

## AMENDMENTS

2018—Par. (2). Pub. L. 115-334, § 5411(42)(A), substituted “means the board of directors established under section 2279aa-2 of this title.” for “means—

“(A) the interim board of directors established in section 2279aa-2(a) of this title; and

“(B) the permanent board of directors established in section 2279aa-2(b) of this title; as the case may be.”

Par. (6). Pub. L. 115-334, § 5411(42)(B), (C), redesignated par. (7) as (6) and struck out former par. (6) which defined “interim board” to mean the interim board of directors established in section 2279aa-2(a) of this title.

Par. (7). Pub. L. 115-334, § 5411(42)(C), (D), redesignated par. (9) as (7) and substituted “(b) and (c)” for “(b) through (d)” in subpar. (B)(i). Former par. (7) redesignated (6).

Par. (8). Pub. L. 115-334, § 5411(42)(B), (C), redesignated par. (10) as (8) and struck out former par. (8) which defined “permanent board” to mean the permanent board of directors established in section 2279aa-2(b) of this title.

Pars. (9), (10). Pub. L. 115-334, § 5411(42)(C), redesignated pars. (9) and (10) as (7) and (8), respectively.

2008—Par. (9)(C). Pub. L. 110-246, § 5406(a), added subpar. (C).

1996—Par. (1)(B)(ii). Pub. L. 104-105, § 101, substituted “, excluding the land to which the dwelling is affixed, with a value” for “with a purchase price”.

Par. (3)(A). Pub. L. 104-105, § 102(1), substituted “an agricultural mortgage marketing” for “a secondary marketing agricultural loan”.

Par. (3)(B). Pub. L. 104-105, § 102(2), struck out “, but only with respect to qualified loans described in paragraph (9)(B)” after “thereof”.

Par. (9)(B)(i). Pub. L. 104-105, §§ 108(c)(1), 109(b)(1), substituted “(d)” for “(f)” and “2279aa-8” for “2279aa-7, 2279aa-8.”

1990—Par. (3). Pub. L. 101-624, § 1839(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The term ‘certified facility’ means a secondary marketing agricultural loan facility that is certified under section 2279aa-5 of this title.”

Par. (9). Pub. L. 101-624, § 1839(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “The term ‘qualified loan’ means an obligation that—

“(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

“(B) is an obligation of—

“(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

“(ii) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in clause (i); and

“(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.”

1988—Par. (9)(B)(ii). Pub. L. 100-399 substituted “holding” for “hold” and struck out “and” before “are”.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which

was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

## STATEMENT OF PURPOSE

Pub. L. 100-233, title VII, § 701, Jan. 6, 1988, 101 Stat. 1686, provided that: “It is the purpose of this subtitle [subtitle A (§§ 701-705) of title VII of Pub. L. 100-233, enacting this subchapter, amending sections 2012, 2033, 2072, and 2093 of this title and section 9105 of Title 31, Money and Finance, and enacting provisions set out as a note below]—

“(1) to establish a corporation chartered by the Federal Government;

“(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

“(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

“(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

“(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

“(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

“(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.”

## GAO STUDIES

Pub. L. 100-233, title VII, § 704, Jan. 6, 1988, 101 Stat. 1706, as amended by Pub. L. 100-399, title VI, § 603, Aug. 17, 1988, 102 Stat. 1006, directed Comptroller General of United States to conduct studies of (1) implementation of amendments made by subtitle A (§§ 701-705) of title VII of Pub. L. 100-233 (which enacted this subchapter and amended sections 2012, 2033, 2072, and 2093 of this title and section 9105 of Title 31, Money and Finance) by Federal Agricultural Mortgage Corporation and effect of operations of Corporation on producers, Farm Credit System, and other lenders, and capital markets, (2) feasibility and appropriateness of promoting establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee had not been provided by Federal Agricultural Mortgage Corporation, and (3) feasibility of expanding authority granted under amendments made by such subtitle A to authorize sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses, and required, not later than Jan. 6, 1990, Comptroller General to transmit to Congress a report on the studies, including therein such recommendations for administrative action and legislation as might be appropriate.

## PART A—ESTABLISHMENT AND ACTIVITIES OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

## § 2279aa-1. Federal Agricultural Mortgage Corporation

## (a) Establishment

## (1) In general

There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

## (2) Institution within Farm Credit System

The Corporation shall be an institution of the Farm Credit System.

**(3) Liability****(A) Corporation**

The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

**(B) System institutions**

The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

**(b) Duties**

The Corporation shall—

(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools;

(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans; and

(4) purchase qualified loans and issue securities representing interests in, or obligations backed by, the qualified loans, guaranteed for the timely repayment of principal and interest.

