

§ 2219d. Encouragement of conservation practices

At the time a System institution or an agricultural mortgage loan originator (as defined in section 2279aa of this title) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.

(Pub. L. 92-181, title IV, § 4.39, formerly § 4.38, as added Pub. L. 100-233, title IV, § 428, Jan. 6, 1988, 101 Stat. 1658; renumbered § 4.39, Pub. L. 100-399, title IV, § 413, Aug. 17, 1988, 102 Stat. 1004; amended Pub. L. 115-334, title V, § 5411(27), Dec. 20, 2018, 132 Stat. 4682.)

Editorial Notes

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354. Subtitles B and C of title XII of the Food Security Act are classified generally to subchapters II (§ 3811 et seq.) and III (§ 3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7 and Tables.

AMENDMENTS

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

§ 2219e. Liability for making criminal referrals**(a) In general**

Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, that discloses to a Government authority information proffered in good faith that may be relevant to a possible violation of any law or regulation shall not be liable to any person under any law of the United States or any State—

- (1) for the disclosure; or
- (2) for any failure to notify the person involved in the possible violation.

(b) No prohibition on disclosure

Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, may disclose information to a Government authority that may be relevant to a possible violation of any law or regulation.

(Pub. L. 104-105, title II, § 221, Feb. 10, 1996, 110 Stat. 184.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Farm Credit System Reform Act of 1996, and not as part of the Farm Credit Act of 1971 which comprises this chapter.

**SUBCHAPTER V—FARM CREDIT
ADMINISTRATION ORGANIZATION****Editorial Notes**

CODIFICATION

Pub. L. 100-399, title IX, § 901(o), (p), Aug. 17, 1988, 102 Stat. 1008, struck out “DISTRICT AND” before “FARM” in subchapter heading and struck out part A heading “District Organization”.

PART A—District Organization**§ 2221. Transferred****Editorial Notes**

CODIFICATION

Section, Pub. L. 92-181, title V, § 5.0, Dec. 10, 1971, 85 Stat. 614; Pub. L. 96-592, title V, § 501, Dec. 24, 1980, 94 Stat. 3448; Pub. L. 99-205, title II, § 205(g)(1), Dec. 23, 1985, 99 Stat. 1706; Pub. L. 100-233, title VIII, § 805(v), Jan. 6, 1988, 101 Stat. 1716; Pub. L. 100-399, title IX, § 901(q), (r), Aug. 17, 1988, 102 Stat. 1008, which related to creation of districts, was transferred to section 1.2(b) of Pub. L. 92-181 by section 901(r) of Pub. L. 100-399 and is classified to section 2002(b) of this title.

§§ 2222 to 2227. Repealed. Pub. L. 100-399, title IV, § 409(d), Aug. 17, 1988, 102 Stat. 1003

Sections 2222 to 2227 were directed to be repealed by Pub. L. 100-233, title IV, § 418(c), formerly § 415(c), Jan. 6, 1988, 101 Stat. 1653, renumbered § 418(c), Pub. L. 100-399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003, which was repealed by section 409(c) of Pub. L. 100-399, title IV, Aug. 17, 1988, 102 Stat. 1003.

Section 409(c) of Pub. L. 100-399 provided in part that section 418(c) of Pub. L. 100-233 is repealed and that this chapter shall be applied and administered, and the amendments by sections 430 and 802(u) of Pub. L. 100-233 (amending sections 2226 and 2223, respectively, of this title) shall take effect, as if such section 418(c) had not been enacted.

Section 2222, Pub. L. 92-181, title V, § 5.1, Dec. 10, 1971, 85 Stat. 614; Pub. L. 99-205, title II, § 205(g)(2), Dec. 23, 1985, 99 Stat. 1707, related to district boards of directors, membership, eligibility, and terms.

Section 2223, Pub. L. 92-181, title V, § 5.2, Dec. 10, 1971, 85 Stat. 614; Pub. L. 96-592, title V, § 502, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99-205, title II, § 205(g)(3), (4), title VI, § 607, Dec. 23, 1985, 99 Stat. 1707, 1712; Pub. L. 100-233, title VIII, § 802(u), Jan. 6, 1988, 101 Stat. 1712, related to nomination and election of district directors.

Section 2224, Pub. L. 92-181, title V, § 5.3, Dec. 10, 1971, 85 Stat. 615, related to functions of district directors.

Section 2225, Pub. L. 92-181, title V, § 5.4, Dec. 10, 1971, 85 Stat. 615, related to district board officers.

Section 2226, Pub. L. 92-181, title V, § 5.5, Dec. 10, 1971, 85 Stat. 616; Pub. L. 100-233, title IV, § 430, Jan. 6, 1988, 101 Stat. 1658, related to compensation of district boards.

Section 2227, Pub. L. 92-181, title V, § 5.6, Dec. 10, 1971, 85 Stat. 616; 1978 Reorg. Plan No. 2, § 102, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 99-205, title II, § 205(g)(5), Dec. 23, 1985, 99 Stat. 1707, related to powers of district farm credit board.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective immediately after amendments made by section 401 of Pub. L. 100-233, which were effective.

tive 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100-399, set out as an Effective Date of 1988 Amendment note under section 2002 of this title.

PART B—FARM CREDIT ADMINISTRATION ORGANIZATION

Executive Documents

EX. ORD. NO. 6084. REORGANIZING AGRICULTURAL CREDIT AGENCIES OF THE UNITED STATES

Ex. Ord. No. 6084, Mar. 27, 1933, provided in part: . . . it is hereby ordered that:

(1) The functions of the Secretary of Agriculture as a member of the Federal Farm Board, and the offices of the appointed members of the Federal Farm Board, except the office of the member designated as chairman thereof, are abolished.

(2) The name of the Federal Farm Board is changed to the Farm Credit Administration.

(3) The name of the office of Chairman of the Federal Farm Board is changed to Governor of the Farm Credit Administration, and he is vested with all the powers and duties of the Federal Farm Board.

(4) The functions of the Secretary of the Treasury as a member of the Federal Farm Loan Board, and the offices of the appointed members of the Federal Farm Loan Board, except the office of the member designated as farm loan commissioner, are abolished, and all the powers and functions of the Federal Farm Loan Board, are transferred to and vested in the Farm Loan Commissioner, subject to the jurisdiction and control of the Farm Credit Administration as herein provided.

(5) There are transferred to the jurisdiction and control of the Farm Credit Administration:

(a) The Federal Farm Loan Bureau and the functions thereof; together with the functions of the Federal Farm Loan Board, including the functions of the Farm Loan Commissioner;

(b) The functions of the Treasury Department and the Department of Agriculture, and the Secretaries thereof, under Executive authorizations to give aid to farmers, dated July 26, 1918, and any extensions or amendments thereof;

(c) The functions of the Secretary of Agriculture under all provisions of law relating to the making of advances or loans to farmers, fruit growers, producers and owners of livestock and crops, and to individuals for the purpose of assisting in forming or increasing the capital stock of agricultural-credit corporations, livestock-loan companies, or like organizations, except Public Resolution No. 74, Seventieth Congress, approved December 21, 1928, providing for the Puerto Rican Hurricane Relief Commission;

(d) The Crop Production Loan Office and the Seed Loan Office of the Department of Agriculture, and the functions thereof;

(e) The functions of the Reconstruction Finance Corporation and its Board of Directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under [former] section 201(e) of the Emergency Relief and Construction Act of 1932 [former 12 U.S.C. 1148]; relating to the establishment of rules and regulations for such management; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof.

(6) The functions vested in the Federal Farm Board by section 9 of the Agricultural Marketing Act [section 1141g of this title] are abolished except that such functions shall continue to be exercised to such extent and for such time as may be necessary to permit the orderly winding up of the activities of stabilization corporations heretofore recognized under authority of such section, and the governor of the Farm Credit Administration shall take appropriate action for winding up at the earliest practicable date the activities of such corporations and all affairs related to the exercise of such functions.

(7) The records, property (including office equipment), and personnel used and employed in the execution of the functions hereinbefore transferred are transferred to the jurisdiction and control of the Farm Credit Administration.

(8) The sum of \$2,000,000 of the unexpended balances of appropriations made to the Federal Farm Board by Public Resolutions No. 43 and No. 51 of the Seventy-second Congress shall be impounded and returned to the Treasury, which sum shall be in addition to the other savings to be effected by the Farm Credit Administration as a result of this order.

(9) The unexpended balances of appropriations to the Secretary of Agriculture, the Federal Farm Loan Bureau, and the Federal Farm Board for salaries, expenses, and all other administrative expenditures in the execution of the functions herein vested in the Farm Credit Administration shall be transferred to and vested in the Farm Credit Administration as a single fund for its use for salaries, expenses, and all other administrative expenditures for the execution of any or all of such functions without restriction as to the particular functions for the execution of which the same were originally appropriated. All other appropriations, allotments, and other funds available for use in connection with the functions and executive agencies hereby transferred and consolidated are hereby transferred to and vested in the Farm Credit Administration, and shall be available for use by it, for the same purposes as if the Farm Credit Administration were named in the law or authority providing such appropriations, allotments, or other funds.

(10) All power, authority, and duties conferred by law upon any officer, executive agency, or head thereof, from which or from whom transfer is hereinbefore made, in relation to the executive agency or function transferred, are transferred to and vested in the Governor of the Farm Credit Administration.

(11) The Governor of the Farm Credit Administration is directed to dismiss, furlough, transfer, or make other appropriate disposition of such of the officers and employees under his jurisdiction and control as are not required for the proper execution of the functions of the Farm Credit Administration.

(12) The Governor of the Farm Credit Administration is authorized to execute any and all functions and perform any and all duties vested in him through such persons as he shall by order designate or employ.

(13) The Governor of the Farm Credit Administration, by order or rules and regulations, may consolidate, regroup, and transfer offices, bureaus, activities, and functions in the Farm Credit Administration, so far as may be required to carry out the purposes to which this order is directed, and may fix or change the names of such offices, bureaus, and activities and the duties, powers, and titles of their executive heads.

This order shall take effect upon the sixty-first calendar day after its transmission to Congress unless otherwise determined in accordance with the provisions of section 407 of the act cited above, as amended.

FRANKLIN D. ROOSEVELT.

[All functions, powers and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of all loans identified or referred to in pars. 5(b), 5(c), and 5(d) of this Executive Order were abolished by act Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062, set out as a note under sections 1001 to 1006 of Title 7, Agriculture.]

§ 2241. Farm Credit Administration

The Farm Credit Administration shall be an independent agency in the executive branch of the Government. It shall be composed of the Farm Credit Administration Board and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this chapter.

(Pub. L. 92-181, title V, §5.7, Dec. 10, 1971, 85 Stat. 617; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1688.)

Editorial Notes

AMENDMENTS

1985—Pub. L. 99-205 amended section generally, substituting “Farm Credit Administration Board and such other personnel” for “Federal Farm Credit Board, the Governor of the Farm Credit Administration, and such other personnel”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

Pub. L. 99-205, title IV, §402, Dec. 23, 1985, 99 Stat. 1709, provided that:

“(a) Until the Chairman of the Farm Credit Administration Board provided for under the amendment made by section 201(1) of this Act [see section 2242 of this title] is appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 [this chapter] as in effect on the day before the date of enactment of this Act [Dec. 23, 1985], shall perform the functions of the Chairman prescribed for the Chairman by this Act [Pub. L. 99-205, see Short Title of 1985 Amendment note set out under section 2001 of this title].

“(b)(1) Except as provided in paragraph (2), until at least two members of the Farm Credit Administration Board provided under the amendment made by section 201(1) of this Act [see section 2242 of this title] are appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 [this chapter] as in effect on the day before the date of enactment of this Act [Dec. 23, 1985], shall perform the functions of the Farm Credit Administration Board prescribed for such Board by this Act [Pub. L. 99-205, see Short Title of 1985 Amendment note set out under section 2001 of this title].

“(2) When the Chairman of such Board is so appointed and confirmed, the Chairman shall assume any responsibilities and powers of the Board being exercised by the Governor under this subsection.

“(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President.

“(d) All regulations of the Farm Credit Administration or the institutions of the System, and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Farm Credit Act of 1971 [this chapter], before the date of enactment of this Act [Dec. 23, 1985], shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act [Pub. L. 99-205, see Short Title of 1985 Amendment note set out under section 2001 of this title].”

§ 2242. Farm Credit Administration Board

(a) Appointment

The management of the Farm Credit Administration shall be vested in a Farm Credit Administration Board (referred to in this part as “the Board”). The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by

the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. Of the persons thus appointed, one shall be designated by the President to serve as Chairman of the Board for the duration of the member's term. The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

(b) Terms of office

The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, first appointed under subsection (a) shall expire, one on the expiration of two years after the date of appointment, and one on the expiration of four years after the date of appointment. Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than six years may be reappointed for a full six-year term and members appointed to fill unexpired terms of three years or less may be reappointed for a full six-year term. Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as such after the expiration of the member's term until a successor has been appointed and qualified.

(c) Organization

Each member of the Board, within fifteen days after notice of appointment, shall subscribe to the oath of office. The Board may transact business if a vacancy exists, provided a quorum is present. A quorum shall consist of two members of the Board. The Board shall hold at least one meeting each month and such additional meetings at such times and places as it may fix and determine. Such meetings shall be held on the call of the Chairman or any two Board members. The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.

(d) Compensation

The members of the Board shall devote their full time and attention to the business of the Board. The Chairman of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5. Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5. Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the member's official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. This subsection shall be subject to the provisions of section 2245 of this title.

(e) Qualifications of Farm Credit Administration Board members

The President shall appoint members of the Board who—

(1) are experienced or knowledgeable in agricultural economics and financial reporting and disclosure;

(2) are experienced or knowledgeable in the regulation of financial entities; or

(3) have a strong financial, legal, or regulatory background.

(Pub. L. 92-181, title V, §5.8, Dec. 10, 1971, 85 Stat. 617; Pub. L. 96-592, title V, §503, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1688; Pub. L. 100-233, title IV, §431(a), Jan. 6, 1988, 101 Stat. 1658; Pub. L. 102-552, title I, §102, Oct. 28, 1992, 106 Stat. 4103.)

Editorial Notes

AMENDMENTS

1992—Subsec. (e). Pub. L. 102-552 added subsec. (e).

1988—Subsec. (c). Pub. L. 100-233 amended last sentence generally, substituting “business by the Board,” for “its business” and “the actions and proceedings of the Board” for “its acts and proceedings”.

1985—Pub. L. 99-205 amended section generally, substituting provisions of subsecs. (a) to (d) relating to the Farm Credit Administration Board for provisions of former subsecs. (a) to (i) which related to the Federal Farm Credit Board.

1980—Subsec. (h). Pub. L. 96-592 substituted provisions relating to applicability of compensation under section 5332 of title 5, for provisions setting forth compensation at the rate of \$100 a day.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99-205, see section 402 of Pub. L. 99-205, set out as a note under section 2241 of this title.

§ 2243. Powers of Board

The Board shall manage and administer, and establish policies for, the Farm Credit Administration. It—

(1) shall approve the rules and regulations for the implementation of this chapter not inconsistent with its provisions;

(2) shall provide for the examination of the condition of, and general regulation of the performance of the powers, functions, and duties vested in, each institution of the Farm Credit System;

(3) shall provide for the performance of all the powers and duties vested in the Farm Credit Administration; and

(4) may require such reports as it deems necessary from the institutions of the Farm Credit System.

(Pub. L. 92-181, title V, §5.9, Dec. 10, 1971, 85 Stat. 619; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1689; Pub. L. 100-233, title VIII, §805(w), Jan. 6, 1988, 101 Stat. 1716.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-233 struck out “; civil proceedings” in section catchline.

1985—Pub. L. 99-205 substituted requirement that the Board manage and administer, and establish policies for, the Farm Credit Administration for former requirement that the Federal Farm Credit Board establish the general policy for the guidance of the Farm Credit Administration, including matters of broad and general supervisory, advisory, or policy nature; incorporated existing text in provisions designated cls. (1) to (4); substituted in cl. (2) “general regulation” for “general supervision”; and struck out last sentence which read as follows: “The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by the Board. It shall not operate in an administrative capacity.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99-205, see section 402 of Pub. L. 99-205, set out as a note under section 2241 of this title.

§ 2244. Chairman; responsibilities; governing standards

(a) Chairman of Farm Credit Administration Board; power and authority

(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal Government.

(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 2153 of this title;

(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.

(b) Governing standards

In carrying out responsibilities under this chapter, the Chairman of the Board shall be governed by general policies adopted by the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make and, as to third persons, all acts of the Chairman of the Board shall be conclusively presumed to be in compliance with

such general policies and regulatory decisions, findings, and determinations.

(c) Enforcement of rules, regulations, and orders of Board; civil proceedings; representation by attorneys

The Chairman of the Board shall enforce the rules, regulations, and orders of the Board. Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman shall represent the Farm Credit Administration in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships. Attorneys designated by the Chairman may represent the Farm Credit Administration in any other civil proceedings or civil action when so authorized by the Attorney General under provisions of title 28.

(Pub. L. 92-181, title V, §5.10, Dec. 10, 1971, 85 Stat. 619; Pub. L. 96-592, title V, §504, Dec. 24, 1980, 94 Stat. 3449; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1689; Pub. L. 100-233, title IV, §431(b), Jan. 6, 1988, 101 Stat. 1658.)

Editorial Notes

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Chairman of the Board shall be the executive officer of the Board and the chief executive officer of the Farm Credit Administration. The Chairman shall be responsible for directing the implementation of the policies and regulations adopted by the Board and the execution of all of the administrative functions and duties of the Farm Credit Administration. The Chairman shall be the spokesman for the Board and the Farm Credit Administration and shall represent the Board and the Farm Credit Administration in their official relations within the Government. Under policies adopted by the Board, the Chairman shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System of the powers conferred under section 2153 of this title, with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy, and with the Secretary of Agriculture in connection with the effect of System policies on farmers and the agricultural economy.”

1985—Pub. L. 99-205 substituted provisions relating to the Chairman of the Board, his responsibilities, and governing standards for provisions relating to the Governor of the Farm Credit Administration.

1980—Pub. L. 96-592 inserted provisions relating to requirements of the Governor to consult with the Secretary of the Treasury and the Governors of the Federal Reserve System.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99-205, see section 402 of Pub. L. 99-205, set out as a note under section 2241 of this title.

