

assets and liabilities by a cooperative to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

(Pub. L. 92-181, title III, § 3.27, as added Pub. L. 100-233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644; amended Pub. L. 100-399, title IV, § 407(g), Aug. 17, 1988, 102 Stat. 1001.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-399 substituted “cooperative” for “taxable institution”.

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.

§ 2149. Lending limits

The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for the constituent banks described in section 413(b) of the Agricultural Credit Act of 1987 (12 U.S.C. 2121 note; Public Law 100-233) with respect to such loans or borrowers.

(Pub. L. 92-181, title III, § 3.28, as added Pub. L. 100-233, title IV, § 415(2), Jan. 6, 1988, 101 Stat. 1644; amended Pub. L. 115-334, title V, § 5411(15), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-334 substituted “the constituent banks described in section 413(b) of the Agricultural Credit Act of 1987 (12 U.S.C. 2121 note; Public Law 100-233)” for “a district bank for cooperatives and the Central Bank for Cooperatives”.

§ 2149a. Repealed. Pub. L. 115-334, title V, § 5411(16), Dec. 20, 2018, 132 Stat. 4680

Section, Pub. L. 92-181, title III, § 3.29, formerly title VII, § 7.5, as added Pub. L. 100-233, title IV, § 416, Jan. 6, 1988, 101 Stat. 1646; renumbered § 3.29, Pub. L. 100-399, title IV, § 408(e), Aug. 17, 1988, 102 Stat. 1001, related to reports by merged banks for cooperatives.

Section was classified to section 2279a-5 of this title prior to renumbering by Pub. L. 100-399.

SUBCHAPTER IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

PART A—FUNDING

§ 2151. Repealed. Pub. L. 115-334, title V, § 5411(17), Dec. 20, 2018, 132 Stat. 4680

Section, Pub. L. 92-181, title IV, § 4.0, Dec. 10, 1971, 85 Stat. 609; Pub. L. 99-205, title I, § 101(1), Dec. 23, 1985, 99 Stat. 1678; Pub. L. 100-233, title II, § 202, Jan. 6, 1988, 101

Stat. 1605; Pub. L. 100-399, title II, § 202, Aug. 17, 1988, 102 Stat. 992, related to the revolving fund in effect immediately before Jan. 6, 1988.

§ 2152. Repealed. Pub. L. 100-233, title II, § 207(a)(1), Jan. 6, 1988, 101 Stat. 1607

Section, Pub. L. 92-181, title IV, § 4.1, as added Pub. L. 99-205, title I, § 104, Dec. 23, 1985, 99 Stat. 1687, contained requirements for purchase of stock and payment of assessments and contribution of capital to Capital Corporation.

A prior section 2152, Pub. L. 92-181, title IV, § 4.1, Dec. 10, 1971, 85 Stat. 609, related to revolving funds and government deposits, prior to repeal, effective thirty days after Dec. 23, 1985, by Pub. L. 99-205, title I, § 101(2), Dec. 23, 1985, 99 Stat. 1678.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 100-233, title II, § 207(b), Jan. 6, 1988, 101 Stat. 1607, provided that: “The repeals made by subsection (a) [repealing this section and sections 2216 to 2216k, and 2252(a)(8) of this title] shall take effect 15 days after the date of the enactment of this Act [Jan. 6, 1988].”

§ 2153. Power to borrow; issuance of notes, bonds, debentures, and other obligations

Each of the banks of the System, in order to obtain funds for its authorized purposes, shall have power, subject to regulation by the Farm Credit Administration, and subject to the limitations of paragraph (e) of this section, to—

(a) Borrow money from or loan to any other institution of the System, borrow from any commercial bank or other lending institution, issue its notes or other evidence of debt on its own individual responsibility and full faith and credit, and invest its excess funds in such sums, at such times, and on such terms and conditions as it may determine.

(b) Issue its own notes, bonds, debentures, or other similar obligations, fully collateralized as provided in section 2154(c) of this title by the notes, mortgages, and security instruments it holds in the performance of its functions under this chapter in such sums, maturities, rates of interest, and terms and conditions of each issue as it may determine with approval of the Farm Credit Administration.

(c) Join with any or all banks organized and operating under the same subchapter of this chapter in borrowing or in issuance of consolidated notes, bonds, debentures, or other obligations as may be agreed with approval of the Farm Credit Administration.

