

6705-01-P

FARM CREDIT ADMINISTRATION

12 CFR Part 621

RIN 3052-AD63

Loan Performance Categories and Financial Reporting

AGENCY: Farm Credit Administration.

ACTION: Proposed rule and Request for comment.

SUMMARY: The Farm Credit Administration (FCA, we, or our) proposes to amend our regulatory high-risk loan performance categories by removing "Formally restructured loans (TDR)," also known as troubled debt restructurings. In 2022, changes in generally accepted accounting principles (GAAP) eliminated the accounting guidance for TDRs, enhanced disclosure requirements for certain loan refinancings and restructurings undertaken when a borrower is experiencing financial difficulty and changed existing vintage year disclosure requirements for public business entities. We propose removing TDRs from our regulatory loan performance categories to reflect changes in GAAP. Further, we seek comments on our determination no regulatory changes are needed for the enhanced disclosures related to loan refinancings and restructurings or the amended vintage year disclosure requirements, as these disclosures are already required under

applicable GAAP. Additionally, comments are requested on retaining the "90 days past due still accruing interest" loan performance category.

DATES: Comments on this proposed rule must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: For accuracy and efficiency, please submit comments by email or through FCA's website. We do not accept comments submitted by fax because faxes are difficult to process. Also, please do not submit comments multiple times; submit your comment only once, using one of the following methods:

- **Send an email to reg-comm@fca.gov.**

- **Use the public comment form on our website:**

1. Go to <https://www.fca.gov>.
2. Click inside the "I want to..." field near the top of the page.
3. Select "comment on a pending regulation" from the dropdown menu.
4. Click "Go." This takes you to the comment form.

- **Send the comment by mail to the following:**

Autumn R. Agans, Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

We post all comments on the FCA website. We will show your comments as submitted, including any supporting information; however, for technical reasons, we may omit items such as logos and special characters. Personal information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

To review comments on our website, go to <https://www.fca.gov> and follow these steps:

1. Click inside the "I want to..." field near the top of the page.
2. Select "find comments on a pending regulation" from the dropdown menu.
3. Click "Go." This will take you to a list of regulatory projects.
4. Select the project in which you're interested. If we have received comments on that project, you will see a list of links to the individual comments.

You may also review comments in person at the FCA office in McLean, Virginia between 9:00 a.m. and 3:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays. Please call us at (703)883-4056 or email us at reg-comm@fca.gov to make an appointment.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed regulation. To schedule an appointment for this type of accommodation or auxiliary aid, please contact (703) 883-4056.

FOR FURTHER INFORMATION CONTACT:

Technical information: Sherita J. Olla, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, 703-883-4414, TTY (703) 883-4056.

Legal information: Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, 703-883-4020, TTY (703) 883-4056.

SUPPLEMENTARY INFORMATION:

I. Objectives:

The objectives of this proposed rule are to:

- Amend FCA's high-risk loan performance categories due to changes in GAAP; and
- Clarify Farm Credit bank and association reporting expectations for vintage disclosures and disclosures of loan modifications to borrowers experiencing financial difficulties.

II. Background:

The Farm Credit Act of 1971, as amended (Farm Credit Act), establishes Farm Credit System (System) institutions as federally chartered instrumentalities of the United States.¹ The Farm Credit Act, at section 5.19(b), requires each System institution to prepare audited financial statements in accordance with GAAP² for inclusion in the respective institution's annual report of condition.³ This provision of the Farm Credit Act also requires annual reports to "contain such additional information" as FCA, by regulation, may require. Various FCA regulations in 12 CFR parts 620, 621, 630 and 655 implement the Farm Credit Act's financial reporting requirements.⁴

Relevant to this proposed rulemaking is FCA regulation § 621.6 on high-risk loan performance categories, located in subpart C of 12 CFR Part 621, "Loan Performance and Valuation

¹ See, for example, 12 U.S.C. §§ 2011, 2071, 2091 and 2121.