§ 2245. Organization of Farm Credit Administration

(a) Policies of Board

The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this chapter, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(b) Appointments

The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

(c) Personnel

(1) Appointments by Board members

Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

(2) Officers and employees

(A) Appointment, compensation, and benefits

The Chairman shall fix the compensation and number of, and appoint and direct, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall consult with, and seek to maintain comparability with, other Federal bank regulatory agencies.

(B) “Other Federal bank regulatory agencies” defined

For purposes of this subsection, the term “other Federal bank regulatory agencies” has the same meaning given to the term “appropriate Federal banking agency” in section 1813(q) of this title.

(C) Ethics in Government

The officers and employees of the agency shall be—

- (i) subject to chapter 131 of title 5; and
- (ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18.

(3) Delegation

The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and em-

ployees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this chapter without Board approval.

(d) Funding

The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 2250 of this title.

(Pub. L. 92-181, title V, §5.11, Dec. 10, 1971, 85 Stat. 620; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1690; Pub. L. 100-233, title IV, §431(c), title VIII, §805(x), Jan. 6, 1988, 101 Stat. 1659, 1716; Pub. L. 100-399, title IV, §415(a), title VII, §702(b), Aug. 17, 1988, 102 Stat. 1004, 1006; Pub. L. 101-73, title XII, §1210, Aug. 9, 1989, 103 Stat. 523; Pub. L. 117-286, §4(c)(23), Dec. 27, 2022, 136 Stat. 4357.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(2)(C)(i). Pub. L. 117-286 substituted “chapter 131 of title 5;” for “the Ethics in Government Act of 1978;”.

1989—Subsec. (c)(2). Pub. L. 101-73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The officers and employees of the agency shall be—

“(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

“(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18; and

“(C) subject to section 5373 of title 5.”

1988—Pub. L. 100-233, §805(x), which directed the amendment of this section by striking out the last sentence, was repealed by Pub. L. 100-399, §702(b). See Construction of 1988 Amendment note below.

Pub. L. 100-233, §431(c), amended section generally, substituting subssecs. (a) to (d) for former text consisting of single undesignated paragraph.

Subsec. (c)(2)(C). Pub. L. 100-399, §415(a), substituted “5373” for “5315”.

1985—Pub. L. 99-205 substituted provisions respecting organization of the Farm Credit Administration for provisions relating to compensation and expense allowance of the Governor of the Farm Credit Administration.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 415(a) of 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 OF 1985 AMENDMENT

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

CONSTRUCTION OF 1988 AMENDMENT

Pub. L. 100-399, title VII, §702(b), Aug. 17, 1988, 102 Stat. 1006, provided that section 805(x) of Pub. L. 100-233, cited as a credit to this section, is repealed and that this section shall be applied and administered as if such section had not been enacted.

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amend-

ments to this section by Pub. L. 99-205, see section 402 of Pub. L. 99-205, set out as a note under section 2241 of this title.

§ 2246. Advisory committees

The Chairman of the Board, subject to the approval of the Board, may establish one or more advisory committees in accordance with chapter 10 of title 5 and may appoint to such committee or committees individuals who are members of the Federal Farm Credit Board when such Board is terminated by the Farm Credit Amendments Act of 1985.

(Pub. L. 92-181, title V, §5.12, Dec. 10, 1971, 85 Stat. 620; Pub. L. 99-205, title II, §201(1), Dec. 23, 1985, 99 Stat. 1690; Pub. L. 100-233, title IV, §431(d), Jan. 6, 1988, 101 Stat. 1660; Pub. L. 117-286, §4(a)(56), Dec. 27, 2022, 136 Stat. 4311.)

Editorial Notes

REFERENCES IN TEXT

The Farm Credit Amendments Act of 1985, referred to in text, is Pub. L. 99-205, Dec. 23, 1985, 99 Stat. 1678. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 2001 of this title and Tables.

AMENDMENTS

2022—Pub. L. 117-286 substituted “chapter 10 of title 5” for “the Federal Advisory Committee Act”.

1988—Pub. L. 100-233 inserted “, subject to the approval of the Board,” after “Chairman of the Board”.

1985—Pub. L. 99-205 substituted provisions respecting advisory committees for provisions respecting compliance by the Governor with orders of the Federal Farm Credit Board.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

INTERIM IMPLEMENTATION OF 1985 AMENDMENT

For provisions authorizing interim implementation by Governor of Farm Credit Administration of amendments to this section by Pub. L. 99-205, see section 402 of Pub. L. 99-205, set out as a note under section 2241 of this title.

§ 2247. Repealed. Pub. L. 99-205, title II, §201(2), Dec. 23, 1985, 99 Stat. 1690

Section, Pub. L. 92-181, title V, §5.13, Dec. 10, 1971, 85 Stat. 620, related to authority of Governor of the Farm Credit Administration to fix powers and duties of divisions and instrumentalities of the Administration.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 2248. Seal of the Farm Credit Administration

The Farm Credit Administration shall have a seal, as adopted by the Board, which shall be judicially noted.

(Pub. L. 92-181, title V, §5.13, formerly §5.14, Dec. 10, 1971, 85 Stat. 620; renumbered §5.13 and

amended Pub. L. 99-205, title II, §201(3), Dec. 23, 1985, 99 Stat. 1690.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.13 of Pub. L. 92-181 was classified to section 2247 of this title prior to repeal by Pub. L. 99-205, title II, §201(2), Dec. 23, 1985, 99 Stat. 1690.

AMENDMENTS

1985—Pub. L. 99-205 substituted “Board” for “Governor”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

§ 2249. Administrative expenses

The Farm Credit Administration may, within the limits of funds available therefor, make necessary expenditures for personnel services and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange lawbooks, books of reference, periodicals, newspapers, expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and for such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of this chapter. The Farm Credit Administration may dispose of property so acquired and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 2250(b) of this title and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 2250(a) of this title.

(Pub. L. 92-181, title V, §5.14, formerly §5.15, Dec. 10, 1971, 85 Stat. 620; Pub. L. 96-592, title V, §505, Dec. 24, 1980, 94 Stat. 3449; renumbered §5.14 and amended Pub. L. 99-205, title II, §201(4), Dec. 23, 1985, 99 Stat. 1690.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.14 of Pub. L. 92-181 was renumbered section 5.13 and is classified to section 2248 of this title.

AMENDMENTS

1985—Pub. L. 99-205 made technical amendments to the references to sections 2250(b) and 2250(a) of this title appearing in second sentence to reflect the renumbering of the corresponding section of the original act.

1980—Pub. L. 96-592 inserted provisions relating to disposal of property and deposit of amounts from such disposal.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

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

§ 2250. Farm Credit Administration operating expenses fund

(a) Determinations required

(1) Generally

Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

(A) the cost of administering this chapter for the subsequent fiscal year, including expenses for official functions;

(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under subchapter VIII.

(2) Apportionments

On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

(A) apportion the amount of the assessment described in paragraph (1)(B) among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount described in paragraph (1)(C).

(b) Deposits into fund

(1) Treasury fund

The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard, for purposes of sequestration, to the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.], to pay the expenses of the Farm Credit Administration.

(2) Nongovernment funds

The funds contained in the Expense Account shall not be construed to be Federal Government funds or appropriated moneys.

(3) Investment

(A) Authority

On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

(B) Returns

All income earned from such investments and reinvestments shall be deposited in the Expense Account.

(C) Type

Such investments shall be made in public debt securities with maturities suitable to

the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(Pub. L. 92-181, title V, § 5.15, formerly § 5.16, Dec. 10, 1971, 85 Stat. 620; renumbered § 5.15 and amended Pub. L. 99-205, title II, §§ 201(5), 205(g)(6), Dec. 23, 1985, 99 Stat. 1690, 1707; Pub. L. 100-233, title IV, § 432(a), Jan. 6, 1988, 101 Stat. 1660; Pub. L. 100-399, title IV, § 416(a), (b), Aug. 17, 1988, 102 Stat. 1004; Pub. L. 102-552, title V, § 510, Oct. 28, 1992, 106 Stat. 4132.)

Editorial Notes

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (b)(1), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, which enacted chapter 20 (§ 900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 5.15 of Pub. L. 92-181 was renumbered section 5.14 and is classified to section 2249 of this title.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-552 inserted “, for purposes of sequestration,” after “regard” and struck out “or any other law” before “, to pay the expenses”.

1988—Pub. L. 100-233 amended section generally. Prior to amendment, section read as follows:

“(a) The Farm Credit Administration shall prior to the first day of each fiscal year estimate the cost of administrative expenses for the ensuing fiscal year in administering this chapter, including official functions, and shall apportion the amount so determined among the institutions of the System on such equitable basis as the Farm Credit Administration shall determine, and shall assess against and collect in advance the amounts so apportioned from the institutions among which the apportionment is made.

“(b) The amounts collected pursuant to subsection (a) of this section shall be covered into the Treasury, and credited to a special fund and, without regard to other law, shall be available to the Farm Credit Administration for expenditure during each fiscal year for salaries and expenses of the Farm Credit Administration. As soon as practicable after the end of each such fiscal year, the Farm Credit Administration shall determine, on a fair and reasonable basis, the cost of operation of the Farm Credit Administration and the part thereof which fairly and equitably should be allocated to each bank and association as its share of the cost during the fiscal year of the Farm Credit Administration. If the amount so allocated is greater than the amount collected from the bank or other institutions, the difference shall be collected from such bank or other institutions, and, if less, shall be refunded from the special fund to the bank or other institutions entitled thereto or credited in the special fund to such bank or other institutions for use for the same purposes in future fiscal years.”

Subsec. (a)(2)(A). Pub. L. 100-399, § 416(a), substituted “the assessment described in paragraph (1)(B)” for “such assessment”.

Subsec. (a)(2)(C). Pub. L. 100-399, § 416(b), substituted “described” for “specified”.

1985—Subsec. (b). Pub. L. 99-205, § 205(g)(6), substituted “the Farm Credit Administration” for “said Administration” twice in first sentence, and for “the Administration” and “such Administration” in second sentence.

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 OF 1985 AMENDMENT

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

§ 2251. Quarters and facilities for the Farm Credit Administration

(a) Location of principal office

The Farm Credit Administration shall maintain its principal office within the Washington D.C.-Maryland-Virginia standard metropolitan statistical area, and such other offices within the United States as in its judgment are necessary.

(b) Alternate property authorizations for System banks

As an alternate to the rental of quarters under section 2249 of this title, and without regard to any other provision of law, the banks of the System, with the concurrence of two-thirds of the bank boards, are hereby authorized—

(1) To lease or acquire real property in the District of Columbia or elsewhere for quarters of the Farm Credit Administration.

(2) To construct, develop, furnish, and equip such building thereon and such facilities appurtenant thereto as in their judgment may be appropriate to provide, to the extent the Board may deem advisable, suitable, and adequate quarters and facilities for the Farm Credit Administration.

(3) To enlarge, remodel, or reconstruct the same.

(4) To make or enter into contracts for any of the foregoing.

(5) To sell or otherwise dispose of any interest in property leased or acquired under the foregoing if authorized by the Board.

(c) Financing

(1) In general

The Board may require of the respective banks of the System, and they shall make to the Farm Credit Administration, such advances of funds for the purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for the purposes of this section.

(2) Advances

The advances of funds described in paragraph (1) shall be in addition to and kept in a separate fund from the assessments authorized in section 2250 of this title and shall be apportioned by the Board among the banks in proportion to the total assets of the respective

banks, and determined in such manner and at such times as the Board may prescribe.

(3) Powers of banks

The powers of the banks of the System and purposes for which obligations may be issued by such banks are hereby enlarged to include the purpose of obtaining funds to permit the making of advances required by this section.

(4) Approval of board

The plans and decisions for such building and facilities and for the enlargement, remodeling, or reconstruction thereof shall be such as is approved in the sole discretion of the Board.

(5) Agent for banks

In actions undertaken by the banks pursuant to this section, the Farm Credit Administration may act as agent for the banks.

(Pub. L. 92-181, title V, § 5.16, formerly § 5.17, Dec. 10, 1971, 85 Stat. 621; Pub. L. 96-592, title V, § 506, Dec. 24, 1980, 94 Stat. 3449; renumbered § 5.16 and amended Pub. L. 99-205, title II, § 201(6), Dec. 23, 1985, 99 Stat. 1690; Pub. L. 100-233, title VIII, § 805(y), Jan. 6, 1988, 101 Stat. 1717; Pub. L. 100-399, title IX, § 901(l), Aug. 17, 1988, 102 Stat. 1008; Pub. L. 115-334, title V, §§ 5405, 5411(28), Dec. 20, 2018, 132 Stat. 4676, 4682.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.16 of Pub. L. 92-181 was renumbered section 5.15 and is classified to section 2250 of this title.

AMENDMENTS

2018—Subsecs. (a), (b). Pub. L. 115-334, § 5405, added subsec. (a) and designated existing introductory provisions and pars. (1) to (5) as subsec. (b).

Subsec. (c). Pub. L. 115-334, § 5411(28), designated existing concluding provisions as subsec. (c) and first to fifth sentences thereof as pars. (1) to (5), respectively, and inserted subsec. and par. headings.

Subsec. (c)(2). Pub. L. 115-334, § 5411(28)(D), substituted “The advances of funds described in paragraph (1)” for “Such advances”.

Subsec. (c)(5). Pub. L. 115-334, § 5411(28)(A), substituted “In actions undertaken by the banks pursuant to this section” for “In actions undertaken by the banks pursuant to the foregoing provisions of this section”.

1988—Pub. L. 100-399 substituted “bank boards” for “district boards” in introductory provisions.

Pub. L. 100-233 transferred undesignated provisions following par. (4) consisting of four sentences relating to advances of funds for purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for purposes of this section, to a position immediately before last sentence of this section which provides for agency status of Administration for the banks.

1985—Pub. L. 99-205, § 201(6)(A)–(C), made technical amendments to the references to sections 2249 and 2250 of this title in first and third sentences to reflect the renumbering of the corresponding sections of the original act, and struck out “Federal Farm Credit” before “Board” in par. (2) of first sentence.

1980—Pub. L. 96-592 added par. (5) and provisions respecting agency status of Administration for the banks.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233,

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

EFFECTIVE DATE OF 1985 AMENDMENT

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

§ 2252. Powers and duties

(a) Enumerated powers

The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this chapter:

(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Board, with the concurrence of the district banks involved.

(2) Where necessary or appropriate to carry out the policy and objectives of this chapter, issue and approve amendments to Federal charters of institutions of the System; approve change in names of banks operating under this chapter; approve the merger of districts when agreed to by the district bank boards involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 2279a of this title; approve mergers and any related activities as provided for in subchapter VII; and approve the consolidation or division of the territories of institutions when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved; and approve consolidations of boards of directors when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved. The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations.

(3) Make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 2254 of this title, and on the manner and extent to which the purposes and objectives of this chapter are being carried out and, from time to time, recommend directly legislative changes. The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Farm Credit Banks under section 2207(b) of this title relating to programs for serving young, beginning, and small farmers and ranchers.

(4) Approve the issuance of obligations of the System under subsections (c) and (d) of section 2153 of this title for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

(5) Grant approvals provided for under this chapter either on a case-by-case basis or

through regulations that confer approval on actions of Farm Credit System institutions.

(6) Establish standards for the System institutions with respect to loan security requirements and regulate the borrowing, repayment, and transfer of funds and equities between institutions of the System.

(7) Conduct loan and collateral security review.

(8) Regulate the preparation by System institutions and the dissemination to stockholders and investors of information on the financial condition and operations of such institutions, except that the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

(A) to a director of the institution—

(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

(B) to a member of the immediate family of a director of the institution unless—

(i) the family member resides in the same household as the director; or

(ii) the director has a material financial or legal interest in the loan or business operation of the family member.

(9) Prescribe rules and regulations necessary or appropriate for carrying out this chapter.

(10) Exercise the powers conferred on it under part C of this subchapter for the purpose of ensuring the safety and soundness of System institutions.

(11) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this chapter.

(12) Require surety bonds or other provisions for protection of the assets of the institutions of the System against losses occasioned by employees.

(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under subchapter I or II, which would authorize the institution to exercise lending authority in any territory—

(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

(ii) in which the charter of an institution that is not seeking the charter amendment authorizes the institution to exercise the type of lending authority that is the subject of the charter request.

(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only on the approval of—

(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under subchapter II where the proposed charter—

(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

(ii) will authorize the association to exercise lending authority in any territory in the geographic area in which the charter of an association that is not requesting the charter authorizes the association to exercise the type of lending authority that is the subject of the charter request.

(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of—

(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of loan-making powers of a Farm Credit System association under section 2279c of this title.

(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 2279c(a)(2) of this title.

(b) Exclusions

The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.

(c) Proposed and final regulations; procedures applicable

(1) At least thirty days prior to publishing any proposed regulation in the Federal Register, the Farm Credit Administration shall transmit a copy of the regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Farm Credit Administration shall also transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in paragraph (2) of this subsection, no final regulation of the Farm Credit Administration shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of the Congress are in session.

(2) In the case of an emergency, a final regulation of the Farm Credit Administration may become effective without regard to the last sentence of paragraph (1) of this subsection if the Farm Credit Administration notifies in writing the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

(d) Legislative veto of regulations; procedures applicable

(1) If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 2128(b) of this title or the other provisions of subchapter III relating to the authority under section 2128(b) of this title conforms to national banking policies, objectives and limitations, simultaneously with promulgation of any such regulation under this chapter, and simultaneously with promulgation of any regulation implementing section 2015(b) of this title, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: “That Congress disapproves the regulations promulgated by the Farm Credit Administration dealing with the matter of _____, which regulation was transmitted to Congress on _____”, the blank spaces therein being appropriately filled.

