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§ 611.1290 Continuation of borrower rights.

You may not require a waiver of contractual borrower rights provisions as a condition of borrowing from and owning equity in the successor institution. Institutions that become other financing institutions on termination must comply with the applicable borrower rights provisions in the Act and part 617 of this chapter.

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

Subpart A—Standards of Conduct

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

EFFECTIVE DATE NOTE: 86 FR 50975, Sept. 13, 2021, the authority citation for part 612 was revised, and at 86 FR 58559, Oct. 22, 2021, the effective date was announced as Jan. 1, 2023. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: Secs. 5.9, 5.17, 5.19, 5.31A of the Farm Credit Act of 1971, as amended, (Act) (12 U.S.C. 2243, 2252, 2254, 2267a); Sec. 514 of Pub. L. 102–552, 106 Stat. 4102.

SOURCE: 59 FR 24894, May 13, 1994, unless otherwise noted.

Subpart A—Standards of Conduct

EFFECTIVE DATE NOTE: 86 FR 50975, Sept. 13, 2021, subpart A to part 612 was revised, and at 86 FR 58559, Oct. 22, 2021 the effective date was announced as Jan. 1, 2023. For the convenience of the user, the revised text is set forth at the end of this subpart.

§ 612.2130 Definitions.

For purposes of this part, the following terms are defined:

(a) *Agent* means any person, other than a director or employee, who currently represents a System institution in contacts with third parties or who currently provides professional services to a System institution, such as legal, accounting, appraisal, and other similar services.

(b) A *conflict of interest* or the appearance thereof exists when a person has a financial interest in a transaction, relationship, or activity that actually affects or has the appearance of affecting the person's ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the employing institution when viewed from the perspective of a reasonable person with knowledge of the relevant facts.

(c) *Controlled entity* and *entity controlled by* mean an entity in which the individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity;

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities; or

(3) Has the power to exercise a controlling influence over the management of policies of such entity.

(d) *Employee* means any salaried officer or part-time, full-time, or temporary salaried employee.

(e) *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.

(f) *Family* means an individual and spouse and anyone having the following relationship to either: parents, spouse, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, grandparent, grandson, granddaughter, and the spouses of the foregoing.

(g) *Financial interest* means an interest in an activity, transaction, property, or relationship with a person or an entity that involves receiving or providing something of monetary value or other present or deferred compensation.

(h) *Financially obligated with* means having a joint legally enforceable obligation with, being financially obligated on behalf of (contingently or otherwise), having an enforceable legal obligation secured by property owned by another, or owning property that secures an enforceable legal obligation of another.

(i) *Material,* when applied to a financial interest or transaction or series of transactions, means that the interest or transaction or series of transactions is of such magnitude that a reasonable person with knowledge of the relevant facts would question the ability of the person who has the interest or is party to such transaction(s) to perform his or her official duties objectively and impartially and in the best interest of the institution and its statutory purpose.

(j) *Mineral interest* means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed, or royalty conveyance.

(k) *OFI* means other financing institutions that have established an access relationship with a Farm Credit Bank or an agricultural credit bank under section 1.7(b)(1)(B) of the Act.

(l) *Officer* means the chief executive officer, president, chief operating officer, vice president, secretary, treasurer, general counsel, chief financial officer, and chief credit officer of each System institution, and any person not so designated who holds a similar position of authority.

(m) *Ordinary course of business,* when applied to a transaction, means:

(1) A transaction that is usual and customary between two persons who are in business together; or

(2) A transaction with a person who is in the business of offering the goods or services that are the subject of the transaction on terms that are not preferential. Preferential means that the transaction is not on the same terms as those prevailing at the same time for comparable transactions for other persons who are not directors or employees of a System institution.

(n) *Person* means individual or entity.

(o) *Relative* means any member of the family as defined in paragraph (g) of this section.

(p) *Service corporation* means each service corporation chartered under the Act.

(q) *Standards of Conduct Official* means the official designated under § 612.2170 of these regulations.

(r) *Supervised institution* is a term which only applies within the context of a System bank or an employee of a System bank and refers to each association supervised by that bank.

(s) *Supervising institution* is a term that only applies within the context of an association or an employee of an association and refers to the bank that supervises that association.

(t) *System institution* and *institution* mean any bank, association, or service corporation in the Farm Credit System, including the Farm Credit Banks, banks for cooperatives, Agricultural Credit Banks, Federal land bank associations, agricultural credit associations, Federal land credit associations, production credit associations, the Federal Farm Credit Banks Funding Corporation, and service corporations chartered under the Act.

[59 FR 24894, May 13, 1994, as amended at 71 FR 5762, Feb. 2, 2006; 78 FR 31834, May 28, 2013]

§ 612.2135 Director and employee responsibilities and conduct—generally.

(a) Directors and employees of all System institutions shall maintain high standards of industry, honesty, integrity, impartiality, and conduct in order to ensure the proper performance of System business and continued public confidence in the System and each of its institutions. The avoidance of misconduct and conflicts of interest is indispensable to the maintenance of these standards.

(b) To achieve these high standards of conduct, directors and employees shall observe, to the best of their abilities, the letter and intent of all applicable local, state, and Federal laws and

regulations and policy statements, instructions, and procedures of the Farm Credit Administration and System institutions and shall exercise diligence and good judgment in carrying out their duties, obligations, and responsibilities.

§ 612.2140 Directors—prohibited conduct.

A director of a System institution shall not:

(a) Participate, directly or indirectly, in deliberations on, or the determination of, any matter affecting, directly or indirectly, the financial interest of the director, any relative of the director, any person residing in the director's household, any business partner of the director, or any entity controlled by the director or such persons (alone or in concert), except those matters of general applicability that affect all shareholders/borrowers in a nondiscriminatory way, e.g., a determination of interest rates.

(b) Divulge or make use of, except in the performance of official duties, any fact, information, or document not generally available to the public that is acquired by virtue of serving on the board of a System institution.

(c) Use the director's position to obtain or attempt to obtain special advantage or favoritism for the director, any relative of the director, any person residing in the director's household, any business partner of the director, any entity controlled by the director or such persons (alone or in concert), any other System institution, or any person transacting business with the institution, including borrowers and loan applicants.

(d) Use the director's position or information acquired in connection with the director's position to solicit or obtain, directly or indirectly, any gift, fee, or other present or deferred compensation or for any other personal benefit on behalf of the director, any relative of the director, any person residing in the director's household, any business partner of the director, any entity controlled by the director or such persons (alone or in concert), any other System institution, or any person transacting business with the institution, including borrowers and loan applicants.

(e) Accept, directly or indirectly, any gift, fee, or other present or deferred compensation that is offered or could reasonably be viewed as being offered to influence official action or to obtain information that the director has access to by reason of serving on the board of a System institution.