² GAAP, as issued and revised by the Financial Accounting Standards Board, are the standard accounting rules for preparing, presenting, and reporting financial statements in the United States.

³ 12 U.S.C. 2254(b).

⁴ FCA regulations in Part 621 generally apply to all chartered System institutions. However, the Federal Agricultural Mortgage Corporation (Farmer Mac) is required to follow only those provisions where specifically indicated, which would include section 621.6. For purposes of this preamble, we do not include separate exceptions for Farmer Mac but expect Farmer Mac to self-identify those areas. Refer to 12 CFR §§ 621.1 and 621.2 (which defines the term "institution" within part 621 to include Farmer Mac).

Assessment.”⁵ The current § 621.6 high-risk loan performance categories include TDRs. We have historically based our part 621 regulatory performance categories on information from various sources, including SEC Industry Guide 3, “Statistical Disclosure by Bank Holding Companies,”⁶ the Federal Financial Institutions Examination Council’s (FFIEC)⁷ guidance on nonperforming loans, and GAAP. FCA last updated the § 621.6 regulatory high risk performance categories in a 2020 rulemaking on nonaccrual loans.⁸

On March 31, 2022, the Financial Accounting Standards Board (FASB)⁹ issued Accounting Standards Update (ASU) No. 2022-02, “Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures,” which, in part, eliminated TDR recognition and measurement guidance

⁵ FCA first adopted regulations on accounting for high risk assets on March 13, 1986 (51 FR 8644), explaining at the time that performance categories serve two purposes: 1) to communicate to readers of the annual report the risks associated with loans that do not perform according to contractual terms, and 2) to establish objective standards consistently applied by System institutions for both FCA oversight purposes and the consolidation of “accurate and meaningful aggregate [financial] data” in the Systemwide Report to Investors.

⁶ SEC Guide 3 was rescinded, effective January 1, 2023.

⁷ The FFEIC is an interagency body that establishes consistent principles, standards, and report forms for the banking regulators’ federal examinations. Neither FCA, nor the System, is subject to the FFIEC’s reporting standards. However, FCA’s high-risk accounting classification rules are generally similar, though not identical, to FFIEC standards.

⁸ 85 FR 52253, August 25, 2020.

⁹ FASB is an independent, private sector organization responsible for establishing accounting and financial reporting standards in the United States for nongovernmental organizations that follow GAAP.

under GAAP.¹⁰ Now, entities that follow GAAP are to evaluate those loans, which previously would have been TDRs, in a manner consistent with the guidance for other loan modifications. Additionally, ASU 2022-02 requires enhanced disclosures for certain loan modifications when a borrower is experiencing financial difficulty.

The ASU 2022-02 updates related to TDRs affect all entities adopting ASU 2016-13 "Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" and the current expected credit losses (CECL) methodology.¹¹ Under ASU 2022-02, when evaluating loan modifications made to borrowers experiencing financial difficulty (hereafter referred to as "loan modifications"), entities must assess whether the loan modification should be accounted for as a new loan or a continuation of an existing loan.¹²

¹⁰ The updates in ASU 2022-02 eliminated the accounting guidance for TDRs in Subtopic 310-40, "Receivables—Troubled Debt Restructurings by Creditors" and enhanced disclosure requirements for certain loan refinancings and restructurings by creditors when borrowers are experiencing financial difficulty.

¹¹ The System adopted the CECL methodology in accordance with the FCA final rule, "Implementation of the Current Expected Credit Losses Methodology for Allowances, Related Adjustments to the Tier 1/Tier 2 Capital Rule, and Conforming Amendments." (87 FR 27483, May 9, 2022). The CECL final rule went into effect on January 1, 2023.

¹² The loan refinancing and restructuring guidance in ASC 2022-02 used to evaluate whether a loan modification to a borrower experiencing financial difficulty is a new loan or a continuation of an existing loan was carried forward from the prior ASC paragraphs 310-20-35-9 through 35-11.

