

§613.3100

12 CFR Ch. VI (1–1–10 Edition)

shall not exceed 15 percent of the total of its outstanding loans at the end of its preceding fiscal year, except with the prior approval of its funding bank.

(3) The aggregate of rural home loans made by all direct lender associations that are funded by the same Farm Credit bank shall not exceed 15 percent of the total outstanding loans of all such associations at the end of the funding bank's preceding fiscal year.

[62 FR 4441, Jan. 30, 1997, as amended at 66 FR 28643, May 24, 2001]

Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

SOURCE: 62 FR 4442, Jan. 30, 1997, unless otherwise noted.

§613.3100 Domestic lending.

(a) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) *Cooperative* means any association of farmers, ranchers, producers or harvesters of aquatic products, or any federation of such associations, or a combination of such associations and farmers, ranchers, or producers or harvesters of aquatic products that conducts business for the mutual benefit of its members and has the power to:

(i) Process, prepare for market, handle, or market farm or aquatic products;

(ii) Purchase, test, grade, process, distribute, or furnish farm or aquatic supplies; or

(iii) Furnish business and financially related services to its members.

(2) *Farm or aquatic supplies and farm or aquatic business services* are any goods or services normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons.

(3) *Public utility* means a cooperative or other entity that is licensed under Federal, State, or local law to provide electric, telecommunication, cable television, water, or waste treatment services.

(4) *Rural area* means all territory of a State that is not within the outer boundary of any city or town having a

population of more than 20,000 inhabitants based on the latest decennial census of the United States.

(5) *Service cooperative* means a cooperative that is involved in providing business and financially related services (other than public utility services) to farmers, ranchers, aquatic producers or harvesters, or their cooperatives.

(b) *Cooperatives and other entities that serve agricultural or aquatic producers—*
(1) *Eligibility of cooperatives.* A bank for cooperatives or an agricultural credit bank may lend to a cooperative that satisfies the following requirements:

(i) Unless the bank's board of directors establishes by resolution a higher voting control threshold for any type of cooperative, the percentage of voting control of the cooperative held by farmers, ranchers, producers or harvesters of aquatic products, or cooperatives shall be 80 percent except:

(A) Sixty (60) percent for a service cooperative;

(B) Sixty (60) percent for local farm supply cooperatives that have historically served the needs of a community that would not be adequately served by other suppliers and have experienced a reduction in the percentage of membership by agricultural or aquatic producers due to changed circumstances beyond their control; and

(C) Sixty (60) percent for local farm supply cooperatives that provide or will provide needed services to a community, and are or will be in competition with a cooperative specified in §613.3100(b)(1)(i)(B);

(ii) The cooperative deals in farm or aquatic products, or products processed therefrom, farm or aquatic supplies, farm or aquatic business services, or financially related services with or for members in an amount at least equal in value to the total amount of such business it transacts with or for non-members, excluding from the total of member and non-member business, transactions with the United States, or any agencies or instrumentalities thereof, or services or supplies furnished by a public utility; and

(iii) The cooperative complies with one of the following two conditions:

(A) No member of the cooperative shall have more than one vote because

Farm Credit Administration

§ 613.3100

of the amount of stock or membership capital owned therein; or

(B) The cooperative restricts dividends on stock or membership capital to the maximum percentage per year permitted by applicable state law.

(iv) Any cooperative that has received a loan from a bank for cooperatives or an agricultural credit bank shall, without regard to the requirements in paragraph (b)(1) of this section, continue to be eligible for as long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the cooperative is held by farmers, ranchers, producers or harvesters of aquatic products, or other eligible cooperatives.

(2) *Other eligible entities.* The following entities are eligible to borrow from banks for cooperatives and agricultural credit banks:

(i) Any legal entity that holds more than 50 percent of the voting control of a cooperative that is an eligible borrower under paragraph (b)(1) of this section and uses the proceeds of the loan to fund the activities of its cooperative subsidiary on the terms and conditions specified by the bank;

(ii) Any legal entity in which an eligible cooperative (or a subsidiary or other entity in which an eligible cooperative has an ownership interest) has an ownership interest, *provided that* if the percentage of ownership attributable to the eligible cooperative is less than 50 percent, financing may not exceed the percentage of ownership attributable to the eligible cooperative multiplied by the value of the total assets of such entity; or

(iii) Any creditworthy private entity operated on a non-profit basis that satisfies the requirements for a service cooperative and complies with the requirements of either paragraphs (b)(1)(i)(A) and (b)(1)(iii) of this section, or paragraph (b)(1)(iv) of this section, and any subsidiary of such entity. An entity that is eligible to borrow under this paragraph shall be organized to benefit agriculture in furtherance of the welfare of the farmers, ranchers, and aquatic producers or harvesters who are its members.