(Pub. L. 92-181, title VIII, §8.1, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1687; amended Pub. L. 104-105, title I, §103, Feb. 10, 1996, 110 Stat. 163.)

**Editorial Notes****AMENDMENTS**

1996—Subsec. (b)(4). Pub. L. 104-105 added par. (4).

**§ 2279aa-2. Board of directors****(a) In general****(1) Establishment**

The Corporation shall be under the management of the board of directors.

**(2) Composition**

The Board shall consist of 15 members, of which—

(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

(ii) which members shall be representatives of the general public;

(iii) of which members not more than 3 shall be members of the same political party; and

(iv) of which members at least 2 shall be experienced in farming or ranching.

**(3) Vacancy****(A) Elected members**

Subject to paragraph (5), a vacancy among the members elected to the Board in the

manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the Board from among persons eligible for election to the position for which the vacancy exists.

**(B) Appointed members**

A vacancy among the members appointed to the Board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

**(4) Continuation of membership**

If—

(A) any member of the Board who was appointed or elected to the Board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

**(5) Terms****(A) Appointed members**

The members appointed by the President shall serve at the pleasure of the President.

**(B) Elected members**

The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the Board that becomes vacant after the annual election of the directors shall be filled by the members of the Board from the same category of directors, but only for the unexpired portion of the term.

**(C) Vacancy appointment**

Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

**(D) Service after expiration of term**

A member may serve after the expiration of the term of the member until the successor of the member has taken office.

**(6) Quorum**

8 members of the Board shall constitute a quorum.

**(7) No additional pay for Federal officers or employees**

Members of the Board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the Board.

**(8) Chairperson**

The President shall designate 1 of the members of the Board who are appointed by the President as the chairperson of the Board.

**(9) Meetings**

The Board shall meet at the call of the chairperson or a majority of its members.

**(b) Officers and staff**

The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

(Pub. L. 92-181, title VIII, §8.2, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1688; amended Pub. L. 100-399, title VI, §601(b), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 115-334, title V, §5411(43), Dec. 20, 2018, 132 Stat. 4684.)

**Editorial Notes****AMENDMENTS**

2018—Subsec. (a). Pub. L. 115-334, §5411(43)(A)-(C)(i), redesignated subsec. (b) as (a), substituted “In general” for “Permanent board” in heading and “Board” for “permanent board” wherever appearing in text, and struck out former subsec. (a) which established an interim board of directors until the first meeting of a permanent board of directors.

Subsec. (a)(1). Pub. L. 115-334, §5411(43)(B), added par. (1) and struck out former par. (1) which required the Corporation to establish a permanent board of directors for financial institutions once certain thresholds were met.

Subsec. (a)(3). Pub. L. 115-334, §5411(43)(C)(ii)-(iv), redesignated par. (4) as (3), substituted “paragraph (5)” for “paragraph (6)” in subpar. (A), and struck out former par. (3) which set a date by which the presidential appointees to the permanent board were to be appointed.

Subsec. (a)(4) to (10). Pub. L. 115-334, §5411(43)(C)(iii), redesignated pars. (5) to (10) as (4) to (9), respectively. Former par. (4) redesignated (3).

Subsecs. (b), (c). Pub. L. 115-334, §5411(43)(D), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

1988—Subsecs. (a)(1), (b)(3)(B). Pub. L. 100-399 substituted “date of the enactment” for “effective date”, both of which for purposes of codification were translated as “January 6, 1988.”

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

**§ 2279aa-3. Powers and duties of Corporation and Board****(a) Guarantees**

After the Board has been duly constituted, subject to the other provisions of this subchapter and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

**(b) Duties of Board****(1) In general**

The Board shall—

(A) determine the general policies that shall govern the operations of the Corporation;

(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

**(2) Executive officers and functions**

The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

**(c) Powers of Corporation**

The Corporation shall be a body corporate and shall have the following powers:

(1) To operate under the direction of its Board.

(2) To issue stock in the manner provided in section 2279aa-4 of this title.

(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, and require surety bonds or make other provisions against losses occasioned by acts of such persons.

(5) To provide guarantees in the manner provided under section 2279aa-6 of this title.

(6) To have succession until dissolved by a law enacted by the Congress.

