

izen of the State, commonwealth, or District of Columbia in which its principal office is located. (Pub. L. 92-181, title V, § 5.23, formerly § 5.24, Dec. 10, 1971, 85 Stat. 624; Pub. L. 94-184, § 1(b), Dec. 31, 1975, 89 Stat. 1060; renumbered § 5.23, Pub. L. 99-205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.23 of Pub. L. 92-181 was renumbered section 5.22 and is classified to section 2257 of this title.

AMENDMENTS

1975—Pub. L. 94-184 struck out provisions prohibiting district court jurisdiction on the basis of incorporation under this Act or prior Federal law, and prohibiting jurisdiction except in cases by or against the United States or one of its officers, or against a person over whom State courts have no jurisdiction and except in cases by or against a receiver or conservator appointed under this chapter.

§ 2259. State legislation

Whenever it is determined by the Farm Credit Administration, or by judicial decision, that a State law is applicable to the obligations and securities authorized to be held by the institutions of the System under this chapter, which law would provide insufficient protection or inadequate safeguards against loss in the event of default, the Farm Credit Administration may declare such obligations or securities to be ineligible as collateral for the issuance of new notes, bonds, debentures, and other obligations under this chapter.

(Pub. L. 92-181, title V, § 5.24, formerly § 5.25, Dec. 10, 1971, 85 Stat. 624; renumbered § 5.24, Pub. L. 99-205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.24 of Pub. L. 92-181 was renumbered section 5.23 and is classified to section 2258 of this title.

§ 2260. Transferred

Editorial Notes

CODIFICATION

Section, Pub. L. 92-181, title V, § 5.30, as added Pub. L. 96-592, title V, § 509, Dec. 24, 1980, 94 Stat. 3450, which related to audit and report to Congress by the Comptroller General, was renumbered section 5.44 of Pub. L. 92-181 by Pub. L. 99-205, title II, § 205(a)(2), Dec. 23, 1985, 99 Stat. 1703, transferred to section 2275 of this title, and repealed by Pub. L. 115-334, title V, § 5411(36), Dec. 20, 2018, 132 Stat. 4683.

PART C—ENFORCEMENT POWERS OF FARM CREDIT ADMINISTRATION

§ 2261. Cease and desist proceedings

(a) If, in the opinion of the Farm Credit Administration, any institution in the Farm Credit System, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such an institution is engaging or has engaged, or the Farm Credit Ad-

ministration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Farm Credit Administration in connection with the granting of any application or other request by the institution or any written agreement entered into with the Farm Credit Administration, the Farm Credit Administration may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Farm Credit Administration at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit Administration may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions that may be mandatory or otherwise, require the institution or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(b) A cease and desist order shall become effective at the expiration of thirty days after the service of such order upon the institution or other person concerned (except in the case of a cease and desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein except to such extent as it is stayed, modified, terminated, or set aside by action of the Farm Credit Administration or a reviewing court.

(Pub. L. 92-181, title V, § 5.25, as added Pub. L. 99-205, title II, § 204, Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5.25 of Pub. L. 92-181 was renumbered section 5.24 and is classified to section 2259 of this title.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2262. Temporary cease and desist orders

(a) Whenever the Farm Credit Administration shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution under section 2261 of this title, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of the investors in Farm Credit System obligations or shareholders in the institution prior to the completion of the proceedings conducted under section 2261 of this title, the Farm Credit Administration may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (b), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the institution or such director, officer, employee, agent, or other person, until effective date of such order.

(b) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease and desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under section 2261 of this title, and such court shall have jurisdiction to issue such injunction.

(Pub. L. 92-181, title V, §5.26, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1695.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5.26 of Pub. L. 92-181 was renumbered section 5.40 and is set out in part as notes under section 2001 of this title.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2263. Enforcement of temporary cease and desist orders

In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued under section 2262 of this title, the Farm Credit Administration may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(Pub. L. 92-181, title V, §5.27, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1696.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5.27 of Pub. L. 92-181, which amended section 393 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, was renumbered section 5.41.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2264. Suspension or removal of director or officer**(a) Written notice of intention to remove; violation of law, rule, regulation, or final cease and desist order; unsafe or unsound practice; breach of fiduciary duty**

Whenever, in the opinion of the Farm Credit Administration, any director or officer of any institution in the Farm Credit System has committed any violation of law, rule, or regulation or of a cease and desist order that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty as such director or officer, and the Farm Credit Administration determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its share-

holders or investors in Farm Credit System obligations could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one that demonstrates a willful or continuing disregard for the safety or soundness of the System institution, the Farm Credit Administration may serve upon such director or officer a written notice of its intention to remove him from office.