ASU 2022-02 also introduced qualitative and quantitative disclosure requirements for loan modifications provided in the form of principal forgiveness, interest rate reductions, other-than-insignificant payment delays, or term extensions (or a combination thereof) in the current reporting period. For each period the income statement is presented, the disclosures are to provide information on the type and magnitude of loan modifications, the financial effect of the loan modifications (by modification type), and their performance in the 12 months after modification.

On December 30, 2022, FCA issued Informational Memorandum, "Accounting standards update on troubled debt restructuring (TDR)" to provide interim guidance to the System on the changes in GAAP related to TDRs until FCA regulation § 621.6(b) is amended.¹³ Specifically, the informational memorandum instructed System institutions to implement the change in GAAP and disclose modifications to borrowers experiencing financial difficulty beginning with the first quarterly report for fiscal year 2023.

¹³ See [Accounting standards update on troubled debt restructuring \(TDR\) \(fca.gov\)](https://www.fca.gov/act/2022/12/30/Accounting-standards-update-on-troubled-debt-restructuring-(TDR)).

III. Proposed rule changes to loan performance categories.

[existing § 621.6]

This proposed rule would revise our accounting and reporting regulations in subpart C of 12 CFR part 621 to incorporate changes in GAAP that took effect January 1, 2023.¹⁴ Specifically, we propose to remove references to TDRs and to make conforming technical changes.

Our regulation at § 621.6(b) currently requires System institutions to categorize high-risk loans as TDRs when required to do so under GAAP and FASB guidance. ASU 2022-02 eliminated TDR recognition and related measurement guidance under GAAP for all entities that adopt CECL. The System now uses the CECL methodology, so the TDR categorization in § 621.6(b) is no longer supported by GAAP.¹⁵ Additionally, in response to our 2022 regulatory burden solicitation,¹⁶ the Farm Credit Council (FCC), on behalf of its membership, as well as various System institutions, asked us to remove § 621.6(b) from our regulations. On March 3, 2025, we published a

¹⁴ The GAAP changes took effect when the System adopted CECL. January 1, 2023, was the effective date of the System's adoption of CECL.

¹⁵ The TDR changes included in ASU 2022-02 were not incorporated into FCA's CECL rule as those changes were not finalized until March 31, 2022. FCA's notice and comment rulemaking process for CECL was in the final rule stages, so incorporating the technical changes as contained in this proposed rule was not appropriate under the Administrative Procedure Act's standards for rules that had undergone a proposed rule stage.

¹⁶ FCA Notice of Intent; request for comment, "Statement on Regulatory Burden." 87 FR 43227 (July 20, 2022).

"Statement on Regulatory Burden," which at III.A identified this request as meriting a rule change.¹⁷

In response to changes in GAAP, and supported by prior comments received, we propose removing § 621.6(b). As a conforming technical change, we propose renumbering existing paragraphs (c) and (d) as new § 621.6(b) and (c), respectively. We similarly propose a corresponding numbering change to the cross-reference in § 621.6(a)(2) from "under paragraph (c)" to read "under paragraph (b)."

Prior to developing this proposed rule, we also received comments from the FCC and various System institutions on our § 621.6(c) high-risk loan category, "loans 90 days past due and still accruing interest." These comments requested removal of the "loans 90 days past due and still accruing interest" category. The FCC stated it believed removing § 621.6(c) would conform with GAAP and explained that in the System's experience, loans 90 days past due still accruing interest were usually fully guaranteed, thus mitigating credit risk. The FCC contended that under the CECL methodology, the performance categories for high-risk loans and loan-related assets should be limited to nonaccrual loans and other property owned.

¹⁷ 90 FR 11013, 11013 (March 3, 2025).