(d) Join with other banks of the System in issuance of System-wide notes, bonds, debentures, and other obligations in the manner, form, amounts, and on such terms and conditions as may be agreed upon with approval of the Farm Credit Administration. Such System-wide issue by the participating banks and such participations by each bank shall not exceed the limits to which each such bank is subject in the issuance of its individual or consolidated obligations and each such issue shall be subject to approval of the Farm Credit Administration: *Provided, however*, There shall be no issues of System-wide obligations without the concurrence of the boards of directors of each bank and the ap-

proval of the Farm Credit Administration for such issues shall be conditioned on and be evidence of the compliance with this provision.

(e) No bank or banks shall issue notes, bonds, debentures, or other obligations individually or in concert with one or more banks of the System other than through the Federal Farm Credit Banks Funding Corporation under any provision of this chapter except under subsection (a) of this section: *Provided*, That any bank or banks may issue investment bonds or like obligations other than through the Federal Farm Credit Banks Funding Corporation if the interest rate is not in excess of the interest allowable on savings deposits of commercial banks of comparable amounts and maturities under Federal Reserve regulation on its member banks.

(Pub. L. 92-181, title IV, §4.2, Dec. 10, 1971, 85 Stat. 610; Pub. L. 99-205, title II, §205(f)(1), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title IV, §418(b), formerly §415(b), Jan. 6, 1988, 101 Stat. 1653, renumbered §418(b), Pub. L. 100-399, title IV, §409(a), Aug. 17, 1988, 102 Stat. 1003; Pub. L. 100-399, title II, §203(e), Aug. 17, 1988, 102 Stat. 993.)

Editorial Notes

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-233 substituted “the boards of directors of each bank” for “the boards of directors of each of the 12 districts and the Central Bank for Cooperatives”.

Subsec. (e). Pub. L. 100-399, §203(e), substituted “System other than through the” for “System other than through their”, and substituted “Federal Farm Credit Banks Funding Corporation” for “fiscal agent” in two places.

1985—Pub. L. 99-205 substituted “regulation by” for “supervision of” in provision preceding subsec. (a).

Subsec. (b). Pub. L. 99-205 substituted references to section “2154(c)” for “2154(b)” and “Farm Credit Administration” for “Governor”.

Subsecs. (c), (d). Pub. L. 99-205 substituted “Farm Credit Administration” for “Governor” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

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

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.

§ 2154. Capital adequacy of banks and institutions

(a) Minimum levels of capital

The Farm Credit Administration shall cause System institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the Farm Credit Administration deems appropriate. The Farm Credit Administration may establish such minimum level of capital for a System institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in

light of the particular circumstances of the System institution.

(b) Failure to maintain minimum levels; directives; plans for achieving minimum levels; proposals affecting compliance

(1) Failure of a System institution to maintain capital at or above its minimum level as established under subsection (a) may be deemed by the Farm Credit Administration, in its discretion, to constitute an unsafe and unsound practice within the meaning of this chapter.

(2) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Farm Credit Administration may issue a directive to a System institution that fails to maintain capital at or above its required level as established under subsection (a). Such directive may require the System institution to submit and adhere to a plan acceptable to the Farm Credit Administration describing the means and timing by which the System institution shall achieve its required capital level, but may not require merger or consolidation without a majority vote of the voting stockholders or the contributors to the guaranty fund of the institution.

(3) The Farm Credit Administration may consider such System institution's progress in adhering to any plan required under paragraph (2) whenever such System institution, or an affiliate thereof, seeks the requisite approval of the Farm Credit Administration for any proposal that would divert earnings, diminish capital, or otherwise impede such System institution's progress in achieving its minimum capital level. The Farm Credit Administration may deny such approval where it determines that such proposal would adversely affect the ability of the System institution to comply with such plan.

(c) Enhancement of capital adequacy of banks

Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this chapter or real or personal property acquired in connection with loans made under this chapter, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.

(Pub. L. 92-181, title IV, §4.3, Dec. 10, 1971, 85 Stat. 611; Pub. L. 99-205, title I, §101(3), Dec. 23, 1985, 99 Stat. 1678; Pub. L. 100-233, title III, §304, title VIII, §§804(a)(3), 805(q), Jan. 6, 1988, 101 Stat. 1621, 1715, 1716; Pub. L. 100-399, title VII, §702(b), Aug. 17, 1988, 102 Stat. 1006.)

