

Subpart A [Reserved]

Subpart B—Availability of Records of the Farm Credit System Insurance Corporation

§ 1402.10 Official records of the Farm Credit System Insurance Corporation.

(a) The Farm Credit System Insurance Corporation shall, upon any request for records which reasonably describes them and is made in accordance with the provisions of this subpart, make the records available as promptly as practicable to any person, except exempt records, which include the following:

- (1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;
- (2) Records related solely to the internal personnel rules and practices of the Farm Credit System Insurance Corporation, including matters which are for the guidance of agency personnel;
- (3) Records which are specifically exempted from disclosure by statute;
- (4) Trade secret, commercial, proprietary, or financial information obtained from any person or organization and privileged or confidential;
- (5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the Farm Credit System Insurance Corporation or in litigation in which the United States, as a real party in interest on behalf of the Farm Credit System Insurance Corporation, is a party;
- (6) Personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:
 - (i) Could reasonably be expected to interfere with enforcement proceedings;
 - (ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual; and

(8) Records of or related to examination, operation, reports of condition and performance, or reports of or related to Farm Credit System institutions and that are prepared by, on behalf of, or for the use of the Farm Credit System Insurance Corporation.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

§ 1402.11 Current index.

The Farm Credit System Insurance Corporation will make available for public inspection and copying a current index to provide identifying information as to any matter required by 5 U.S.C. 552(a)(2)(C) to be made available or published in the FEDERAL REGISTER. Because of the anticipated infrequency of requests for material required to be indexed, it is determined that the publication of the index in the FEDERAL

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REGISTER is unnecessary and impracticable. However, the Farm Credit System Insurance Corporation will provide a copy of such index to a member of the public upon request therefor at a cost not in excess of the direct cost of duplication.

§ 1402.12 Identification of records requested.

A member of the public who requests records from the Farm Credit System Insurance Corporation shall provide a reasonable description of the records sought including, where possible, specific information as to dates, titles, and subject matter, so that such records may be located without undue search or inquiry. If a record is not identified by a reasonable description, the request therefor may be denied.

§ 1402.13 Request for records.

Requests for records shall be in writing and addressed to the attention of the Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102. A request improperly addressed will be deemed not to have been received for purposes of the 20-day time period set forth in §1402.14(a) of this part until it is received, or would have been received, by the Freedom of Information Officer, with the exercise of due diligence by Corporation personnel. Records requested in conformance with this subpart and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the office of the Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia, 22102.

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§ 1402.14 Response to requests for records.

(a) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extensions thereof as provided in paragraph (d) of this section, of the receipt of a request by the Freedom of Information Officer, the Freedom of Information Officer shall determine whether to comply with or deny

such a request and transmit a written notice thereof to the requester.

(b) Within 30 days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Chief Financial Officer, Farm Credit System Insurance Corporation, and both the letter and envelope shall be clearly marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by Farm Credit System Insurance Corporation personnel.

(c) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of an appeal, the Farm Credit System Insurance Corporation shall act upon the appeal and place a notice of the determination thereof in writing in the mail addressed to the requester. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted that person's administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(d) In "unusual circumstances," the 20-day time limit prescribed in paragraphs (a) and (c) of this section, or both, may be extended by the Freedom of Information Officer or, in the case of an appeal, by the General Counsel, provided that the total of all extensions