(b) Written notice of intention to remove or suspend director, officer or other person; personal dishonesty; willful or continuing disregard; unfitness to continue in office or to participate in affairs of institution

Whenever, in the opinion of the Farm Credit Administration, any director or officer of an institution in the Farm Credit System, by conduct or practice with respect to another institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to continue as a director or officer, and whenever, in the opinion of the Farm Credit Administration, any other person participating in the conduct of the affairs of an institution in the Farm Credit System, by the conduct or practice with respect to such institution or other institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such institution, the Farm Credit Administration may serve upon such director, officer, or other person a written notice of its intention to remove that director, officer, or other person from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

(c) Suspension from office; prohibition from further participation in conduct of affairs of institution; service of notice

In respect to any director or officer of an institution in the Farm Credit System or any other person referred to in subsection (a) or (b) of this section, the Farm Credit Administration may, if it deems it necessary for the protection of the institution or the interests of its shareholders and the investors in the Farm Credit System obligations, by written notice to such effect served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (e) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant

to the notice served under subsection (a) or (b) and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the institution of which the person is a director or officer or in the conduct of whose affairs the person has participated.

(d) Statement of grounds for removal or prohibition; notice and hearing; order of suspension, removal or prohibition; service of order

A notice of intention to remove a director, officer, or other person from office or to prohibit such director's, officer's, or other person's participation in the conduct of the affairs of an institution in the Farm Credit System, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Farm Credit Administration at the request of (1) such director or officer or other person, and for good cause shown, or (2) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, such director, officer, or other person shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate. A copy of an order issued under this subsection shall be served upon the institution concerned. Any such order shall become effective at the expiration of thirty days after service upon such institution and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

(e) Stay of suspension or prohibition

Within ten days after any director, officer, or other person has been suspended from office or prohibited from participation in the conduct of the affairs of a System institution under subsection (c) of this section, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for a stay of either such suspension or prohibition, or both, pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subsection (a) or (b), and such court shall have jurisdiction to stay either such suspension or prohibition, or both.

(Pub. L. 92-181, title V, §5.28, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1696; amended Pub. L. 100-233, title VIII, §805(aa), Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100-399, title VII, §702(d), Aug. 17, 1988, 102 Stat. 1006.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.28 of Pub. L. 92-181 was renumbered section 5.42 and is set out as a note under section 2001 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233, §805(aa)(1), designated provisions preceding subsec. (b) as subsec. (a).

Subsec. (e). Pub. L. 100-399 substituted “subsection (c)” for “subsection (d)”.

Pub. L. 100-233, §805(aa)(2), substituted “subsection (d) of this section” for “subsection (d)(3) of this section”.

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.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2265. Suspension or removal of director or officer charged with felony

(a) Whenever any director or officer of an institution in the Farm Credit System, or other person participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System, by written notice served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Farm Credit Administration. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or the investors in

Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System, issue and serve upon such director, officer, or other person an order removing such director, officer, or other person from office or prohibiting such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Farm Credit Administration. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Farm Credit Administration from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in Farm Credit System affairs under section 2264 of this title. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (b) unless terminated by the Farm Credit Administration.

(b) Within thirty days from service of any notice of suspension or order of removal issued under subsection (a), the director, officer, or other person concerned may request in writing an opportunity to appear before the Farm Credit Administration to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interest of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System. Upon receipt of any such request, the Farm Credit Administration shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before the Chairman of the Farm Credit Administration or designated employees of the Farm Credit Administration to submit written materials (or, at the discretion of the Farm Credit Administration, oral testimony) and oral argument. Within sixty days of such hearing, the Farm Credit Administration shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated, or otherwise modified, or whether the order removing such director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Farm Credit Administration's decision, if adverse to the director, officer, or other person. The Farm Credit Administration may prescribe such rules as may be necessary to effectuate the purposes of this subsection.

(Pub. L. 92-181, title V, §5.29, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1698; amended Pub. L. 100-233, title VIII, §805(bb),

Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100-399, title VII, § 702(e), Aug. 17, 1988, 102 Stat. 1006.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.29 of Pub. L. 92-181 was renumbered section 5.43 and is set out as a note under section 2001 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233, § 805(bb)(1), substituted “may pose a threat to the interests of the institution’s shareholders or investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System” for “may pose a threat to the interest of the institution’s shareholders or the investors in the Farm Credit System obligations or may threaten to impair public confidence in the institution or Farm Credit System”.