(f) Knowingly acquire, directly or indirectly, except by inheritance or through public auction or open competitive bidding available to the general public, any interest in any real or personal property, including mineral interests, that was owned by the employing, supervising, or any supervised institution within the preceding 12 months and that had been acquired by any such institution as a result of foreclosure or similar action; provided, however, a director shall not acquire any such interest in real or personal property if he or she participated in the deliberations or decision to foreclose or to dispose of the property or in establishing the terms of the sale.

(g) Directly or indirectly borrow from, lend to, or become financially obligated with or on behalf of a director, employee, or agent of the employing, supervising, or a supervised institution or a borrower or loan applicant of the employing institution, unless:

(1) The transaction is with a relative or any person residing in the director's household;

(2) The transaction is undertaken in an official capacity in connection with the institution's discounting, lending, or participation relationships with OFIs and other lenders; or

(3) The Standards of Conduct Official determines, pursuant to policies and procedures adopted by the board, that the potential for conflict is insignificant because the transaction is in the ordinary course of business or is not material in amount and the director does not participate in the determination of any matter affecting the financial interests of the other party to the transaction except those matters affecting all shareholders/borrowers in a nondiscriminatory way.

(h) Violate an institution's policies and procedures governing standards of conduct.

§612.2145 Director reporting.

(a) Annually, as of the institution's fiscal year end, and at such other times as may be required to comply with paragraph (c) of this section, each director shall file a written and signed statement with the Standards of Conduct Official that fully discloses:

(1) The names of any immediate family members as defined in §620.1(e) of this chapter, or affiliated organizations, as defined in §620.1(a) of this chapter, who had transactions with the institution at any time during the year;

(2) Any matter required to be disclosed by §620.6 (f) of this chapter; and

(3) Any additional information the institution may require to make the disclosures required by part 620 of this chapter.

(b) Each director shall, at such intervals as the institution's board shall determine is necessary to effectively enforce this regulation and the institution's standards-of-conduct policy adopted pursuant to §612.2165, file a written and signed statement with the Standards of Conduct Official that contains those disclosures required by the regulations and such policy. At a minimum, these requirements shall include:

(1) The name of any relative or any person residing in the director's household, business partner, or any entity controlled by the director or such persons (alone or in concert) if the director knows or has reason to know that such individual or entity transacts business with the institution or any institution supervised by the director's institution; and

(2) The name and the nature of the business of any entity in which the director has a material financial interest or on whose board the director sits if the director knows or has reason to know that such entity transacts business with:

(i) The director's institution or any institution supervised by the director's institution; or

(ii) A borrower of the director's institution or any institution supervised by the director's institution.

(c) Any director who becomes or plans to become involved in any relationship, transaction, or activity that is required to be reported under this section or could constitute a conflict of interest shall promptly report such involvement in writing to the Standards of Conduct Official for a determination of whether the relationship, transaction, or activity is, in fact, a conflict of interest.

(d) Unless a disclosure as a director candidate under part 620 of this chapter has been made within the preceding 180 days, a newly elected or appointed director shall report matters required to be reported in paragraphs (a), (b), and (c) of this section to the Standards of Conduct Official within 30 days after the election or appointment and thereafter shall comply with the requirements of this section.

[59 FR 24894, May 13, 1994, as amended at 77 FR 60596, Oct. 3, 2012]

§612.2150 Employees—prohibited conduct.

An employee of a System institution shall not:

(a) Participate, directly or indirectly, in deliberations on, or the determination of, any matter affecting, directly or indirectly, the financial interest of the employee, any relative of the employee, any person residing in the employee's household, any business partner of the employee, or any entity controlled by the employee or such persons (alone or in concert), except those matters of general applicability that affect all shareholders/borrowers in a nondiscriminating way, e.g. a determination of interest rates.

(b) Divulge or make use of, except in the performance of official duties, any fact, information, or document not generally available to the public that is acquired by virtue of employment with a System institution.

(c) Use the employee's position to obtain or attempt to obtain special advantage or favoritism for the employee, any relative of the employee, any person residing in the employee's household, any business partner of the employee, any entity controlled by the employee or such persons (alone or in concert), any other System institution, or any person transacting business with the institution, including borrowers and loan applicants.

(d) Serve as an officer or director of an entity other than a System institution that transacts business with a System institution in the district or of any commercial bank, savings and loan, or other non-System financial institution, except employee credit unions. For the purposes of this paragraph, ''transacts business'' does not include loans by a System institution to a family-owned entity, service on the board of directors of the Federal Agricultural Mortgage Corporation, or transactions with nonprofit entities or entities in which the System institution has an ownership interest. With the prior approval of the board of the employing institution, an employee of a Farm Credit Bank or association may serve as a director of a cooperative that borrows from a bank for cooperatives. Prior to approving an employee request, the board shall determine whether the employee's proposed service as a director is likely to cause the employee to violate any regulations in this part or the institution's policies, e.g., the requirements relating to devotion of time to official duties.

(e) Use the employee's position or information acquired in connection with the employee's position to solicit or obtain any gift, fee, or other present or deferred compensation or for any other personal benefit for the employee, any relative of the employee, any person residing in the employee's household, any business partner of the employee, any entity controlled by the employee or such persons (alone or in concert), any other System institution, or any person transacting business with the institution, including borrowers and loan applicants.

(f) Accept, directly or indirectly, any gift, fee, or other present or deferred compensation that is offered or could reasonably be viewed as being offered to influence official action or to obtain information the employee has access to by reason of employment with a System institution.

(g) Knowingly acquire, directly or indirectly, except by inheritance, any interest in any real or personal property, including mineral interests, that was owned by the employing, supervising, or any supervised institution within the preceding 12 months and that had been acquired by any such institution as a result of foreclosure or similar action.

(h) Directly or indirectly borrow from, lend to, or become financially obligated with or on behalf of a director, employee, or agent of the employing, supervising, or a supervised institution or a borrower or loan applicant of the employing institution, unless:

(1) The transaction is with a relative or any person residing in the employee's household;

(2) The transaction is undertaken in an official capacity in connection with the institution's discounting, lending, or participation relationships with OFIs and other lenders; or

(3) The Standards of Conduct Official determines, pursuant to policies and procedures adopted by the board, that the potential for conflict is insignificant because the transaction is in the ordinary course of business or is not material in amount and the employee does not participate in the determination of any matter affecting the financial interests of the other party to the transaction except those matters affecting all shareholders/borrowers in a nondiscriminatory way.

(i) Violate an institution's policies and procedures governing standards of conduct.

(j) Act as a real estate agent or broker; provided that this paragraph shall not apply to transactions involving the purchase or sale of real estate intended for the use of the employee, a member of the employee's family, or a person residing in the employee's household.

(k) Act as an agent or broker in connection with the sale and placement of insurance; provided that this paragraph shall not apply to the sale or placement of insurance authorized by section 4.29 of the Act.

[59 FR 24894, May 13, 1994, as amended at 71 FR 5762, Feb. 2, 2006]

§ 612.2155 Employee reporting.

