

§ 614.4351

(b) *Commitment* means a legally binding obligation to extend credit, enter into lease financing, purchase or participate in loans or leases, or pay the obligation of another, which becomes effective at the time such commitment is made.

(c) *Loan* means any extension of, or commitment to extend, credit authorized under the Act whether it results from direct negotiations between a lender and a borrower or is purchased from or discounted for another lender. This includes participation interests. The term “loan” includes loans and leases outstanding, obligated but undisbursed commitments to lend or lease, contracts of sale, notes receivable, other similar obligations, guarantees, and all types of leases. An institution “makes a loan or lease” when it enters into a commitment to lend or lease, advances new funds, substitutes a different borrower or lessee for a borrower or lessee who is released, or where any other person’s liability is added to the outstanding loan, lease or commitment.

(d) *Primary liability* means an obligation to repay that is not conditioned upon an unsuccessful prior demand on another party.

(e) *Secondary liability* means an obligation to repay that only arises after an unsuccessful demand on another party.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999]

§ 614.4351 Computation of lending and leasing limit base.

(a) *Lending and leasing limit base.* An institution’s lending and leasing limit base is composed of the total capital (tier 1 and tier 2) of the institution, as defined in § 628.2 of this chapter, with adjustments applicable to the institution provided for in § 628.22 of this chapter, and with the following further adjustments:

(1) [Reserved]

(2) Eligible third-party capital that is required to be excluded from total capital under § 628.23 of this chapter may be included in the lending limit base.

(b) *Timing of calculation.* The lending limit base will be calculated on a

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monthly basis as of the preceding month end.

[58 FR 40321, July 28, 1993, as amended at 59 FR 37403, July 22, 1994; 64 FR 34517, June 28, 1999; 70 FR 35348, June 17, 2005; 70 FR 53907, Sept. 13, 2005; 81 FR 49772, July 28, 2016; 86 FR 54356, Oct. 1, 2021]

§ 614.4352 Farm Credit Banks and agricultural credit banks.

(a) *Farm Credit Banks.* No Farm Credit Bank may make or discount a loan to a borrower if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the bank’s lending and leasing limit base.

(b) *Agricultural credit banks.* (1) No agricultural credit bank may make or discount a loan to a borrower under the authority of title I of the Act if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the bank’s lending and leasing limit base.

(2) No agricultural credit bank may make or discount a loan to a borrower under the authority of title III of the Act if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed the lending and leasing limits prescribed in § 614.4355 of this subpart.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999; 76 FR 29997, May 24, 2011]

§ 614.4353 Direct lender associations.

No direct lender association may make a loan to a borrower if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 15 percent of the association’s lending and leasing limit base.

[58 FR 40321, July 28, 1999, as amended at 64 FR 34517, June 28, 1999; 76 FR 29997, May 24, 2011]

§ 614.4354 [Reserved]

§ 614.4355 Banks for cooperatives.

No bank for cooperatives may make a loan if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds the following percentages of the lending and leasing limit base of the bank:

Farm Credit Administration

§ 614.4358

(a) *Basic limit.* (1) Term loans to eligible cooperatives: 25 percent.

(2) Term loans to foreign and domestic parties: 10 percent.

(3) Lease loans qualifying under § 614.4020(a)(3) and applying to the lessee: 25 percent.

(4) Standby letters of credit qualifying under § 614.4810: 35 percent.

(5) Guarantees qualifying under § 614.4800: 35 percent.

(6) Seasonal loans exclusive of commodity loans qualifying under § 614.4231: 35 percent.

(7) Foreign trade receivables qualifying under § 614.4700: 50 percent.

(8) Commodity loans qualifying under § 614.4231: 50 percent.

(9) Export and import letters of credit qualifying under § 614.4720: 50 percent.

(b) *Total limit.* (1) The sum of term and seasonal loans exclusive of commodity loans qualifying under § 614.4231: 35 percent.

(2) The sum of paragraphs (a)(1) through (a)(9) of this section: 50 percent.

[58 FR 40321, July 28, 1993, as amended at 62 FR 51015, Sept. 30, 1997; 64 FR 34517, June 28, 1999; 71 FR 65387, Nov. 8, 2006]

§ 614.4356 Farm Credit Leasing Services Corporation.

The Farm Credit Leasing Services Corporation may enter into a lease agreement with a lessee if the consolidated amount of all leases and undisbursed commitments to that lessee or any related entities does not exceed 15 percent of its lending and leasing limit base.

[64 FR 34517, June 28, 1999, as amended at 76 FR 29997, May 24, 2011]

§ 614.4357 Banks for cooperatives look-through notes.

Where a bank for cooperatives makes a loan to an eligible borrower that is secured by notes of individuals or business entities, the basic lending limits provided in § 614.4355 may be applied to each original notemaker rather than to the loan to the eligible borrower, if:

(a) Each note is current and carries a full recourse endorsement or unconditional guarantee by the borrower;

(b) The bank determines the financial condition, repayment capacity,

and other credit factors of the loan to the original maker reasonably justify the credit granted by the endorser; and

(c) The loans are fully supported by documented loan files, which include, at a minimum:

(1) A credit report supporting the bank's finding that the financial condition, repayment capacity, and other factors of the maker of the notes being pledged justify the credit extended by the bank and/or endorser;

(2) A certification by a bank officer designated for that purpose by the loan or executive committee that the financial responsibility of the original notemaker has been evaluated by the loan committee and the bank is relying primarily on each such maker for the payment of the obligation; and

(3) Other credit information normally required of a borrower when making and administering a loan.

[58 FR 40321, July 28, 1993. Redesignated at 64 FR 34517, June 28, 1999]

§ 614.4358 Computation of obligations.

(a) *Inclusions.* The computation of total loans to each borrower for the purpose of computing their lending and leasing limit shall include:

(1) The total unpaid principal of all loans and lease balances outstanding and the total amount of undisbursed commitments except as excluded by paragraph (b) of this section. This amount shall include loans that have been charged off on the books of the institution in whole or in part but have not been collected, except to the extent that such amounts are not legally collectible;

(2) Purchased interests in loans, including participation interests, to the extent of the amount of the purchased interest, including any undisbursed commitment;

(3) Loans attributed to a borrower in accordance with § 614.4359.

(b) *Exclusions.* The following loans when adequately documented in the loan file, may be excluded from loans to a borrower subject to the lending and leasing limit:

(1) Any loan or portion of a loan that carries a full faith and credit performance guaranty or surety of any department, agency, bureau, board, commission, or establishment of the United