stock, or debt owed to the Corporation, or any property (real or personal, tangible or intangible).

(12) Purchase or lease office space, automobiles, furniture, equipment, and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the receivership.

(13) Release any assets or property of any nature, regardless of whether the subject of pending litigation, and repudiate, with cause, any lease or executory contract the receiver considers burdensome.

(14) Settle, release, or obtain release of, for cash or other consideration, claims and demands against or in favor of the Corporation or receiver.

(15) Pay, out of the assets of the Corporation, all expenses of the receivership (including compensation to personnel employed to represent or assist the receiver) and all costs of carrying out or exercising the rights, powers, privileges, and duties as receiver.

(16) Pay, out of the assets of the Corporation, all approved claims of indebtedness in accordance with the priorities established in this part.

(17) Take all actions and have such rights, powers, and privileges as are necessary and incident to the exercise of any specific power.

(18) Take such actions, and have such additional rights, powers, privileges, immunities, and duties as the Farm Credit Administration Board authorizes by order or by amendment of any order or by regulation.

§ 650.25 Report to Congress.

On a determination by the receiver that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury and Congress a report on the financial condition of the receivership.

§ 650.30 Preservation of equity.

(a) Except as provided for upon final distribution of the assets of the Corporation pursuant to § 650.62 of this subpart, no capital stock, equity reserves, or other allocated equities of the Corporation in receivership shall be issued, allocated, retired, sold, distributed, transferred, or assigned.

(b) Immediately upon the adoption of a resolution by its board of directors to voluntarily liquidate the Corporation, the capital stock, equity reserves, and allocated equities of the Corporation shall not be issued, allocated, retired, sold, distributed, transferred, or assigned. Such activities could resume if the stockholders of the Corporation or the Farm Credit Administration Board disapprove the resolution. In the event the resolution is approved by the stockholders of the Corporation and the Farm Credit Administration Board, the liquidation plan shall govern disposition of the equities of the Corporation as provided in § 650.52 of this subpart.

§ 650.35 Notice to stockholders.

As soon as practicable after a receiver takes possession of the Corporation, the receiver shall notify, by first class mail, each holder of stock of the following matters:

(a) The number of shares such holder owns;

(b) That the stock and other equities of the Corporation may not be retired or transferred until the liquidation is completed, whereupon the receiver will distribute a liquidating dividend, if any, to the stockholders; and

(c) Such other matters as the receiver or the Farm Credit Administration Board deems necessary.

§ 650.40 Creditor claims.

(a) Upon appointment, the receiver shall promptly publish a notice to creditors to present their claims against the Corporation, with proof thereof, to the receiver by a date specified in the notice, which shall be not less than 90 calendar days after the first publication. The notice shall be republished approximately 30 days and 60 days after the first publication. The receiver shall promptly send, by first class mail, a similar notice to any creditor shown on the Corporation's books at the creditor's last address appearing thereon. Claims filed after the specified date shall be disallowed except as the receiver may approve them for full or partial payment from the Corporation's assets remaining undistributed at the time of approval.

(b) The receiver shall allow any claim that is timely received and proved to the receiver's satisfaction. The receiver may disallow in whole or in part any creditor's claim or claim of security, preference, or priority that is not proved to the receiver's satisfaction or is not timely received and shall notify the claimant of the disallowance and reason therefor. Sending the notice of disallowance by first class mail to the claimant's address appearing on the proof of claim shall be sufficient notice. The disallowance shall be final unless, within 30 days after the notice of disallowance is mailed, the claimant

files a written request for payment regardless of the disallowance. The receiver shall reconsider any claim upon the timely request of the claimant and may approve or disapprove such claim in whole or in part.

(c) Creditors' claims that are allowed shall be paid by the receiver from time to time, to the extent funds are available therefor and in accordance with the priorities established in this part and in such manner and amounts as the receiver deems appropriate. In the event the Corporation has a claim against a creditor of the Corporation, the receiver shall offset the amount of such claim against the claim asserted by such creditor.

§ 650.45 Priority of claims.

The following priority of claims shall apply to the distribution of the assets of the Corporation in liquidation:

(a) All costs, expenses, and debts incurred by the receiver in connection with the administration of the receivership, all Farm Credit Administration assessments for the costs of supervising and examining the Corporation, and any amounts borrowed pursuant to § 650.56(b)(3).