(a) Annually, as of the institution's fiscal yearend, and at such other times as may be required to comply with paragraph (c) of this section, each senior officer must file a written and signed statement with the Standards of Conduct Official that fully discloses:

(1) The names of any immediate family members, as defined in §620.1(e) of this chapter, or affiliated organizations, as defined in §620.1(a) of this chapter, who had transactions with the institution at any time during the year;

(2) Any matter required to be disclosed by §620.6(f) of this chapter; and

(3) Any additional information the institution may require to make the disclosures required by part 620 of this chapter.

(b) Each employee shall, at such intervals as the Board shall determine necessary to effectively enforce this regulation and the institution's standards-of-conduct policy adopted pursuant to §612.2165, file a written and signed statement with the Standards of Conduct Official that contains those disclosures required by the regulation and such policy. At a minimum, these requirements shall include:

(1) The name of any relative or any person residing in the employee's household, any business partner, or any entity controlled by the employee or such persons (alone or in concert) if the employee knows or has reason to know that such individual or entity transacts business with the employing institution or any institution supervised by the employing institution; and

(2) The name and the nature of the business of any entity in which the employee has a material financial interest or on whose board the employee sits if the employee knows or has reason to know that such entity transacts business with:

(i) The employing institution or any institution supervised by the employing institution; or

(ii) A borrower of the employing institution or any institution supervised by the employing institution.

(c) Any employee who becomes or plans to become involved in any relationship, transaction, or activity that is required to be reported under this section or could constitute a conflict of interest shall promptly report such involvement in writing to the Standards of Conduct Official for a determination of whether the relationship, transaction, or activity is, in fact, a conflict of interest.

(d) A newly hired employee shall report matters required to be reported in paragraphs (a), (b), and (c) of this section to the Standards of Conduct Official 5 business days after starting employment and thereafter shall comply with the requirements of this section.

[59 FR 24894, May 13, 1994, as amended at 71 FR 5763, Feb. 2, 2006; 71 FR 65386, Nov. 8, 2006; 77 FR 60596, Oct. 3, 2012]

§612.2157 Joint employees.

No officer of a Farm Credit Bank or an agricultural credit bank may serve as an employee of an association in its district and no employee of a Farm Credit Bank or an agricultural credit bank may serve as an officer of an association in its district. Farm Credit Bank or agricultural credit bank employees other than officers may serve as employees other than officers of an association in its district provided each institution appropriately reflects the expense of such employees in its financial statements.

§612.2160 Institution responsibilities.

Each institution shall: (a) Ensure compliance with this part by its directors and employees and act promptly to preserve the integrity of and public confidence in the institution in any matter involving a conflict of interest, whether or not specifically addressed by this part or the policies and procedures adopted pursuant to §612.2165;

(b) Take appropriate measures to ensure that all directors and employees are informed of the requirements of this regulation and policies and procedures adopted pursuant to §612.2165;

(c) Adopt and implement policies and procedures that will preserve the integrity of and public confidence in the institution and the System pursuant to §612.2165;

(d) Designate a Standards of Conduct Official pursuant to §612.2170; and

(e) Maintain all standards-of-conduct policies and procedures, reports, investigations, determinations, and evidence of compliance with this part for a minimum of 6 years.

§612.2165 Policies and procedures.

(a) Each institution's board of directors shall issue, consistent with this part, policies and procedures governing

standards of conduct for directors and employees.

(b) Board policies and procedures issued pursuant to paragraph (a) of this section shall reflect due consideration of the potential adverse impact of any activities permitted under the policies and shall at a minimum:

(1) Establish such requirements and prohibitions as are necessary to promote public confidence in the institution and the System, preserve the integrity and independence of the supervisory process, and prevent the improper use of official property, position, or information. In developing such requirements and prohibitions, the institution shall address such issues as the hiring of relatives, political activity, devotion of time to duty, the exchange of gifts and favors among directors and employees of the employing, supervising, and supervised institution, and the circumstances under which gifts may be accepted by directors and employees from outside sources, in light of the foregoing objectives;

(2) Outline authorities and responsibilities of the Standards of Conduct Official;

(3) Establish criteria for business relationships and transactions not specifically prohibited by this part between employees or directors and borrowers, loan applicants, directors, or employees of the employing, supervised, or supervising institutions, or persons transacting business with such institutions, including OFIs or other lenders having an access or participation relationship;

(4) Establish criteria under which employees may accept outside employment or compensation;

(5) Establish conditions under which employees may receive loans from System institutions;

(6) Establish conditions under which employees may acquire an interest in real or personal property that was mortgaged to a System institution at any time within the preceding 12 months;

(7) Establish conditions under which employees may purchase any real or personal property of a System institution acquired by such institution for its operations. Farm Credit institutions must use open competitive bidding whenever they sell surplus property above a stated value (as established by the board) to their employees.

(8) Provide for a reasonable period of time for directors and employees to terminate transactions, relationships, or activities that are subject to prohibitions that arise at the time of adoption or amendment of the policies.

(9) Require new directors and new employees involved at the time of election or hiring in transactions, relationships, and activities prohibited by these regulations or internal policies to terminate such transactions within the same time period established for existing directors or employees pursuant to paragraph (b)(8) of this section, beginning with the commencement of official duties, or such shorter time period as the institution may establish.

(10) Establish procedures providing for a director's or employee's recusal from official action on any matter in which he or she is prohibited from participating under these regulations or the institution's policies.

(11) Establish documentation requirements demonstrating compliance with standards-of-conduct decisions and board policy;

(12) Establish reporting requirements, consistent with this part, to enable the institution to comply with §§ 620.5 and 620.6 of this chapter, monitor conflicts of interest, and monitor recusal compliance;

(13) Establish appeal procedures available to any employee to whom any required approval has been denied;

(14) Prohibit directors and employees from purchasing or retiring any stock in advance of the release of material non-public information concerning the institution to other stockholders; and

(15) Establish when directors and employees may purchase and retire their preferred stock in the institution.

[59 FR 24894, May 13, 1994, as amended at 64 FR 43048, Aug. 9, 1999; 70 FR 53907, Sept. 13, 2005; 77 FR 60596, Oct. 3, 2012]

§ 612.2170 Standards of Conduct Official.

(a) Each institution's board shall designate a Standards of Conduct Official who shall:

(1) Advise directors, director candidates, and employees concerning the provisions of this part;

(2) Receive reports required by this part;

(3) Make such determinations as are required by this part;

(4) Maintain records of actions taken to resolve and/or make determinations upon each case reported relative to provisions of this part;

(5) Make appropriate investigations, as directed by the institution's board; and

(6) Report promptly, pursuant to part 617 of this chapter, to the institution's board and the Office of General Counsel, Farm Credit Administration, all cases where:

(i) A preliminary investigation indicates that a Federal criminal statute may have been violated;

(ii) An investigation results in the removal of a director or discharge of an employee; or

(iii) A violation may have an adverse impact on continued public confidence in the System or any of its institutions.