(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

(A) the classes of the stock of the Corporation; and

(B) the manner in which—

(i) the stock shall be issued, transferred, and retired;

(ii) the officers, employees, and agents of the Corporation are selected;

(iii) the property of the Corporation is acquired, held, and transferred;

(iv) the commitments and other financial assistance of the Corporation are made;

(v) the general business of the Corporation is conducted; and

(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

(8) To prescribe such standards as may be necessary to carry out this subchapter.

(9) To enter into contracts and make payments with respect to the contracts.

(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

(13) To purchase, hold, sell, or assign a qualified loan, to issue a guaranteed security, representing an interest in, or an obligation backed by, the qualified loan, and to perform all the functions and responsibilities of an agricultural mortgage marketing facility operating as a certified facility under this subchapter.

(14) To establish, acquire, and maintain affiliates (as such term is defined in section 2279aa-11(e) of this title) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this subchapter.

(15) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this subchapter.

**(d) Federal Reserve banks as depositories and fiscal agents**

The Federal Reserve banks shall act as depositories for, and as fiscal agents or custodians of, the Corporation.

**(e) Access to book-entry system**

The Corporation shall have access to the book-entry system of the Federal Reserve System.

(Pub. L. 92-181, title VIII, §8.3, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1691; amended Pub. L. 100-399, title VI, §601(c), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 102-237, title V, §503(c), Dec. 13, 1991, 105 Stat. 1877; Pub. L. 102-552, title III, §308(b)(1), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104-105, title I, §§104, 105, Feb. 10, 1996, 110 Stat. 163.)

**Editorial Notes**

**AMENDMENTS**

1996—Subsec. (c)(13) to (15). Pub. L. 104-105, §104, added par. (13) and redesignated former pars. (13) and (14) as (14) and (15), respectively.

Subsec. (d). Pub. L. 104-105, §105(1), which directed the amendment of subsec. (d) by substituting “shall act as depositories for, and” for “may act as depositories for, or”, was executed by making the substitution for “may act as depositories for, or” to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 104-105, §105(2), substituted “Corporation shall have access to” for “Secretary of the Treasury may authorize the Corporation to use”.

1992—Subsec. (c)(13). Pub. L. 102-552 substituted “2279aa-11(e)” for “2279aa-11(g)”.

1991—Subsec. (c)(13), (14). Pub. L. 102-237 added par. (13) and redesignated former par. (13) as (14).

1988—Subsec. (c)(4). Pub. L. 100-399 substituted “such persons” for “the persons”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

**§ 2279aa-4. Stock issuance**

**(a) Voting common stock**

**(1) Issue**

**(A) In general**

The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time.

**(B) Number of votes**

Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

**(C) Offers**

**(i) In general**

The Board shall offer the voting common stock to banks, other financial institutions, insurance companies, and System institutions under such terms and conditions as the Board may adopt.

**(ii) Requirements**

The voting common stock shall be fairly and broadly offered to ensure that—

(I) no institution or institutions acquire a disproportionate share of the total quantity of the voting common stock outstanding of a class of stock; and

(II) capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A stock and class B stock.

**(D) Classes of stock**

**(i) In general**

The stock shall be divided into two classes with the same par value per share.

**(ii) Class A stock**

Class A stock may be held only by entities that are not Farm Credit System institutions and that are entitled to vote for directors specified in section 2279aa-2(a)(2)(A) of this title, including national banking associations (which shall be allowed to purchase and hold such stock).

**(iii) Class B stock**

Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 2279aa-2(a)(2)(B) of this title.

**(2) Limitation on issue**

After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

**(3) Authority of Board to establish terms and procedures**

The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time.

**(4) Transferability**

Subject to such limitations as the Board may impose, any share of any class of voting common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

**(5) Maximum number of shares**

No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

**(b) Required capital contributions****(1) In general**

The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

**(2) Stock issued as consideration for contribution**

The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

**(c) Dividends****(1) In general**

Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

**(2) Reserves requirement**

No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 2279aa-10(c)(1) of this title.

**(3) Dividends prohibited while obligations are outstanding**

No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 2279aa-13 of this title remains outstanding.

**(d) Nonvoting common stock**

The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c).

**(e) Preferred stock****(1) Authority of Board**

The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Corporation.

**(2) Rights of preferred stock**

Subject to paragraphs (2) and (3) of subsection (c), the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

**(3) Preference on termination of business**

In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(Pub. L. 92-181, title VIII, §8.4, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1692; amended Pub. L. 100-399, title VI, §601(d), (e), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 115-334, title V, §5411(44), Dec. 20, 2018, 132 Stat. 4684.)