(2) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concur-

rent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

(3) For the purposes of paragraphs (1) and (2) of this subsection—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

(Pub. L. 92-181, title V, §5.17, formerly §5.18, Dec. 10, 1971, 85 Stat. 621; Pub. L. 96-592, title V, §§507, 508, Dec. 24, 1980, 94 Stat. 3449; renumbered §5.17 and amended Pub. L. 99-205, title II, §201(7), Dec. 23, 1985, 99 Stat. 1691; Pub. L. 99-509, title I, §1036, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100-233, title II, §207(a)(2), title IV, §417, formerly §414, §418(d), formerly §415(d), §§424(a), 431(e), title VIII, §§802(v), 805(z), Jan. 6, 1988, 101 Stat. 1607, 1653, 1656, 1660, 1713, 1717, renumbered §§417, 418(d), Pub. L. 100-399, title IV, §409(a), Aug. 17, 1988, 102 Stat. 1003; Pub. L. 100-399, title II, §205, title IV, §409(e), title IX, §901(m), (n), Aug. 17, 1988, 102 Stat. 993, 1003, 1008; Pub. L. 101-624, title XVIII, §1843(a)(1), Nov. 28, 1990, 104 Stat. 3836; Pub. L. 102-237, title V, §502(h), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title IV, §401(c), title V, §511, Oct. 28, 1992, 106 Stat. 4128, 4132; Pub. L. 104-105, title II, §§210, 211, Feb. 10, 1996, 110 Stat. 174; Pub. L. 110-234, title V, §5407(b), (c)(1), May 22, 2008, 122 Stat. 1160; Pub. L. 110-246, §4(a), title V, §5407(b), (c)(1), June 18, 2008, 122 Stat. 1664, 1921, 1922; Pub. L. 115-334, title V, §5411(29), Dec. 20, 2018, 132 Stat. 4682.)

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.

PRIOR PROVISIONS

A prior section 5.17 of Pub. L. 92-181 was renumbered section 5.16 and is classified to section 2251 of this title.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115-334 struck out “In issuing charters and certificates of territory for district-wide mergers of associations where stockholders of one or more associations did not approve the merger, the charter of the new or merged association shall not include the territory of the disagreeing association or associations; charters issued during calendar year 1985 for district-wide new or merged associations which included the territory of a disagreeing association shall be revoked and reissued to exclude such territory, unless subsequently agreed to by the board of directors of

such association or associations. The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this chapter at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers." after "institutions involved."

2008—Subsec. (a)(2). Pub. L. 110-246, §5407(c)(1), substituted "(2)" for "(2)(A)" and struck out pars. (B) and (C) which prohibited issuance or amendment of the charter of any institution of the Farm Credit System that would authorize the institution to exercise lending authority in a territory in which the charter of another such institution authorized the other institution to exercise like authority, unless specified approvals were obtained, and provided that such prohibition would apply only in geographic areas where, due to the failure of a merger, the Federal intermediate credit bank or its successor was chartered to provide short- and intermediate-term credit, and a neighboring Farm Credit Bank that was not the successor to the Federal intermediate credit bank was chartered to provide long-term credit, in the same geographic territory.

Subsec. (a)(15). Pub. L. 110-246, §5407(b), added par. (15).

1996—Subsec. (a)(2)(A). Pub. L. 104-105, §210, struck out "or management agreements" after "consolidations of boards of directors" in first sentence.

Subsec. (a)(8). Pub. L. 104-105, §211, inserted "the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and" after "except that".

1992—Subsec. (a)(2). Pub. L. 102-552, §401(c), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (a)(13), (14). Pub. L. 102-552, §511, added pars. (13) and (14).

1991—Subsec. (a)(8)(B)(ii). Pub. L. 102-237 struck out second period at end.

1990—Subsec. (a)(13). Pub. L. 101-624 struck out par. (13) which read as follows: "Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: *Provided*, That no salary scale or rate of compensation shall be approved under this provision unless determined by the Board to be fair and reasonable. The Board may not delegate its responsibilities under this paragraph."

1988—Subsec. (a)(1). Pub. L. 100-399, §901(m)(1), substituted "district banks" for "district boards".

Subsec. (a)(2). Pub. L. 100-399, §901(m)(2), substituted "district bank boards" for "boards of the districts".

Pub. L. 100-399, §409(e), substituted "approve the consolidation or division of the territories of institutions when agreed to" for "the consolidation or division of the territories that they serve when agreed to".

Pub. L. 100-233, §802(v)(1)(A), substituted "approve amendments to" for "amend or modify".

Pub. L. 100-233, §415(d), substituted "section 2279a of this title" for "section 2181 of this title" and "approve mergers and any related activities as provided for in subchapter VII; and" for "approve mergers of banks operating under the same subchapter of this chapter, merger of Federal land bank associations, merger of production credit associations, and".

Pub. L. 100-233, §414, substituted ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this chapter at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district" for "and the Farm Credit Administration shall ensure that the board of directors of district banks does not

discriminate against the disapproving associations in exercising its supervisory authorities. Such associations shall not be (i) charged any assessment under this chapter at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance".

Pub. L. 100-233, §431(e)(1), substituted "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations" for "The Chairman of the Farm Credit Administration Board, after consultation with the respective district board or boards and the board of directors of the Capital Corporation may require two or more banks of the Farm Credit System (other than Central Banks for Cooperatives) operating under the same subchapter to merge if the Chairman determines that one of such banks has failed to meet outstanding obligations of such bank."

Subsec. (a)(3). Pub. L. 100-399, §901(m)(3), substituted "Farm Credit Banks under section 2207(b) of this title" for "Federal land banks and Federal intermediate credit banks under section 2207(b) of this title".

Subsec. (a)(5). Pub. L. 100-233, §802(v)(1)(B), struck out "that meet standards and criteria established by the Farm Credit Administration, including standards and criteria with respect to (A) interest rates on obligations of Farm Credit System institutions, and (B) the payment of dividends or patronage refunds by Farm Credit System institutions" after "Farm Credit institutions".

Subsec. (a)(8). Pub. L. 100-399, §205, redesignated par. (9) as (8).

Pub. L. 100-233, §207(a)(2), struck out par. (8) which read as follows: "Make investments in stock of the Capital Corporation out of the revolving fund referred to in section 2151 of this title, and require the retirement of such stock."

Subsec. (a)(9). Pub. L. 100-399, §205, redesignated par. (10) as (9). Former par. (9) redesignated (8).

Pub. L. 100-233, §424(a), inserted provisions limiting Farm Credit Administration from requiring System institutions to disclose in reports to stockholders certain information concerning condition or classification of loans to certain directors or members of immediate family of certain directors.

Subsec. (a)(10) to (12). Pub. L. 100-399, §205, redesignated pars. (11) to (13) as (10) to (12), respectively. Former par. (10) redesignated (9).

Subsec. (a)(13). Pub. L. 100-399, §205, redesignated par. (14) as (13). Former par. (13) redesignated (12).

Pub. L. 100-233, §805(z), redesignated par. (14) as (13), and struck out former par. (13) which read as follows: "Sue and be sued, complain and defend in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Farm Credit Administration shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount of the controversy; and the Farm Credit Administration may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect. Service of process on the Farm Credit Administration shall be in accordance with provisions of title 28 and rules adopted under title 28 for suits in which an agency of the United States is a party. The Farm Credit Administration shall designate an agent at its principal office to accept service of process."

Subsec. (a)(14). Pub. L. 100-399, §205, redesignated par. (14) as (13).

Pub. L. 100-233, §§431(e)(2), 805(z), redesignated par. (15) as (14) and inserted "by the Board" and "The Board may not delegate its responsibilities under this paragraph." Former subsec. (14) redesignated (13).

Subsec. (a)(15). Pub. L. 100-233, §805(z), redesignated par. (15) as (14).

Subsecs. (b), (c). Pub. L. 100-233, §802(v)(2), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-233, §802(v)(2), redesignated subsec. (c) as (d).

Subsec. (d)(1). Pub. L. 100-399, §901(n)(1), made technical amendment to reference to sections 2015(b) and 2128(b) of this title involving underlying provisions of original act and requiring no change in text.

Pub. L. 100-399, §901(n), substituted “section 2015(b) of this title” for “section 2074 of this title”.

1986—Subsec. (a)(5)(A). Pub. L. 99-509 struck out “and on loans made or discounted by such institutions” after “Farm Credit System institutions”.

1985—Subsec. (a). Pub. L. 99-205 amended subsec. (a) generally, revising and reorganizing the enumerated powers of the Farm Credit Administration by substituting pars. (1) to (15) for former pars. (1) to (17).

1980—Pub. L. 96-592 designated existing provisions as subsec. (a), in par. (3) inserted provisions relating to summary and analysis of reports, and added subsecs. (b) and (c).

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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title V, §5407(d), May 22, 2008, 122 Stat. 1161, and Pub. L. 110-246, §4(a), title V, §5407(d), June 18, 2008, 122 Stat. 1664, 1922, provided that: “The amendments made by this section [enacting section 2279c of this title and amending this section and provisions set out as notes under section 2011 of this title] take effect on January 1, 2010.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

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 OF 1988 AMENDMENTS

Amendment by sections 205 and 409(a), (e) of Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, and amendment by section 901(m), (n) of Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, see section 1001 of Pub. L. 100-399, set out as a note under section 2002 of this title.

Amendment by section 207(a)(2) of Pub. L. 100-233 effective 15 days after Jan. 6, 1988, see section 207(b) of Pub. L. 100-233 set out as an Effective Date of Repeal note under section 2152 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

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

REGULATIONS

Pub. L. 100-233, title IV, §424(b), Jan. 6, 1988, 101 Stat. 1656, provided that: “Within 30 days after the date of the enactment of this Act [Jan. 6, 1988], the Farm Credit Administration shall amend its regulations as nec-

essary to implement the amendment made by subsection (a) [amending this section].”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a)(3) of this section relating to requirement to make annual reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 166 of House Document No. 103-7.

COMPENSATION DISCLOSURE BY FARM CREDIT SYSTEM INSTITUTIONS

Pub. L. 113-79, title V, §5404, Feb. 7, 2014, 128 Stat. 840, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) the reasonable disclosure to stockholders by Farm Credit System institutions regarding the compensation of Farm Credit System institution senior officers is beneficial to stockholders’ understanding of the operation of their institutions;

“(2) transparency regarding compensation practices reinforces the cooperative nature of Farm Credit System institutions;

“(3) the unique cooperative structure of the Farm Credit System should be considered when promulgating rules;

“(4) the participation of stockholders in the election of the boards of directors of Farm Credit System institutions provides stockholders the opportunity to participate in the management of their institutions;

“(5) as representatives of stockholders, the boards of directors of Farm Credit System institutions importantly establish and oversee the compensation practices of Farm Credit System institutions to ensure the safe and sound operation of those institutions; and

“(6) any regulation should strengthen and not hinder the ability of Farm Credit System boards of directors to oversee compensation practices.

“(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act [Feb. 7, 2014], the Farm Credit Administration shall review its rules to reflect Congressional intent that a primary responsibility of the boards of directors of Farm Credit System institutions, as elected representatives of their stockholders, is to oversee compensation practices.”

REGULATORY REVIEW

Pub. L. 104-105, title II, §212, Feb. 10, 1996, 110 Stat. 174, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) the Farm Credit Administration, in the role of the Administration as an arms-length safety and soundness regulator, has made considerable progress in reducing the regulatory burden on Farm Credit System institutions;

“(2) the efforts of the Farm Credit Administration described in paragraph (1) have resulted in cost savings for Farm Credit System institutions; and

“(3) the cost savings described in paragraph (2) ultimately benefit the farmers, ranchers, agricultural cooperatives, and rural residents of the United States.

“(b) CONTINUATION OF REGULATORY REVIEW.—The Farm Credit Administration shall continue the comprehensive review of regulations governing the Farm Credit System to identify and eliminate, consistent with law, safety, and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on law.”

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS; FARM CREDIT ADMINISTRATION

Pub. L. 100-387, title III, §313(b), Aug. 11, 1988, 102 Stat. 950, provided that: “It further is the sense of Congress that the Farm Credit Administration should in its oversight of Farm Credit System institutions, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

“(1) ensure that Farm Credit System institutions exercise forbearance in the collection of principal and interest on loans outstanding to such farmers and ranchers;

“(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 [Pub. L. 100-233, Jan. 6, 1988, 101 Stat. 1568, see Tables for classification] and related provisions of law for such farmers and ranchers; and

“(3) encourage other lenders participating with Farm Credit System institutions in mutual loan agreements to exercise forbearance before declaring loans to such farmers and ranchers in default.”

§ 2253. Repealed. Pub. L. 115-334, title V, § 5411(30), Dec. 20, 2018, 132 Stat. 4682

Section, Pub. L. 92-181, title V, § 5.18, as added Pub. L. 99-205, title II, § 202(b), Dec. 23, 1985, 99 Stat. 1693, related to continued effectiveness of certain delegations made by the Farm Credit Administration through twelve months after Dec. 23, 1985.

A prior section 2253, Pub. L. 92-181, title V, § 5.19, Dec. 10, 1971, 85 Stat. 622, related to delegation of duties and powers to financial institutions, prior to repeal, effective thirty days after Dec. 23, 1985, by Pub. L. 99-205, title II, § 202(a), Dec. 23, 1985, 99 Stat. 1693.

A prior section 5.18 of Pub. L. 92-181 was renumbered section 5.17 and is classified to section 2252 of this title.

§ 2254. Examinations

(a) Scope and frequency of examinations; power, authority, and liability of examiners

Each institution of the System shall be examined by Farm Credit Administration examiners at such times as the Board may determine, but in no event less than once during each 18-month period. Such examinations may include, if appropriate, but are not limited to, an analysis of credit and collateral quality and capitalization of the institution, and appraisals of the effectiveness of the institution's management and application of policies governing the carrying out of this chapter and regulations of the Farm Credit Administration and servicing all eligible borrowers. Examination of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank. At the direction of the Board, Farm Credit Administration examiners also shall make examinations of the condition of any organization, other than federally regulated financial institutions, to, for, or with which any institution of the System contemplates making a loan or discounting paper. For the purposes of this chapter, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.], the Federal Reserve Act [12 U.S.C. 221 et seq.], and Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

(b) Annual report of condition

Each institution of the System shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such

additional information as the Farm Credit Administration by regulation may require. Such financial statements of System institutions shall be audited by an independent public accountant.

(c) Report of examination of noncomplying institution; publication; notice of intention

The Farm Credit Administration may publish the report of examination of any System institution that does not, before the end of the 120th day after the date of notification of the recommendations and suggestions of the Farm Credit Administration, based on such examination, comply with such recommendations and suggestions to the satisfaction of the Farm Credit Administration. The Farm Credit Administration shall give notice of intention to publish in the event of such noncompliance at least 90 days before such publication. Such notice of intention may be given any time after such notification of recommendations and suggestions.

(d) Duties of Farm Credit Administration

On receipt of a request made under section 2277a-8(b)(1)(B) of this title with respect to a System institution, the Farm Credit Administration shall—

(1) furnish for the confidential use of the Farm Credit System Insurance Corporation reports of examination of the institution and other reports or information on the institution; and

(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Farm Credit System Insurance Corporation the report of the examination and such other information; or

(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this chapter, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.

(e) Sharing of privileged and confidential information

A System institution shall not be considered to have waived the confidentiality of a privileged communication with an attorney or an accountant if the System institution provides the content of the communication to the Farm Credit Administration pursuant to the supervisory or regulatory authorities of the Farm Credit Administration.

(Pub. L. 92-181, title V, § 5.19, formerly § 5.20, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.19 and amended Pub. L. 99-205, title II, § 203(a), Dec. 23, 1985, 99 Stat. 1693; Pub. L. 99-509, title I, § 1037, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100-233, title II, § 205(b), title IV, § 432(b), Jan. 6, 1988, 101 Stat. 1607, 1661; Pub. L. 100-399, title II, § 204, title IV, § 416(c), Aug. 17, 1988, 102 Stat. 993, 1004; Pub. L. 101-624, title XVIII, § 1843(b), Nov. 28, 1990, 104 Stat. 3836; Pub. L. 102-552, title V, §§ 512, 513(b), Oct. 28, 1992, 106 Stat. 4133, 4134; Pub. L. 104-105, title II, § 213, Feb. 10, 1996, 110 Stat. 175; Pub. L. 115-334, title V, §§ 5404, 5411(31), Dec. 20, 2018, 132 Stat. 4676, 4682.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5.19 of Pub. L. 92-181 was classified to section 2253 of this title prior to repeal by Pub. L. 99-205, title II, § 202(a), Dec. 23, 1985, 99 Stat. 1693.

REFERENCES IN TEXT

The National Bank Act, referred to in subsec. (a), is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§ 21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in subsec. (a), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§ 221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (a), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, § 5411(31)(A), substituted “Each institution” for “Except for Federal land bank associations, each institution” and struck out “Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every three years.” after “each 18-month period.”

Subsec. (b). Pub. L. 115-334, § 5411(31)(B), struck out par. (1) designation before “Each institution”, struck out “, except with respect to any actions taken by any banks of the System under section 2159(b) of this title,” after “accounting principles” and “Notwithstanding the provisions of the preceding sentence and any other provision of this chapter, for the period July 1, 1986, through December 31, 1988, the institutions of the Farm Credit System may, on the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, capitalize annually their provision for losses that is in excess of one-half of 1 percent of loans outstanding and amortize such capitalized amounts over a period not to exceed 20 years.” after “may require.”, and struck out pars. (2) and (3) which read as follows:

“(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in the third sentence of paragraph (1) except as otherwise provided in section 2278a-6 of this title.

“(3) Any preferred stock issued under section 2278b-7 of this title shall be subordinated to, and impaired before, other stock or equities of the institution.”

Subsec. (e). Pub. L. 115-334, § 5404, added subsec. (e).

1996—Subsec. (a). Pub. L. 104-105 substituted “during each 18-month period” for “each year” in first sentence.

1992—Subsec. (a). Pub. L. 102-552, § 512, substituted “may include, if appropriate” for “shall include” in third sentence.

Subsec. (d). Pub. L. 102-552, § 513(b), added subsec. (d).

1990—Subsec. (a). Pub. L. 101-624 inserted after third sentence “Examination of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank.”

1988—Subsec. (a). Pub. L. 100-399, § 416(c), substituted “at least once every three years” for “at least once every 5 years”.

Pub. L. 100-233, § 432(b), substituted “Except for Federal land bank associations, each” for “Each”, sub-

stituted “the Board” for “the Chairman of the Board” in two places, and inserted after first sentence “Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years.”

Subsec. (b). Pub. L. 100-233, § 205(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b)(2). Pub. L. 100-399, § 204, substituted “the third sentence of paragraph (1)” for “this section”.

1986—Subsec. (b). Pub. L. 99-509 substituted second and third sentences for former second sentence which read as follows: “Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration by regulation may require.”