(b) The Standards of Conduct Official shall investigate or cause to be investigated all cases involving:

(1) Possible violations of criminal statutes;

(2) Possible violations of §§612.2140 and 612.2150, and applicable policies and procedures approved under §612.2165;

(3) Complaints received against the directors and employees of such institution; and

(4) Possible violations of other provisions of this part or when the activities or suspected activities are of a sensitive nature and could affect continued public confidence in the Farm Credit System.

(c) An association board may comply with this section by contracting with the Farm Credit Bank or agricultural credit bank in its district to provide a Standards of Conduct Official.

§612.2260 Standards of conduct for agents.

(a) Agents of System institutions shall maintain high standards of honesty, integrity, and impartiality in order to ensure the proper performance of System business and continued public confidence in the System and all its institutions. The avoidance of misconduct and conflicts of interest is indispensable to the maintenance of these standards.

(b) System institutions shall utilize safe and sound business practices in the engagement, utilization, and retention of agents. These practices shall provide for the selection of qualified and reputable agents. Employing System institutions shall be responsible for the administration of relationships with their agents, and shall take appropriate investigative and corrective action in the case of a breach of fiduciary duties by the agent or failure of the agent to carry out other agent duties as required by contract, FCA regulations, or law.

(c) System institutions shall be responsible for exercising corresponding special diligence and control, through good business practices, to avoid or control situations that have inherent potential for sensitivity, either real or perceived. These areas include the employment of agents who are related to directors or employees of the institutions; the solicitation and acceptance of gifts, contributions, or special considerations by agents; and the use of System and borrower information obtained in the course of the agent's association with System institutions.

§612.2270 Purchase of System obligations.

(a) Employees and directors of System institutions, other than the Federal Farm Credit Banks Funding Corporation, may only purchase joint, consolidated, or Systemwide obligations that are:

(1) Part of an offering available to the general public; and

(2) Purchased through a dealer or dealer bank affiliated with a member of the selling group designated by the Federal Farm Credit Banks Funding Corporation or purchased in the secondary market.

(b) No director or employee of the Federal Farm Credit Banks Funding Corporation may purchase or otherwise acquire, directly or indirectly, except by inheritance, any joint, consolidated, or Systemwide obligation.

EFFECTIVE DATE NOTE: 86 FR 50975, Sept. 13, 2021, subpart A to part 612 was revised, and at 86 FR 58559, Oct. 22, 2021 the effective date was announced as Jan. 1, 2023. For the convenience of the user, the revised text is set forth as follows:

Subpart A—Standards of Conduct

§ 612.2130 Definitions.

For purposes of this subpart, the following terms and definitions apply excepting that words like document, record, certify, report, sign, and write generally should be interpreted to permit their electronic equivalents:

Agent means any person, other than a director or employee of the institution, with the power to act for the institution either by contract or apparent authority and who currently either represents the System institution in contacts with third parties or provides professional or fiduciary services to the institution.

Code of Ethics means a written statement of the principles and values the System institution follows to establish a culture of ethical conduct for directors and employees, including, at a minimum, the core principles established under this subpart.

Conflicts of interest means a set of circumstances or appearance thereof where a person has a financial interest in a transaction, relationship, or activity that could or does actually affect (or has the appearance of affecting) that person's ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the institution when viewed from the perspective of a reasonable person with knowledge of the relevant facts.

Employee means any individual working on a part-time, full-time, or temporary basis by the System institution, including those identified as officers of the institution. Persons not maintained on the institution's payroll (*i.e.,* independent contractors) are not employees for purposes of this subpart.

Entity means a corporation, company, association, firm, joint venture, partnership (general or limited), trust (business or otherwise) or other business operation whether or not incorporated.

Family means parents, spouses or civil union partners, children, siblings, uncles, aunts, nephews, nieces, grandparents, grandchildren, and the spouses of the foregoing, whether arising from biological, adoptive, marital, or other legal means (*e.g.,* stepparents, stepchildren, half-siblings, in-laws). The term also includes anyone residing in the household or who is a legal or financial dependent, regardless of any familial relationship.

Financial interest means an interest in an activity, transaction, property, or relationship with a person that involves receiving or providing something of monetary value or other present or deferred compensation.

Financially obligated with means having a legally enforceable joint obligation with, being financially obligated on behalf of (contingently or otherwise), having an enforceable legal obligation secured by property owned by another person, or owning property that secures an enforceable legal obligation of another.

Material, when applied to a financial interest or transaction (including a series of transactions viewed in the aggregate), means that the interest or transaction is of sufficient magnitude that a reasonable person with knowledge of the relevant facts would question the ability of the person who has the interest or is party to such transaction(s) to perform the person's official duties objectively and impartially and in the best interest of the institution and its statutory purpose.

Mineral interest means any interest in minerals, oil, or gas, including but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed, or royalty conveyance.

Officer means the chief executive officer, president, chief operating officer, vice president, secretary, treasurer, general counsel, chief financial officer, and chief credit officer of the System institution, and any person not so designated but who holds a similar position of authority.

Ordinary course of business, when applied to a transaction, means:

(1) A transaction that is usual and customary in the business in question on terms that are not preferential; or

(2) A transaction with a person who is in the business of offering the goods or services that are the subject of the transaction on terms that are not preferential.

Person means individual or entity (including sole proprietorships).

Preferential means that the transaction is not on the same terms as those prevailing at the same time for comparable transactions for other persons who are not directors, employees or agents of a System institution.

Reportable business entity means an entity in which the reporting individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns a material percentage of the equity;

(2) Owns, controls, or has the power to vote a material percentage of any class of voting securities; or

(3) Has the power to exercise a material influence over the management of policies of such entity from his or her status as a partner, director, officer, or majority shareholder in the entity.

Resolved means an actual or apparent conflict of interest that has been addressed with

an action such as recusal, divestiture, approval or exception, job reassignment, employee supervision, employment separation or other action, with the result that a reasonable person with knowledge of the relevant facts would conclude that the conflicting interest is unlikely to adversely affect the person's performance of official duties in an objective and impartial manner and in furtherance of the interests and statutory purposes of the Farm Credit System.

Standards of Conduct Official or ''SOCO'' means a person appointed by the institution's board of directors pursuant to this subpart to administer and report on the institution's Standards of Conduct Program, as well as investigate allegations of misconduct by institution directors, employees or agents.

Standards of Conduct Program or SOC program means the policies and procedures, internal controls and other actions a System institution must implement to put into practice the requirements of this subpart.

Supervised institution is a term that only applies within the context of a Farm Credit bank or employee of a Farm Credit bank and refers to each association supervised by that Farm Credit bank.

Supervising institution is a term that only applies within the context of an association or employee of an association and refers to the Farm Credit bank that supervises that association.

System institution and *institution* means any Farm Credit System bank, association, or service corporation chartered under section 4.25 of the Act, and the Funding Corporation. It does not include the Federal Agricultural Mortgage Corporation.

§ 612.2135 Standards of conduct—core principles.

(a) *Conduct.* If you are a System institution director or employee, you must:

(1) Maintain high ethical standards, including high standards of care, honesty, integrity, and fairness.