**Editorial Notes****AMENDMENTS**

2018—Subsec. (a)(1). Pub. L. 115-334, within existing provisions, designated first and second sentences as subpars. (A) and (B), respectively, added subpar. (C) and struck out former third sentence which read “Voting shall be by classes as described in section 2279aa-2(a)(9) of this title.”, designated fourth to sixth sentences collectively as subpar. (D) and individually as cls. (i) to (iii), respectively, thereof, substituted “2279aa-2(a)(2)(A)” for “2279aa-2(b)(2)(A)” in subpar. (D)(ii) and “2279aa-2(a)(2)(B)” for “2279aa-2(b)(2)(B)” in subpar. (D)(iii), and inserted subpar. and cl. headings.

1988—Subsec. (a)(1). Pub. L. 100-399, §601(d), in penultimate sentence, inserted “and” after “institutions” and inserted “, including national banking associations (which shall be allowed to purchase and hold such stock)” before period at end.

Subsec. (e)(1). Pub. L. 100-399, §601(e), substituted “books of the Corporation” for “books of the Association”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

**§ 2279aa-5. Certification of agricultural mortgage marketing facilities****(a) Eligibility standards****(1) Establishment required**

Within 120 days after the date on which the permanent board first meets with a quorum

present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities (other than the Corporation), including eligibility standards in accordance with paragraph (2).

**(2) Minimum requirements**

To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility (other than the Corporation) shall—

(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

(B) meet or exceed capital standards established by the Board;

(C) have as one of the purposes of the facility, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

**(3) Nondiscrimination requirement**

The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

**(b) Certification by Corporation**

Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

**(c) Maximum time period for certification**

Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

**(d) Revocation**

**(1) In general**

After notice and an opportunity for a hearing, the Corporation may revoke the certi-

cation of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a).

**(2) Effect of revocation**

Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

**(e) Affiliation of FCS institutions with facility**

**(1) Establishment of affiliate authorized**

Notwithstanding any other provision of this chapter, any Farm Credit System institution, acting for such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified facility.

**(2) Exclusive agency agreement authorized**

Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1)) to sell the qualified loans of such institutions exclusively to or through the facility.

(Pub. L. 92-181, title VIII, §8.5, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1694; amended Pub. L. 104-105, title I, §106, Feb. 10, 1996, 110 Stat. 164.)

**Editorial Notes**

**AMENDMENTS**

1996—Subsec. (a)(1). Pub. L. 104-105, §106(1)(A), inserted “(other than the Corporation)” after “facilities”.

Subsec. (a)(2). Pub. L. 104-105, §106(1)(B), inserted “(other than the Corporation)” after “facility” in introductory provisions.

Subsec. (e)(1). Pub. L. 104-105, §106(2), struck out “(other than the Corporation)” after “System institution”.

**§ 2279aa-6. Guarantee of qualified loans**

**(a) Guarantee authorized for certified facilities**

**(1) In general**

Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation—

(A) shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the applicable standards established under section 2279aa-8 of this title and which are held by such facility; and

(B) may issue a security, guaranteed as to the timely payment of principal and interest, that represents an interest solely in, or an obligation fully backed by, a pool consisting of qualified loans that—

(i) meet the applicable standards established under section 2279aa-8 of this title; and

(ii) have been purchased and held by the Corporation.

**(2) Inability of facility to pay**

If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

**(3) Power of Corporation**

Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

**(b) Other responsibilities of and limitations on certified facilities**

As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

**(1) Loan default resolution**

The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

**(2) Subrogation of United States and Corporation to interests of facility**

The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 2279aa-13 of this title to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

(B) second, to reimburse the Corporation for any such guarantee payments.

**(3) Loan servicing**

The originator of any loan in such pool shall be permitted to retain the right to service the loan.

**(4) Minority participation in public offerings**

The facility shall take such steps as may be necessary to ensure that minority owned or

controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

**(5) No discrimination against States with borrowers rights**

The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

**(c) Additional authority of Board**

To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding—

(1) the characteristics of any pool of qualified loans serving as collateral for such securities; and

(2) transfer requirements.

**(d) Purchase of guaranteed securities**

**(1) Purchase authority**

The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

**(2) Issuance of debt obligations**

The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 2279aa of this title), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

**(3) Terms and limitations**

**(A) Terms**

The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

**(B) Requirement**

Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

**(C) Authority**

The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 2279aa-13(a) of this title remains outstanding.