1985—Pub. L. 99-205 in amending section generally, revised and restated existing provisions in subsec. (a) and added subsecs. (b) and (c). Prior to amendment, section read as follows: “Except as provided herein, each institution of the System, and each of their agents, at such times as the Governor of the Farm Credit Administration may determine, shall be examined and audited by farm credit examiners under the direction of an independent chief Farm Credit Administration examiner, but each bank and each production credit association shall be examined and audited not less frequently than once each year. Such examinations shall include objective appraisals of the effectiveness of management and application of policies in carrying out the provisions of this chapter and in servicing all eligible borrowers. If the Governor determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, and in accordance with generally accepted auditing standards. Upon request of the Governor or any bank of the System, farm credit examiners shall also make examinations and written reports of the condition of any organization, other than national banks, to which, or with which, any institution of the System contemplates making a loan or discounting paper of such organization. For the purposes of this chapter, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.], the Federal Reserve Act [12 U.S.C. 221 et seq.], the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.”

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 OF 1985 AMENDMENT

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

**RESTRAINT BY FEDERAL BANK REGULATORY AGENCIES
IN OVERSEEING AGRICULTURAL BORROWERS**

Pub. L. 99-198, title XIII, § 1326, Dec. 23, 1985, 99 Stat. 1540, provided that:

“(a) Congress finds and declares that—

“(1) high production costs and low commodity prices have combined to reduce farm income to the lowest levels since the depths of the Depression in the 1930's, to subject many agricultural producers, through no fault of their own, to severe economic hardship, and in many cases temporarily but seriously to impair producers' ability to meet loan repayment schedules in a timely fashion; and

“(2) a policy of adverse classification of agricultural loans by bank examiners under these circumstances will trigger a wave of foreclosures and similar actions on the part of banks, thereby depressing land values and prices for agricultural facilities and equipment and having a devastating effect on farmers and the banking industry, and upon rural areas of the United States in general.

“(b) It is therefore the sense of Congress that the Federal bank regulatory agencies should ensure, in their examination procedures, that examiners exercise caution and restraint and give due consideration not only to the current cash flow of agricultural borrowers under financial stress, but to factors such as their loan collateral and ultimate ability to repay as well, for so long as the adverse economic effects of the cost-price squeeze of recent years continue to impair the ability of these borrowers to meet scheduled repayments on their loans.”

§ 2255. Conditions of other banks and lending institutions

The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration to furnish for confidential use of an institution of the System such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which such institution of the System has made or contemplates making discounts or loans and to make such further examination, as may be agreed, of organizations through, for, or with which such institution of the Farm Credit System has made or contemplates making discounts or loans.

(Pub. L. 92-181, title V, § 5.20, formerly § 5.21, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.20, Pub. L. 99-205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.20 of Pub. L. 92-181 was renumbered section 5.19 and is classified to section 2254 of this title.

§ 2256. Consent to the availability of reports and to examinations

Any organization other than State banks, trust companies, and savings associations shall, as a condition precedent to securing discount privileges with a bank of the Farm Credit System, file with such bank its written consent to examination by farm credit examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

(Pub. L. 92-181, title V, § 5.21, formerly § 5.22, Dec. 10, 1971, 85 Stat. 623; renumbered § 5.21, Pub. L. 99-205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.21 of Pub. L. 92-181 was renumbered section 5.20 and is classified to section 2255 of this title.

§ 2257. Reports on conditions of institutions receiving loans or deposits

The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to it or to any institution of the System in confidence all reports, records, or other information relating to the condition of any organization to which such institution of the System has made or contemplates making loan or for which it has or contemplates discounting paper, or which it is using or contemplates using as a custodian of securities or other credit instruments, or a depository. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the banks of the System or book entries thereof are also authorized and directed, upon request of the Farm Credit Administration, to make available for audit by farm credit examiners all appropriate books, accounts, financial records, files, and other papers.

(Pub. L. 92-181 title V, § 5.22, formerly § 5.23, Dec. 10, 1971, 85 Stat. 624; renumbered § 5.22, Pub. L. 99-205, title II, § 203(b), Dec. 23, 1985, 99 Stat. 1694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5.22 of Pub. L. 92-181 was renumbered section 5.21 and is classified to section 2256 of this title.

§ 2257a. Uniform financial reporting instructions

(a) In general

Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

(b) Computerized system

If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

(c) Submission of proposal

Within 6 months of January 6, 1988, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.

(Pub. L. 92-181, title V, § 5.22A, as added Pub. L. 100-233, title IV, § 429, Jan. 6, 1988, 101 Stat. 1658.)

§ 2258. Jurisdiction

Each institution of the System shall for the purposes of jurisdiction be deemed to be a cit-

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-

atives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

(Pub. L. 99-190, § 107, Dec. 19, 1985, 99 Stat. 1316.)

Editorial Notes

CODIFICATION

Section was not enacted as part of the Farm Credit Act of 1971 which comprises this chapter.

PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

§ 2277a. Definitions

As used in this part:

(1) Board of Directors

The term “Board of Directors” means the Board of Directors of the Corporation.

(2) Corporation

The term “Corporation” means the Farm Credit System Insurance Corporation established in section 2277a-1 of this title.

(3) Insured obligation

The term “insured obligation” means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 2153 of this title—

(A) on or before January 5, 1989, on behalf of any System bank; and

(B) after such date, which, when issued, is issued on behalf of any insured System bank.

(4) Insured System bank

The term “insured System bank” means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 2153 of this title is insured under this part.

(5) State

The term “State” means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(Pub. L. 92-181, title V, § 5.51, as added Pub. L. 100-233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611; amended Pub. L. 100-399, title III, § 302(a), (b), Aug. 17, 1988, 102 Stat. 994; Pub. L. 104-105, title II, § 214(a), Feb. 10, 1996, 110 Stat. 175.)

Editorial Notes

AMENDMENTS

1996—Pars. (5), (6). Pub. L. 104-105 redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: “The term ‘receiver’ means a receiver or conservator appointed by the Farm Credit Administration for a System institution.”

1988—Par. (3)(A), (B). Pub. L. 100-399, § 302(a), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

“(A) on or before January 6, 1988, on behalf of any System bank; and

“(B) after such date, on behalf of any insured System bank.”

Par. (5). Pub. L. 100-399, § 302(b), substituted “for” for “to liquidate”.

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.

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.

§ 2277a-1. Establishment of Farm Credit System Insurance Corporation

There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 2153 of this title on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

(Pub. L. 92-181, title V, § 5.52, as added Pub. L. 100-233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611.)

§ 2277a-2. Board of Directors

(a) Establishment

The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

(b) Chairman

The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

(Pub. L. 92-181, title V, § 5.53, as added Pub. L. 100-233, title III, § 302, Jan. 6, 1988, 101 Stat. 1611; amended Pub. L. 102-552, title II, § 201(a), Oct. 28, 1992, 106 Stat. 4104; Pub. L. 104-105, title II, § 219(a), Feb. 10, 1996, 110 Stat. 184.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-105 amended section generally. Prior to amendment, section related to Board of Directors, including provisions relating to establishment, appointment, chairperson, postemployment prohibition, terms of office, succession, vacancies, oath, quorum, meetings, rules and records, compensation, and expenses.

1992—Pub. L. 102-552 amended section generally. Prior to amendment, section read as follows:

“(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

“(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT; TRANSITION PROVISION

Pub. L. 102-552, title II, § 201(c), Oct. 28, 1992, 106 Stat. 4105, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 5314 and 5315 of Title 5, Government Organization and Employees] shall become effective on January 1, 1996.

“(2) TRANSITIONAL PROVISION.—The Board of Directors of the Farm Credit System Insurance Corporation as established by section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-2) (as it existed before the amendments made by subsection (a) of this section) shall continue in existence and continue to manage the Farm Credit System Insurance Corporation until at least two members are appointed by the President, by and with the advice and consent of the Senate, to the new Board established by section 5.53 of such Act (as amended by subsection (a) of this section).”

§ 2277a-3. Commencement of insurance

Effective beginning on January 1, 1989, or 12 months after January 6, 1988, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a subchapter of this chapter shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

(Pub. L. 92-181, title V, §5.54, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1611.)

§ 2277a-4. Premiums

(a) Amount in Fund not exceeding secure base amount

(1) In general

If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (3), the premium due from any insured System bank for the calendar year shall be equal to the sum of—

(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

(B) the product obtained by multiplying—

(i) the sum of—

(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

(ii) 0.0010.

(2) Deductions from average outstanding insured obligations

The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—

(A) 90 percent of each of—

(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

(B) 80 percent of each of—

(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.

(3) Reduced premiums

The Corporation, in the sole discretion of the Corporation, may reduce by a percentage uniformly applied to all insured System banks the premium due from each insured System bank during any calendar year, as determined under paragraph (1).

(4) Definition of government-guaranteed loans or investments

In this section, the term “government-guaranteed”, when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—

(A) by the full faith and credit of the United States Government or any State government;

(B) by an agency or other entity of the United States Government whose obligations are explicitly guaranteed by the United States Government; or

(C) by an agency or other entity of a State government whose obligations are explicitly guaranteed by such State government.

(b) Amount in Fund exceeding secure base amount

At any time the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall reduce the premium due from each insured System bank, as determined under subsection (a)(1), by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Farm Credit Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

(c) Secure base amount

(1) In general

For purposes of this part, the term “secure base amount” means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time (as adjusted under paragraph (2)), or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

(2) Adjustment

The aggregate outstanding insured obligations of all insured System banks under para-

graph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—

(A) 90 percent of each of—

(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

(B) 80 percent of each of—

(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.

(d) Determination of loan and investment amounts

For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—

(1) all loans or investments made by any production credit association, or any other association making direct loans under authority provided under section 2279b of this title, that is able to make such loans or investments because such association is receiving, or has received, funds provided through the insured System bank;

(2) all loans or investments made by any bank, company, institution, corporation, union, or association described in section 2015(b)(1)(B) of this title, that is able to make such loans or investments because such entity is receiving, or has received, funds provided through the insured System bank; and

(3) all loans or investments made by such insured System bank (other than loans made to any party described in paragraph (1) or (2)).

(e) Allocation to System institutions of excess reserves

(1) Establishment of Allocated Insurance Reserves Accounts

There is hereby established in the Farm Credit Insurance Fund an Allocated Insurance Reserves Account—

(A) for each insured System bank; and

(B) subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock.

(2) Treatment

Amounts in any Allocated Insurance Reserves Account shall be considered to be part of the Farm Credit Insurance Fund.

(3) Annual allocations

If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation,

in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

(4) Allocation formula

From the total amount required to be allocated at the end of a calendar year under paragraph (3)—

(A) 10 percent of the total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (6)(C); and

(B) there shall be credited to the allocated insurance reserves account¹ of each insured system² bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—

(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).

(5) Use of funds in Allocated Insurance Reserves Accounts

To the extent that the sum of the operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the sum of operating expenses and insurance obligations determined under paragraph (3) for the calendar year, the Corporation shall cover the expenses and obligations by—

(A) reducing each Allocated Insurance Reserves Account by the same proportion; and

(B) expending the amounts obtained under subparagraph (A) before expending other amounts in the Fund.

(6) Other disposition of Account funds

(A) In general

As soon as practicable during each calendar year, the Corporation may—

(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and

(ii) subject to subparagraphs (C) and (E), pay to each System bank and association holding Financial Assistance Corporation stock a proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by the institution by the total number of shares of Financial Assistance Corporation

¹ So in original. Probably should be "Allocated Insurance Reserves Account".

² So in original. Probably should be "System".

stock outstanding at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).

(B) Authority to eliminate or reduce payments

The Corporation may eliminate or reduce payments during a calendar year under subparagraph (A) if the Corporation determines, in its sole discretion, that the payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during the calendar year to be less than the secure base amount.

(C) Reimbursement for Financial Assistance Corporation stock

(i) Sufficient funding

Notwithstanding paragraph (4)(A), on provision by the Corporation for the accumulation in the Account established under paragraph (1)(B) of funds in an amount equal to \$56,000,000, the Corporation shall not allocate any further funds to the Account except to replenish the Account if funds are diminished below \$56,000,000 by the Corporation under paragraph (5).

(ii) Termination of account

On disbursement of an amount equal to \$56,000,000, the Corporation shall—

(I) close the account established under paragraph (1)(B); and

(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.

(D) Distribution of payments received

Not later than 60 days after receipt of a payment made under subparagraph (A)(i), each insured System bank, in consultation with affiliated associations of the insured System bank, and taking into account the direct or indirect payment of insurance premiums by the associations, shall develop and implement an equitable plan to distribute payments received under subparagraph (A)(i) among the bank and associations of the bank.

(E) Exception for previously reimbursed associations

For purposes of subparagraph (A)(ii), in any Farm Credit district in which the funding bank has reimbursed 1 or more affiliated associations of the bank for the previously unreimbursed portion of the Financial Assistance Corporation stock held by the associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which the funding bank has provided the reimbursement.

(Pub. L. 92-181, title V, §5.55, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1612; amended Pub. L. 100-399, title III, §302(c)-(e), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101-220, §6(a),

Dec. 12, 1989, 103 Stat. 1879; Pub. L. 104-105, title II, §215(a)(1), (2)(A), (b), (c), Feb. 10, 1996, 110 Stat. 175, 176, 179; Pub. L. 107-171, title V, §5403(a)(1), May 13, 2002, 116 Stat. 350; Pub. L. 110-234, title V, §5404, May 22, 2008, 122 Stat. 1154; Pub. L. 110-246, §4(a), title V, §5404, June 18, 2008, 122 Stat. 1664, 1916.)

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

2008—Subsec. (a)(1). Pub. L. 110-246, §5404(a)(1)(A), in introductory provisions, substituted “paragraph (3)” for “paragraph (2)” and struck out “annual” before “premium”.

Subsec. (a)(1)(A) to (D). Pub. L. 110-246, §5404(a)(1)(B), added subpars. (A) and (B) and struck out former subpars. (A) to (D) which described how to calculate the annual premium due from an insured System bank.

Subsec. (a)(2) to (4). Pub. L. 110-246, §5404(a)(2)-(6), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, in par. (3), struck out “annual” before “premium”, in par. (4), inserted “or investments” after “loans” in heading and, in introductory provisions, substituted “In this section, the term ‘government-guaranteed’, when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—” for “As used in this section and section 2020(b) of this title, the term ‘government-guaranteed loans’ means loans or credits, or portions of loans or credits, that are guaranteed—”, and struck out former par. (4). Prior to amendment, text read as follows: “In this section and sections 2020(b) and 2277a-5(a) of this title, the term ‘Government Sponsored Enterprise-guaranteed loan’ means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System.”

Subsec. (b). Pub. L. 110-246, §5404(b), struck out “annual” before “premium”.

Subsec. (c). Pub. L. 110-246, §5404(c), designated existing provisions as par. (1), inserted heading, substituted “(as adjusted under paragraph (2))” for “(adjusted downward to exclude an amount equal to the sum of (1) 90 percent of the guaranteed portions of principal outstanding on Federal Government-guaranteed loans in accrual status made by such banks and (2) 80 percent of the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by such banks, as determined by the Corporation)”, and added par. (2).

Subsec. (d). Pub. L. 110-246, §5404(d)(1), (2), in heading, substituted “loan and investment amounts” for “principal outstanding” and, in introductory provisions, substituted “For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—” for “For the purpose of subsections (a), (c), and (e) of this section, the principal outstanding on all loans made by an insured System bank shall be determined based on all loans made—”.

Subsec. (d)(1) to (3). Pub. L. 110-246, §5404(d)(3), (4), in pars. (1) to (3), inserted “all loans or investments made” after par. designation and, in pars. (1) and (2), inserted “or investments” after “such loans”.

Subsec. (e)(3). Pub. L. 110-246, §5404(e)(1), substituted “the secure base amount” for “the average secure base amount for the calendar year (as calculated on an average daily balance basis)”.

Subsec. (e)(4)(B). Pub. L. 110-246, §5404(e)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “there shall be credited to the Allocated Insurance Reserves Account of each insured System bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by the bank that are in accrual status bears to the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by all insured System banks that are in accrual status (excluding, in each case, the guaranteed portions of loans described in subparagraph (C) or (D) of subsection (a)(1) of this section).”

Subsec. (e)(6)(A). Pub. L. 110-246, §5404(e)(3)(A)(i), struck out “beginning more than 8 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, but not earlier than January 1, 2005” after “calendar year” in introductory provisions.

Subsec. (e)(6)(A)(i). Pub. L. 110-246, §5404(e)(3)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: “subject to subparagraphs (D) and (F), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the lesser of—

“(I) 20 percent of the balance in the insured System bank’s Allocated Insurance Reserves Account as of the preceding December 31; or

“(II) 20 percent of the balance in the bank’s Allocated Insurance Reserves Account on the date of the payment; and”.

Subsec. (e)(6)(A)(ii). Pub. L. 110-246, §5404(e)(3)(A)(iii), substituted “subparagraphs (C) and (E)” for “subparagraphs (C), (E), and (F)” and “at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).” for “, of the lesser of—

“(I) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) as of the preceding December 31; or

“(II) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) on the date of the payment.”

Subsec. (e)(6)(C)(i). Pub. L. 110-246, §5404(e)(3)(B)(i), struck out “(in addition to the amounts described in subparagraph (F)(ii))” after “an amount equal to \$56,000,000”.

Subsec. (e)(6)(C)(ii). Pub. L. 110-246, §5404(e)(3)(B)(ii), added cl. (ii) and struck out former cl. (ii) which related to wind down and termination of the Allocated Insurance Reserves Account established under subsec. (e)(1) of this section.

Subsec. (e)(6)(F). Pub. L. 110-246, §5404(e)(3)(C), struck out subpar. (F) which related to determination of amount of initial payment made to each payee under subsec. (e)(6)(A) of this section.

2002—Subsec. (a)(1)(A). Pub. L. 107-171, §5403(a)(1)(A)(i), substituted “loans provided for in subparagraphs (C) and (D)” for “government-guaranteed loans provided for in subparagraph (C)”.

Subsec. (a)(1)(D). Pub. L. 107-171, §5403(a)(1)(A)(i)(II)–(IV), added subpar. (D).

Subsec. (a)(4). Pub. L. 107-171, §5403(a)(1)(A)(ii), added par. (4).

Subsec. (e)(4)(B). Pub. L. 107-171, §5403(a)(1)(B), substituted “loans described in subparagraph (C) or (D) of subsection (a)(1) of this section” for “government-guaranteed loans described in subsection (a)(1)(C) of this section”.