Editorial Notes

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100-233, §804(a)(3), struck out subpar. (A) designation and struck out subpar. (B) which read as follows: “Any directive issued under this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 2267

of this title to the same extent as an effective and outstanding order issued under section 2261 of this title that has become final.”

Subsec. (c). Pub. L. 100-233, §805(q), which directed the amendment of subsec. (c) by substituting “direct or fully guaranteed” for “direct of fully guaranteed” was repealed by Pub. L. 100-399, §702(b). See Construction of 1988 Amendment note below.

Pub. L. 100-233, §304, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Each bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under the authority of this chapter, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.”

1985—Pub. L. 99-205 substituted “Capital adequacy of banks and associations” for “Aggregate of obligations; collateral” in section catchline.

Subsec. (a). Pub. L. 99-205 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “No issue of long-term notes, bonds, debentures, or other similar obligations by a bank or banks shall be approved in an amount which, together with the amount of other bonds, debentures, long-term notes, or other similar obligations issued and outstanding, exceeds twenty times the capital and surplus of all the banks which will be primarily liable on the proposed issue, or such lesser amount as the Farm Credit Administration shall establish by regulation.”

Subsecs. (b), (c). Pub. L. 99-205 added subsec. (b) and redesignated former subsec. (b) as (c).

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.

CONSTRUCTION OF 1988 AMENDMENT

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

MINIMUM CAPITAL ADEQUACY STANDARDS

Pub. L. 100-233, title III, §301(a), Jan. 6, 1988, 101 Stat. 1608, as amended by Pub. L. 100-399, title III, §301(a), Aug. 17, 1988, 102 Stat. 993, provided that:

“(1) IN GENERAL.—

“(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act [Jan. 6, 1988], the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c) [12 U.S.C. 2154(a)]) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

“(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall apply to an institution based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

“(C) RATIO OF CAPITAL TO ASSETS.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

“(D) PHASE-IN PERIOD.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act [Jan. 6, 1988].

“(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(c)(2) [12 U.S.C. 2252(c)(2)]) with respect to the issuance of the regulations required under paragraph (1)(A).

“(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(D), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act) [12 U.S.C. 2278b-7], solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act) [former 12 U.S.C. 2278a].

“(4) PERMANENT CAPITAL.—For purposes of this subsection, the term ‘permanent capital’ has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971 [12 U.S.C. 2154a(a)(1)].”

§ 2154a. Capitalization of System institutions

(a) Definitions

As used in this section:

(1) Permanent capital

The term “permanent capital” means—

(A) current year retained earnings;

(B) allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(C) all surplus (less allowances for losses);

(D) stock issued by a System institution, except—

(i) stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder; or

(ii) stock that is protected under section 2162 of this title or is otherwise not at risk; and

(E) any other debt or equity instruments or other accounts that the Farm Credit Administration determines appropriate to be considered permanent capital.

(2) Stock

The term “stock” means voting and non-voting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

(b) Adoption of bylaws

Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1).

(c) Requirements of bylaws**(1) In general**

Notwithstanding any other provision of this chapter, the bylaws adopted under subsection (b)—

(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 2154(a) of this title;

(D) shall provide for the issuance of voting stock, which may only be held by—

(i) borrowers who are farmers, ranchers, or producers or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this chapter;

(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 2124(c)(ii) of this title;

(iii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

(iv) in the case of banks other than banks for cooperatives, System associations;

(E) shall require that—

(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than \$1,000 or 2 percent of the amount of the loan, whichever is less; and

(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to non-voting stock;

(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

(G) shall require that any holder of voting stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower, except as otherwise provided in this section;

(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under section 2154(a) of this title; and

(J) shall permit stock to be transferable.

(2) Effective date

The bylaws adopted by the board of directors of a System institution under subsection (b)

shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

(d) Reduction of capital**(1) General rule**

Except as provided in paragraph (2), the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 2154(a) of this title.

(2) Exceptions

Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

(e) Compliance

The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the board of directors of any System institution that fails to comply therewith.

(f) Loans designated for sale or sold into secondary market**(1) In general**

Subject to paragraph (2) and notwithstanding any other provision of this section, the bylaws adopted by a bank or association under subsection (b) may provide—

(A) in the case of a loan made on or after February 10, 1996, that is designated, at the time the loan is made, for sale into a secondary market, that no voting stock or participation certificate purchase requirement shall apply to the borrower for the loan; and

(B) in the case of a loan made before February 10, 1996, that is sold into a secondary market, that all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.