Subsec. (b). Pub. L. 100-233 struck out “may” before “threaten to impair public confidence”.

Pub. L. 100-233, § 805(bb)(2), substituted “of the institution’s shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System” for “in Farm Credit System obligations”.

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.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2265a. Removal and prohibition authority; industry-wide prohibition

(a) Definition of person

In this section, the term “person” means—

- (1) an individual; and
- (2) in the case of a specific determination by the Farm Credit Administration, a legal entity.

(b) Industry-wide prohibition

Except as provided in subsection (c), any person who, pursuant to an order issued under section 2264 or 2265 of this title, has been removed or suspended from office at a System institution or prohibited from participating in the conduct of the affairs of a System institution shall not, during the period of effectiveness of the order, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

- (1) any insured depository institution subject to section 1818(e)(7)(A)(i) of this title;
- (2) any institution subject to section 1818(e)(7)(A)(ii) of this title;
- (3) any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.);
- (4) any Federal home loan bank;
- (5) any institution chartered under this chapter;
- (6) any appropriate Federal financial institutions regulatory agency (as defined in section 1818(e)(7)(D) of this title);

- (7) the Federal Housing Finance Agency; or
- (8) the Farm Credit Administration.

(c) Exception for institution-affiliated party that receives written consent

(1) In general

(A) Affiliated parties

If, on or after the date on which an order described in subsection (b) is issued that removes or suspends an institution-affiliated party from office at a System institution or prohibits an institution-affiliated party from participating in the conduct of the affairs of a System institution, that party receives written consent described in subparagraph (B), subsection (b) shall not apply to that party—

- (i) to the extent provided in the written consent received; and
- (ii) with respect to the institution described in each written consent.

(B) Written consent described

The written consent referred to in subparagraph (A) is written consent received from—

- (i) the Farm Credit Administration; and
- (ii) each appropriate Federal financial institutions regulatory agency (as defined in section 1818(e)(7)(D) of this title) of the applicable institution described in any of paragraphs (1), (2), (3), or (4) of subsection (b) with respect to which the party proposes to become¹ an affiliated party.

(2) Disclosure

Any agency described in clause (i) or (ii) of paragraph (1)(B) that provides a written consent under that paragraph shall—

- (A) report the action to the Farm Credit Administration; and
- (B) publicly disclose the action.

(3) Consultation between agencies

The agencies described in clauses (i) and (ii) of paragraph (1)(B) shall consult with each other before providing any written consent under that paragraph.

(d) Violations

A violation of subsection (b) by any person who is subject to an order described in that subsection shall be treated as violation² of that order.

(Pub. L. 92-181, title V, § 5.29A, as added Pub. L. 115-334, title V, § 5406, Dec. 20, 2018, 132 Stat. 4676.)

Editorial Notes

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in subsec. (b)(3), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

¹ So in original.

² So in original. Probably should be preceded by “a”.

§ 2266. Hearings and judicial review**(a) Venue; closed hearings; decisions and findings of fact; orders; modification or other action by Farm Credit Administration; judicial review**

Any hearing provided for in this part (other than the hearing provided for in section 2265 of this title) shall be held in the Federal judicial district or in the territory in which the home office of the institution is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private, unless the Farm Credit Administration, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Farm Credit Administration has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this part. Judicial review of any such order shall be exclusively as provided in this section. Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (b), and thereafter until the record in the proceeding has been filed as so provided, the Farm Credit Administration may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Farm Credit Administration may modify, terminate, or set aside any such order with permission of the court.

(b) Judicial review; commencement of proceedings; filing of petition and record; exclusive jurisdiction; finality of judgment and decree

Any party to the proceeding, or any person required by an order issued under this part to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served under subsection (a) (other than an order issued with the consent of the System institution or the director or officer or other person concerned, or an order issued under section 2265 of this title) by the filing in the court of appeals of the United States for the circuit in which the home office of the institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Farm Credit Administration be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Farm Credit Administration, and thereupon the Farm Credit Administration shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of subsection (a) be exclusive, to affirm,

modify, terminate, or set aside, in whole or in part, the order of the Farm Credit Administration. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(c) Proceedings operating as stays of orders

The commencement of proceedings for judicial review under subsection (b) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Farm Credit Administration.