1996—Subsec. (a). Pub. L. 104-105, §215(a)(1)(A), substituted “If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (2), the annual premium due from any in-

sured System bank for the calendar year” for “Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year”.

Subsec. (a)(2), (3). Pub. L. 104-105, §215(a)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 104-105, §215(a)(2)(A), substituted “Farm Credit Insurance Fund” for “Insurance Fund” in two places, and “subsection (a)(1)” for “subsection (a)”, and struck out “for the following calendar year” after “each insured System bank”.

Subsec. (d). Pub. L. 104-105, §215(c), in introductory provisions, substituted “subsections (a), (c), and (e) of this section” for “subsections (a) and (c) of this section” and “an insured System bank” for “a Farm Credit Bank”, and in pars. (1) through (3), substituted “insured System bank” for “Farm Credit Bank”.

Subsec. (e). Pub. L. 104-105, §215(b), added subsec. (e). 1989—Subsec. (a). Pub. L. 101-220, §6(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: “Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

“(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

“(2) the annual average principal outstanding for such year on loans made by the bank that are in non-accrual status, multiplied by 0.0025.”

Subsec. (b). Pub. L. 101-220, §6(a)(2), inserted “, as determined under subsection (a),” after “calendar year”.

Subsec. (c). Pub. L. 101-220, §6(a)(3), inserted “(adjusted downward to exclude an amount equal to the sum of (1) 90 percent of the guaranteed portions of principal outstanding on Federal Government-guaranteed loans in accrual status made by such banks and (2) 80 percent of the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by such banks, as determined by the Corporation)” after “such time”.

Subsec. (d). Pub. L. 101-220, §6(a)(4), in introductory provisions, substituted “subsections (a) and (c) of this section” for “subsection (a) of this section” and struck out “intermediate term” after “outstanding on all”, inserted par. (1), and struck out former par. (1) which read as follows: “by the production credit associations in the district in which such bank is located.”.

1988—Subsec. (d). Pub. L. 100-399, §302(c), substituted in introductory provisions “intermediate term loans made by a Farm Credit Bank” for “loans made by a Federal intermediate credit bank”.

Subsec. (d)(2). Pub. L. 100-399, §302(d), (e), substituted “section 2015(b)(1)(B) of this title” for “section 2074(a)(2) of this title” and “Farm Credit Bank” for “Federal intermediate credit bank”.

Subsec. (d)(3). Pub. L. 100-399, §302(e), substituted “Farm Credit Bank” for “Federal intermediate credit bank”.

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 2002 AMENDMENT

Amendment by Pub. L. 107-171 applicable with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums, see section 5403(b) of Pub. L. 107-171, set out as a note under section 2020 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-220 effective for insurance premiums due to the Farm Credit System Insurance

Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a-5(c) of this title, see section 6(c) of Pub. L. 101-220, set out as a note under section 2020 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective immediately after amendment made by section 401 of Pub. L. 100-233, which was effective 6 months after Jan. 6, 1988, see section 1001(b) of Pub. L. 100-399, set out as a note under section 2002 of this title.

GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, SUPPLEMENTAL PREMIUMS, AND CONSOLIDATION

Pub. L. 102-552, title II, §204, Oct. 28, 1992, 106 Stat. 4106, as amended by Pub. L. 104-316, title I, §106(e), Oct. 19, 1996, 110 Stat. 3831, provided for a report by the Comptroller General on risk-based insurance premiums, structure and capital, and another report on benefits to farmer and rancher borrowers of the Farm Credit System institutions of merging the 10 district Farm Credit Banks (and the Federal Intermediate Credit Bank of Jackson) into fewer regional Farm Credit Banks, and provided that the reports were to be provided to Congress not later than 12 months after Oct. 28, 1992.

§ 2277a-5. Certification of premiums

(a) Filing certified statement

On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the “period”) shall file with the Corporation a certified statement showing—

(1) the average outstanding insured obligations for the period issued by the bank;

(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 2277a-4(a)(4) of this title);

(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 2277a-4(a)(4) of this title);

(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

(5) the amount of the premium due the Corporation from the bank for the period.

(b) Contents and form of statement

The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its

board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

(c) Premium payments

(1) In general

Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

(2) Premium amount

The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.

(d) Regulations

The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

(Pub. L. 92-181, title V, §5.56, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1612; amended Pub. L. 100-399, title III, §302(f), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101-624, title XVIII, §1835, Nov. 28, 1990, 104 Stat. 3833; Pub. L. 104-105, title II, §215(a)(2)(B), Feb. 10, 1996, 110 Stat. 176; Pub. L. 107-171, title V, §5403(a)(2)(B), May 13, 2002, 116 Stat. 351; Pub. L. 110-234, title V, §5405, May 22, 2008, 122 Stat. 1157; Pub. L. 110-246, §4(a), title V, §5405, June 18, 2008, 122 Stat. 1664, 1919.)

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

2008—Subsec. (a). Pub. L. 110-246, §5405(a), added subsec. (a) and struck out former subsec. (a) which related to the required annual filing of a certified statement from each insured System bank that became insured before the beginning of the year.

Subsec. (c). Pub. L. 110-246, §5405(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) of this section as soon as practicable after January 1, 1990, based on the application of section 2277a-4 of this title to the accruing loan volume of the bank for calendar year 1989.”

Subsecs. (d), (e). Pub. L. 110-246, §5405(c), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “The premium payments required from insured System banks under subsection (a) of this section shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.”

2002—Subsec. (a)(1). Pub. L. 107-171, §5403(a)(2)(B)(i), inserted “and Government Sponsored Enterprise-guar-

anteed loans (as defined in section 2277a-4(a)(4) of this title)" after "government-guaranteed loans".

Subsec. (a)(4) to (6). Pub. L. 107-171, § 5403(a)(2)(B)(ii), (iii), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

1996—Subsec. (a)(2), (3). Pub. L. 104-105 substituted "2277a-4(a)(3) of this title" for "2277a-4(a)(2) of this title".

1990—Subsec. (a). Pub. L. 101-624 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of the year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year."

1988—Subsec. (a). Pub. L. 100-399 substituted "of the year" for "of such year".

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 2002 AMENDMENT

Amendment by Pub. L. 107-171 applicable with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums, see section 5403(b) of Pub. L. 107-171, set out as a note under section 2020 of this title.

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.

§ 2277a-6. Overpayment and underpayment of premiums; remedies

(a) Overpayments

The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

(b) Underpayments

(1) Recovery

The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has filed any certified statement under section 2277a-5 of this title, and whether or not suit has been brought to compel the bank to file any such statement.

(2) Limitation

Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System bank has filed with the Corporation a false or fraudulent

certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

(c) Failure to file statement or pay premium

(1) Forfeiture of rights

If any insured System bank fails to file any certified statement required to be filed by such bank under section 2277a-5 of this title or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this chapter shall be thereby forfeited.

(2) Enforcement

The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

(3) Liability of directors

Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

(d) Effect on other remedies

The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

(Pub. L. 92-181, title V, § 5.57, as added Pub. L. 100-233, title III, § 302, Jan. 6, 1988, 101 Stat. 1613; amended Pub. L. 100-399, title III, § 302(g), (h), Aug. 17, 1988, 102 Stat. 994.)

Editorial Notes

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100-399, § 302(g), struck out "made any report of condition required under section 2277a-4 of this title or" after "bank has" and "make any such report or" after "bank to".

Subsec. (b)(2). Pub. L. 100-399, § 302(h), substituted "bank has filed" for "bank has made or filed".

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.

§ 2277a-7. General corporate powers

On January 6, 1988, the Corporation shall become a body corporate and as such shall have the following powers:

(1) Seal

The Corporation may adopt and use a corporate seal.

(2) Succession

The Corporation may have succession until dissolved by an Act of Congress.

(3) Contracts

The Corporation may make contracts.

(4) Legal actions**(A) In general**

The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

(B) Jurisdiction

All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, in any capacity, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

(C) Attachment and execution

No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

(D) Agent for service of process

The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

(5) Officers and employees**(A) In general**

The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and dismiss at pleasure such officers or employees.

(B) Employees of the United States

Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

(6) Bylaws

The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

(7) Incidental powers

The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

(8) Information

The Corporation may, when necessary, make examinations of, and require information and

reports from, System institutions, as provided in this part.

(9) Conservator or receiver

The Corporation may act as a conservator or receiver.

(10) Rules and regulations

The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part and section 2020(b) of this title (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

(Pub. L. 92-181, title V, §5.58, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1614; amended Pub. L. 100-399, title III, §302(i), Aug. 17, 1988, 102 Stat. 994; Pub. L. 102-237, title V, §502(j), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 102-552, title II, §202(a), Oct. 28, 1992, 106 Stat. 4105; Pub. L. 104-105, title II, §214(b), Feb. 10, 1996, 110 Stat. 175; Pub. L. 110-234, title V, §5401(b), May 22, 2008, 122 Stat. 1154; Pub. L. 110-246, §4(a), title V, §5401(b), June 18, 2008, 122 Stat. 1664, 1915; Pub. L. 115-334, title V, §5411(37), Dec. 20, 2018, 132 Stat. 4683.)

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—Par. (2). Pub. L. 115-334 struck out at end “The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to subchapter VI on the termination of the Assistance Board on the date provided in section 2278a-12 of this title.”

2008—Par. (10). Pub. L. 110-246, §5401(b), inserted “and section 2020(b) of this title” after “this part”.

1996—Par. (9). Pub. L. 104-105 added par. (9) and struck out heading and text of former par. (9). Text read as follows: “The Corporation may act as receiver.”

1992—Par. (2). Pub. L. 102-552 inserted at end “The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to subchapter VI on the termination of the Assistance Board on the date provided in section 2278a-12 of this title.”

1991—Par. (4)(B). Pub. L. 102-237 inserted “in any capacity,” after “and the Corporation,”.

1988—Par. (5)(A). Pub. L. 100-399 struck out “to” before “define” and “dismiss”.

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.

§ 2277a-8. Conduct of corporate affairs; examination of System institutions

(a) Conduct of corporate affairs

(1) Fair administration

The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

(2) Obligations and expenses

The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

(3) Use of mails

The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(4) Use of information

The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

(5) Use of Farm Credit Administration personnel

To the extent practicable, the Corporation shall use the personnel and resources of the Farm Credit Administration to minimize duplication of effort and to reduce costs.

(b) Examination of System institutions

(1) Examination authority

(A) In general

If the Board of Directors considers it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 2279b of this title, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration. Notwithstanding any other provision of this chapter, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system¹ institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.

(B) Request for additional examination or other information

If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this subsection, the Board shall request the Farm Credit Admin-

istration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

(2) Appointment of examiners

If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

(3) Powers and report

Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

(4) Appointment of claim agents

The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.

(c) Oath, affirmations, and testimony

In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

(d) Cooperation with FCA examiners

The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

(Pub. L. 92-181, title V, §5.59, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1615; amended Pub. L. 101-220, §6(b)(3), Dec. 12, 1989, 103 Stat. 1880; Pub. L. 102-552, title II, §203, title V, §513(a), Oct. 28, 1992, 106 Stat. 4106, 4133; Pub. L. 104-105, title II, §216, Feb. 10, 1996, 110 Stat. 179.)

Editorial Notes

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104-105 inserted at end “Notwithstanding any other provision of this chapter, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.”

1992—Pub. L. 102-552, §513(a)(1), substituted “System institutions” for “insured System banks” in section catchline.

Subsec. (a)(5). Pub. L. 102-552, §203, added par. (5).

Subsec. (b). Pub. L. 102-552, §513(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “(b) EXAMINATION OF INSURED SYSTEM BANKS.—

“(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, any other association making direct loans under authority provided under section 2279b of this title, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

¹ So in original. Probably should be capitalized.

“(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

“(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.”

1989—Subsec. (b)(1). Pub. L. 101-220 inserted “any other association making direct loans under authority provided under section 2279b of this title,” after “any production credit association.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-220 effective for insurance premiums due to the Farm Credit System Insurance Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a-5(c) of this title, see section 6(c) of Pub. L. 101-220, set out as a note under section 2020 of this title.

§ 2277a-9. Insurance Fund

(a) Establishment

There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the “Insurance Fund”) for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

(b) Amounts in Fund

The Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

(c) Uses of Fund

(1) Mandatory use

Beginning January 1, 1993, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

(2) Other mandatory uses

Beginning January 1, 1993, the Corporation shall use amounts in the Insurance Fund to ensure the retirement of eligible borrower stock at par value under section 2162 of this title.

(3) Permissive uses

The Corporation may expend amounts in the Insurance Fund to carry out section 2277a-10 of this title and to cover the operating costs of the Corporation.

(4) Corporate payment or refunds

The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

(Pub. L. 92-181, title V, §5.60, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1616; amended Pub. L. 100-399, title III, §302(j)-(l), Aug. 17, 1988, 102 Stat. 994; Pub. L. 101-624, title XVIII, §1836(a), Nov. 28, 1990, 104 Stat. 3833; Pub. L. 115-334, title V, §5411(38), Dec. 20, 2018, 132 Stat. 4683.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-334, §5411(38)(A), struck out par. (2) designation and heading before “The Corporation” and struck out par. (1) which provided for transfer of amounts in the revolving fund into the Farm Credit Insurance Fund, with exception for transactions before Jan. 6, 1988.

Subsec. (c)(2). Pub. L. 115-334, §5411(38)(B), substituted “Insurance Fund to ensure” for “Insurance Fund to—

“(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 2278b-6(d)(3) of this title; and

“(B) ensure”.

1990—Subsec. (c)(1), (2). Pub. L. 101-624 substituted “January 1, 1993” for “5 years after the date of the enactment of this part” in par. (1) and for “5 years after the date of enactment of this part” in par. (2).

1988—Subsec. (b)(1). Pub. L. 100-399, §302(j), struck out “(in effect immediately before January 6, 1988)” after “section 2151 of this title”.

Subsec. (b)(2). Pub. L. 100-399, §302(k), substituted “The” for “Beginning 5 years after January 6, 1988, the”.

Subsec. (c)(2)(B). Pub. L. 100-399, §302(l), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 2162(c)(2) of this title.”

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.

§ 2277a-10. Powers of Corporation with respect to troubled insured System banks

(a) Authority to provide assistance

(1) Stand-alone assistance

The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

(A) to prevent the placing of the bank in receivership;

(B) to restore the bank to normal operation; or

(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

(2) Facilitation of mergers or consolidation

(A) In general

To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion

and on such terms and conditions as the Board of Directors may prescribe, may—

- (i) purchase any such assets or assume any such liabilities;
- (ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;
- (iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or
- (iv) take any combination of the actions referred to in the preceding clauses.

(B) Qualifying insured System bank

For purposes of subparagraph (A), the term “qualifying insured System bank” means any insured System bank that—

- (i) is in receivership;
- (ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or
- (iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

(3) Limitation

(A) Least-cost resolution

Assistance may not be provided to an insured System bank under this subsection unless the means of providing the assistance is the least costly means of providing the assistance by the Farm Credit Insurance Fund of all possible alternatives available to the Corporation, including liquidation of the bank (including paying the insured obligations issued on behalf of the bank). Before making a least-cost determination under this subparagraph, the Corporation shall accord such other insured System banks as the Corporation determines to be appropriate the opportunity to submit information relating to the determination.

(B) Determining least costly approach

In determining the least costly alternative under subparagraph (A), the Corporation shall—

- (i) evaluate alternatives on a present-value basis, using a reasonable discount rate;
- (ii) document the evaluation and the assumptions on which the evaluation is based; and
- (iii) retain the documentation for not less than 5 years.

(C) Time of determination

(i) General rule

For purposes of this subsection, the determination of the costs of providing any assistance under any provision of this sec-

tion with respect to any insured System bank shall be made as of the date on which the Corporation makes the determination to provide the assistance to the institution under this section.

(ii) Rule for liquidations

For purposes of this subsection, the determination of the costs of liquidation of any insured System bank shall be made as of the earliest of—

- (I) the date on which a conservator is appointed for the insured System bank;
- (II) the date on which a receiver is appointed for the insured System bank; or
- (III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to the insured System bank.

(D) Rule for stand-alone assistance

Before providing any assistance under paragraph (1), the Corporation shall evaluate the adequacy of managerial resources of the insured System bank. The continued service of any director or senior ranking officer who serves in a policymaking role for the assisted insured System bank, as determined by the Corporation, shall be subject to approval by the Corporation as a condition of assistance.

(E) Discretionary determinations

Any determination that the Corporation makes under this paragraph shall be in the sole discretion of the Corporation.

(F) Purchase of stock

The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

(4) Subordination

Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

(5) Reports

The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

(b) Authority to pledge or sell assets

The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

(c) Subrogation

(1) In general

On the payment to an owner of an insured obligation issued on behalf of an insured Sys-

tem bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

(2) Receipt of dividends

Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

(d) Right to assets

Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

- (1) is in writing;
- (2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;
- (3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and
- (4) has been, continuously, from the time of its execution, an official record of the bank.

(e) Insured System bank

As used in this section, the terms “insured System bank” and “bank” include each production credit association and other association making direct loans under the authority provided under section 2279b of this title.

(f) Effective date

The Corporation shall not exercise any authority under this section during the 5-year period prior to January 1, 1993.

(Pub. L. 92-181, title V, §5.61, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1616; amended Pub. L. 101-220, §6(b)(4), Dec. 12, 1989, 103 Stat. 1880; Pub. L. 101-624, title XVIII, §1836(b), Nov. 28, 1990, 104 Stat. 3833; Pub. L. 104-105, title II, §217, Feb. 10, 1996, 110 Stat. 179.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-105, §217(b)(1), substituted “Stand-alone assistance” for “In general” in par. heading.

Subsec. (a)(2). Pub. L. 104-105, §217(b)(2)(A), substituted “Facilitation of mergers or consolidation” for “Enumerated powers” in par. heading.

Subsec. (a)(2)(A). Pub. L. 104-105, §217(b)(2)(B), substituted “In general” for “Facilitation of mergers or consolidation” in subpar. heading.

Subsec. (a)(3)(A). Pub. L. 104-105, §217(a)(2), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.”

Subsec. (a)(3)(B) to (F). Pub. L. 104-105, §217(a), added subpars. (B) to (E) and redesignated former subpar. (B) as (F).

1990—Subsec. (f). Pub. L. 101-624 substituted “prior to January 1, 1993” for “beginning on the date of the enactment of this part”.