(Pub. L. 92-181, title VIII, §8.6, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1695; amended Pub. L. 100-399, title VI, §601(f)-(h), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 102-237, title V, §503(d), Dec. 13, 1991, 105 Stat. 1877; Pub. L. 104-105, title I, §§107, 108(a), (c)(2), 109(a), (b)(4), Feb. 10, 1996, 110 Stat. 164, 165; Pub. L. 110-234, title V, §5406(b), May 22, 2008, 122 Stat. 1158; Pub. L. 110-246, §4(a), title V, §5406(b), June 18, 2008, 122 Stat. 1664, 1920; Pub. L. 115-334, title V, §5411(45), Dec. 20, 2018, 132 Stat. 4685.)

### Editorial Notes

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2018—Subsec. (d). Pub. L. 115-334, §5411(45)(A), (B), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to aggregate principal amounts of qualified loans and limits on provision of guarantees during certain years.

Subsec. (d)(2). Pub. L. 115-334, §5411(45)(C), substituted “2279aa of this title” for “2279aa(9) of this title”.

Subsec. (e). Pub. L. 115-334, §5411(45)(B), redesignated subsec. (e) as (d).

2008—Subsec. (a)(1)(A), (B)(i). Pub. L. 110-246, §5406(b), inserted “applicable” before “standards”.

1996—Subsec. (a)(1). Pub. L. 104-105, §107(1), designated part of existing text as subpar. (A) and added subpar. (B).

Subsec. (a)(2). Pub. L. 104-105, §108(c)(2), struck out “subject to the provisions of subsection (b) of this section” after “paragraph (1).”

Subsec. (b). Pub. L. 104-105, §§108(a), 109(a)(2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec.(b). Text read as follows: “In the case of any pool referred to in subsection (a) of this section, the Corporation shall—

“(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

“(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this subchapter;

“(3) require that full recourse be taken against reserves and retained subordinated participating interests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

“(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.”

Subsec. (b)(4) to (6). Pub. L. 104-105, §109(b)(4), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out heading and text of former par. (4). Text read as follows: “The facility shall comply with the standards adopted by the Board under subsection (c) of this section in establishing and maintaining the pool.”

Subsec. (c). Pub. L. 104-105, §109(a), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c) which related to standards requiring diversified pools, including establishment of minimum criteria for pools of qualified loans, provisions to encourage loans to small farms and family farmers, and requirements for congressional review of standards.

Subsec. (d). Pub. L. 104-105, §109(a)(2), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (d)(4) to (7). Pub. L. 104-105, §107(2), redesignated pars. (5) to (7) as (4) to (6), respectively, and

struck out heading and text of former par. (4). Text read as follows: “Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).”

Subsecs. (e), (f). Pub. L. 104-105, §109(a)(2), redesignated subsecs. (f) and (g) as (d) and (e), respectively. Former subsec. (e) redesignated (c).

Subsec. (g). Pub. L. 104-105, §109(a)(2), redesignated subsec. (g) as (e).

Subsec. (g)(2). Pub. L. 104-105, §107(3), substituted “2279aa(9) of this title” for “2279aa(9)(B) of this title”.

1991—Subsec. (g). Pub. L. 102-237 added subsec. (g).

1988—Subsec. (a)(1). Pub. L. 100-399, §601(f), substituted “represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the standards established under section 2279aa-8 of this title and which are” for “represents interests in, or obligations backed by, any pool of qualified loans”.

Subsec. (e). Pub. L. 100-399, §601(g), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “registration requirements (if any) with respect to such securities; and”.

Subsec. (f)(1). Pub. L. 100-399, §601(h), substituted “date of the enactment” for “effective date”, both of which for purposes of codification were translated as “January 6, 1988.”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

### § 2279aa-7. Repealed. Pub. L. 104-105, title I, § 108(b), Feb. 10, 1996, 110 Stat. 164

Section, Pub. L. 92-181, title VIII, §8.7, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1698, related to reserves and subordinated participation interests of certified facilities, including provisions relating to cash contributions, retention of subordinated participation interests, additional requirements relating to reserves under former section 2279aa-6(b)(2) of this title, and authority of Board of Directors of Federal Agricultural Mortgage Corporation to establish other policies and procedures.

### § 2279aa-8. Standards for qualified loans

#### (a) Standards

##### (1) In general

The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

##### (2) Supervision, examination, and report of condition

The standards shall be subject to the authorities of the Farm Credit Administration under section 2279aa-11 of this title.

##### (3) Mortgage loans

In establishing standards for qualified loans, the Corporation shall confine corporate oper-



ations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

#### (b) Minimum criteria

To further the purpose of this subchapter to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) with respect to loans secured by agricultural real estate shall, at a minimum—

(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

(3) contain sufficient documentation standards;

(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

(5) contain adequate standards to ensure that the farmer or rancher is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the farm or ranch involved;

(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

#### (c) Loan amount limitation

##### (1) In general

A loan secured by agricultural real estate may not be treated as a qualified loan if the principal amount of such loan exceeds \$2,500,000, adjusted for inflation, except as provided in paragraph (2).