(2) Applicability

Notwithstanding any other provision of this section, in the case of a loan sold to a secondary market under subchapter VIII, paragraph (1) shall apply regardless of whether the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

(3) Exception**(A) In general**

Subject to subparagraph (B) and notwithstanding any other provision of this section,

if a loan designated for sale under paragraph (1)(A) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the voting stock or participation certificate purchase requirement that would otherwise apply to the loan in the absence of a bylaw provision described in paragraph (1)(A) shall be effective.

(B) Retirement

The bylaws adopted by a bank or association under subsection (b) may provide that if a loan described in subparagraph (A) is sold into a secondary market after the end of the 180-day period described in the subparagraph, all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.

(g) Construction

This section shall not be construed to affect the provisions of this chapter that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

(h) Controlling authority

To the extent that any provision of this section is inconsistent with any other provision of this chapter (other than section 2162 of this title), the provision of this section shall control.

(Pub. L. 92-181, title IV, § 4.3A, as added Pub. L. 100-233, title III, § 301(b), Jan. 6, 1988, 101 Stat. 1608; amended Pub. L. 100-399, title III, § 301(b)-(f), Aug. 17, 1988, 102 Stat. 994; Pub. L. 102-552, title I, § 101, Oct. 28, 1992, 106 Stat. 4103; Pub. L. 104-105, title II, § 206, Feb. 10, 1996, 110 Stat. 173; Pub. L. 110-234, title V, § 5403(b), May 22, 2008, 122 Stat. 1154; Pub. L. 110-246, § 4(a), title V, § 5403(b), 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. (c)(1)(D)(ii) to (iv). Pub. L. 110-246, § 5403(b), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

1996—Subsecs. (f) to (h). Pub. L. 104-105 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1992—Subsec. (a)(1). Pub. L. 102-552 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘permanent capital’ means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

“(A) may be retired by the holder thereof on repayment of the holder’s loan, or otherwise at the option or request of the holder; or

“(B) is protected under section 2162 of this title or is otherwise not at risk.”

1988—Subsec. (a)(1)(B). Pub. L. 100-399, § 301(b), substituted “section 2162 of this title” for “section 4.9B”.

Subsec. (c)(1)(D)(i). Pub. L. 100-399, § 301(c)(1), substituted “producers or” for “producers, or”.

Subsec. (c)(1)(G). Pub. L. 100-399, § 301(c)(2), substituted “voting stock issued” for “stock issued”.

Subsec. (c)(1)(H). Pub. L. 100-399, § 301(d), inserted “, except as otherwise provided in this section” after “the borrower”.

Subsec. (c)(1)(I). Pub. L. 100-399, § 301(e), struck out “standards issued under” after “established under”.

Subsec. (d)(1). Pub. L. 100-399, § 301(f), struck out “and in section 2162 of this title” after “paragraph (2)” and “or allocated equities” after “retirement of stock”.

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.

§ 2155. Liability of banks; United States not liable

(a) Joint and several liability of banks

(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same subchapter of this chapter.

(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

(B) Such calls first shall be made on all non-defaulting banks in proportion to each such bank’s proportionate share of the aggregate available collateral held by all such banks.

(C) For purposes of this paragraph, the term “available collateral” means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank’s collateral as described in section 2154 of this title exceeds the collateral required to support the bank’s outstanding notes, bonds, debentures, and other similar obligations.

(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank’s remaining assets.

(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment.

(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a re-

ceiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.

(b) Resolutions as to liability; execution of obligations

Each bank participating in an issue shall by appropriate resolution undertake such responsibility as provided in subsection (a), and in the case of consolidated or System-wide obligations shall authorize the execution of such long-term notes, bonds, debentures, or other obligations on its behalf. When a consolidated or System-wide issue is approved, the notes, bonds, debentures, or other obligations shall be executed and the banks shall be liable thereon as provided herein.

(c) United States liability

The United States shall not be liable or assume any liability directly or indirectly thereon.

(d) Insurance Fund called on before invoking joint and several liability

Beginning 5 years after January 6, 1988, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.

(Pub. L. 92-181, title IV, §4.4, Dec. 10, 1971, 85 Stat. 611; Pub. L. 99-205, title I, §101(4), title II, §205(f)(2), Dec. 23, 1985, 99 Stat. 1679, 1706; Pub. L. 100-233, title II, §207(c), title III, §303, Jan. 6, 1988, 101 Stat. 1608, 1620; Pub. L. 100-399, title III, §303, Aug. 17, 1988, 102 Stat. 995.)