1989—Subsec. (e). Pub. L. 101-220 inserted “and other association making direct loans under the authority provided under section 2279b of this title,” after “production credit association”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-220 effective for insurance premiums due to the Farm Credit System Insurance Corporation under this chapter on or after Jan. 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and effective for the calculation of the initial premium payment required under section 2277a-5(c) of this title, see section 6(c) of Pub. L. 101-220, set out as a note under section 2020 of this title.

§ 2277a-10a. Oversight actions by Corporation

(a) “Institution” defined

In this section, the term “institution” means—

- (1) an insured System bank; and
- (2) a production credit association or other association making loans under section 2279b of this title with a direct loan payable to the funding bank of the association that comprises 20 percent or more of the funding bank’s total loan volume net of nonaccrual loans.

(b) Consultation regarding participation of undercapitalized banks in issuance of insured obligations

The Farm Credit Administration shall consult with the Corporation prior to approving an insured obligation that is to be issued by or on behalf of, or participated in by, any insured System bank that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration for the bank.

(c) Consultation regarding applications for mergers and restructurings

(1) Corporation to receive copy of transaction applications

On receiving an application for a merger or restructuring of an institution, the Farm Credit Administration shall forward a copy of the application to the Corporation.

(2) Consultation required

If the proposed merger or restructuring involves an institution that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration applicable to the institution, the Farm Credit Administration shall allow 30 days within which the Corporation may submit the views and recommendations of the Corporation, including any conditions for approval. In determining whether to approve or disapprove any proposed merger or restructuring, the Farm Credit Administration shall give due consideration to the views and recommendations of the Corporation.

(Pub. L. 92-181, title V, §5.61A, as added Pub. L. 104-105, title II, §218, Feb. 10, 1996, 110 Stat. 180.)

§ 2277a-10b. Authority to regulate golden parachute and indemnification payments

(a) Definitions

In this section:

(1) Golden parachute payment

The term “golden parachute payment”—

(A) means a payment (or any agreement to make a payment) in the nature of compensation for the benefit of any institution-related party under an obligation of any Farm Credit System institution that—

(i) is contingent on the termination of the party's relationship with the institution; and

(ii) is received on or after the date on which—

(I) the institution is insolvent;

(II) a conservator or receiver is appointed for the institution;

(III) the institution has been assigned by the Farm Credit Administration a composite CAMEL rating of 4 or 5 under the Farm Credit Administration Rating System, or an equivalent rating; or

(IV) the Corporation otherwise determines that the institution is in a troubled condition (as defined in regulations issued by the Corporation); and

(B) includes a payment that would be a golden parachute payment but for the fact that the payment was made before the date referred to in subparagraph (A)(ii) if the payment was made in contemplation of the occurrence of an event described in any subclause of subparagraph (A); but

(C) does not include—

(i) a payment made under a retirement plan that is qualified (or is intended to be qualified) under section 401 of title 26 or other nondiscriminatory benefit plan;

(ii) a payment made under a bona fide supplemental executive retirement plan, deferred compensation plan, or other arrangement that the Corporation determines, by regulation or order, to be permissible; or

(iii) a payment made by reason of the death or disability of an institution-related party.

(2) Indemnification payment

The term “indemnification payment” means a payment (or any agreement to make a payment) by any Farm Credit System institution for the benefit of any person who is or was an institution-related party, to pay or reimburse the person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Farm Credit Administration that results in a final order under which the person—

(A) is assessed a civil money penalty; or

(B) is removed or prohibited from participating in the conduct of the affairs of the institution.

(3) Institution-related party

The term “institution-related party” means—

(A) a director, officer, employee, or agent for a Farm Credit System institution or any

conservator or receiver of such an institution;

(B) a stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution; and

(C) an independent contractor (including any attorney, appraiser, or accountant) that knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution.

(4) Liability or legal expense

The term “liability or legal expense” means—

(A) a legal or other professional expense incurred in connection with any claim, proceeding, or action;

(B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

(C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

(5) Payment

The term “payment” means—

(A) a direct or indirect transfer of any funds or any asset; and

(B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which the funds or assets are segregated, without regard to whether the obligation to make the payment is contingent on—

(i) the determination, after that date, of the liability for the payment of the amount; or

(ii) the liquidation, after that date, of the amount of the payment.

(b) Prohibition

The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including any conservator or receiver of the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

(c) Factors to be taken into account

The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action under subsection (b). The factors may include—

(1) whether there is a reasonable basis to believe that an institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution;

(2) whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution's troubled condition (as defined in regulations prescribed by the Corporation);

(3) whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution;

(4) whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

(A) section 215, 657, 1006, 1014, or 1344 of title 18; or

(B) section 1341 or 1343 of title 18, affecting a Farm Credit System institution;

(5) whether the institution-related party was in a position of managerial or fiduciary responsibility; and

(6) the length of time that the party was related to the Farm Credit System institution and the degree to which—

(A) the payment reasonably reflects compensation earned over the period of employment; and

(B) the compensation represents a reasonable payment for services rendered.

(d) Certain payments prohibited

No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if the payment is made—

(1) in contemplation of the insolvency of the institution or after the commission of an act of insolvency; and

(2) with a view to, or with the result of—

(A) preventing the proper application of the assets of the institution to creditors; or

(B) preferring 1 creditor over another creditor.

(e) Rule of construction

Nothing in this section—

(1) prohibits any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, so long as the insurance policy or bond does not cover any legal or liability expense of an institution described in subsection (a)(2); or

(2) limits the powers, functions, or responsibilities of the Farm Credit Administration.

(Pub. L. 92-181, title V, §5.61B, as added Pub. L. 104-105, title II, §218, Feb. 10, 1996, 110 Stat. 181.)

§ 2277a-10c. Corporation as conservator or receiver; certain other powers

(a) Definition of institution

In this section, the term “institution” includes any System institution for which the Corporation has been appointed as conservator or receiver.

(b) Certain powers and duties of Corporation as conservator or receiver

In addition to the powers inherent in the express grant of corporate authority under section

2277a-7(9) of this title, and other powers exercised by the Corporation under this part, the Corporation shall have the following express powers to act as a conservator or receiver:

(1) Rulemaking authority of Corporation

The Corporation may prescribe such regulations as the Corporation determines to be appropriate regarding the conduct of conservatorships or receiverships.

(2) General powers

(A) Successor to System institution

The Corporation shall, as conservator or receiver, and by operation of law, succeed to—

(i) all rights, titles, powers, and privileges of the System institution, and of any stockholder, member, officer, or director of such System institution with respect to the System institution and the assets of the System institution; and

(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such System institution.

(B) Operate the System institution

The Corporation may, as conservator or receiver—

(i) take over the assets of and operate the System institution with all the powers of the stockholders or members, the directors, and the officers of the System institution and conduct all business of the System institution;

(ii) collect all obligations and money due the System institution;

(iii) perform all functions of the System institution in the name of the System institution which are consistent with the appointment as conservator or receiver;

(iv) preserve and conserve the assets and property of such System institution; and

(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Corporation as conservator or receiver.

(C) Functions of System institution's officers, directors, members, and stockholders

The Corporation may, by regulation or order, provide for the exercise of any function by any stockholder, member, director, or officer of any System institution for which the Corporation has been appointed conservator or receiver.

(D) Powers as conservator

Subject to any Farm Credit Administration approvals required under this chapter, the Corporation may, as conservator, take such action as may be—

(i) necessary to put the System institution in a sound and solvent condition; and

(ii) appropriate to carry on the business of the System institution and preserve and conserve the assets and property of the System institution.

(E) Additional powers as receiver

The Corporation may, as receiver, liquidate the System institution and proceed to realize upon the assets of the System in-

stitution, in such manner as the Corporation determines to be appropriate.

(F) Organization of new System bank

The Corporation may, as receiver with respect to any System bank, organize a bridge System bank under subsection (h).

(G) Merger; transfer of assets and liabilities

(i) In general

Subject to clause (ii), the Corporation may, as conservator or receiver—

(I) merge the System institution with another System institution; and

(II) transfer or sell any asset or liability of the System institution in default without any approval, assignment, or consent with respect to such transfer.

(ii) Approval

No merger or transfer under clause (i) may be made to another System institution (other than a bridge System bank under subsection (h)) without the approval of the Farm Credit Administration.

(H) Payment of valid obligations

The Corporation, as conservator or receiver, shall, to the extent that proceeds are realized from the performance of contracts or the sale of the assets of a System institution, pay all valid obligations of the System institution in accordance with the prescriptions and limitations of this section.

(I) Incidental powers

(i) In general

The Corporation may, as conservator or receiver—

(I) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section and such incidental powers as shall be necessary to carry out such powers; and

(II) take any action authorized by this section, which the Corporation determines is in the best interests of—

(aa) the System institution in receivership or conservatorship;

(bb) System institutions;

(cc) System institution stockholders or investors; or

(dd) the Corporation.

(ii) Termination of rights and claims

(I) In general

Except as provided in subclause (II), notwithstanding any other provision of law, the appointment of the Corporation as receiver for a System institution and the succession of the Corporation, by operation of law, to the rights, titles, powers, and privileges described in subparagraph (A) shall terminate all rights and claims that the stockholders and creditors of the System institution may have, arising as a result of their status as stockholders or creditors, against the assets or charter of the System institution or the Corporation.

(II) Exceptions

Subclause (I) shall not terminate the right to payment, resolution, or other

satisfaction of the claims of stockholders and creditors described in that subclause, as permitted under paragraphs (10) and (11) and subsection (d).

(iii) Charter

Notwithstanding any other provision of law, for purposes of this section, the charter of a System institution shall not be considered to be an asset of the System institution.

(J) Utilization of private sector

In carrying out its responsibilities in the management and disposition of assets from System institutions, as conservator, receiver, or in its corporate capacity, the Corporation may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, if the Corporation determines utilization of such services is practicable, efficient, and cost effective.

(3) Authority of receiver to determine claims

(A) In general

The Corporation may, as receiver, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4).

(B) Notice requirements

The receiver, in any case involving the liquidation or winding up of the affairs of a closed System institution, shall—

(i) promptly publish a notice to the System institution's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

(C) Mailing required

The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the System institution's books—

(i) at the creditor's last address appearing in such books; or

(ii) upon discovery of the name and address of a claimant not appearing on the System institution's books within 30 days after the discovery of such name and address.

(4) Rulemaking authority relating to determination of claims

The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

(5) Procedures for determination of claims

(A) Determination period

(i) In general

Before the end of the 180-day period beginning on the date any claim against a

System institution is filed with the Corporation as receiver, the Corporation shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

(ii) Extension of time

The period described in clause (i) may be extended by a written agreement between the claimant and the Corporation.

(iii) Mailing of notice sufficient

The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

- (I) on the System institution's books;
- (II) in the claim filed by the claimant;
- or
- (III) in documents submitted in proof of the claim.

(iv) Contents of notice of disallowance

If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

- (I) a statement of each reason for the disallowance; and
- (II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

(B) Allowance of proven claims

The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

(C) Disallowance of claims filed after end of filing period

(i) In general

Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

(ii) Certain exceptions

Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the receiver if—

- (I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and
- (II) such claim is filed in time to permit payment of such claim.

(D) Authority to disallow claims

(i) In general

The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

(ii) Payments to less than fully secured creditors

In the case of a claim of a creditor against a System institution which is se-

cured by any property or other asset of such System institution, any receiver appointed for any System institution—

(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the System institution; and

(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the System institution.

(iii) Exceptions

No provision of this paragraph shall apply with respect to—

- (I) any extension of credit from any Federal Reserve bank or the United States Treasury to any System institution; or
- (II) any security interest in the assets of the System institution securing any such extension of credit.

(E) No judicial review of determination pursuant to subparagraph (D)

No court may review the Corporation's determination pursuant to subparagraph (D) to disallow a claim.

(F) Legal effect of filing

(i) Statute of limitation tolled

For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) No prejudice to other actions

Subject to paragraph (12) and the determination of claims by a receiver, the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

(6) Provision for judicial determination of claims

(A) In general

Before the end of the 60-day period beginning on the earlier of—

- (i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a System institution for which the Corporation is receiver; or
- (ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the System institution's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

(B) Statute of limitations

If any claimant fails to file suit on such claim (or continue an action commenced be-

fore the appointment of the receiver), before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(7) Review of claims; administrative hearing

If any claimant requests review under this paragraph in lieu of filing or continuing any action under paragraph (6) and the Corporation agrees to such request, the Corporation shall consider the claim after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of title 5.

(8) Expedited determination of claims

(A) Establishment required

The Corporation shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

- (i) allege the existence of legally valid and enforceable or perfected security interests in assets of any System institution for which the Corporation has been appointed receiver; and
- (ii) allege that irreparable injury will occur if the routine claims procedure is followed.

(B) Determination period

Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall—

- (i) determine—
 - (I) whether to allow or disallow such claim; or
 - (II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); and
- (ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

(C) Period for filing or renewing suit

Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

- (i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or
- (ii) the date the Corporation denies the claim.

(D) Statute of limitations

If an action described in subparagraph (C) is not filed, or the motion to renew a pre-

viously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(E) Legal effect of filing

(i) Statute of limitation tolled

For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) No prejudice to other actions

Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

(9) Agreement as basis of claim

(A) Requirements

Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 2277a-10(d) of this title shall not form the basis of, or substantially comprise, a claim against the receiver or the Corporation.

(B) Exception to contemporaneous execution requirement

Notwithstanding section 2277a-10(d) of this title, any agreement relating to an extension of credit between a Federal Reserve bank or the United States Treasury and any System institution which was executed before such extension of credit to such System institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

(10) Payment of claims

(A) In general

The receiver may, in the receiver's discretion and to the extent funds are available from the assets of the System institution, pay creditor claims which are allowed by the receiver, approved by the Corporation pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this chapter.

(B) Liquidation payments

The receiver may, in the receiver's sole discretion, pay from the assets of the System institution portions of proved claims at any time, and no liability shall attach to the Corporation (in such Corporation's corporate capacity or as receiver), by reason of any such payment, for failure to make payments to a claimant whose claim is not proved at the time of any such payment.

(C) Rulemaking authority of Corporation

The Corporation may prescribe such rules, including definitions of terms, as it deems

appropriate to establish a single uniform interest rate for or to make payments of post insolvency interest to creditors holding proven claims against the receivership estates of System institutions following satisfaction by the receiver of the principal amount of all creditor claims.

(11) Priority of expenses and claims

(A) In general

Amounts realized from the liquidation or other resolution of any System institution by any receiver appointed for such System institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

(i) Administrative expenses of the receiver.

(ii) If authorized by the Corporation, wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual—

(I) in an amount that is not more than \$11,725 for each individual (as indexed for inflation, by regulation of the Corporation); and

(II) that is earned 180 days or fewer before the date of appointment of the Corporation as receiver.

(iii) In the case of the resolution of a System bank, all claims of holders of consolidated and System-wide bonds and all claims of the other System banks arising from the payments of the System banks pursuant to—

(I) section 2155 of this title on consolidated and System-wide bonds issued under subsection (c) or (d) of section 2153 of this title; or

(II) an agreement, in writing and approved by the Farm Credit Administration, among the System banks to reallocate the payments.

(iv) In the case of the resolution of a production credit association or other association making direct loans under section 2279b of this title, all claims of a System bank based on the financing agreement between the association and the System bank—

(I) including interest accrued before and after the appointment of the receiver; and

(II) not including any setoff for stock or other equity of that System bank owned by the association, on that condition that, prior to making that setoff, that System bank shall obtain the approval of the Farm Credit Administration Board for the retirement of that stock or equity.

(v) Any general or senior liability of the System institution (which is not a liability described in clause (vi) or (vii)).

(vi) Any obligation subordinated to general creditors (which is not an obligation described in clause (vii)).

(vii) Any obligation to stockholders or members arising as a result of their status as stockholders or members.

(B) Payment of claims

(i) In general

(I) Payment

All claims of each priority described in clauses (i) through (vii) of subparagraph (A) shall be paid in full, or provisions shall be made for that payment, prior to the payment of any claim of a lesser priority.

(II) Insufficient funds

If there are insufficient funds to pay in full all claims in any priority described clauses (i) through (vii) of subparagraph (A), distribution on that priority of claims shall be made on a pro rata basis.

(ii) Distribution of remaining assets

Following the payment of all claims in accordance with subparagraph (A), the receiver shall distribute the remainder of the assets of the System institution to the owners of stock, participation certificates, and other equities in accordance with the priorities for impairment under the bylaws of the System institution.

(iii) Eligible borrower stock

Notwithstanding subparagraph (C) or any other provision of this section, eligible borrower stock shall be retired in accordance with section 2162 of this title.

(C) Effect of State law

(i) In general

The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of such subparagraph, and then only to the extent of the inconsistency.

(ii) Procedure for determination of inconsistency

Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

(iii) Judicial review

The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5.

(D) Accounting report

Any distribution by the Corporation in connection with any claim described in subparagraph (A)(vii) shall be accompanied by the accounting report required under paragraph (15)(B).

(12) Suspension of legal actions

(A) In general

After the appointment of a conservator or receiver for a System institution, the con-

servator or receiver may request a stay for a period not to exceed—

- (i) 45 days, in the case of any conservator; and
- (ii) 90 days, in the case of any receiver,

in any judicial action or proceeding to which such System institution is or becomes a party.

(B) Grant of stay by all courts required

Upon receipt of a request by any conservator or receiver pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

(13) Additional rights and duties

(A) Prior final adjudication

The Corporation shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Corporation as conservator or receiver.

(B) Rights and remedies of conservator or receiver

In the event of any appealable judgment, the Corporation as conservator or receiver shall—

- (i) have all the rights and remedies available to the System institution (before the appointment of such conservator or receiver) and the Corporation in its corporate capacity, including removal to Federal court and all appellate rights; and
- (ii) not be required to post any bond in order to pursue such remedies.

(C) No attachment or execution

No attachment or execution may issue by any court on—

- (i) assets in the possession of the receiver; or
- (ii) the charter of a System institution for which the Corporation has been appointed receiver.

(D) Limitation on judicial review

Except as otherwise provided in this subsection, no court shall have jurisdiction over—

- (i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any System institution for which the Corporation has been appointed receiver, including assets which the Corporation may acquire from itself as such receiver; or
- (ii) any claim relating to any act or omission of such System institution or the Corporation as receiver.