##### (2) Acreage exception

Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 2,000 acres.

#### (d) Nondiscrimination requirement

The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least \$50,000. The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.

(Pub. L. 92-181, title VIII, § 8.8, as added Pub. L. 100-233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1700; amended Pub. L. 100-399, title VI, § 601(i), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 104-105, title I, § 110, Feb. 10, 1996, 110 Stat. 165; Pub. L. 110-234, title V, § 5406(c), May 22, 2008, 122 Stat. 1158; Pub. L. 110-246, § 4(a), title V, § 5406(c), June 18, 2008, 122 Stat. 1664, 1920; Pub. L. 115-334, title V, § 5410(a), Dec. 20, 2018, 132 Stat. 4678.)

### Editorial Notes

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2018—Subsec. (c)(2). Pub. L. 115-334 substituted “2,000” for “1,000”.

2008—Subsec. (a). Pub. L. 110-246, § 5406(c)(1), added pars. (1) and (2), designated last sentence as par. (3) and inserted heading, and struck out former first sentence which read as follows: “Not later than 120 days after the appointment and election of the permanent Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans.”

Subsec. (b). Pub. L. 110-246, § 5406(c)(2)(A), inserted “with respect to loans secured by agricultural real estate” after “subsection (a)” in introductory provisions.

Subsec. (b)(5). Pub. L. 110-246, § 5406(c)(2)(B), substituted “ensure that the farmer or rancher” for “ensure that the borrower” and “farm or ranch” for “site”.

Subsec. (c)(1). Pub. L. 110-246, § 5406(c)(3), inserted “secured by agricultural real estate” after “A loan”.

Subsecs. (d), (e). Pub. L. 110-246, § 5406(c)(4), (5), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “No standard prescribed under subsection (a) shall take effect before the later of—

“(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

“(2) the end of a period consisting of 90 calendar days and beginning on such date.”

1996—Subsec. (e). Pub. L. 104-105 inserted at end “The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.”

1988—Subsec. (a). Pub. L. 100-399 inserted “permanent” after “appointment and election of the”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-334, title V, § 5410(b), Dec. 20, 2018, 132 Stat. 4678, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 1 year after the date a report submitted in accordance with section 5414 of this Act [132 Stat. 4724] indicates that it is feasible to increase the acreage limitation in section 8.8(c)(2) of the Farm Credit Act of 1971 [12 U.S.C. 2279aa-8(c)(2)] to 2,000 acres [report submitted June 2019].”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

### § 2279aa-9. Exemption from restructuring and borrowers rights provisions for pooled loans

#### (a) Restructuring

Notwithstanding any other provision of law, sections 2202, 2202a, 2202b, 2202d, and 2219a of this title shall not apply to any loan included in a

pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

**(b) Borrowers rights**

At the time of application for a loan (as defined in section 2202a(a)(5) of this title), originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 2202, 2202a, 2202b, 2202d, and 2219a of this title shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 2202, 2202a, 2202b, 2202d, and 2219a of this title, if applicable.

(Pub. L. 92–181, title VIII, §8.9, as added Pub. L. 100–233, title VII, §702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 100–399, title VI, §601(j), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 104–105, title II, §208(b), Feb. 10, 1996, 110 Stat. 174; Pub. L. 115–334, title V, §5411(46), Dec. 20, 2018, 132 Stat. 4685.)

**Editorial Notes**

**AMENDMENTS**

2018—Pub. L. 115–334 struck out “2202c,” after “2202b,” wherever appearing.

1996—Subsec. (b), Pub. L. 104–105 inserted “(as defined in section 2202a(a)(5) of this title)” after “application for a loan”.

1988—Subsecs. (a), (b). Pub. L. 100–399 substituted “2202d, and 2219a” for “and 2219b” wherever appearing.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of this title.

**§ 2279aa–10. Funding for guarantee; reserves of Corporation**

**(a) Guarantee**

The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

**(b) Guarantee fees**

**(1) Initial fee**

At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

**(2) Annual fees**

Beginning in the second year after the date the guarantee is issued under paragraph (1),

the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than ½ of 1 percent of the principal amount of the loans then constituting the pool.