Editorial Notes

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-233, §303(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same subchapter of this chapter. Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make. Such calls shall be made first upon the other banks operating under the same subchapter of this chapter as the defaulting bank, and second upon banks operating under other subchapters of this chapter, taking into consideration the capital, surplus, bonds, debentures, or other obligations which each may have outstanding at the time of such assessment.”

Subsec. (c). Pub. L. 100-233, §207(c), redesignated subsec. (d) as (c), and struck out former subsec. (c) which provided that for purposes of this part, the term “bank” included the Capital Corporation.

Subsec. (d). Pub. L. 100-399 redesignated subsec. (e) as (d).

Pub. L. 100-233, §207(c), redesignated subsec. (d) as (c).
Subsec. (e). Pub. L. 100-399 redesignated subsec. (e) as (d).

Pub. L. 100-233, §303(b), added subsec. (e).

1985—Subsec. (b). Pub. L. 99-205, §205(f)(2), substituted “execution of” for “Governor to execute” in first sentence and struck out “by the Governor” after “shall be executed” in second sentence.

Subsecs. (c), (d). Pub. L. 99-205, §101(4), added subsec. (c) and redesignated former subsec. (c) as (d).

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.

§ 2156. Repealed. Pub. L. 100-233, title II, § 204(b), Jan. 6, 1988, 101 Stat. 1607

Section, Pub. L. 92-181, title IV, §4.5, Dec. 10, 1971, 85 Stat. 611; Pub. L. 96-592, title IV, §401, Dec. 24, 1980, 94 Stat. 3446; Pub. L. 99-205, title II, §205(f)(3), Dec. 23, 1985, 99 Stat. 1706, provided for establishment of a finance committee for banks organized and operated under subchapters I, II, and III of this chapter. See section 2160 of this title.

§ 2157. Bonds as investments

The bonds, debentures, and other similar obligations issued under the authority of this chapter shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits.

(Pub. L. 92-181, title IV, §4.6, Dec. 10, 1971, 85 Stat. 612.)

§ 2158. Purchase and sale by Federal Reserve System

Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this chapter and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district, and municipal bonds under section 355 of this title.

(Pub. L. 92-181, title IV, §4.7, Dec. 10, 1971, 85 Stat. 612.)

§ 2159. Purchase and sale of obligations

Each bank of the System may purchase its own obligations and the obligations of other banks of the System and may provide for the sale of obligations issued by it, consolidated obligations, or Systemwide obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(Pub. L. 92-181, title IV, §4.8, Dec. 10, 1971, 85 Stat. 612; Pub. L. 99-509, title I, §1034, Oct. 21, 1986, 100 Stat. 1878; Pub. L. 100-233, title II, §205(a), Jan. 6, 1988, 101 Stat. 1607; Pub. L. 115-334, title V, §5411(18), Dec. 20, 2018, 132 Stat. 4680.)

Editorial Notes**AMENDMENTS**

2018—Pub. L. 115-334 struck out subsec. (a) designation before “Each bank” and struck out subsec. (b) which described conditions under which each bank of the System could reduce the cost of its borrowings and amortize certain capitalizations through Dec. 31, 1992.

1988—Subsec. (b), Pub. L. 100-233 substituted “December 31, 1992” for “December 31, 1988” in two places.

1986—Pub. L. 99-509 designated existing provisions as subsec. (a) and added subsec. (b).

§ 2160. Federal Farm Credit Banks Funding Corporation

(a) Establishment

There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the “Corporation”), which shall be an institution of the Farm Credit System.

(b) Duties

The Corporation—

(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

(3) shall exercise such other powers as were provided to the predecessor Federal Farm Credit Banks Funding Corporation in accordance with its charter issued under section 2211 of this title, in effect immediately before January 6, 1988.

(c) Officers and committees

(1) Designation

The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

(2) Issuance of obligations

When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

(d) Board of directors

(1) Composition

The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

(C) Two voting members shall be appointed by the members elected under subparagraphs

(A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

(D) The president of the Corporation shall serve as a nonvoting member of the board.

(2) Considerations

In selecting candidates under subparagraphs (A) and (B) of paragraph (1), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

(3) Representation of board

The Farm Credit System Insurance Corporation shall not have representation on the board of directors of the Corporation.