We evaluated these comments on § 621.6(c) during this rulemaking but do not propose removing the “90 days past due and still accruing interest” high-risk loan performance category. This loan category can be a leading indicator of increased credit risk. While loans categorized as “90 days past due and still accruing interest” often possess a government guarantee, not all do. Further, we believe it would be misleading to consider loans 90 days or more past due still accruing interest, but otherwise adequately secured, and in the process of collection, as “performing.” We continue to see value in applying the performance category as a factor in the risk weights used to determine the capital adequacy of System institutions and in the credit review function since, as previously stated, it can be a leading indicator of increased credit risk. Also, we do not believe the “90 days past due and still accruing interest” loan performance category is contrary to GAAP. The amortized cost basis of financial assets that are 90 days or more past due, but not on nonaccrual status as of the reporting date, are a required GAAP disclosure.¹⁸ Moreover, FCA’s “loans 90 days past due still accruing interest” performance category provides stockholder-owners, as well as other users of System institutions’ annual reports, valuable

¹⁸ See ASC paragraph 326-20-50-16.

information regarding the severity, trend, and migration of nonperforming loans and, therefore, the financial condition of Farm Credit banks and associations as these are loans that have not performed according to contractual terms.

As explained in the 1986 rulemaking, this performance category was developed from the FFIEC guidance on nonperforming loans, which identified three categories: nonaccrual, loans 90 days past due still accruing interest, and renegotiated troubled debt. At that time, FCA included loans 90 days past due still accruing interest in an "other high risk" category (which also included loans held as current but otherwise in severe default, bankruptcies, and foreclosures). In 1993, FCA amended the high-risk loan performance categories to further align System financial statement disclosures with those of the financial services industry.¹⁹ This resulted in separating the category of "loans 90 days past due and still accruing interest" from other high risk loan categories.²⁰ The "loans 90 days past due and still accruing interest" category was again amended in 2020 to clarify that past due loans not adequately secured may be placed in this category if it is likely they will become

¹⁹ 58 FR 48780, Sept. 20, 1993.

²⁰ In 1993, the performance category provisions were moved from 621.3(a) to 621.6 and the category of "loans 90 days past due and still accruing interest" was placed in 12 CFR 621.6(c).

current in the near future. The 2020 rulemaking also increased comparability to FFIEC's loan performance categories by specifying those loans 90 days or more past due are to be included in the "loans 90 days past due and still accruing interest" category. The 2020 rule remained consistent with GAAP requirements when making these changes.

However, FCA requests comments on whether retaining the "loans 90 days past due and still accruing interest" performance category is unduly burdensome as suggested by the FCC given the benefits it provides, especially since removing it may otherwise deviate from the FFIEC's definition of a nonperforming loan. We ask that any comments submitted on this subject include empirically derived evidence in support of retention or removal of the "90 days past due still accruing interest" high-risk loan performance category.

IV. Disclosure expectations for loan modifications and vintage year disclosures. [existing §§ 620.5, 620.11, 630.20, 630.40, and 655.10]

ASU 2022-02 requires all entities to provide financial statement disclosures for loan modifications by modification type, expected financial effect of those modifications, their performance in the 12 months after modification, and payment defaults on modifications granted within the previous 12 months (if any). Additionally, these disclosures, made by

portfolio segment, should also provide qualitative information on how the entity factored the loan modifications, the borrowers' subsequent performance, and payment defaults (if any) into the allowance for credit losses (ACL). ASU 2022-02 also amended the vintage year requirement of public business entities to require disclosure of current period gross write-offs by year of origination for financing receivables and net investments in leases ("vintage disclosures").

FCA reviewed these disclosure requirements to determine if a regulatory change was necessary instead of guidance. We reviewed our existing financial reporting regulations in 12 CFR §§ 620.5 and 620.11 to determine if the ASU 2022-02 disclosures could be made using existing regulatory provisions or if they would require new regulations. Based on our review, we do not believe additional regulatory change is required. Existing regulatory disclosure provisions in §§ 620.5, 620.11, 630.20, and 630.40 provide appropriate categories in which to place the ASU 2022-02 disclosures.