**(3) Determination of amount**

The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

**(4) Review by GAO**

The Comptroller General of the United States may review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

**(c) Corporation reserve against guarantees losses required**

**(1) In general**

So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

**(2) Exhaustion of reserve required**

The Corporation may not issue obligations to the Secretary of the Treasury under section 2279aa–13 of this title in order to meet the obligations of the Corporation with respect to any guarantees provided under this subchapter until the reserve established under paragraph (1) has been exhausted.

**(d) Fees to cover administrative costs authorized**

The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this subchapter to recover its costs for performing such administration.

(Pub. L. 92–181, title VIII, §8.10, as added Pub. L. 100–233, title VII, §702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 104–316, title I, §106(f), Oct. 19, 1996, 110 Stat. 3831.)

**Editorial Notes**

**AMENDMENTS**

1996—Subsec. (b)(4). Pub. L. 104–316 substituted “Review” for “Annual review” in heading and “may review” for “shall annually review” in text.

**§ 2279aa–11. Supervision, examination, and report of condition**

**(a) Regulation**

**(1) Authority**

Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

(A) for the examination of the Corporation and its affiliates; and

(B) for the general supervision of the safe and sound performance of the powers, func-

tions, and duties vested in the Corporation and its affiliates by this subchapter, including through the use of the authorities granted to the Farm Credit Administration under—

- (i) part C of subchapter V; and
- (ii) beginning 6 months after December 13, 1991, section 2252(a)(9) of this title.

**(2) Considerations**

In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

- (A) the purposes for which the Corporation was created;
- (B) the practices appropriate to the conduct of secondary markets in agricultural loans; and
- (C) the reduced levels of risk associated with appropriately structured secondary market transactions.

**(3) Office of Secondary Market Oversight**

(A) Not later than 180 days after December 13, 1991, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.

**(b) Examinations and audits**

**(1) In general**

The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

**(2) Frequency**

The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

**(3) Access**

The examiners shall—

- (A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and
- (B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

**(c) Annual report of condition**

The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by reg-

ulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

**(d) FCA assessments to cover costs**

The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

**(e) “Affiliate” defined**

As used in this subchapter, the term “affiliate” shall mean an entity effectively controlled or owned by the Corporation, except that such term shall not include an originator (as defined in section 2279aa of this title).

**(f) Employees and personnel**

The Farm Credit Administration Board shall ensure that—

(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.

(Pub. L. 92-181, title VIII, §8.11, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1702; amended Pub. L. 101-624, title XVIII, §1840, Nov. 28, 1990, 104 Stat. 3835; Pub. L. 102-237, title V, §503(a), Dec. 13, 1991, 105 Stat. 1870; Pub. L. 102-552, title III, §308(b)(2), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104-105, title I, §111, Feb. 10, 1996, 110 Stat. 165; Pub. L. 115-334, title V, §5411(47), Dec. 20, 2018, 132 Stat. 4685.)

**Editorial Notes**

**AMENDMENTS**

2018—Subsec. (e). Pub. L. 115-334 substituted “2279aa of this title)” for “2279aa(7) of this title)”.

1996—Subsec. (e). Pub. L. 104-105 substituted “section 2279aa(7) of this title” for “paragraphs (3) and (7), respectively, of section 2279aa of this title” and struck out “a certified facility or” before “an originator”.

1992—Subsec. (a)(1)(B)(ii). Pub. L. 102-552 substituted “December 13, 1991” for “the date of enactment of this section”.

1991—Subsec. (a)(1). Pub. L. 102-237, §503(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to—

“(A) provide for the examination of the condition of the Corporation and its affiliates; and

“(B) provide for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.”

Subsec. (a)(3). Pub. L. 102-237, §503(a)(2), added par. (3).

Subsec. (f). Pub. L. 102-237, §503(a)(3), added subsec. (f).

1990—Subsec. (a)(1). Pub. L. 101-624, §1840(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of this chapter, the regulatory authority of the Farm Credit

Administration with respect to the Corporation shall be confined to—

“(A) providing for the examination of the condition of the Corporation; and

“(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.”

Subsec. (e). Pub. L. 101-624, §1840(2), added subsec. (e).

## **§ 2279aa-12. Securities in credit enhanced pools**

### **(a) Federal laws**

#### **(1) Applicability of certain Federal securities laws**

For purposes of section 77c(a)(2) of title 15, no security representing an interest in, or obligations backed by, a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a “government security” for purposes of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] or for purposes of the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.].

#### **(2) No full faith and credit of the United States**

Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

### **(b) State securities laws**

#### **(1) General exemption**

Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

#### **(2) State override**

The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on January 6, 1988, enacts a law that—

(A) specifically refers to this subsection; and

(B) expressly provides that paragraph (1) shall not apply to the State.

