

Credit Administration to reconsider the terms of its capital directive or may propose changes in the plan to achieve the institution's applicable minimum capital ratios. The Farm Credit Administration also may take such action on its own motion. The Farm Credit Administration may decline to consider requests or proposals that are not based on a significant change in circumstances or are repetitive or frivolous. Pending a decision on reconsideration, the capital directive and plan shall continue in full force and effect.

§ 615.5361 Relation to other administrative actions.

A capital directive may be issued in addition to, or in lieu of, any other action authorized by law, including cease and desist proceedings, civil money penalties, or the conditioning or denial of applications. The Farm Credit Administration also may, in its discretion, take any action authorized by law, in lieu of a capital directive, in response to an institution's failure to achieve or maintain the applicable minimum capital ratios.

Subpart N [Reserved]

Subpart O—Book-Entry Procedures for Farm Credit Securities

SOURCE: 61 FR 67192, Dec. 20, 1996, unless otherwise noted.

§ 615.5450 Definitions.

In this subpart, unless the context otherwise requires or indicates:

(a) *Adverse claim* means a claim that a claimant has a property interest in a security and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the security.

(b) *Book-entry security* means a Farm Credit security issued or maintained in the Book-entry System.

(c) *Book-entry System* means the automated book-entry system operated by the Federal Reserve Banks, acting as the fiscal agent for the Farm Credit banks, through which book-entry secu-

rities are issued, recorded, transferred and maintained in book-entry form.

(d) *Definitive Farm Credit security* means a Farm Credit security in engraved or printed form, or that is otherwise represented by a certificate.

(e) *Eligible book-entry security* means a book-entry security issued or maintained in the Book-entry System, which by the terms of its securities documentation, is eligible to be converted from book-entry into definitive form.

(f) *Entitlement Holder* means a person to whose account an interest in a book-entry security is credited on the records of a securities intermediary.

(g) *Farm Credit banks* means one or more Farm Credit Banks, agricultural credit banks, and banks for cooperatives.

(h) *Farm Credit securities* means consolidated notes, bonds, debentures, or other similar obligations of the Farm Credit banks and Systemwide notes, bonds, debentures, or similar obligations of the Farm Credit banks issued under sections 4.2(c) and 4.2(d), respectively, of the Act, or laws repealed thereby.

(i) *Federal Reserve Bank* means a Federal Reserve Bank or Branch acting as agent for the Farm Credit banks and the Funding Corporation.

(j) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Federal Reserve Bank maintains book-entry securities accounts and transfers book-entry securities.

(k) *Funding Corporation* means the Federal Farm Credit Banks Funding Corporation established pursuant to section 4.9 of the Act, which issues Farm Credit securities on behalf of the Farm Credit banks.

(l) *Funds Account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, book-entry securities transaction fees, or principal and interest payments.

(m) *Participant* means a person that maintains a participant's securities account with a Federal Reserve Bank.

Farm Credit Administration

§ 615.5452

(n) *Participant's Securities Account* means an account in the name of a participant at a Federal Reserve Bank to which book-entry securities held for a participant are or may be credited.

(o) *Person* means an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative and any other similar organization, but does not mean the United States, a Farm Credit bank, the Funding Corporation or a Federal Reserve Bank.

(p) *Revised Article 8* means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9, and 10) 1994 Official Text, and has the same meaning as in 31 CFR 357.2.

(q) *Securities Documentation* means the applicable statement of terms, trust indenture, securities agreement, offering circular or other documents establishing the terms of a book-entry security.

(r) *Securities Intermediary* means:

(1) A person that is registered as a "clearing agency" under the Federal securities laws; a Federal Reserve Bank; any other person that provides clearance or settlement services with respect to a book-entry security that would require it to register as a clearing agency under the Federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a Federal or State governmental authority; or

(2) A person (other than an individual, unless such individual is registered as a broker or dealer under the Federal securities laws) including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(s) *Security* means a Farm Credit security as defined in paragraph (h) of this section.

(t) *Security Entitlement* means the rights and property interest of an entitlement holder with respect to a book-entry security.

(u) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or

any other territory or possession of the United States.

(v) *Transfer Message* means an instruction of a participant to a Federal Reserve Bank to effect a transfer of a book-entry security maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53229, Oct. 14, 1997]

§ 615.5451 Book-entry and definitive securities.