(Pub. L. 92-181, title V, §5.30, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1699; amended Pub. L. 100-233, title VIII, §805(cc), Jan. 6, 1988, 101 Stat. 1717.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5.30 of Pub. L. 92-181 was renumbered section 5.44 and transferred from section 2260 to section 2275 of this title, prior to repeal by Pub. L. 115-334, title V, §5411(36), Dec. 20, 2018, 132 Stat. 4683.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233 substituted “this section” for “this subsection (g)”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2267. Jurisdiction and enforcement

The Farm Credit Administration may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this part no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part, or to review, modify, suspend, terminate, or set aside any such notice or order. For purposes of this section, any directive issued under section 2154(b)(2), 2154a(e), or 2202a(h) of this title shall be treated as an effective and outstanding order issued under section 2261 of this title that has become final.

(Pub. L. 92-181, title V, §5.31, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1700; amended Pub. L. 100-233, title VIII, §804(a)(1), Jan. 6, 1988, 101 Stat. 1714; Pub. L. 115-334, title V, §5411(32), Dec. 20, 2018, 132 Stat. 4683.)

Editorial Notes**AMENDMENTS**

2018—Pub. L. 115-334 substituted “2202a(h)” for “2202a(i)”.

1988—Pub. L. 100-233 inserted at end “For purposes of this section, any directive issued under section 2154(b)(2), 2154(e), or 2202a(i) of this title shall be treated as an effective and outstanding order issued under section 2261 of this title that has become final.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2267a. Jurisdiction over institution-affiliated parties

(a) In general

For purposes of sections 2261, 2262, and 2268 of this title, the jurisdiction of the Farm Credit Administration over parties, and the authority of the Farm Credit Administration to initiate actions, shall include enforcement authority over institution-affiliated parties.

(b) Effect of separation on jurisdiction and authority

Subject to subsection (c), the resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the merger, consolidation, conservatorship, or receivership of a Farm Credit System institution) shall not affect the jurisdiction and authority of the Farm Credit Administration to issue any notice or order and proceed under this part against that party.

(c) Limitation

To proceed against a party under subsection (b), the notice or order described in that subsection shall be served not later than 6 years after the date on which the party ceased to be an institution-affiliated party with respect to the applicable Farm Credit System institution.

(d) Applicability

The date on which a party ceases to be an institution-affiliated party described in subsection (c) may occur before, on, or after December 20, 2018.

(Pub. L. 92-181, title V, § 5.31A, as added Pub. L. 115-334, title V, § 5407, Dec. 20, 2018, 132 Stat. 4677.)

§ 2268. Penalty

(a) Forfeiture and payment; compromise, modification, or remitting by Farm Credit Administration; assessment and collection by written notice

Any institution in the System that violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order that has become final and was issued under section 2261 or 2262 of this title, shall forfeit and pay a civil penalty of not more than \$1,000 per day for each day during which such violation continues. Any such institution or person who violates any provision of this chapter or any regulation issued under this chapter shall forfeit and pay a civil penalty of not more than \$500 per day for each day during

which such violation continues. Notwithstanding the preceding sentences, the Farm Credit Administration may, in its discretion, compromise, modify, or remit any civil money penalty that is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the Farm Credit Administration by written notice.

(b) Factors determining amount

Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty. In determining the amount of the penalty, the Farm Credit Administration shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the System institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(c) Notice and hearing; final orders

The System institution or person assessed shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The Farm Credit Administration determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(d) Judicial review

Any System institution or person against whom an order imposing a civil money penalty has been entered after a Farm Credit Administration hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the System institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days after the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Farm Credit Administration. The Farm Credit Administration shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28. Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5.

(e) Action by Attorney General to recover amount assessed

If any System institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Farm Credit Administration, the Farm Credit Administration shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United

States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) Rules and regulations

The Farm Credit Administration shall promulgate regulations establishing procedures necessary to implement section 2267 of this title and this section.

(g) Payment into Treasury

All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(h) Directives as final orders

For purposes of this section, any directive issued under section 2154(b)(2), 2154a(e), or 2202a(h) of this title shall be treated as an order that has become final and was issued under section 2261 of this title.

(Pub. L. 92-181, title V, §5.32, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1700; amended Pub. L. 100-233, title IV, §423, title VIII, §§804(a)(2), 805(dd), Jan. 6, 1988, 101 Stat. 1656, 1714, 1717; Pub. L. 115-334, title V, §5411(33), Dec. 20, 2018, 132 Stat. 4683.)