(E) Disposition of assets

In exercising any right, power, privilege, or authority as receiver in connection with any sale or disposition of assets of any System institution for which the Corporation is acting as receiver, the Corporation shall, to the maximum extent practicable, conduct its operations in a manner which—

- (i) maximizes the net present value return from the sale or disposition of such assets;

(ii) minimizes the amount of any loss realized in the resolution of cases;

(iii) ensures adequate competition and fair and consistent treatment of offerors;

(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

(v) mitigates the potential for serious adverse effects to the rest of the System.

(14) Statute of limitations for actions brought by conservator or receiver

(A) In general

Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as conservator or receiver shall be—

(i) in the case of any contract claim, the longer of—

(I) the 6-year period beginning on the date the claim accrues; or

(II) the period applicable under State law; and

(ii) in the case of any tort claim, the longer of—

(I) the 3-year period beginning on the date the claim accrues; or

(II) the period applicable under State law.

(B) Determination of the date on which a claim accrues

For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

(i) the date of the appointment of the Corporation as conservator or receiver; or

(ii) the date on which the cause of action accrues.

(C) Revival of expired state causes of action

(i) In general

In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

(ii) Claims described

A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the System institution.

(15) Accounting and recordkeeping requirements

(A) In general

The Corporation as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each conservatorship and receivership or other disposition of System institutions in default.

(B) Annual accounting or report

With respect to each conservatorship or receivership to which the Corporation was appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Farm Credit Administration Board.

(C) Availability of reports

Any report prepared pursuant to subparagraph (B) shall be made available by the Corporation upon request to any stockholder of the System institution for which the Corporation was appointed conservator or receiver or any other member of the public.

(D) Recordkeeping requirement**(i) In general**

Except as provided in clause (ii), after the end of the 6-year period beginning on the date the Corporation is appointed as receiver of a System institution, the Corporation may destroy any records of such System institution which the Corporation, in the Corporation's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

(ii) Old records

Notwithstanding clause (i), the Corporation may destroy records of a System institution which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such System institution in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).

(16) Fraudulent transfers**(A) In general**

The Corporation, as conservator or receiver for any System institution, may avoid a transfer of any interest of a System institution-affiliated party, or any person who the Corporation determines is a debtor of the System institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the System institution, the Farm Credit Administration, or the Corporation.

(B) Right of recovery

To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the System institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

- (i) the initial transferee of such transfer or the System institution-affiliated party or person for whose benefit such transfer was made; or
- (ii) any immediate or mediate transferee of any such initial transferee.

(C) Rights of transferee or obligee

The Corporation may not recover under subparagraph (B) from—

- (i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or
- (ii) any immediate or mediate good faith transferee of such transferee.

(D) Rights under this paragraph

The rights under this paragraph of the Corporation shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11.

(17) Attachment of assets and other injunctive relief

Subject to paragraph (18), any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any System institution or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 2277a-10 of this title), issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation under the control of the court and appointing a trustee to hold such assets.

(18) Standards**(A) Showing**

Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (17) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

(B) State proceeding

If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation pursuant to paragraph (17) may be requested under the laws of such State.

(19) Treatment of claims arising from breach of contracts executed by the receiver or conservator

Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against a receiver or conservator for a System institution for the breach of an agreement executed or approved by such receiver or conservator after the date of its appointment shall be paid as an administrative expense of the receiver or conservator. Nothing in this paragraph shall be construed to limit the power of a receiver or conservator to exercise any rights under contract or law, including terminating, breaching, canceling, or otherwise discontinuing such agreement.

(c) Provisions relating to contracts entered into before appointment of conservator or receiver

(1) Authority to repudiate contracts

In addition to any other rights a conservator or receiver may have, the conservator or receiver for a System institution may disaffirm or repudiate any contract or lease—

(A) to which such System institution is a party;

(B) the performance of which the conservator or receiver, in the conservator's or receiver's discretion, determines to be burdensome; and

(C) the disaffirmance or repudiation of which the conservator or receiver determines, in the conservator's or receiver's discretion, will promote the orderly administration of the System institution's affairs.

(2) Timing of repudiation

The Corporation as conservator or receiver for any System institution shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

(3) Claims for damages for repudiation

(A) In general

Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

(i) limited to actual direct compensatory damages; and

(ii) determined as of—

(I) the date of the appointment of the conservator or receiver; or

(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

(B) No liability for other damages

For purposes of subparagraph (A), the term "actual direct compensatory damages" does not include—

(i) punitive or exemplary damages;

(ii) damages for lost profits or opportunity; or

(iii) damages for pain and suffering.

(C) Measure of damages for repudiation of financial contracts

In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

(ii) paid in accordance with this subsection and subsection (j), except as otherwise specifically provided in this section.

(4) Leases under which the System institution is the lessee

(A) In general

If the conservator or receiver disaffirms or repudiates a lease under which the System

institution was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

(B) Payments of rent

Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

(i) be entitled to the contractual rent accruing before the later of the date—

(I) the notice of disaffirmance or repudiation is mailed; or

(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease; and

(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (j).

(5) Leases under which the System institution is the lessor

(A) In general

If the conservator or receiver repudiates an unexpired written lease of real property of the System institution under which the System institution is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

(i) treat the lease as terminated by such repudiation; or

(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

(B) Provisions applicable to lessee remaining in possession

If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

(i) the lessee—

(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the System institution under the lease after such date; and

(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

(6) Contracts for the sale of real property

(A) In general

If the conservator or receiver repudiates any contract that meets the requirements of

paragraphs (1) through (4) of section 2277a-10(d) of this title for the sale of real property, and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

- (i) treat the contract as terminated by such repudiation; or
- (ii) remain in possession of such real property.

(B) Provisions applicable to purchaser remaining in possession

If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

- (i) the purchaser—
 - (I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and
 - (II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the System institution under the contract; and
- (ii) the conservator or receiver shall—
 - (I) not be liable to the purchaser for any damages arising after that date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);
 - (II) deliver title to the purchaser in accordance with the contract; and
 - (III) have no obligation under the contract, other than the performance required under subclause (II).

(C) Assignment and sale allowed

(i) In general

No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described in subparagraph (A) and sell the property subject to the contract and this paragraph.

(ii) No liability after assignment and sale

If an assignment and sale described in clause (i) is consummated, the Corporation, acting as conservator or receiver, shall have no further liability under the applicable contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

(7) Provisions applicable to service contracts

(A) Services performed before appointment

In the case of any contract for services between any person and any System institution for which the Corporation has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

- (i) a claim to be paid in accordance with subsections (b) and (d); and

- (ii) deemed to have arisen as of the date the conservator or receiver was appointed.

(B) Services performed after appointment and prior to repudiation

If, in the case of any contract for services described in subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

- (i) the other party shall be paid under the terms of the contract for the services performed; and
- (ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

(C) Acceptance of performance no bar to subsequent repudiation

The acceptance by any conservator or receiver of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver, to repudiate such contract under this section at any time after such performance.

(8) Certain qualified financial contracts

(A) Definitions

In this paragraph:

(i) Commodity contract

The term “commodity contract” means—

- (I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;
- (II) with respect to a foreign futures commission merchant, a foreign future;
- (III) with respect to a leverage transaction merchant, a leverage transaction;
- (IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;
- (V) with respect to a commodity options dealer, a commodity option;
- (VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;
- (VII) any combination of the agreements or transactions referred to in this clause;
- (VIII) any option to enter into any agreement or transaction referred to in this clause;
- (IX) a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement pro-

vides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

(ii) Forward contract

The term “forward contract” means—

(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I) through (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(iii) Person

The term “person”—

(I) has the meaning given the term in section 1 of title 1; and

(II) includes any governmental entity.

(iv) Qualified financial contract

The term “qualified financial contract” means any securities contract, commodity

contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

(v) Repurchase agreement

(I) In general

The term “repurchase agreement” (including with respect to a reverse repurchase agreement)—

(aa) means—

(AA) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 78c(a) of title 15), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

(BB) any combination of agreements or transactions referred to in subitems (AA) and (CC);

(CC) any option to enter into any agreement or transaction referred to in subitem (AA) or (BB);

(DD) a master agreement that provides for an agreement or transaction referred to in subitem (AA), (BB), or (CC), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this item, except that the master agreement shall be considered to be a repurchase agreement under this item only with respect to each agreement or transaction under the master agreement that is referred to in subitem (AA), (BB), or (CC); and

(EE) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any of subitems (AA) through (DD), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subitem; and

(bb) does not include any repurchase obligation under a participation in a commercial mortgage,¹ loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

(II) Related definition

For purposes of subclause (I)(aa), the term “qualified foreign government security” means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).

(vi) Securities contract

The term “securities contract”—

(I) means—

(aa) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not the repurchase or reverse repurchase transaction is a repurchase agreement);

(bb) any option entered into on a national securities exchange relating to foreign currencies;

(cc) the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not the settlement is in connection with any agreement or transaction referred to in any of items (aa), (bb), and (dd) through (kk));

(dd) any margin loan;

(ee) any extension of credit for the clearance or settlement of securities transactions;

(ff) any loan transaction coupled with a securities collar transaction, any prepaid securities forward trans-

action, or any total return swap transaction coupled with a securities sale transaction;

(gg) any other agreement or transaction that is similar to any agreement or transaction referred to in this subclause;

(hh) any combination of the agreements or transactions referred to in this subclause;

(ii) any option to enter into any agreement or transaction referred to in this subclause;

(jj) a master agreement that provides for an agreement or transaction referred to in any of items (aa) through (ii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subclause, except that the master agreement shall be considered to be a securities contract under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in item (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), or (ii); and

(kk) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subclause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this subclause; and

(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term.

(vii) Swap agreement

The term “swap agreement” means—

(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, that is—

(aa) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

(bb) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange precious metals or other commodity agreement;

(cc) a currency swap, option, future, or forward agreement;

(dd) an equity index or equity swap, option, future, or forward agreement;

(ee) a debt index or debt swap, option, future, or forward agreement;

(ff) a total return, credit spread or credit swap, option, future, or forward agreement;

(gg) a commodity index or commodity swap, option, future, or forward agreement;

¹ So in original. The comma probably should not appear.

- (hh) a weather swap, option, future, or forward agreement;
- (ii) an emissions swap, option, future, or forward agreement; or
- (jj) an inflation swap, option, future, or forward agreement;

(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(III) any combination of agreements or transactions referred to in this clause;

(IV) any option to enter into any agreement or transaction referred to in this clause;

(V) a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in any of subclauses (I) through (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(viii) Transfer

The term “transfer” means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of a System institution.

(ix) Treatment of master agreement as 1 agreement

For purposes of this subparagraph—

(I) any master agreement for any contract or agreement described in this sub-

paragraph (or any master agreement for such a master agreement or agreements), together with all supplements to the master agreement, shall be treated as a single agreement and a single qualified financial contact; and

(II) if a master agreement contains provisions relating to agreements or transactions that are not qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

(B) Rights of parties to contracts

Subject to paragraphs (9) and (10), and notwithstanding any other provision of this chapter (other than subsection (b)(9) and section 2277a-10(d) of this title) or any other Federal or State law, no person shall be stayed or prohibited from exercising—

(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a System institution which arises upon the appointment of the Corporation as receiver for such System institution at any time after such appointment;

(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); or

(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under, or in connection with, 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

(C) Applicability of other provisions

Subsection (b)(12) shall apply in the case of any judicial action or proceeding brought against any receiver referred to in subparagraph (A), or the System institution for which such receiver was appointed, by any party to a contract or agreement described in subparagraph (B)(i) with such System institution.

(D) Certain transfers not avoidable

(i) In general

Notwithstanding paragraph (11) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Corporation, whether acting as such or as conservator or receiver of a System institution, may not avoid any transfer of money or other property in connection with any qualified financial contract with a System institution.

(ii) Exception for certain transfers

Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a System institution if the Corporation determines that the transferee had actual intent to hinder, delay, or defraud such System institution, the creditors of such Sys-

tem institution, or any conservator or receiver appointed for such System institution.

(E) Certain protections in event of appointment of conservator

Notwithstanding any other provision of this chapter (other than subparagraph (G), paragraph (10), subsection (b)(9), and section 2277a-10(d) of this title) or any other Federal or State law, no person shall be stayed or prohibited from exercising—

- (i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a System institution in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;
- (ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); and
- (iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

(F) Clarification

No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) or to disaffirm or repudiate any such contract in accordance with paragraph (1).

(G) Walkaway clauses not effective

(i) Definition of walkaway clause

In this subparagraph, the term “walkaway clause” means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist—

- (I) solely because of—
 - (aa) the status of the party as a non-defaulting party in connection with the insolvency of a System institution that is a party to the contract; or
 - (bb) the appointment of, or the exercise of rights or powers by, the Corporation as a conservator or receiver of the System institution; and
- (II) not as a result of the exercise by a party of any right to offset, setoff, or net obligations that exist under—
 - (aa) the contract;
 - (bb) any other contract between those parties; or
 - (cc) applicable law.

(ii) Treatment

Notwithstanding the provisions of subparagraphs (B) and (E), no walkaway clause shall be enforceable in a qualified

financial contract of a System institution in default.

(iii) Limited suspension of certain obligations

In the case of a qualified financial contract referred to in clause (ii), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the receiver is appointed until the earlier of—

- (I) the time such party receives notice that such contract has been transferred pursuant to subparagraph (B); or
- (II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver.

(H) Recordkeeping requirements

The Corporation, in consultation with the Farm Credit Administration, may prescribe regulations requiring more detailed recordkeeping by any System institution with respect to qualified financial contracts (including market valuations), only if such System institution is subject to subclause (I), (III), or (IV) of section 2277a-10b(a)(1)(A)(ii) of this title.

(9) Transfer of qualified financial contracts

(A) Definitions

In this paragraph:

(i) Clearing organization

The term “clearing organization” has the meaning given the term in section 4402 of this title.

(ii) Financial institution

The term “financial institution” means a System institution, a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution.

(B) Requirement

In making any transfer of assets or liabilities of a System institution in default which includes any qualified financial contract, the conservator or receiver for such System institution shall either—

- (i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or that is otherwise the subject of a bankruptcy or insolvency proceeding—
 - (I) all qualified financial contracts between any person or any affiliate of such person and the System institution in default;
 - (II) all claims of such person or any affiliate of such person against such System institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such System institution);
 - (III) all claims of such System institution against such person or any affiliate

of such person under any such contract; and

(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

(C) Transfer to foreign bank, foreign financial institution, or branch or agency of a foreign bank or financial institution

In transferring any qualified financial contracts and related claims and property under subparagraph (B)(i), the conservator or receiver for the System institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

(D) Transfer of contracts subject to the rules of a clearing organization

In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (B)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

(10) Notification of transfer

(A) Definition of business day

In this paragraph, the term “business day” means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(B) Notification

If—

(i) the conservator or receiver for a System institution in default makes any transfer of the assets and liabilities of such System institution; and

(ii) the transfer includes any qualified financial contract, the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.

(C) Certain rights not enforceable

(i) Receivership

A person who is a party to a qualified financial contract with a System institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(B) of this subsection, solely by reason of or incidental to the appointment of a receiver for the System institution (or the insolvency or financial condition of the System institution for which the receiver has been appointed)—

(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(B).

(ii) Conservatorship

A person who is a party to a qualified financial contract with a System institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection, solely by reason of or incidental to the appointment of a conservator for the System institution (or the insolvency or financial condition of the System institution for which the conservator has been appointed).

(iii) Notice

For purposes of this paragraph, the Corporation as receiver or conservator of a System institution shall be deemed to have notified a person who is a party to a qualified financial contract with such System institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (B).

(D) Treatment of bridge System institutions

The following System institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

(i) A bridge System bank.

(ii) A System institution organized by the Corporation or the Farm Credit Administration, for which a conservator is appointed either—

(I) immediately upon the organization of the System institution; or

(II) at the time of a purchase and assumption transaction between the System institution and the Corporation as receiver for a System institution in default.

(11) Disaffirmance or repudiation of qualified financial contracts

In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a System institution is a party, the conservator or receiver for such System institution shall either—

(A) disaffirm or repudiate all qualified financial contracts between—

- (i) any person or any affiliate of such person; and
- (ii) the System institution in default; or

(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

(12) Certain security interests not avoidable

No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any System institution except where such an interest is taken in contemplation of the System institution's insolvency or with the intent to hinder, delay, or defraud the System institution or the creditors of such System institution.

(13) Authority to enforce contracts

(A) In general

The conservator or receiver may enforce any contract, other than a director's or officer's liability insurance contract or a System institution bond, entered into by the System institution notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of or the exercise of rights or powers by a conservator or receiver.

(B) Certain rights not affected

No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a director's or officer's liability insurance contract or institution bond under other applicable law.

(C) Consent requirement

(i) In general

Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the System institution is a party, or to obtain possession of or exercise control over any property of the System institution or affect any contractual rights of the System institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable.

(ii) Certain exceptions

No provision of this subparagraph shall apply to a director or officer liability insurance contract or an institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contract.

(14) Exception for Federal Reserve and the United States Treasury

No provision of this subsection shall apply with respect to—

(A) any extension of credit from any Federal Reserve bank or the United States Treasury to any System institution; or

(B) any security interest in the assets of the System institution securing any such extension of credit.

(15) Savings clause

The meanings of terms used in this subsection—

(A) are applicable for purposes of this subsection only; and

(B) shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other law, regulation, or rule, including—

(i) the Gramm-Leach-Bliley Act (12 U.S.C. 1811 note; Public Law 106-102);

(ii) the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.);

(iii) the securities laws (as that term is defined in section 78c(a) of title 15); and

(iv) the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(d) Valuation of claims in default

(1) In general

Notwithstanding any other provision of Federal law or the law of any State and regardless of the method which the Corporation determines to utilize with respect to a System institution in default or in danger of default, including transactions authorized under subsection (h) and section 2277a-10(a) of this title, this subsection shall govern the rights of the creditors of such System institution.

(2) Maximum liability

The maximum liability of the Corporation, acting as receiver or in any other capacity, to any person having a claim against the receiver or the System institution for which such receiver is appointed shall equal the amount such claimant would have received if the Corporation had liquidated the assets and liabilities of such System institution without exercising the Corporation's authority under subsection (h) or section 2277a-10(a) of this title.

(3) Additional payments authorized

(A) In general

The Corporation may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. Notwithstanding any other provision of Federal or State law, or the constitution of any State, the Corporation shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category of claimants.