Our financial reporting regulations are designed to balance GAAP compliance with ensuring stockholder-owners of Farm Credit banks and associations receive clear, beneficial information that is reported consistently for optimal stockholder-owner use and for consolidation within the Systemwide combined financial statements. Also, FCA

regulations §§ 620.3(a), 620.4(c), and 620.10(b) prohibit making misleading disclosures. The consistent placement of ASU 2022-02 disclosures by all System institutions in the same location of financial reports furthers the objectives of §§ 620.3(a), 620.4(c), and 620.10(b). For this reason, and to provide meaningful disclosures, this preamble discussion provides compliance information for placing the enhanced GAAP disclosures within an institution's annual and quarterly reports to stockholders using the existing provisions of §§ 620.5 and 620.11. We do not believe similar compliance information is required for the Systemwide Report to Investors, as existing FCA regulation § 630.3(e) authorizes the Funding Corporation to present the information in the Systemwide report "in any order deemed suitable" to ensure disclosures are meaningful to investors and the general public. While not required, we encourage the Funding Corporation to consider FCA compliance information given to Farm Credit banks and associations on making these disclosures. In preparing its annual and quarterly reports Farmer Mac follows the provisions of 12 CFR 655.10 and it should use the information in this preamble as appropriate to its operations.

Although we do not propose regulatory changes for the ASU 2022-02 GAAP disclosures, we request comments on our

expectations for consistent reporting of these core qualitative disclosures. We also seek comments on our determination that no regulatory changes are necessary for the ASU 2022-02 GAAP disclosures. We further welcome suggested alternatives for placement of the disclosures discussed below.

A. Disclosure of loans to borrowers experiencing financial difficulty (loan modifications). [existing §§ 620.5(g)(1), 620.5(j)(1), 620.11(c)(1), and 620.11(c)(2)]

ASU 2022-02 enhanced financial disclosures for certain loans that may previously have been considered TDRs. As a result, disclosures for loan modifications are made by class of financing receivable and by portfolio segment.²¹ The disclosures contain both qualitative and quantitative information, explaining the type and magnitude of loan modifications, the financial effect of the loan modifications, and the performance of the loans in the 12 months after modification.

FCA regulation § 620.5(j)(1) provides, in part, that banks and associations must “furnish financial statements and related footnotes that have been prepared in accordance with generally accepted accounting principles and instructions and

²¹ Disclosures made by portfolio segment provide qualitative information on how the entity factored the modifications and the borrower’s subsequent performance, as well as payment defaults on modifications granted in the previous 12 months (if any) into determining the ACL.

other requirements of the Farm Credit Administration.” While GAAP requires disclosure of loan modifications in the financial statements and related footnotes, bank and association financial reports are for the benefit of the stockholder-owners. As such, FCA regulation § 620.2(g) requires Farm credit bank and association financial reports to not only follow GAAP but to present information in a manner that provides the “most meaningful disclosure to shareholders.” Accordingly, each Farm Credit bank and association is expected to make the required GAAP loan modification disclosures in the financial statements and related footnotes as required per §§ 620.5(j)(1) and 620.11(c)(2) and include in the management’s discussion and analysis (MD&A) loan portfolio section a core loan modification qualitative disclosure (core disclosure) per §§ 620.5(g)(1) and 620.11(c)(1). The core disclosure should be a short, qualitative summary of how the modifications, subsequent performance of the borrowers, and payment defaults (if any) impacted the ACL and portfolio segments during the reporting period. Further, the core disclosure should be adequate to aid shareholder understanding and awareness of the GAAP loan modification disclosures in the financial statements and related footnotes. As such, the GAAP disclosures included in the financial statements and related footnotes should

include a reference to the core disclosure in MD&A and vice versa.