(2) Act in the best interest of the institution.

(3) Preserve the reputation of the institution and the public's confidence in the Farm Credit System.

(4) Exercise diligence and good business judgment in carrying out official duties and responsibilities.

(5) Report to the Standards of Conduct Official conflicts of interest and circumstances or transactions that have the appearance of creating a conflict of interest involving yourself, your family, or your reportable business entity.

(6) Work with the Standards of Conduct Official to identify conflicts and resolve reported conflicts of interest and appearances of conflicts of interest.

(7) Avoid self-dealing and acceptance of gifts or favors that may be deemed as offered, or have the appearance of being offered, to influence official actions or decisions.

(b) *Responsibilities.* To achieve the high standards of conduct of this subpart, every institution director and employee must:

(1) Comply with the standards of conduct and Code of Ethics policies and procedures maintained at his or her institution.

(2) Comply with all applicable laws and regulations.

(3) Timely report to the Standards of Conduct Official, or use the institution's anonymous reporting procedures, any known or suspected:

(i) Illegal or unethical activity; or

(ii) Violation of the institution's standards of conduct and Code of Ethics.

(c) *Fiduciary duties.* Every officer or director of a System institution must fulfill his or her fiduciary duties to the institution and its stockholders.

§ 612.2137 Elements of a Standards of Conduct Program.

Each System institution board of directors is ultimately responsible for the implementation, oversight of, and compliance with, the Standards of Conduct Program. In fulfilling these responsibilities, each System institution board of directors must do the following:

(a) *Establish a SOC program.* Each institution's board of directors must establish and maintain a Standards of Conduct Program that sets forth the core principles of § 612.2135 and meets the requirements of this subpart. The board must act to ensure the SOC program has adequate resources for its implementation and operation. The SOC program must include maintaining conflicts of interest and other reports required under this subpart, along with any investigations, determinations, and supporting documentation, for a minimum of 6 years.

(b) *Appoint a Standards of Conduct Official.* Each institution must have a Standards of Conduct Official who is appointed pursuant to § 612.2170. An institution may use one of its officers to serve as SOCO or may use a chartered service corporation or third-party to provide the services of a SOCO. Institutions may also use another institution's SOCO or hire a SOCO under a shared contract with other System institutions when each institution has a separate confidential relationship with the person serving as SOCO.

(c) *Adopt a written Code of Ethics.* Each institution as part of its SOC program must adopt and maintain an up-to-date written Code of Ethics. The Code must establish the institution's values and expectations for the ethical conduct of directors and employees

in business transactions and include a general statement of expectations for appropriate professional conduct. The entire Code of Ethics must be available to all directors, employees, agents, and shareholders of the institution. The institution must post on its external website a statement that it has adopted a professional Code of Ethics, summarizing what that Code is, and advising the public the entire Code of Ethics is available on request at no cost.

(d) *Establish Standards of Conduct policies and procedures.* Each institution's board of directors must adopt policies and procedures to implement the institution's SOC program. These policies and procedures must address all aspects of the SOC program, including, but not limited to, the following:

(1) Requiring conflict of interest reporting from all directors and employees pursuant to §612.2145. The frequency of conflicts of interest reporting and other disclosures must be addressed in SOC program policies and procedures using the institution's fiscal year calendar. At a minimum, each person must annually report to the SOCO known conflicts occurring in the current year. Pursuant to §612.2145(c), the board must also require directors and officers to give the SOCO the disclosures required under §620.6(a), (e), and (f) of this chapter, regardless of who else in the institution receives the disclosures.

(2) Explaining what constitutes SOC program compliance, including setting criteria for documentation submitted with conflicts of interest reports and providing instructions to help directors and employees identify and report on interests or circumstances that could give rise to an actual or apparent conflict of interest.

(i) The board must explain within the policies and procedures what transactions are likely to present real or potential conflicts, setting benchmarks and thresholds for both single and aggregate activities. The policies and procedures must also explain how transactions in the ordinary course of business are identified.

(ii) The board must explain within the policies and procedures, setting benchmarks and thresholds, how materiality of a conflict is identified. The materiality guidelines must be used when evaluating conflicts of interest reports filed by employees and directors. An exception for those matters affecting all shareholders or borrowers may be used in making the determination of materiality.

(3) Addressing the process by which real and apparent conflicts will be resolved. The procedures must also explain action(s) to be taken when a conflict cannot be resolved to the satisfaction of the institution. The procedures must explain the role and authorities of the SOCO in resolving conflicts.

(4) Addressing the conduct of third-party relationships. The board of directors at each institution must adopt conflict-of-interest policies for third-party relationships and develop safeguards for use in contractual obligations that require third-party service providers to perform services on behalf of the institution in an ethical manner. At a minimum, the policies for third-party relationships must set forth expectations for disclosing known conflicts of interest to the institution. The policies must also implement the requirements of §612.2180 for agents of the institution.

(5) Setting criteria for accepting gifts that are not otherwise prohibited by this subpart. The criteria must explain the scope of application and may make appropriate exceptions for non-business events where the gift is not viewed by the institution as attempting to influence official institution business. The gift criteria must include de minimis dollar thresholds for all permissible gifts, regardless of the gift giving reason. The thresholds must apply both per gift and in the aggregate per recipient, per year. The institution must also establish disclosure requirements for gifts received as well as procedures for disposing of impermissible gifts.

(6) Identifying the appropriate actions that may be taken against any director or employee who violates the standards of conduct policies and procedures, Code of Ethics, or regulations under this subpart. The board must also identify who is authorized to take which action and when. The board must address how the SOCO exercises his or her authority under §612.2170 to investigate certain conduct issues.

(7) Providing for anonymous reporting by individuals of known or suspected violations of the institution's Standards of Conduct Program and Code of Ethics, through a hotline or other venue.

(e) *Monitor the SOC program through internal controls.* Each institution's board of directors must establish a system of internal controls for its SOC program that includes, at a minimum, a process to:

(1) Protect against unauthorized disclosure of confidential information maintained by the institution.

(2) Conduct scheduled periodic reviews of the Standards of Conduct Program that determine the continued adequacy of the program. Each review must look for consistency with institution practices, financial services industry best practices, and Farm Credit Administration (FCA) regulations in this chapter, identifying any required updates.

(3) Perform internal audits of the Standards of Conduct Program. The board of directors, with the assistances of the SOCO and appropriate officers of the institution, must determine the scope and depth of the audit. The board is responsible for identifying who will conduct the internal audit. The audit findings must be given directly to the institution's board or designated board committee. The audit itself must be designed to:

(i) Review the effectiveness of advancing the core principles;

(ii) Identify weaknesses;

(iii) Recommend and report necessary corrective actions; and

(iv) Cover the entire Standards of Conduct Program across the institution, including all activities conducted through a System institution unincorporated business entity (UBE) formed under §611.1150(b) of this chapter, including UBEs organized for the express purpose of investing in a Rural Business Investment Company.