Editorial Notes

AMENDMENTS

2018—Subsec. (h). Pub. L. 115-334 substituted “2202a(h)” for “2202a(i)”.

1988—Subsec. (a). Pub. L. 100-233, §423(a), substituted “continues. Any such institution or person who violates any provision of this chapter or any regulation issued under this chapter shall forfeit and pay a civil penalty of not more than \$500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,” for “continues, but”.

Subsec. (b). Pub. L. 100-233, §423(b), inserted “Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.”

Subsec. (d). Pub. L. 100-233, §423(c), substituted “Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5” for “The findings of the Farm Credit Administration shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5”.

Subsec. (f). Pub. L. 100-233, §805(dd), substituted “section 2267 of this title and this section” for “sections 2267 and 2268 of this title”.

Subsec. (h). Pub. L. 100-233, §804(a)(2), added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2269. Further penalties

Any director or officer, or former director or officer of a System institution, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such direc-

tor, officer, or other person under section 2264 or 2265 of this title, and who (1) participates in any manner in the conduct of the affairs of the institution involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such institution, or (2) without the prior written approval of the Farm Credit Administration, votes for a director, serves or acts as a director, officer, or employee of any System institution, shall upon conviction be fined not more than \$5,000 or imprisoned for not more than one year, or both.

(Pub. L. 92-181, title V, §5.33, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1701.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2270. Replacement of suspended or removed directors

If at any time, because of the suspension or removal of one or more directors pursuant to section 2264 or 2265 of this title, there shall be on the board of directors of a System institution less than a quorum of directors not so suspended, the Chairman shall appoint persons to serve temporarily as directors in their place and stead so as to establish a quorum until such time as those who have been removed are reinstated or their respective successors are duly elected and take office.

(Pub. L. 92-181, title V, §5.34, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1701.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2271. Definitions

As used in this part—

(1) the terms “cease and desist order that has become final” and “order which has become final” mean a cease and desist order, or an order, issued by the Farm Credit Administration with the consent of the System institution or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Farm Credit Administration has been filed and perfected in a court of appeals as specified in section 2266(b) of this title, or with respect to which the action of the court in which such petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in section 2266(b) of this title, or an order issued under section 2265 of this title;

(2) the term “violation” includes without limitation any action (alone or with another

or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation;

(3) the terms “institution in the System”, “System institution”, and “institution” mean all institutions enumerated in section 2002 of this title, any service organization chartered under part E of subchapter IV of this chapter, and the Financial Assistance Corporation;

(4) the term “institution-affiliated party” means—

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

(B) an independent contractor (including an attorney, appraiser, or accountant) who knowingly or recklessly participates in—

(i) a violation of law (including regulations) that is associated with the operations and activities of 1 or more System institutions;

(ii) a breach of fiduciary duty; or

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

(C) any other person, as determined by the Farm Credit Administration (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of a System institution; and

(5) the term “unsafe or unsound practice” shall—

(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

(B) mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Insurance Corporation under section 2277a-10 of this title.

(Pub. L. 92-181, title V, §5.35, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1701; amended Pub. L. 100-233, title II, §§203, 207(d), Jan. 6, 1988, 101 Stat. 1605, 1608; Pub. L. 102-237, title V, §502(i), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title II, §202(b), Oct. 28, 1992, 106 Stat. 4106; Pub. L. 115-334, title V, §§5408, 5411(34), Dec. 20, 2018, 132 Stat. 4678, 4683.)

Editorial Notes

AMENDMENTS

2018—Pars. (4), (5). Pub. L. 115-334, §5408, added par. (4) and redesignated former par. (4) as (5).

Par. (5)(B), (C). Pub. L. 115-334, §5411(34), redesignated subpar. (C) as (B), struck out “after December 31, 1992,” before “mean any” and “by the Farm Credit System Assistance Board under section 2278a-6 of this title or” before “by the Farm Credit System Insurance Corporation”, and struck out former subpar. (B) which read as follows: “during the period beginning on January 6, 1988, and ending December 31, 1992, mean any non-compliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 2278a-6 of this title; and”.

1992—Par. (4)(C). Pub. L. 102-552 added subpar. (C).

1991—Par. (3). Pub. L. 102-237 substituted “part E” for “part D”.

