

on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 2279bb-2 of this title.”

1996—Subsec. (e). Pub. L. 104-105 substituted “during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title,” for “during the 30-month period beginning on December 13, 1991.”

§ 2279bb-5. Mandatory actions applicable to level II

(a) Capital restoration plan

If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(b) Restriction on dividends

If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

(c) Reclassification from level II to level III

The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 2279bb-6 of this title), if—

(1) the Corporation is within level II; and

(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

(d) Effective date

This section shall take effect upon the expiration of the 30-month period beginning on December 13, 1991.

(Pub. L. 92-181, title VIII, §8.36, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb-6. Supervisory actions applicable to level III

(a) Mandatory supervisory actions

(1) Capital restoration plan

If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(2) Restrictions on dividends

(A) Prior approval

If the Corporation is classified as within level III, the Corporation—

(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

(B) Standard for approval

If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

(3) Reclassification from level III to level IV

The Director shall immediately reclassify the Corporation as within level IV if—

(A) the Corporation is classified as within level III; and

(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

(b) Discretionary supervisory actions

In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

(1) Limitation on increase in obligations

Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

(2) Limitation on growth

Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

(3) Prohibition on dividends

Prohibit the Corporation from making any payment of dividends.

(4) Acquisition of new capital

Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

(5) Restriction of activities

Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

(6) Conservatorship

Appoint a conservator for the Corporation consistent with this chapter.

(c) Effective date

This section shall take effect on January 1, 1992.

(Pub. L. 92-181, title VIII, §8.37, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb-7. Repealed. Pub. L. 115-334, title V, § 5411(51), Dec. 20, 2018, 132 Stat. 4685

Section, Pub. L. 92-181, title VIII, §8.38, as added Pub. L. 104-105, title I, §117, Feb. 10, 1996, 110 Stat. 168, related to recapitalization of Corporation.

PART C—RECEIVERSHIP, CONSERVATORSHIP, AND
LIQUIDATION OF FEDERAL AGRICULTURAL
MORTGAGE CORPORATION

**§ 2279cc. Conservatorship; liquidation; receiver-
ship**

(a) Voluntary liquidation

The Corporation may voluntarily liquidate only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board.

(b) Involuntary liquidation

(1) In general

The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 2183(b) of this title.

(2) Application

In applying section 2183(b) of this title to the Corporation under paragraph (1)—

(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

(C) a receiver may also be appointed for the Corporation if—

(i)(I) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

(II) the Corporation is classified under section 2279bb-4 of this title as within level III or IV and the alternative actions available under part B are not satisfactory; and

(ii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

(3) No effect on supervisory actions

The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 2279bb-6 of this title.

(c) Appointment of conservator or receiver

(1) Qualifications

Notwithstanding section 2183(b) of this title, if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

(B) any person that—

(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

(2) Compensation

(A) In general

A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

(B) Limit on compensation

Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(C) Contractual arrangements

The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

(3) Expenses

A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) shall—

(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

(4) Liability

If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

(5) Indemnification

The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

(d) Judicial review of appointment

(1) In general

Notwithstanding subsection (i)(1), not later than 30 days after a conservator or receiver is appointed under subsection (b), the Corpora-