(e) Succession

(1) Assets and liabilities

The Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor Federal Farm Credit Banks Funding Corporation (hereinafter referred to in this subsection as “the predecessor corporation”) chartered under this chapter, or any court, succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the predecessor corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation.

(2) Contracts

The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Corporation.

(3) Stock

The stock of the predecessor corporation issued before January 6, 1988, shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into stock of the Corporation established by this section.

(4) Taxation

The succession to assets, assumption of liabilities, conversion of obligations, instru-

ments, and stock, and effectuation of any other transaction by the Corporation to carry out this subsection shall not be treated as a taxable event under the laws of any State or political subdivision thereof.

(Pub. L. 92-181, title IV, §4.9, Dec. 10, 1971, 85 Stat. 612; Pub. L. 100-233, title II, §204(a), Jan. 6, 1988, 101 Stat. 1605; Pub. L. 100-399, title II, §203(a)-(d), Aug. 17, 1988, 102 Stat. 992, 993; Pub. L. 102-552, title V, §507, Oct. 28, 1992, 106 Stat. 4131; Pub. L. 115-334, title V, §5411(19), Dec. 20, 2018, 132 Stat. 4681.)

Editorial Notes

REFERENCES IN TEXT

January 6, 1988, referred to in subsec. (e)(3), was in the original “the date of the enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 100-233, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

Subsec. (d)(2). Pub. L. 115-334, §5411(19)(A), designated concluding provisions of subsec. (d)(1) as par. (2), inserted heading, inserted “of paragraph (1)” after “(A) and (B)”, and struck out former par. (2) which related to Assistance Board non-voting representatives and post-termination representation on the board of directors of the Corporation.

Subsec. (d)(3). Pub. L. 115-334, §5411(19)(A)(i), added par. (3).

Subsecs. (e), (f). Pub. L. 115-334, §5411(19)(B), (C), redesignated subsec. (f) as (e) and struck out former subsec. (e) which set out transitional authority until a majority of the voting members of the board of directors of the Corporation was elected.

1992—Subsec. (d)(2). Pub. L. 102-552 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

“(B) INSURANCE CORPORATION.—After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

“(C) MEETINGS.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Corporation.”

1988—Pub. L. 100-233 amended section generally. Prior to amendment, section read as follows: “A fiscal agency shall be established by the banks for such of their functions relating to the issuance, marketing, and handling of their obligations, and interbank or intersystem flow of funds as may from time to time be required.”

Subsec. (b)(3). Pub. L. 100-399, §203(b), inserted “predecessor Federal Farm Credit Banks” before “Funding Corporation”.

Subsec. (d)(2)(B), (C). Pub. L. 100-399, §203(c), substituted “directors of the Corporation” for “directors of the Federal Farm Credit Banks Funding Corporation”.

Subsec. (e). Pub. L. 100-399, §203(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 2156 of this title in effect before January 6, 1988, and the fiscal agency established under section 2160 of this title in effect before January 6, 1988, shall continue to operate as if this section had not been enacted.”

Subsec. (f). Pub. L. 100-399, §203(a), added subsec. (f).

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.

§ 2161. Repealed. Pub. L. 100-399, title I, § 101(a), Aug. 17, 1988, 102 Stat. 989

Section, Pub. L. 92-181, title IV, §4.9A, as added Pub. L. 99-205, title I, §105, Dec. 23, 1985, 99 Stat. 1687, authorized a central reserve for Farm Credit System.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

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

§ 2162. Protection of borrower stock

(a) Retirement of stock

Notwithstanding any other section of this chapter, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this chapter, shall retire such stock at par value.

(b) Certain powers not affected

This section does not affect the authority of any institution of the Farm Credit System—

(1) to retire or cancel borrower stock at par value for application against a loan in default;

(2) to cancel borrower stock at par value under section 2202b of this title; or

(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (d)(2), the par value of borrower stock frozen in such liquidation.

(c) Inability to retire stock at par value

(1) In general

If an institution is unable to retire eligible borrower stock at par value due to the liquidation of the institution, the Farm Credit System Insurance Corporation, acting as receiver, shall retire such stock at par value as would have been retired in the ordinary course of business of the institution.

(2) Funding

The Farm Credit System Insurance Corporation shall use such funds from the Farm Credit Insurance Fund as are sufficient to carry out this section.