Subject to subpart C of this part:

(a) Farm Credit banks operating under the same title of the Act may issue consolidated securities in book-entry form.

(b) Farm Credit banks may issue Systemwide securities in book-entry form.

(c) Consolidated and Systemwide securities also may be issued in either registered or bearer definitive form.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53229, Oct. 14, 1997]

§ 615.5452 Law governing rights and obligations of Federal Reserve Banks, Farm Credit banks, and Funding Corporation; rights of any person against Federal Reserve Banks, Farm Credit banks, and Funding Corporation.

(a) Except as provided in paragraph (b) of this section, the following are governed solely by the regulations contained in this subpart O, the securities documentation, and Federal Reserve Bank Operating Circulars:

(1) The rights and obligations of the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

(i) A book-entry security or security entitlement, and

(ii) The operation of the Book-entry System as it applies to Farm Credit securities; and

(2) The rights of any person, including a participant, against the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

(i) A book-entry security or security entitlement, and

(ii) The operation of the Book-entry System as it applies to Farm Credit securities.

§615.5453

12 CFR Ch. VI (1-1-02 Edition)

(b) A security interest in a security entitlement that is in favor of a Federal Reserve Bank from a participant and that is not recorded on the books of a Federal Reserve Bank pursuant to §615.5454(c)(1) of this subpart, is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the participant's securities account is located. A security interest in a security entitlement that is in favor of a Federal Reserve Bank from a person that is not a participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to §615.5454(c)(1) of this subpart, is governed by the law determined in the manner specified in §615.5453 of this subpart.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted revised Article 8 (see 31 CFR 357.2) then the law specified in paragraph (b) of this section shall be the law of that State as though revised Article 8 had been adopted by that State.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53229, Oct. 14, 1997]

§615.5453 Law governing other interests.

(a) To the extent not inconsistent with these regulations, the law (not including the conflict-of-law rules) of a securities intermediary's jurisdiction governs:

(1) The acquisition of a security entitlement from the securities intermediary;

(2) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement;

(4) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder; and

(5) Except as otherwise provided in paragraph (c) of this section, the perfection, effect of perfection or non-per-

fection and priority of a security interest in a security entitlement.

(b) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (b)(1) of this section, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section, the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (b)(3) of this section, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(c) Notwithstanding the general rule in paragraph (a)(5) of this section, the law (but not the conflict-of-law rules) of the jurisdiction in which the person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement.

(d) If the jurisdiction specified in paragraph (b) of this section is a State that has not adopted revised Article 8 (see 31 CFR 357.2), then the law for the matters specified in paragraph (a) of this section shall be the law of that State as though revised Article 8 had

Farm Credit Administration

§ 615.5455

been adopted by that State. For purposes of the application of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the securities account is a clearing corporation, and the participant's interest in a book-entry security is a security entitlement.

§ 615.5454 Creation of participant's security entitlement; security interests.

(a) A participant's security entitlement is created when a Federal Reserve Bank indicates by book entry that a book-entry security has been credited to a participant's securities account.

(b) A security interest in a security entitlement of a participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a security entitlement of a participant is marked on the books of a Federal Reserve Bank, such Federal Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an "authorized representative of the United States" is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Farm Credit Banks, the Funding Corporation, and the Federal Reserve Banks have no obligation to agree to act on behalf of any person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the participant is recorded. To the

extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a security entitlement that is in favor of a Federal Reserve Bank, a Farm Credit Bank, the Funding Corporation, or a person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a security entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 615.5452(b) or § 615.5453 of this subpart. The perfection, effect of perfection or non-perfection and priority of a security interest are governed by that applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under that law, including with respect to the effect of perfection and priority of the security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

[62 FR 67192, Dec. 20, 1996, as amended at 62 FR 53229, Oct. 14, 1997]

§ 615.5455 Obligations of the Farm Credit banks and the Funding Corporation; no adverse claims.