(b) Administrative expenses of the Corporation, provided that such expenses were incurred within 60 days prior to the receiver's taking possession, and that such expenses shall be limited to reasonable expenses incurred for services actually provided by accountants, attorneys, appraisers, examiners, or management companies, or reasonable expenses incurred by employees that were authorized and reimbursable under a preexisting expense reimbursement policy and that, in the opinion of the receiver, are of benefit to the receivership, and shall not include wages or salaries of employees of the Corporation.

(c) If authorized by the receiver, claims for wages and salaries, including vacation pay, earned prior to the appointment of the receiver by an employee of the Corporation whom the receiver determines it is in the best interest of the receivership to engage or retain for a reasonable period of time.

(d) If authorized by the receiver, claims for wages and salaries, including vacation pay, earned prior to the appointment of the receiver, up to a maximum of three thousand dollars ($3,000) per person as adjusted for inflation, by an employee of the Corporation not engaged or retained by the receiver. The adjustment for inflation shall be the percentage by which the Consumer Price Index (as prepared by the Department of Labor) for the calendar year preceding the appointment of the receiver exceeds the Consumer Price Index for the calendar year 1992.

(e) All claims for taxes.

(f) All claims of creditors which are secured by specific assets of the Corporation, with priority of conflicting claims of creditors within this same class to be determined in accordance with priorities of applicable Federal or State law.

(g) All claims of general creditors.

§ 650.50 Payment of claims.

(a) All claims of each class described in § 650.61 of this subpart shall be paid in full or provisions shall be made for such payment prior to the payment of any claim of a lesser priority. If there are insufficient funds to pay all claims in a class in full, distribution to that class will be on a pro rata basis.

(b) Following the payment of all claims, the receiver shall distribute the remainder of the assets of the Corporation, if any, to the owners of stock and other equities in accordance with the priorities for impairment set forth in section 8.4(e)(3) of the Act and the bylaws of the Corporation.

§ 650.55 Inventory, audit, and reports.

(a) As soon as practicable after taking possession of the Corporation, the receiver shall take an inventory of the assets and liabilities as of the date possession was taken.

(b) The receivership shall be audited on an annual basis by a certified public accountant selected by the receiver.

(c) The receiver shall make an annual accounting or report, as appropriate, available for review upon request to any stockholder of the Corporation or any member of the public, with a copy provided to the Farm Credit Administration.

(d) As soon as practicable after final distribution, the receiver shall send to each stockholder of record a report

summarizing the disposition of the assets of the receivership and claims against the receivership.

§ 650.60 Final discharge and release of the receiver.

After the receiver has made a final distribution of the assets of the receivership, the receivership shall be terminated, the charter shall be canceled by the Farm Credit Administration Board if such cancellation has not previously occurred, and the receiver shall be finally discharged and released.

§ 650.65 Appointment of a conservator.

(a) The Farm Credit Administration Board may in its discretion appoint, ex parte and without prior notice, a conservator for the Corporation provided that one or more of the grounds for appointment as set forth in § 650.50 of this subpart exist;

(b) Upon the appointment of a conservator, the Chairman of the Farm Credit Administration shall immediately notify the Corporation and shall publish a notice of the appointment in the FEDERAL REGISTER.

(c) As soon as practicable after the conservator takes possession of the Corporation, the conservator shall notify, by first class mail, each holder of stock in the Corporation of the establishment of the conservatorship and shall describe the effect of the conservatorship on the Corporation's operations and equity holdings.

(d) Upon the issuance of the order placing the Corporation in conservatorship, all rights, privileges, and powers of the board of directors, officers, and employees of the Corporation are vested exclusively in the conservator.

(e) The Farm Credit Administration Board may, at any time, terminate the conservatorship and direct the conservator to turn over the Corporation's operations to such management as the Farm Credit Administration Board may designate, in which event the provisions of this subpart shall no longer apply.

§ 650.70 Powers and duties of the conservator.

(a) The conservator shall direct the Corporation's further operation until the Farm Credit Administration Board decides that the Corporation can operate without the conservatorship or places the Corporation into receivership. Upon correction or resolution of the problem or condition that provided the basis for the appointment, the Farm Credit Administration Board may turn the Corporation over to such management as the Farm Credit Administration Board may direct.