(c) *Electric and telecommunication utilities—(1) Eligibility.* A bank for coopera-

tives or an agricultural credit bank may lend to:

(i) Electric and telephone cooperatives as defined by section 3.8(a)(4)(A) of the Act that satisfy the eligibility criteria in paragraph (b)(1) of this section;

(ii) Cooperatives and other entities that:

(A) Have received a loan, loan commitment, insured loan, or loan guarantee from the Rural Utilities Service of the United States Department of Agriculture to finance rural electric and telecommunication services;

(B) Have received a loan or a loan commitment from the Rural Telephone Bank of the United States Department of Agriculture; or

(C) Are eligible under the Rural Electrification Act of 1936, as amended, for a loan, loan commitment, or loan guarantee from the Rural Utilities Service or the Rural Telephone Bank.

(iii) The subsidiaries of cooperatives or other entities that are eligible under paragraph (c)(1)(ii) of this section.

(iv) Any legal entity that holds more than 50 percent of the voting control of any public utility that is an eligible borrower under paragraph (c)(1)(ii) of this section, and uses the proceeds of the loan to fund the activities of the eligible subsidiary on the terms and conditions specified by the bank.

(v) Any legal entity in which an eligible utility under paragraph (c)(1)(ii) of this section (or a subsidiary or other entity in which an eligible utility under paragraph (c)(1)(ii) has an ownership interest) has an ownership interest, *provided that* if the percentage of ownership attributable to the eligible utility is less than 50 percent, financing may not exceed the percentage of ownership attributable to the eligible utility multiplied by the value of the total assets of such entity.

(2) *Purposes for financing.* A bank for cooperatives or agricultural credit bank may extend credit to entities that are eligible to borrow under paragraph (c)(1) of this section in order to provide electric or telecommunication services in a rural area. A subsidiary that is eligible to borrow under paragraph (c)(1)(iii) of this section may also obtain financing from a bank for cooperatives or agricultural credit bank

§613.3200

12 CFR Ch. VI (1–1–10 Edition)

for energy-related or public utility-related purposes that cannot be financed by the lenders referred to in paragraph (c)(1)(ii), including, without limitation, financing to operate a licensed cable television utility.

(d) *Water and waste disposal facilities—*

(1) *Eligibility.* A cooperative or a public agency, quasi-public agency, body, or other public or private entity that, under the authority of state or local law, establishes and operates water and waste disposal facilities in a rural area, as that term is defined by paragraph (a)(4) of this section, is eligible to borrow from a bank for cooperatives or an agricultural credit bank.

(2) *Purposes for financing.* A bank for cooperatives or agricultural credit bank may extend credit to entities that are eligible under paragraph (d)(1) of this section solely for installing, maintaining, expanding, improving, or operating water and waste disposal facilities in rural areas.

(e) *Domestic lessors.* A bank for cooperatives or agricultural credit bank may lend to domestic parties to finance the acquisition of facilities or equipment that will be leased to shareholders of the bank for use in their operations located inside of the United States.

[62 FR 4442, Jan. 30, 1997; 62 FR 33746, June 23, 1997, as amended at 69 FR 43514, July 21, 2004; 71 FR 65386, Nov. 8, 2006]

§613.3200 International lending.

(a) *Definitions.* For the purpose of this section only, the following definitions apply:

(1) *Agricultural supply* includes:

(i) A farm supply; and

(ii) Agriculture-related processing equipment, agriculture-related machinery, and other capital goods related to the storage or handling of agricultural commodities or products.

(2) *Farm supply* refers to an input that is used in a farming or ranching operation.

(b) *Import transactions.* The following parties are eligible to borrow from a bank for cooperatives or an agricultural credit bank pursuant to section 3.7(b) of the Act for the purpose of financing the import of agricultural commodities or products therefrom,

aquatic products, and agricultural supplies into the United States:

(1) An eligible cooperative as defined by §613.3100(b);

(2) A counterparty with respect to a specific import transaction with a voting stockholder of the bank for the substantial benefit of the shareholder; and

(3) Any foreign or domestic legal entity in which eligible cooperatives hold an ownership interest.

(c) *Export transactions.* Pursuant to section 3.7(b)(2) of the Act, a bank for cooperatives or an agricultural credit bank is authorized to finance the export (including the cost of freight) of agricultural commodities or products therefrom, aquatic products, or agricultural supplies from the United States to any foreign country. The board of directors of each bank for cooperatives and agricultural credit bank shall adopt policies that ensure that exports of agricultural products and commodities, aquatic products, and agricultural supplies which originate from eligible cooperatives are financed on a priority basis. The total amount of balances outstanding on loans made under this paragraph shall not, at any time, exceed 50 percent of the capital of any bank for cooperatives or agricultural credit bank for loans that:

(1) Finance the export of agricultural commodities and products therefrom, aquatic products, or agricultural supplies that are not originally sourced from an eligible cooperative; and

(2) At least 95 percent of the loan amount is not guaranteed by a department, agency, bureau, board, or commission of the United States or a corporation that is wholly owned directly or indirectly by the United States.

(d) *International business operations.* A bank for cooperatives or an agricultural credit bank may finance a domestic or foreign entity which is at least partially owned by eligible cooperatives described in §613.3100(b), and facilitates the international business operations of such cooperatives.

(e) *Restrictions.* (1) When eligible cooperatives own less than 50 percent of a foreign or domestic legal entity, the amount of financing that a bank for cooperatives or agricultural credit bank may provide to the entity for imports,