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 615.5454(c)(1), for the purposes of this subpart O, the Farm Credit banks, the Funding Corporation and the Federal Reserve Banks shall treat the participant to whose securities account an interest in a book-entry security has been credited as the person exclusively entitled to issue a transfer message, to receive interest and other payments with respect thereof and otherwise to exercise all the

§ 615.5456

12 CFR Ch. VI (1-1-02 Edition)

rights and powers with respect to such security, notwithstanding any information or notice to the contrary. The Federal Reserve Banks, the Farm Credit banks, and the Funding Corporation are not liable to a person asserting or having an adverse claim to a security entitlement or to a book-entry security in a participant's securities account, including any such claim arising as a result of the transfer or disposition of a book-entry security by a Federal Reserve Bank pursuant to a transfer message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of the Farm Credit banks and the Funding Corporation to make payments (including payments of interest and principal) with respect to book-entry securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest or other payments on book-entry securities are either credited by a Federal Reserve Bank to a funds account maintained at the Federal Reserve Bank or otherwise paid as directed by the participant.

(2) Book-entry securities are redeemed in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the participant's securities account in which they are maintained and by either crediting the amount of the redemption proceeds, including both principal and interest, where applicable, to a funds account at the Federal Reserve Bank or otherwise paying such principal and interest as directed by the participant. No action by the participant is required in connection with the redemption of a book-entry security.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53229, Oct. 14, 1997]

§ 615.5456 Authority of Federal Reserve Banks.

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of the Farm Credit banks and the Funding Corporation to perform functions with respect to the issuance of book-entry securities offered and sold by the Farm Credit banks and the Funding Corporation to which this subpart applies, in accordance with the terms of the secu-

rities documentation and the provisions of this subpart:

(1) To service and maintain book-entry securities in accounts established for such purposes;

(2) To make payments of principal and interest, as directed by the Farm Credit banks and the Funding Corporation;

(3) To effect transfer of book-entry securities between participants' securities accounts as directed by the participants;

(4) To effect conversions between book-entry securities and definitive Farm Credit securities with respect to those securities as to which conversion rights are available pursuant to the applicable securities documentation; and

(5) To perform such other duties as fiscal agent as may be requested by the Farm Credit banks and the Funding Corporation.

(b) Each Federal Reserve Bank may issue Operating Circulars not inconsistent with this subpart, governing the details of its handling of book-entry securities, security entitlements, and the operation of the Book-entry System under this subpart.

§ 615.5457 Withdrawal of eligible book-entry securities for conversion to definitive form.

(a) Eligible book-entry securities may be withdrawn from the Book-entry System by requesting delivery of like definitive Farm Credit securities.

(b) A Federal Reserve Bank shall, upon receipt of appropriate instructions to withdraw eligible book-entry securities from book-entry in the Book-entry System, convert such securities into definitive Farm Credit securities and deliver them in accordance with such instructions.

(c) Farm Credit securities which are to be delivered upon withdrawal may be issued in either registered or bearer form, to the extent permitted by the applicable securities documentation.

(d) All requests for withdrawal of eligible book-entry securities must be made prior to the maturity or the applicable date of call of the Farm Credit securities.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53230, Oct. 14, 1997]

Farm Credit Administration

§ 615.5462

§ 615.5458 Waiver of regulations.

The Farm Credit Administration reserves the right, in the Farm Credit Administration's discretion, to waive any provision(s) of the regulations in this subpart in any case or class of cases for the convenience of the Farm Credit banks and the Funding Corporation or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect any substantial existing rights, and the Farm Credit Administration is satisfied that such action will not subject the Farm Credit banks and the Funding Corporation to any substantial expense or liability.

§ 615.5459 Liability of Farm Credit banks, Funding Corporation and Federal Reserve Banks.

The Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks may rely on the information provided in a transfer message or other transaction documentation, and are not required to verify the information. The Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in the transfer message, other transaction documentation, or evidence submitted in support thereof.

§ 615.5460 Additional provisions.

(a) *Additional requirements.* In any case or any class of cases arising under the regulations in this subpart, the Farm Credit banks and the Funding Corporation may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of the Farm Credit banks and the Funding Corporation be necessary for the protection of the interests of the Farm Credit banks and the Funding Corporation.

(b) *Notice of attachment for Farm Credit securities in the Book-entry System.* The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except where a security entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal

process upon the secured party. These regulations do not purport to establish whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

(c) *Conversion of definitive securities into book-entry securities.* Definitive Farm Credit securities may be converted to book-entry form in accordance with the terms of the applicable securities documentation and Federal Reserve Operating Circular.

[61 FR 67192, Dec. 20, 1996, as amended at 62 FR 53230, Oct. 14, 1997]

§ 615.5461 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.