B. Disclosure of current-period gross write-offs (vintage disclosures). [existing § 621.3]

ASU 2022-02 changed the vintage year disclosure requirements of public business entities.²² Specifically, the ASU's update requires disclosure of current period gross write-offs by year of origination, or vintage year, for financing receivables and net investment in leases within the scope of Subtopic 326-20, "Financial Instruments—Credit Losses—Measured at Amortized Cost," starting with the period of adoption. The vintage disclosures include gross write-offs under the guidance included in ASC paragraph 326-20-50-6, which requires that a public business entity disclose the amortized cost basis of financing receivables within each credit quality indicator and by year of origination (or vintage year).

²² ASU 2022-02 amended the guidance on vintage disclosures to require disclosure of current-period gross write-offs by year of origination. In comparison, ASU 2016-13 required disclosure of the amortized cost basis within each credit-quality indicator by year of origination (vintage year) for each class of financing receivable and net investment in leases. Notwithstanding, the CECL final rule, which contained regulatory changes warranted by updates included in ASU 2016-13, did not include a vintage year requirement.

FCA does not propose any regulatory changes for this disclosure.²³ FCA regulation § 621.3(b) requires preparation of financial statements and reports in accordance with GAAP. Therefore, Farm Credit banks and associations are to make vintage disclosures as required by GAAP, which we understand to require placement of vintage disclosures, or gross write-offs, in the footnotes to the financial statements.

C. Loan refinancing and restructuring (loan modification) guidance and System credit activities.

FCA expects to issue separate guidance on the relationship of GAAP's loan modification accounting instructions and System compliance with the distressed loan servicing provisions of the Farm Credit Act. In particular, the guidance will discuss GAAP accounting on loan modifications for borrowers experiencing financial difficulty and its impact on what constitutes a new or restructured loan for other purposes under the Farm Credit Act. We anticipate issuing this guidance soon, either before or after the publication timeline and comment period of this rulemaking.

²³The preamble to CECL final rule preamble stated FCA "removed" the vintage disclosure requirement of §§ 620.5(g)(1)(iv)(B) and 630.20(g)(1)(ii)(B) because of the similarity of the vintage disclosures made per ASU 2016-13 and FCA's requirements for an analysis of the allowance for credit losses-to-loans. See 87 FR 27483, 27490, May 9, 2022.

V. Regulatory matters

A. Determination under Executive Order 12866 and expected determination under Executive Order 14192.

The Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this proposed rule is not a "significant regulatory action" as defined by Section 3(f) of Executive Order 12866, made applicable to FCA by Executive Order 14215. This action, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

B. Regulatory Flexibility Act.

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

C. Providing Accountability Through Transparency Act of 2023.

The Providing Accountability Through Transparency Act of 2023²⁴ requires a notice of proposed rulemaking to include the internet address of a posted summary of the proposed rule, in plain language and less than 100 words.

Public commenters may access the summary for this rulemaking under the identifier of RIN 3052-AD63 at:
<https://www.fca.gov/laws-and-regulations/regulatory-projects-plan>.

List of Subjects

12 CFR Part 621

Accounting, Agriculture, Banks, banking, Government securities, Investments, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, the Farm Credit Administration proposes to amend part 621 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 621--ACCOUNTING AND REPORTING REQUIREMENTS

1. The authority citation for part 621 is revised to read as follows:

Authority: Secs. 4.12(b)(5), 4.14, 4.14A, 4.14D, 5.17, 5.19, 5.22A, 8.11 of the Farm Credit Act (12 U.S.C. 2183,

²⁴ 5 U.S.C. 553(b)(4).

2202, 2202a, 2202d, 2252, 2254, 2257a, 2279aa-11); sec. 514 of Pub. L. 102-552.

Subpart C - Loan Performance and Valuation Assessment

2. Section 621.6 is amended by:

- a. Removing paragraph (b);
- b. Renumbering paragraphs (c) and (d) as new paragraph (b) and (c); and
- c. Replacing the phrase "under paragraph (c)" in § 621.6(a)(2) with "under paragraph (b)".

§ 621.6 [Amended].

Dated:

Ashley Waldon,
Secretary to the Board,
Farm Credit Administration Board.