(B) Manner of payment

The Corporation may make the payments or credit the amounts specified in subparagraph (A) directly to the claimants or may make such payments or credit such amounts to an open System institution to induce such System institution to accept liability for such claims.

(e) Limitation on court action

Except as provided in this section, no court may take any action, except at the written request of the Board of Directors, to restrain or affect the exercise of powers or functions of the Corporation as a conservator or a receiver.

(f) Liability of Directors and Officers**(1) In general**

A director or officer of a System institution may be held personally liable for monetary damages in any civil action—

(A) brought by, on behalf of, or at the request or direction of the Corporation;

(B) prosecuted wholly or partially for the benefit of the Corporation—

(i) acting as conservator or receiver of that System institution;

(ii) acting based on a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by that receiver or conservator; or

(iii) acting based on a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by a System institution or an affiliate of a System institution in connection with assistance provided under section 2277a-10(a) of this title; and

(C) for, as determined under the applicable State law—

(i) gross negligence; or

(ii) any similar conduct, including conduct that demonstrates a greater disregard of a duty of care than gross negligence, such as intentional tortious conduct.

(2) Effect

Nothing in paragraph (1) impairs or affects any right of the Corporation under any other applicable law.

(g) Damages

In any proceeding related to any claim against a System institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a System institution, recoverable damages determined to result from the improvident or otherwise improper use or investment of any System institution's assets shall include principal losses and appropriate interest.

(h) Bridge Farm Credit System banks**(1) Organization****(A) Purpose****(i) In general**

When 1 or more System banks are in default, or when the Corporation anticipates that 1 or more System banks may become in default, the Corporation may, in its discretion, organize, and the Farm Credit Ad-

ministration may, in its discretion, charter, 1 or more System banks, with the powers and attributes of System banks, subject to the provisions of this subsection, to be referred to as "bridge System banks".

(ii) Intent of Congress

It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of any System bank in default with respect to which a bridge System bank is chartered, the Corporation should—

(I) continue to honor commitments made by the System bank in default to creditworthy customers; and

(II) not interrupt or terminate adequately secured loans which are transferred under this subsection and are being repaid by the debtor in accordance with the terms of the loan instrument.

(B) Authorities

Once chartered by the Farm Credit Administration, the bridge System bank may—

(i) assume such liabilities of the System bank or banks in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

(ii) purchase such assets of the System bank or banks in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate; and

(iii) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this chapter.

(C) Articles of association

The articles of association and organization certificate of a bridge System bank as approved by the Corporation shall be executed by 3 representatives designated by the Corporation.

(D) Interim directors

A bridge System bank shall have an interim board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

(2) Chartering**(A) Conditions**

The Farm Credit Administration may charter a bridge System bank only if the Board of Directors determines that—

(i) the amount which is reasonably necessary to operate such bridge System bank will not exceed the amount which is reasonably necessary to save the cost of liquidating 1 or more System banks in default or in danger of default with respect to which the bridge System bank is chartered;

(ii) the continued operation of such System bank or banks in default or in danger of default with respect to which the bridge System bank is chartered is essential to provide adequate farm credit services in the 1 or more communities where each such System bank in default or in danger of default is or was providing those farm credit services; or

(iii) the continued operation of such System bank or banks in default or in danger of default with respect to which the bridge System bank is chartered is in the best interest of the Farm Credit System or the public.

(B) Bridge System bank treated as being in default for certain purposes

A bridge System bank shall be treated as being in default at such times and for such purposes as the Corporation may, in its discretion, determine.

(C) Management

A bridge System bank, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation, in consultation with the Farm Credit Administration.

(D) Bylaws

The board of directors of a bridge System bank shall adopt such bylaws as may be approved by the Corporation.

(3) Transfer of assets and liabilities

(A) Transfer upon grant of charter

Upon the granting of a charter to a bridge System bank pursuant to this subsection, the Corporation, as receiver, may transfer any assets and liabilities of the System bank to the bridge System bank in accordance with paragraph (1).

(B) Subsequent transfers

At any time after a charter is granted to a bridge System bank, the Corporation, as receiver, may transfer any assets and liabilities of such System bank in default as the Corporation may, in its discretion, determine to be appropriate in accordance with paragraph (1).

(C) Effective without approval

The transfer of any assets or liabilities of a System bank in default or danger of default transferred to a bridge System bank shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

(4) Powers of bridge System banks

Each bridge System bank chartered under this subsection shall, to the extent described in the charter of the System bank in default with respect to which the bridge System bank is chartered, have all corporate powers of, and be subject to the same provisions of law as, any System bank, except that—

(A) the Corporation may—

(i) remove the interim directors and directors of a bridge System bank;

(ii) fix the compensation of members of the interim board of directors and the board of directors and senior management, as determined by the Corporation in its discretion, of a bridge System bank; and

(iii) waive any requirement established under Federal or State law which would otherwise be applicable with respect to directors of a bridge System bank, on the

condition that the waiver of any requirement established by the Farm Credit Administration shall require the concurrence of the Farm Credit Administration;

(B) the Corporation may indemnify the representatives for purposes of paragraph (1)(B) and the interim directors, directors, officers, employees, and agents of a bridge System bank on such terms as the Corporation determines to be appropriate;

(C) no requirement under any provision of law relating to the capital of a System institution shall apply with respect to a bridge System bank;

(D) the Farm Credit Administration Board may establish a limitation on the extent to which any person may become indebted to a bridge System bank without regard to the amount of the bridge System bank's capital or surplus;

(E)(i) the board of directors of a bridge System bank shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Corporation; and

(ii) the board of directors of a bridge System bank may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Corporation;

(F) the Farm Credit Administration may waive any requirement for a fidelity bond with respect to a bridge System bank at the request of the Corporation;

(G) any judicial action to which a bridge System bank becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a System bank in default shall be stayed from further proceedings for a period of up to 45 days at the request of the bridge System bank;

(H) no agreement which tends to diminish or defeat the right, title or interest of a bridge System bank in any asset of a System bank in default acquired by it shall be valid against the bridge System bank unless such agreement—

(i) is in writing;

(ii) was executed by such System bank in default and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by such System bank in default;

(iii) was approved by the board of directors of such System bank in default or its loan committee, which approval shall be reflected in the minutes of said board or committee; and

(iv) has been, continuously from the time of its execution, an official record of such System bank in default;

(I) notwithstanding subsection² 2277a-10(d)(2) of this title, any agreement relating to an extension of credit between a

² So in original. Probably should be "section".

System bank, Federal Reserve bank, or the United States Treasury and any System institution which was executed before the extension of credit by such lender to such System institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (H); and

(J) except with the prior approval of the Corporation and the concurrence of the Farm Credit Administration, a bridge System bank may not, in any transaction or series of transactions, issue capital stock or be a party to any merger, consolidation, disposition of substantially all of the assets or liabilities of the bridge System bank, sale or exchange of capital stock, or similar transaction, or change its charter.

(5) Capital

(A) No capital required

The Corporation shall not be required to—

(i) issue any capital stock on behalf of a bridge System bank chartered under this subsection; or

(ii) purchase any capital stock of a bridge System bank, except that notwithstanding any other provision of Federal or State law, the Corporation may purchase and retain capital stock of a bridge System bank in such amounts and on such terms as the Corporation, in its discretion, determines to be appropriate.

(B) Operating funds in lieu of capital

Upon the organization of a bridge System bank, and thereafter, as the Corporation may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge System bank, upon such terms and conditions and in such form and amounts as the Corporation may in its discretion determine, funds for the operation of the bridge System bank in lieu of capital.

(C) Authority to issue capital stock

Whenever the Farm Credit Administration Board determines it is advisable to do so, the Corporation shall cause capital stock of a bridge System bank to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

(6) Employee status

Representatives for purposes of paragraph (1)(C), interim directors, directors, officers, employees, or agents of a bridge System bank are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation, the Farm Credit Administration, or any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(C), interim director, director, officer, employee, or agent of a bridge System bank shall not—

(A) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of any provision of law; or

(B) receive any salary or benefits for service in any such capacity with respect to a bridge System bank in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

(7) Assistance authorized

The Corporation may, in its discretion, provide assistance under section 2277a-10(a) of this title to facilitate any merger or consolidation of a bridge System bank in the same manner and to the same extent as such assistance may be provided to a qualifying insured System bank (as defined in section 2277a-10(a)(2)(B) of this title) or to facilitate a bridge System bank's acquisition of any assets or the assumption of any liabilities of a System bank in default or in danger of default.

(8) Duration of bridge System banks

Subject to paragraphs (10) and (11), the status of a bridge System bank as such shall terminate at the end of the 2-year period following the date it was granted a charter. The Farm Credit Administration Board may, in its discretion, extend the status of the bridge System bank as such for 3 additional 1-year periods.

(9) Termination of bridge System banks status

The status of any bridge System bank as such shall terminate upon the earliest of—

(A) the merger or consolidation of the bridge System bank with a System institution that is not a bridge System bank, on the condition that the merger or consolidation shall be subject to the approval of the Farm Credit Administration;

(B) at the election of the Corporation and with the approval of the Farm Credit Administration, the sale of a majority or all of the capital stock of the bridge System bank to a System institution or another bridge System bank;

(C) at the election of the Corporation, and with the approval of the Farm Credit Administration, either the assumption of all or substantially all of the liabilities of the bridge System bank, or the acquisition of all or substantially all of the assets of the bridge System bank, by a System institution that is not a bridge System bank or other entity as permitted under applicable law; and

(D) the expiration of the period provided in paragraph (8), or the earlier dissolution of the bridge System bank as provided in paragraph (11).

(10) Effect of termination events

(A) Merger or consolidation

A bridge System bank that participates in a merger or consolidation as provided in paragraph (9)(A) shall be for all purposes a System institution, with all the rights, powers, and privileges thereof, and such merger or consolidation shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law.

(B) Charter conversion

Following the sale of a majority or all of the capital stock of the bridge System bank

as provided in paragraph (9)(B), the Farm Credit Administration Board may amend the charter of the bridge System bank to reflect the termination of the status of the bridge System bank as such, whereupon the System bank shall remain a System bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

(C) Assumption of liabilities and sale of assets

Following the assumption of all or substantially all of the liabilities of the bridge System bank, or the sale of all or substantially all of the assets of the bridge System bank, as provided in paragraph (9)(C), at the election of the Corporation, the bridge System bank may retain its status as such for the period provided in paragraph (8).

(D) Amendments to charter

Following the consummation of a transaction described in subparagraph (A), (B), or (C) of paragraph (9), the charter of the resulting System institution shall be amended by the Farm Credit Administration to reflect the termination of bridge System bank status, if appropriate.

(11) Dissolution of bridge System bank

(A) In general

Notwithstanding any other provision of State or Federal law, if the bridge System bank's status as such has not previously been terminated by the occurrence of an event specified in subparagraph (A), (B), or (C) of paragraph (9)—

(i) the Corporation, after consultation with the Farm Credit Administration, may, in its discretion, dissolve a bridge System bank in accordance with this paragraph at any time; and

(ii) the Corporation, after consultation with the Farm Credit Administration, shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date the bridge System bank was chartered, or any extension thereof, as provided in paragraph (8).

(B) Procedures

The Farm Credit Administration Board shall appoint the Corporation as receiver for a bridge System bank upon determining to dissolve the bridge System bank. The Corporation as such receiver shall wind up the affairs of the bridge System bank in conformity with the provisions of law relating to the liquidation of closed System banks. With respect to any such bridge System bank, the Corporation as such receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to a receiver of any insured System bank and, notwithstanding any other provision of law in the exercise of such rights, powers, and privileges, the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

(12) Multiple bridge System banks

The Corporation may, in the Corporation's discretion, organize, and the Farm Credit Administration may, in its discretion, charter, 2 or more bridge System banks under this subsection to assume any liabilities and purchase any assets of a single System institution in default.

(i) Certain sales of assets prohibited

(1) Persons who engaged in improper conduct with, or caused losses to, System institutions

The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a failed System institution by the Corporation to—

(A) any person who—

(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations the aggregate amount of which exceed \$1,000,000, to such failed System institution;

(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any System institution for which the Corporation has been appointed as conservator or receiver;

(B) any person who participated, as an officer or director of such failed System institution or of any affiliate of such System institution, in a material way in transactions that resulted in a substantial loss to such failed System institution;

(C) any person who has been removed from, or prohibited from participating in the affairs of, such failed System institution pursuant to any final enforcement action by the Farm Credit Administration;

(D) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such failed System institution; or

(E) any person who is in default on any loan or other extension of credit from such failed System institution which, if not paid, will cause substantial loss to the System institution or the Corporation.

(2) Defaulted debtors

Except as provided in paragraph (3), any person who is in default on any loan or other extension of credit from the System institution, which, if not paid, will cause substantial loss to the System institution or the Corporation, may not purchase any asset from the conservator or receiver.

(3) Settlement of claims

Paragraph (1) shall not apply to the sale or transfer by the Corporation of any asset of any System institution to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

(A) 1 or more claims that have been, or could have been, asserted by the Corporation against the person; or

(B) obligations owed by the person to any System institution, or the Corporation.

(4) Definition of default

For purposes of this subsection, the term “default” means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

(j) Expedited procedures for certain claims

(1) Time for filing notice of appeal

The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against a System institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to a System institution shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be held not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

(2) Scheduling

A court of the United States shall expedite the consideration of any case brought by the Corporation against a System institution’s director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to a System institution. As far as practicable the court shall give such case priority on its docket.

(3) Judicial discretion

The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.

(k) Bond not required; agents; fee

The Corporation as conservator or receiver of a System institution shall not be required to furnish bond and may appoint an agent or agents to assist in its duties as such conservator or receiver. All fees, compensation, and expenses of liquidation and administration shall be fixed by the Corporation and may be paid by it out of funds coming into its possession as such conservator or receiver.

(l) Consultation regarding conservatorships and receiverships

To the extent practicable—

(1) the Farm Credit Administration shall consult with the Corporation prior to taking a preresolution action concerning a System institution that may result in a conservatorship or receivership; and

(2) the Corporation, acting in the capacity of the Corporation as a conservator or receiver, shall consult with the Farm Credit Administration prior to taking any significant action impacting System institutions or service to System borrowers.

(m) Applicability

This section shall become applicable with respect to the power of the Corporation to act as

a conservator or receiver on the date on which the Farm Credit Administration appoints the Corporation as a conservator or receiver under section 2183 or 2279cc of this title.

(Pub. L. 92-181, title V, §5.61C, as added Pub. L. 115-334, title V, §5412, Dec. 20, 2018, 132 Stat. 4686.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(17), (18), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Gramm-Leach-Bliley Act, referred to in subsec. (c)(15)(B)(i), is Pub. L. 106-102, Nov. 12, 1999, 113 Stat. 1338. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of this title and Tables.

The Legal Certainty for Bank Products Act of 2000, referred to in subsec. (c)(15)(B)(ii), is title IV of H.R. 5660, as enacted by Pub. L. 106-554, §1(a)(5), Dec. 21, 2000, 114 Stat. 2763, 2763A-457, which is classified to sections 27 to 27f of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1 of Title 7 and Tables.

The Commodity Exchange Act, referred to in subsec. (c)(15)(B)(iv), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

§ 2277a-11. Investment of funds

Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(Pub. L. 92-181, title V, §5.62, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a-12. Exemption from taxation

Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

(Pub. L. 92-181, title V, §5.63, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a-13. Omitted

Editorial Notes

CODIFICATION

Section, Pub. L. 92-181, title V, §5.64, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1619, which required the Farm Credit System Insurance Corporation to submit an annual report to Congress on the operations of the Corporation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 167 of House Document No. 103-7.

§ 2277a-14. Prohibitions**(a) Corporate name****(1) Use of corporate name**

It shall be unlawful for any person or entity to use the words “Farm Credit System Insurance Corporation” or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

(2) False representation**(A) By outside person or entities**

It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

(B) System banks

It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

(3) Penalty

Any person or entity that willfully violates any provision of this subsection shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

(b) Payments or distributions while in default**(1) In general**

It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

(2) Liability of directors

Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than \$1,000, imprisoned not more than 1 year, or both.

(3) Applicability

This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(c) Failure to file statement or pay premium**(1) In general**

Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than \$100 for each day that such violations continue, which penalty the Corporation may recover for its use.

(2) Applicability

This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(d) Employment of persons convicted of criminal offenses**(1) In general**

Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution.

(2) Penalty

For each willful violation of paragraph (1), the institution involved shall be subject to a penalty of not more than \$100 for each day during which the violation continues, which the Corporation may recover for its use.

(e) Prohibition on uses of funds related to Federal Agricultural Mortgage Corporation

No funds from administrative accounts or from the Farm Credit System Insurance Fund may be used by the Corporation to provide assistance to the Federal Agricultural Mortgage Corporation or to support any activities related to the Federal Agricultural Mortgage Corporation.

(Pub. L. 92-181, title V, §5.65, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1619; amended Pub. L. 101-624, title XVIII, §1837, Nov. 28, 1990, 104 Stat. 3834; Pub. L. 102-237, title V, §502(k), Dec. 13, 1991, 105 Stat. 1869; Pub. L. 115-334, title V, §5409, Dec. 20, 2018, 132 Stat. 4678.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (e). Pub. L. 115-334 added subsec. (e).

1991—Subsec. (d)(1). Pub. L. 102-237 struck out “insured” before “System”.

1990—Subsec. (d)(1). Pub. L. 101-624, §1837(1), substituted “insured System institution” for “insured System bank”.

Subsec. (d)(2). Pub. L. 101-624, §1837(2), substituted “institution” for “bank”.

SUBCHAPTER VI—ASSISTANCE TO FARM CREDIT SYSTEM**§§ 2278a to 2278b-11. Repealed. Pub. L. 115-334, title V, § 5411(39), Dec. 20, 2018, 132 Stat. 4683**

Sections 2278a to 2278a-13 comprised part A of this subchapter “Assistance Board”.

Section 2278a, Pub. L. 92-181, title VI, §6.0, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1585, established the Farm Credit System Assistance Board.

Section 2278a-1, Pub. L. 92-181, title VI, §6.1, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1585, set out purposes of the Board.

Section 2278a-2, Pub. L. 92-181, title VI, §6.2, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1586; amended Pub. L. 102-237, title V, §502(l), Dec. 13, 1991, 105 Stat. 1869, provided for Board of Directors of the Assistance Board.