(f) *Train institution personnel*. Each institution's board of directors must establish a training program to administer periodic Standards of Conduct and Code of Ethics training to directors and employees. The training must be given by the SOCO and the board must address how the SOCO will exercises his or her training responsibilities under §612.2170. The Standards of Conduct training must be administered under the following timeframes:

(1) Newly elected or appointed directors must receive Standards of Conduct training within 60 calendar days of the director assuming his or her position.

(2) New employees must receive Standards of Conduct training within 10 business days of beginning work.

(3) Periodic training for all directors and employees must occur at least annually but may be more frequent.

§612.2140 [Reserved]

§612.2145 Disclosing and reporting conflicts of interest.

(a) *Responsibilities*. As a director or employee of a System institution you must identify, disclose, and report on any interest or circumstances that does or could constitute a conflict of interest and potential conflict of interest. You must carry out this responsibility to the best of your knowledge and belief. You must cooperate with, and provide information requested by, the Standards of Conduct Official for use in determining the materiality of a conflict and to resolve conflicts of interest and potential conflicts of interest.

(1) If you have a conflict of interest in a matter, transaction, or activity subject to official action by the institution or before the board of directors then you must disclose it and refrain from participating in official action or board discussion of the matter, transaction, or activity. You must also avoid voting on or influencing any decision directed at the matter, transaction, or activity.

(2) You must report, either to the SOCO or by using the institution's anonymous reporting procedures, any known or suspected activity by a person affiliated with the institution that you suspect is illegal, unethical, or a violation of the institution's standards of conduct and Code of Ethics.

(b) *Reporting conflicts of interest*. As a director or employee of a System institution, you must file with the SOCO reports on any real or potential conflicts of interest. The reports must be filed at least annually and at such other times as may be required by your institution policies and procedures. The reports must be in sufficient detail for a reasonable person to make a conflict of interest determination and decide if the conflict is material. You must file a report with the SOCO that contains the disclosures required by this section and those required by the institution's SOC program policies and procedures. At a minimum, the report must be signed by you and include:

(1) Any interest you have in any business matter, including any loan or loan application, to be considered by the System institution, or supervised or supervising institution in the current year;

(2) All material financial interests, including those arising in the ordinary course of business, you have with any director, employee, agent, or borrower of your System institution, or a supervised or supervising institution;

(3) The name(s) of your reportable business entities that you know or have reason to know in the current year transacted business with:

(i) Your System institution;

(ii) Any supervised or supervising institution; or

(iii) A borrower that transacts business with your System institution, or any supervised or supervising institution.

(4) The name(s) of your family members you know or have reason to know transacted business with your System institution or any supervised or supervising institution in the current year.

(5) Reportable gifts received or disposed of under the institution's SOC program policies and procedures.

(c) *Other required disclosures for directors and officers*. If you are a director or officer at the institution, you must give the SOCO the disclosures required under §620.6(a), (e), and (f) of this chapter, regardless of who else in the institution has been provided them. The timing and frequency of disclosing the information to the SOCO, or any updates to them, is determined by your institution's SOC program policies and procedures but must occur no less than annually and at issuance of the institution's Annual Meeting Information Statement.

§612.2150 Prohibited conduct.

(a) *General*. If you are a System institution director or employee you must not act inconsistently with the Standards of Conduct core principles set forth in this subpart. You also must not act in the following manner:

(1) *Use your position for personal gain or advantage.* Do not participate in deliberations on, or the determination of, any matter affecting your financial interest either directly or indirectly. Matters affecting your financial interest include financial interests of family or reportable business entities. You also may not use your position as a director or employee of the institution to obtain special advantage or favoritism for yourself, your family, or a reportable business entity. However, you may participate in matters of general applicability affecting shareholders or borrowers of a particular class if your participation occurs in a nondiscriminatory way.

(2) *Divulge confidential information.* Do not make use of or disclose any fact, information, or document not generally available to the public that you acquired by virtue of your position as a director or employee of the institution. You may use confidential information in the performance of your official duties.

(3) *Accept prohibited gifts.* Do not solicit, obtain, or accept (directly or indirectly), any gift, fee, or other compensation that is offered or requested based on your position as a director or employee of an institution if it could be viewed as being offered to influence your decision-making, an official action, or to obtain information related to your institution's operations.

(4) *Purchase property owned by the institution.* Do not knowingly purchase or otherwise acquire (directly or indirectly) any interest (including mineral interests) in any real or personal property that currently is owned, or within the past 12 months was owned, by your institution, your supervising institution, or institutions supervised by your institution as a result of foreclosure, deed in lieu, or similar action. The prohibition in this paragraph (a)(4) extends to property held or sold by a chartered service corporation or a System unincorporated business entity. The prohibition does not apply in the following situations:

(i) You acquire the property by inheritance.

(ii) You are exercising your rights of first refusal under section 4.36 of the Act.

(iii) If you are a director of the institution, you may purchase property from a System institution when the property is sold through public auction or similar open, competitive bidding process. The exception in this paragraph (a)(4)(iii) only applies if you did not participate in the decision to foreclose upon the property nor did you participate in deciding how the institution would dispose of the property. Participating in these decisions includes setting the sale terms or receiving information as a result of your position with the institution that could give you an advantage over other potential bidders or purchasers of the property.

(5) *Enter into transactions with prohibited sources.* Do not directly or indirectly borrow from, lend to, or become financially obligated with or on behalf of a director, employee, or agent of your institution, your supervising institution, or institution supervised by your institution. You are also prohibited from directly or indirectly borrowing, lending to, or becoming financially obligated with or on behalf of a borrower or loan applicant of your institution. The transaction prohibition does not apply to:

(i) Transactions with family members.

(ii) Transactions that occur in the ordinary course of business as determined and documented by the written policies and procedures of your institution.

(iii) Transactions undertaken in an official capacity and in connection with the institution's discounting, lending, or participation relationships with other financing institutions (OFIs) and other lenders.

(6) *Purchase System obligations.* Do not purchase any obligation of a System institution, including any joint, consolidated or System-wide obligation, unless such obligation is part of an offering available to the public and you either purchase it through a dealer or dealer bank affiliated with a member of the selling group designated by the Funding Corporation or purchase it in the secondary markets.

(i) Do not purchase or retire any stock in advance of the release of material, non-public, information concerning the institution to other stockholders.

(ii) If you are a director or employee of the Funding Corporation, do not purchase or otherwise acquire, directly or indirectly, except by inheritance, any obligation or equity of a System institution, including any joint, consolidated or System-wide obligations, unless it is a common cooperative equity as defined in § 628.2 of this chapter.

(b) *Employees only.* In addition to the prohibitions under paragraph (a) of this section, if you are an institution employee you must not:

(1) *Serve as a director or employee of certain entities.* Do not serve as a director or employee of any commercial bank, savings and loan, or other non-System financial institution. You may not serve as a director or employee of a non-System entity that transacts business with a System institution within your institution's district unless specifically allowed in this paragraph (b). For the purpose of this paragraph (b)(1), ''transacts business'' does not include loans by a System institution to a family-owned entity or a reportable business entity; service on the board of directors of the Federal Agricultural Mortgage Corporation; transactions with non-profit entities; or transactions with entities in which the System institution has an ownership interest. The prohibition in

this paragraph (b)(1) does not apply in the following situations:

(i) You may serve as a director or employee of an employee credit union.