1988—Par. (3). Pub. L. 100-233, §207(d), substituted “Financial Assistance Corporation” for “Capital Corporation”.

Par. (4). Pub. L. 100-233, §203, amended par. (4) generally. Prior to amendment, par. (4) read as follows: “the term ‘unsafe or unsound practice’ shall have the meaning given to it by the Farm Credit Administration by regulations, rule, or order.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(4) of Pub. L. 102-237, set out as a note under section 1421 of Title 7, Agriculture.

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2272. Notice of service

Any service required or authorized to be made by the Farm Credit Administration under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Farm Credit Administration may by regulation or otherwise provide. Any such service by mail is complete upon mailing. Copies of any notice or order served by the Farm Credit Administration on any association or any director or officer thereof or other person participating in the conduct of its affairs, under the provisions of this part, shall also be sent to the supervisory bank.

(Pub. L. 92-181, title V, §5.36, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1702.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2273. Ancillary provisions; subpoena power; etc.

In the course of or in connection with any proceeding under this part or any examination or investigation under this chapter, the Farm Credit Administration or any designated representative thereof, including any person designated to conduct any hearing under this part, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum; and the Farm Credit Administration is empowered to make rules and regulations with respect to any such proceedings, examinations, or investigations. The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. The Farm Credit Administration or

any party to proceedings under this part may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this part by a System institution or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the System institution or from its assets. Any person who willfully shall fail or refuse to attend or testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the Farm Credit Administration, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year or both.

(Pub. L. 92-181, title V, §5.37, as added Pub. L. 99-205, title II, §204, Dec. 23, 1985, 99 Stat. 1702; amended Pub. L. 100-233, title VIII, §805(ee), Jan. 6, 1988, 101 Stat. 1717.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-233 substituted “proceedings, examinations, or investigations” for “proceedings, claims, examinations, or investigations”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as an Effective Date of 1985 Amendment note under section 2001 of this title.

§ 2274. Power to remove directors and officers

Notwithstanding any other provision of this chapter, a Farm Credit Bank board, officer, or employee shall not remove any director or officer of any association.

(Pub. L. 92-181, title V, §5.38, as added Pub. L. 100-233, title IV, §432(c), Jan. 6, 1988, 101 Stat. 1661; amended Pub. L. 115-334, title V, §5411(35), Dec. 20, 2018, 132 Stat. 4683.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-334 substituted “a Farm Credit Bank board, officer, or employee shall not remove any director or officer of any” for “a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank”.

PART D—MISCELLANEOUS

§ 2275. Repealed. Pub. L. 115-334, title V, § 5411(36), Dec. 20, 2018, 132 Stat. 4683

Section, Pub. L. 92-181, title V, §5.44, formerly §5.30, as added Pub. L. 96-592, title V, §509, Dec. 24, 1980, 94 Stat. 3450; renumbered §5.44, Pub. L. 99-205, title II, §205(a)(2), Dec. 23, 1985, 99 Stat. 1703; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, related to Government Accountability Office audit, report to Congress, and access and examination of recorded information by the Comptroller General. See section 2276 of this title.

Editorial Notes

CODIFICATION

Section was formerly classified to section 2260 of this title.

§ 2275a. Transition rules relating to amendment of certain FCA approval authorities

(a) In general

Any approvals granted by the Farm Credit Administration before January 6, 1988, shall remain in effect on and after such date.

(b) Authority to issue regulations

(1) In general

Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or 1 year after January 6, 1988.

(2) Enforcement actions

At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

(c) Effect of section

This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 2252(a)(5) of this title.

(Pub. L. 92-181, title V, §5.45, as added Pub. L. 100-233, title VIII, §802(w), Jan. 6, 1988, 101 Stat. 1713.)

Editorial Notes

REFERENCES IN TEXT

The amendments made by section 802 of the Agricultural Credit Act of 1987, referred to in subsec. (b)(1), are the amendments made by section 802 of Pub. L. 100-233, title VIII, Jan. 6, 1988, 101 Stat. 1710, which enacted section 2275a of this title and amended sections 2011 to 2013, 2017, 2031, 2051, 2052, 2071 to 2073, 2077, 2091, 2121, 2122, 2124, 2126, 2130, 2132, 2212, 2213, 2223, and 2252 of this title. For complete classification of section 802 to the Code, see Tables.

§ 2276. Access to and examination by Comptroller General of books, documents, etc., of farm credit system banks and institutions

On and after December 19, 1985, the Comptroller General or his duly authorized represent-