(a) Relief on the account of the loss, theft, destruction, mutilation, or defacement of any definitive consolidated or Systemwide securities of the Farm Credit banks and coupons of such securities may be granted on the same basis and to the same extent as relief may be granted under the statutes of the United States and the regulations of the Department of the Treasury on the account of the loss, theft, destruction, mutilation, or defacement of United States securities and coupons of such securities.

(b) Applicants for relief under paragraph (a) of this section, shall present claims and proof of loss:

(1) To the Division of Special Investments, Bureau of the Public Debt, P.O. Box 396, Parkersburg, WV 26102-0396, in the case of consolidated or Systemwide securities of the Farm Credit banks issued prior to May 1, 1978; or

(2) To the Federal Farm Credit Banks Funding Corporation, 10 Exchange Place, Suite 1401, Jersey City, NJ 07302, in the case of consolidated or Systemwide securities issued on or after May 1, 1978.

§ 615.5462 Restrictive endorsement of bearer securities.

When consolidated and Systemwide bearer securities of the Farm Credit banks are being presented to Federal Reserve Banks, for redemption, exchange, or conversion to book entry, such securities may be restrictively endorsed. The restrictive endorsement shall be placed thereon in substantially

§ 615.5500

the same manner and with the same effects as prescribed in United States Treasury Department regulations, now or hereafter in force, governing like transactions in United States bonds; and consolidated or Systemwide securities of the Farm Credit banks so endorsed shall be prepared for shipment and shipped in the manner prescribed in such regulations for United States bearer securities. (See 31 CFR part 328.)

Subpart P—Global Debt Securities

§ 615.5500 Definitions.

In this subpart, unless the context otherwise requires or indicates:

(a) *Global debt securities* means consolidated Systemwide debt securities issued by the Funding Corporation on behalf of the Farm Credit banks under section 4.2(d) of the Act through a fiscal agent or agents and distributed either exclusively outside the United States or simultaneously inside and outside the United States.

(b) *Global agent* means any fiscal agent, other than the Federal Reserve Banks, used by the Funding Corporation to facilitate the sale of global debt securities.

[60 FR 57919, Nov. 24, 1995]

§ 615.5502 Issuance of global debt securities.

(a) The Funding Corporation may provide for the sale of global debt securities on behalf of the Farm Credit banks through a global agent or agents by negotiation, offer, bid, or syndicate sale, and deliver such obligations by book-entry, wire transfer, or such other means as may be appropriate.

(b) The Funding Corporation Board of Directors shall establish appropriate criteria for the selection of global agents and shall approve each global agent.

[60 FR 57919, Nov. 24, 1995]

Subpart Q—Bankers Acceptances

§ 615.5550 Bankers acceptances.

Subject to the provisions of § 614.4710, banks for cooperatives may rediscount with other purchasers the acceptances they have created. The bank for cooperatives' board of directors, under es-

12 CFR Ch. VI (1–1–02 Edition)

tablished policies, may delegate this authority to management.

[55 FR 24888, June 19, 1990]

Subpart R—Farm Credit System Financial Assistance Corporation Securities

§ 615.5560 Book-entry Procedure for Farm Credit System Financial Assistance Corporation Securities.

(a) The Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation) is a federally chartered instrumentality of the United States, and an institution of the Farm Credit System, subject to the examination and regulation of the Farm Credit Administration.

(b) Subject to the approval of the Farm Credit System Assistance Board, the Financial Assistance Corporation is authorized by section 6.26 of the Act to issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury, for a term of 15 years (Financial Assistance Corporation securities). The Financial Assistance Corporation may prescribe the forms, the denominations, the rates of interest, the conditions, the manner of issuance and the prices of such Financial Assistance Corporation obligations.

(c) Financial Assistance Corporation securities shall be governed by §§ 615.5450, and 615.5452 through 615.5460. In interpreting those sections for purposes of this subpart, unless the context requires otherwise, the term “Financial Assistance Corporation securities” shall be read for “Farm Credit securities,” and “Financial Assistance Corporation” shall be read for “Farm Credit banks” and “Funding Corporation.” These terms shall be read as though modified where necessary to effectuate the application of the designated sections of subpart O of this part to the Financial Assistance Corporation.

[53 FR 12141, Apr. 13, 1988; 53 FR 27156, July 19, 1988, as amended at 61 FR 67195, Dec. 20, 1996]