(ii) You may serve as a director of a cooperative that borrows from the System under the Act's Title III authorities if you are not employed at an institution with Title III lending authority and your employing institution approves your service on the cooperative's board.

(2) *Act as a real estate agent or broker*. Do not act as a real estate agent or broker unless you are buying or selling real estate for your own use or for family.

(3) *Act as an insurance agent or broker*. Do not act as an insurance agent or broker for the sale and placement of insurance, unless authorized by section 4.29 of the Act.

(4) *Serve as a joint employee*. Do not serve as an employee for your supervising institution if you are an officer at your association. Do not serve as an employee for a supervised institution if you are an officer at your Farm Credit bank. The prohibition in this paragraph (b)(4) does not apply in the following situations:

(i) You may be both a non-officer employee at a Farm Credit bank and a supervised association if the employment expenses are appropriately reflected in each institution's financial statements.

(ii) If you are currently employed with a Farm Credit bank as other than an officer, in extraordinary circumstances, FCA may approve your serving as an officer of a supervised association. This requires the boards at both institutions to agree to the joint service and for the duties and compensation at each institution to be delineated in the board approval documents. The board documents, along with the request, must be sent at least 10 business days before the effective date to the Director of Regulatory Policy, Farm Credit Administration.

§§ 612.2155–612.2165 [Reserved]

§ 612.2170 Standards of Conduct Official.

(a) *Authority*. The Standards of Conduct Official must be appointed by the board of directors for the institution and the board of directors must empower the appointed SOCO with all of the following:

(1) Direct access to the board (or designated board committee) for the purpose of discussing and reporting on matters related to the institution's Standards of Conduct Program and Code of Ethics;

(2) Authority to carry out the responsibilities set forth in this section;

(3) Accessibility to all directors, employees, and agents of the institution;

(4) Legal authority to receive confidential SOC program communications from all directors, employees, and agents of the institution; and

(5) Resources adequate for implementing a successful Standards of Conduct Program.

(b) *Program administration*. The Standards of Conduct Official must implement the institution's Standards of Conduct Program as determined by the written policies and procedures of his or her institution and FCA regulations in this chapter. This may include, but is not limited to, the following:

(1) Providing guidance and information to directors and employees on conflicts of interest, including aiding in the identification of reportable conflicts of interest and reportable financial interests in accordance with this subpart;

(2) Receiving reports required under this subpart from directors, employees, and agents;

(3) Receiving from directors and officers the disclosures required under § 620.6(a), (e), and (f) of this chapter for treatment as a supplement to an individual's conflicts of interest report;

(4) Reviewing and acting upon all SOC program reports and disclosures, including documenting resolved and unresolved conflicts of interest that are material, and making written determinations on how conflicts of interest will be resolved;

(5) Maintaining all SOC program records for the required period of time, including documentation that explains how conflicts are being handled;

(6) Conducting investigations as either authorized under this subpart or by the institution's SOC program policies and procedures;

(7) Reporting promptly to the institution's board of directors (or designated board committee) those SOC program or Code of Ethics matters required by the institution's SOC program policies and procedures or FCA regulations in this chapter; and

(8) Reporting to the institution's board of directors those activities investigated pursuant to paragraph (d) of this section.

(c) *Training duties*. The Standards of Conduct Official must give standards of conduct training to all directors and employees at the institution. The training must comply with the requirement of § 612.2137 and the institution's Standards of Conduct policies and procedures. In addition to other matters, periodic training must cover updates or revisions to the institution's SOC program and Code of Ethics. The SOCO must obtain written participation certifications from every director and employee taking the training.

(d) *Investigative duties*. The Standards of Conduct Official is responsible for investigating complaints alleging misconduct or possible criminal behavior by the institution, its directors, or its employees.

(1) At a minimum, the Standards of Conduct Official must investigate, or cause to be investigated, all cases involving:

(i) Possible violations of criminal statutes;

(ii) Possible violations of director or employee prohibited conduct regulations in § 612.2150, and the applicable institution policies and procedures;

(iii) Complaints of misconduct received against directors and employees of the institution;

(iv) Possible violations of other provisions of this part; and

(v) Suspected activities of a sensitive nature which could affect continued public confidence in the Farm Credit System.

(2) The SOCO serves as the reporting official for all cases investigated under subpart B of this part (criminal referrals). In this capacity, the SOCO must report to both the institution's board and the Farm Credit Administration's Office of General Counsel all cases where:

(i) A preliminary investigation indicates that a Federal criminal statute may have been violated;

(ii) An investigation results in the removal of a director or discharge of an employee; or

(iii) A violation may have an adverse impact on continued public confidence in the System or any of its institutions.

§ 612.2180 Standards of conduct for agents.

(a) *Agents.* Agents of System institutions must maintain high standards of honesty, integrity, and impartiality in order to ensure the proper performance of System business and continued public confidence in the System and all its institutions. The avoidance of misconduct and conflicts of interest is indispensable to the maintenance of these standards.

(b) *Institutions.* Each institution must use safe and sound business practices in the engagement, utilization, and retention of agents. These practices shall provide for the selection of qualified and reputable agents. The institution is responsible for the administration of relationships with its agents and must take appropriate investigative and corrective action in the case of a breach of fiduciary duties by an agent or failure of an agent to carry out other duties as required by contract, FCA regulations in this chapter, or law.

(c) *Control.* System institutions are responsible for exercising special diligence and control, through good business practices, to avoid or control situations that have inherent potential for sensitivity, either real or perceived. These areas include:

(1) The employment of agents who are related to directors or employees of the institutions;

(2) The solicitation and acceptance of gifts, contributions, or special considerations by agents; and

(3) The use of System and borrower information obtained in the course of the agent's work with the institution.

(d) *Enforcement.* Agents of System institutions are ''institution-affiliated parties'' as that term is defined in the Act and therefore subject to certain FCA enforcement authorities contained in part C of title V of the Act. An ''institution-affiliated party'' is:

(1) A director, officer, employee, shareholder, or agent of a System institution;

(2) An independent contractor (including an attorney, appraiser, or accountant) who knowingly or recklessly participates in:

(i) A violation of law (including regulations) that is associated with the operations and activities of one or more System institutions;

(ii) A breach of fiduciary duty; or

(iii) An unsafe practice that causes or is likely to cause more than a minimum financial loss to, or a significant adverse effect on, a System institution; or

(3) Any other person, as determined by the Farm Credit Administration (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of a System institution.

§§ 612.2260–612.2270 [Reserved]

Subpart B—Referral of Known or Suspected Criminal Violations

SOURCE: 62 FR 24566, May 6, 1997, unless otherwise noted. Redesignated at 69 FR 10907, Mar. 9, 2004.