### **(c) Authorized investments**

#### **(1) In general**

Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing

under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

#### **(2) State limitations on purchase, holding, or investment**

If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

#### **(3) Nonapplicability of provisions**

##### **(A) Subsequent State law**

Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on January 6, 1988, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

##### **(B) Effect of subsequent State law**

The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

#### **(d) State usury laws superseded**

A provision of the Constitution or law of any State shall not apply to an agricultural loan made by an originator or a certified facility in accordance with this subchapter for sale to the Corporation or to a certified facility for inclusion in a pool for which the Corporation has provided, or has committed to provide, a guarantee, if the loan, not later than 180 days after the date the loan was made, is sold to the Corporation or included in a pool for which the Corporation has provided a guarantee, if the provision—

(1) limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by an agricultural lender or a certified facility; or

(2) limits or prohibits a prepayment penalty (either fixed or declining), yield maintenance,

or make-whole payment that may be charged, taken, or received by an agricultural lender or a certified facility in connection with the full or partial payment of the principal amount due on a loan by a borrower in advance of the scheduled date for the payment under the terms of the loan, otherwise known as a prepayment of the loan principal.

(Pub. L. 92-181, title VIII, §8.12, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1703; amended Pub. L. 100-399, title VI, §601(k), (l), Aug. 17, 1988, 102 Stat. 1006; Pub. L. 104-105, title I, §112, Feb. 10, 1996, 110 Stat. 165.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (a)(1), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Investment Company Act of 1940, referred to in subsec. (a)(1), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

##### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-105 added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “Any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this subchapter that is included in a pool for which the Corporation has provided a guarantee.”

1988—Subsec. (a)(1). Pub. L. 100-399, §601(k), inserted “, or obligations backed by,” before “a pool”.

Subsec. (b)(2). Pub. L. 100-399, §601(l), substituted “date of the enactment” for “effective date” both of which for purposes of codification was translated as “January 6, 1988.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

#### § 2279aa-13. Authority to issue obligations to cover guarantee losses of Corporation

##### (a) Sale of obligations to Treasury

###### (1) In general

Subject to the limitations contained in section 2279aa-10(c) of this title and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this subchapter.

###### (2) Certification

The Secretary of the Treasury may purchase obligations of the Corporation under para-

graph (1) only if the Corporation certifies to the Secretary that—

(A) the requirements of section 2279aa-10(c) of this title have been fulfilled; and

(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this subchapter.

##### (b) Expeditious transaction required

Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation.

##### (c) Limitation on amount of outstanding obligations

The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed \$1,500,000,000.

##### (d) Terms of obligation

###### (1) Interest

Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

###### (2) Redemption

The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

##### (e) Coordination with title 31

###### (1) Authority to use proceeds from sale of Treasury securities

For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

###### (2) Treatment of transactions

All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

##### (f) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury \$1,500,000,000, without fiscal year limitation, to carry out the purposes of this subchapter.

(Pub. L. 92-181, title VIII, §8.13, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1704; amended Pub. L. 104-105, title I, §109(b)(2), Feb. 10, 1996, 110 Stat. 165.)

**Editorial Notes****AMENDMENTS**

1996—Subsec. (a). Pub. L. 104-105 substituted “section” for “sections 2279aa-6(b) and” in pars. (1) and (2)(A).

**§ 2279aa-14. Federal jurisdiction**

Notwithstanding section 1349 of title 28 or any other provision of law:

(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.

(Pub. L. 92-181, title VIII, §8.14, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1705.)

**PART B—REGULATION OF FINANCIAL SAFETY AND SOUNDNESS OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION**

**§ 2279bb. Definitions**

For purposes of this part:

**(1) Compensation**

The term “compensation” means any payment of money or the provision of any other thing of current or potential value in connection with employment.

**(2) Core capital**

The term “core capital” means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par value of outstanding common stock.

(B) The par value of outstanding preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

**(3) Director**

The term “Director” means the Director of the Office of Secondary Market Oversight of

the Farm Credit Administration, selected under section 2279aa-11(a)(3) of this title.

**(4) Office**

The term “Office” means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 2279aa-11(a) of this title.

**(5) Regulatory capital**

The term “regulatory capital” means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

**(6) State**

The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 92-181, title VIII, §8.31, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1871.)

**Executive Documents**

**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**§ 2279bb-1. Risk-based capital levels****(a) Risk-based capital test**

The Director of the Office of Secondary Market Oversight shall, by regulation, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

**(1) Credit risk****(A) In general**

With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in