(b) The conservator shall exercise all powers necessary to continue the ongoing operations of the Corporation, to conserve and preserve the Corporation's assets and property, and otherwise protect the interests of the Corporation, its stockholders, and creditors as provided in this subpart.

(c) The conservator serves as the trustee of the Corporation and conducts its operations for the benefit of the creditors and stockholders of the Corporation.

(d) The conservator may exercise the powers that a receiver of the Corporation may exercise under any of the provisions of § 650.56(b) of this subpart, except paragraphs (b)(2) and (b)(16). In interpreting the applicable paragraphs for purposes of this section, the terms ''conservator'' and ''conservatorship'' shall be read for ''receiver'' and ''receivership''.

(e) The conservator may also take any other action the conservator considers appropriate or expedient to the continuing operation of the Corporation.

§ 650.75 Inventory, examination, and reports to stockholders.

(a) As soon as practicable after taking possession of the Corporation, the conservator shall take an inventory of the assets and liabilities of the Corporation as of the date possession was taken. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The conservatorship shall be examined by the Farm Credit Administration in accordance with section 8.11 of the Act.

(c) The conservatorship shall prepare and file financial reports and other documents in accordance with the requirements of § 655.1 and part 621 of this

chapter. The conservator of the Corporation shall provide the certification required in §621.14 of this chapter.

[62 FR 43636, Aug. 15, 1997. Redesignated and amended at 70 FR 40650, 40651, July 14, 2005]

§650.80 Final discharge and release of the conservator.

At such time as the conservator shall be relieved of its conservatorship duties, the conservator shall file a report on the conservator's activities with the Farm Credit Administration. The conservator shall thereupon be completely and finally released.

PART 651—FEDERAL AGRICULTURAL MORTGAGE CORPORATION GOVERNANCE

Subpart A—General

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651.1 Definitions.
651.2 [Reserved]

Subpart B—Standards of Conduct

651.21 [Reserved]
651.22 Conflict-of-interest policy.
651.23 Implementation of policy.
651.24 Director, officer, employee, and agent responsibilities.

Subpart C—Board Governance

651.30 [Reserved]
651.35 [Reserved]
651.40 [Reserved]
651.50 Committees of the Corporation's board of directors.

AUTHORITY: Secs. 4.12, 5.9, 5.17, 8.3, 8.11, 8.14, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of Pub. L. 92–181, 85 Stat. 583 (12 U.S.C. 2183, 2243, 2252, 2279aa–3, 2279aa–11, 2279aa–14, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

SOURCE: 81 FR 49152, July 27, 2016, unless otherwise noted.

Subpart A—General

§651.1 Definitions.

The following definitions apply to this part:

Act or *Authorizing statute* means the Farm Credit Act of 1971, as amended.

Affiliate means any entity established under authority granted to the Corporation under section 8.3(c)(14) of the Act.

Agent means any person (other than a director, officer, or employee of the Corporation) who represents the Corporation in contacts with third parties or who provides professional services such as legal, accounting, or appraisal services to the Corporation.

Appointed director means a member of the Corporation's board of directors who was appointed to the Corporation board by the President of the United States of America.

Business day means a day the Corporation is open for business, excluding the legal public holidays identified in 5 U.S.C. 6103(a).

Class A stockholders means holders of common stock in the Corporation that are insurance companies, banks, or other financial institutions or entities.

Class B stockholders means holders of common stock in the Corporation that are Farm Credit System institutions.

Conflict-of-interest means a director, officer, or employee of the Corporation has an interest in a transaction, relationship, or activity that might adversely affect, or appear to adversely affect, the ability of the director, officer, or employee to perform his or her official duties on behalf of the Corporation in an objective and impartial manner in furtherance of the interest of the Corporation and its statutory purposes.

Corporation means the Federal Agricultural Mortgage Corporation and its affiliates.

Director elections mean the process of searching for director candidates, conducting director nominations, and voting for directors.

Elected director means a member of the Corporation's board of directors who was elected by either Class A or Class B stockholders.

Employee means any salaried individual working part-time, full-time, or temporarily for the Corporation.

Entity means a corporation, company, association, firm, joint venture, partnership (general or limited), society, joint stock company, trust (business or otherwise), fund, or other organization or institution.

FCA means the Farm Credit Administration, an independent Federal agency of the executive branch.