§ 612.2300 Purpose and scope.

(a) This part applies to all institutions of the Farm Credit System as defined in section 1.2(a) of the Farm Credit Act of 1971, as amended, (Act) (12 U.S.C. 2002(a)) including, but not limited to, associations, banks, service corporations chartered under section 4.25 of the Act, the Federal Farm Credit Banks Funding Corporation, the Farm Credit Leasing Services Corporation, and the Federal Agricultural Mortgage Corporation (hereinafter, institutions). The purposes of this part are to ensure public confidence in the Farm Credit System, to ensure the reporting of known or suspected criminal activity, to reduce potential losses to institutions, and to ensure the safety and soundness of institutions. This part requires that institutions use the Farm Credit Administration Criminal Referral Form (hereinafter FCA Referral Form) to notify the appropriate Federal authorities when any known or suspected Federal criminal violations

of the type described in § 612.2301 are discovered by institutions.

(b) The specific referral requirements of this part apply to known or suspected criminal violations of the United States Code involving the assets, operations, or affairs of an institution. This part prescribes procedures for referring those violations to the proper Federal authorities and the Farm Credit Administration. No specific procedural requirements apply to the referral of violations of State or local laws.

(c) Nothing in this part should be construed as reducing in any way an institution's ability to report known or suspected criminal activities to the appropriate investigatory or prosecuting authorities, whether Federal, State, or local, even when the circumstances in which a report is required under § 612.2301 are not present.

(d) It shall be the responsibility of each System institution to determine whether there appears to be a reasonable basis to conclude that a criminal violation has been committed and, if so, to report the matter to the proper law enforcement authorities for consideration of prosecution.

(e) Each referral required by § 612.2301(a) shall be made on the FCA Referral Form in accordance with the FCA Referral Form instructions relating to its filing and distribution.

[62 FR 24566, May 6, 1997. Redesignated and amended at 69 FR 10907, Mar. 9, 2004; 75 FR 35968, June 24, 2010.]

§ 612.2301 Referrals.

(a) Each institution and its board of directors shall exercise due diligence to ensure the discovery, appropriate investigation, and reporting of criminal activity. Within 30 calendar days of determining that there is a known or suspected criminal violation of the United States Code involving or affecting its assets, operations, or affairs, the institution shall refer such criminal violation to the appropriate regional offices of the United States Attorney, and the Federal Bureau of Investigation or the United States Secret Service or both, using the FCA Referral Form. A copy of the completed FCA Referral Form, accompanied by any relevant documentation, shall be provided at the same time to the Farm Credit Administration's Office of General Counsel. In the event that a Farm Credit bank makes a loan through a Federal land bank association which services the loan, the Federal land bank association must inform the Farm Credit bank of any known or suspected violation involving that loan and the Farm Credit bank shall refer the violation to Federal law enforcement authorities under this section. A report is required in circumstances where there is:

(1) Any known or suspected criminal activity (e.g., theft, embezzlement), mysterious disappearance, unexplained shortage, misapplication, or other defalcation of property and/or funds, regardless of amount, where an institution employee, officer, director, agent, or other person participating in the conduct of the affairs of such an institution is suspected;

(2) Any known or suspected criminal activity involving an actual or potential loss of $5,000 or more, through false statements or other fraudulent means, where the institution has a substantial basis for identifying a possible suspect or group of suspects and the suspect(s) is not an institution employee, officer, director, agent, or other person participating in the conduct of the affairs of such an institution;

(3) Any known or suspected criminal activity involving an actual or potential loss of $25,000 or more, through false statements or other fraudulent means, where the institution has no substantial basis for identifying a possible suspect or group of suspects; or

(4) Any known or suspected criminal activity involving a financial transaction in which the institution was used as a conduit for such criminal activity (such as money laundering/structuring schemes).

(b) In circumstances where there is a known or suspected violation of State or local criminal law, the institution shall notify the appropriate State or local law enforcement authorities.

(c) In addition to the requirements of paragraph (a) of this section, the institution shall immediately notify by telephone the appropriate Federal law enforcement authorities and FCA offices specified on the FCA Referral Form upon determining that a known

or suspected criminal violation of Federal law requiring urgent attention has occurred or is ongoing. Such cases include, but are not limited to, those where:

(1) There is a likelihood that the suspect(s) will flee;

(2) The magnitude or the continuation of the known or suspected criminal violation may imperil the institution's continued operation; or

(3) Key institution personnel are involved.

§ 612.2302 Notification of board of directors and bonding company.

(a) The institution's board of directors shall be promptly notified of any criminal referral by the institution, except that if the criminal referral involves a member of the board of directors, discretion may be exercised in notifying such member of the referral.

(b) The institution involved shall promptly make all required notifications under any applicable surety bond or other contract for protection.

§ 612.2303 Institution responsibilities.

Each institution shall establish effective policies and procedures designed to ensure compliance with this part, including, but not limited to, adequate internal controls.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

Subpart A—Financing Under Titles I and II of the Farm Credit Act

Sec.
613.3000 Financing for farmers, ranchers, and aquatic producers or harvesters.
613.3005 Lending objective.
613.3010 Financing for processing or marketing operations.
613.3020 Financing for farm-related service businesses.
613.3030 Rural home financing.

Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

613.3100 Domestic lending.
613.3200 International lending.

Subpart C—Similar Entity Authority Under Sections 3.1(11)(B) and 4.18A of the Act

613.3300 Participations and other interests in loans to similar entities.

AUTHORITY: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart A—Financing Under Titles I and II of the Farm Credit Act

SOURCE: 62 FR 4441, Jan. 30, 1997, unless otherwise noted.

§ 613.3000 Financing for farmers, ranchers, and aquatic producers or harvesters.

(a) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) *Bona fide farmer or rancher* means a person owning agricultural land or engaged in the production of agricultural products, including aquatic products under controlled conditions.

(2) *Legal entity* means any partnership, corporation, estate, trust, or other legal entity that is established pursuant to the laws of the United States, any State thereof, the Commonwealth of Puerto Rico, the District of Columbia, or any tribal authority and is legally authorized to conduct a business.

(3) *Person* means a legal entity or an individual who is a citizen of the United States or a foreign national who has been lawfully admitted into the United States either for permanent residency pursuant to 8 U.S.C. 1101(a)(20) or on a visa pursuant to a provision in 8 U.S.C. 1101(a)(15) that authorizes such individual to own property or operate or manage a business or a legal entity.

(4) *Producer or harvester of aquatic products* means a person engaged in producing or harvesting aquatic products for economic gain in open waters under uncontrolled conditions.

(b) *Eligible borrower.* Farm Credit institutions that operate under titles I or II of the Act may provide financing to a bona fide farmer or rancher, or producer or harvester of aquatic products for any agricultural or aquatic purpose and for other credit needs.

[62 FR 4441, Jan. 30, 1997, as amended at 73 FR 30475, May 28, 2008]