(d) Definitions

For purposes of this section:

(1) Borrower stock

The term “borrower stock” means voting and nonvoting stock, equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

(2) Eligible borrower stock

The term “eligible borrower stock” means borrower stock that—

(A) is outstanding on January 6, 1988;
 (B) is issued or allocated after January 6, 1988, but prior to the earlier of—

(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 2154a of this title; or

(ii) the date that is 9 months after January 6, 1988;

(C) was, after January 1, 1983, but before January 6, 1988, frozen by an institution that was placed in liquidation; or

(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before January 6, 1988.

(3) Institution

The term “institution” means a bank or association chartered under this chapter.

(4) Par value

The term “par value” means—

(A) in the case of stock, par value;

(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this chapter, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.

(Pub. L. 92-181, title IV, § 4.9A, as added Pub. L. 100-233, title I, § 101, Jan. 6, 1988, 101 Stat. 1572; amended Pub. L. 100-399, title I, § 101(b)-(d), Aug. 17, 1988, 102 Stat. 989; Pub. L. 115-334, title V, § 5411(20), Dec. 20, 2018, 132 Stat. 4681.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4.9A of Pub. L. 92-181, which authorized a central reserve for Farm Credit System, was classified to section 2161 of this title and was repealed by Pub. L. 100-399, § 101(a).

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-334 inserted par. (1) designation and heading before “If an institution”, substituted “the Farm Credit System Insurance Corporation, acting as receiver,” for “the receiver of the institution” and “business of the institution.” for “business of the institution, and—”, added par. (2), and struck out former pars. (1) and (2) which read as follows:

“(1) during the 5-year period beginning on January 6, 1988, the Assistance Board shall direct the Financial Assistance Corporation to provide the receiver with sufficient funds to enable the receiver to carry out this subsection; and

“(2) after such 5-year period, the Farm Credit System Insurance Corporation shall provide the receiver with sufficient funds from the Farm Credit Insurance Fund to enable the receiver to carry out this subsection.”

1988—Subsec. (a). Pub. L. 100-399, § 101(b), struck out provision that an institution whose capital stock is im-

paired coordinate retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

Subsec. (c). Pub. L. 100-399, § 101(c), inserted “stock” in subsec. heading and amended text generally. Prior to amendment, text read as follows: “If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.”

Subsec. (d)(2)(B). Pub. L. 100-399, § 101(d), in introductory provision substituted “issued or allocated” for “required to be purchased, and is purchased, as a condition of obtaining a loan made” and in cl. (i) substituted “section 2154a of this title” for “section 4.9B”.

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.

PART B—DISSOLUTION

Editorial Notes

CODIFICATION

Pub. L. 100-233, title IV, § 418(a)(1), formerly § 415(a)(1), Jan. 6, 1988, 101 Stat. 1653, renumbered § 418(a)(1), Pub. L. 100-399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003, substituted “Dissolution” for “Dissolution and merger” as part B heading.

§§ 2181, 2182. Repealed. Pub. L. 100-233, title IV, § 418(a)(2), (3), formerly § 415(a)(2), (3), Jan. 6, 1988, 101 Stat. 1653; renumbered § 418(a)(2), (3), Pub. L. 100-399, title IV, § 409(a), Aug. 17, 1988, 102 Stat. 1003

Section 2181, Pub. L. 92-181, title IV, § 4.10, Dec. 10, 1971, 85 Stat. 612; Pub. L. 96-592, title IV, § 402, Dec. 24, 1980, 94 Stat. 3446, related to merger of similar banks.

Section 2182, Pub. L. 92-181, title IV, § 4.11, Dec. 10, 1971, 85 Stat. 612; Pub. L. 99-205, title II, § 205(f)(4), Dec. 23, 1985, 99 Stat. 1706, related to board of directors for merged bank.

§ 2183. Dissolution; voluntary or involuntary liquidation; mergers; receiverships or conservators

(a) Voluntary liquidation; consent of Farm Credit Administration; rules and regulations; minimization of adverse effect; voluntary merger; mandatory merger on failure to comply or meet obligations

No institution of the System shall go into voluntary liquidation without the consent of the Farm Credit Administration and with such consent may liquidate only in accordance with regulations prescribed by the Farm Credit Administration. In the case of a voluntary liquidation of an association, such regulations, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution. The Farm Credit Administration Board