[FR Doc. 95–486 Filed 1–9–95; 8:45 am]
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FARM CREDIT ADMINISTRATION

12 CFR Parts 614, 615, and 618

RIN 3052–AB53

Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by order of the FCA Board (Board), proposes to repeal several regulations as part of an ongoing effort to reduce unnecessary regulatory burden on Farm Credit System (FCS or System) institutions. Comments that the FCA solicited through a notice of intent regarding regulatory burden identified most of the regulations that the FCA now proposes to delete. The FCA concurs with the commenters that these particular regulations should be repealed because they are outdated or impose a burden that is greater than the benefit derived.

DATES: Written comments must be received on or before February 9, 1995.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

W. Eric Howard, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Richard A. Katz, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

On June 10, 1993, the FCA Board approved a Statement on Regulatory Burden seeking public comment on the appropriateness of requirements the FCA regulations impose on the FCS. More specifically, the FCA asked the public to identify regulations that either duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived. The notice of intent was published in the **Federal Register** (58 FR 34003) on June 23, 1993. Although the 90-day comment period expired on September 21, 1993, the FCA considered comments that were received subsequent to that date.

The FCA received a total of 28 responses. The FCA received nine comment letters from individual Farm Credit associations and three letters from groups of associations in particular Farm Credit districts. Seven Farm Credit banks sent 12 comment letters to the FCA. The Farm Credit Council (FCC) sent a comment letter on behalf of its membership. Additionally, three separate work groups of the Farm Credit System Presidents Planning Committee each sent the FCA a position paper containing recommendations to relieve regulatory burdens pertaining to capital, eligibility, and financially related services.

Many of the comments involve regulatory projects that the FCA Board previously identified in the Unified Agenda of Federal Regulations published in the **Federal Register** on October 25, 1993 (58 FR 57276). The FCA work groups organized to develop revised regulations on these issues will consider the comments as they evaluate various policy options during the course of their regulatory projects. The analysis and appropriate response to comments regarding topics under review by these existing work groups will be included as part of any regulatory action published in the **Federal Register**.

The remaining comments contained a number of recommendations for eliminating or modifying specific regulations that are perceived as imposing unnecessary regulatory burdens on the FCS. The FCA's review and analysis of these comments was guided, in part, by the FCA Board's Policy Statement on Regulatory Philosophy (Policy Statement).[1]

The Policy Statement conveys that ''[t]he FCA will work to eliminate outdated regulations and ensure that its regulations implement the purposes of the law without unnecessary burden or cost.'' According to the Policy Statement, the FCA shall only adopt regulations that: (1) Implement or interpret the law; or (2) are necessary to promote the safe and sound operations of System institutions. The Policy Statement also commits the FCA to replacing outmoded regulations with new regulations that implement the purposes of the law without imposing unnecessary costs or burdens on FCS institutions. Another provision in the Policy Statement declares that the FCA will strive to ensure that each regulation has a well-defined objective addressing specific problems or risks. In this context, the FCA will seek to establish a regulatory environment that grants FCS institutions the business flexibility to offer a full range of high-quality, low-cost credit services to borrowers. The Policy Statement also states that the FCA, to the extent feasible, will seek to eliminate regulations that prescribe specific operational or managerial practices to System institutions. If appropriate, the FCA will consider the regulatory approaches of other Federal financial institution regulators. Finally, another provision in the Policy Statement pledges that when the need arises, the FCA will draft new regulations so that they are clear, easy to understand, and designed to minimize the potential for ambiguity, uncertainty, and resultant litigation.

The FCA analyzed the commenters' recommendations, and determined that many of the suggestions warranted the immediate repeal of certain FCA regulations. Other suggestions will require additional research and analysis before the FCA determines whether, and to what extent, changes in the existing regulations should be proposed. Once a determination is made, the public will be notified of the FCA Board's decisions regarding the remaining issues in an appropriate manner.

The FCA is proposing to repeal the following regulatory provisions: §§ 615.5104; 615.5105(c); 615.5170(b) through (e); 615.5190; 615.5498; 615.5500; 615.5520; 615.5530; and 618.8220. In addition, the FCA is proposing to repeal the FCA prior approval requirements in §§ 614.4470(b)(1) and (b)(3). An explanation of the FCA's reasons for proposing the repeal of these regulations follows. The FCA invites public comment on all aspects of the proposed rule.

II. Analysis of Changes and Comments by Section

A. Loans Subject to Bank Approval

A Farm Credit Bank (FCB) and a bank for cooperatives (BC) suggested that the FCA eliminate all agency prior approvals of FCS institution policies, procedures, and transactions that are not required by the Act. The commenters stated that these prior approval requirements are inconsistent

[1] 59 FR 32189, June 22, 1994.

with the FCA's status as an arm's-length regulator, and deny System institutions the opportunity to use their business judgment. The commenters specifically indicated that the agency should give priority to the removal of the prior approval requirements for general financing agreements (GFAs), financially related services (FRS), and certain insider loan transactions.

Since the enactment of the Agricultural Credit Act of 1987 (1987 Act),[2] the FCA has eliminated from the regulations many of the prior approval requirements that are not mandated by the Act. The FCA is in the process of reviewing all the remaining non-statutory prior approvals in order to determine whether they should be retained. The FCA has already established regulatory projects to determine whether the agency prior approvals of GFAs and FRS are still feasible. Another work group is currently reviewing whether the FCA should continue to pre-approve the retirement of protected stock outside the ordinary course of business.

At this time, the FCA is proposing to eliminate from both §§ 614.4470(b)(1) and (b)(3) the requirement that the agency pre-approve certain insider loan transactions at System associations. Section 614.4470(a) requires funding banks to pre-approve loans that their affiliated associations make to: (1) Their own directors or employees; (2) directors or employees of a jointly managed association; or (3) bank employees. Furthermore, § 614.4470(b) requires FCA approval of loans to any borrower whenever certain institution-affiliated parties will: (1) Receive proceeds of a loan in excess of an amount established by the funding bank; or (2) endorse, guarantee, or comake a loan that is in excess of the amount established by the funding bank.

The FCA agrees with the commenters that the prior approval requirements in §§ 614.4470 (b)(1) and (b)(3) are no longer appropriate since the FCA has become an arm's-length regulator. An existing regulation, 12 CFR 620.5, requires that System institutions disclose in their annual reports to shareholders insider loan transactions. In addition, the FCA has sufficient examination and enforcement powers to ensure that loans to institution-affiliated parties do not undermine the solvency of any FCS bank or association. If the agency prior approval requirements in § 614.4470(b) are repealed, the FCA intends to rely upon its examination authority to determine whether: (1) Bank policy adequately deters insider abuses at institutions in its district; and (2) associations are complying with bank policy.

B. Debt Policy and Consolidated Systemwide Notes

Two Farm Credit banks requested that the FCA repeal §§ 615.5104 and 615.5105(c) because they are no longer necessary. Section 615.5104 requires each bank to adopt a policy for the management of its debt. Section 615.5105(c) requires each bank to identify in its debt management policy the maximum amount of discount notes that can be outstanding at any one time.

The FCA recently revised § 615.5135 to require each FCS bank to adopt an asset/liability management policy. *See* 58 FR 63034, November 30, 1993. This new regulation requires the policies of System banks to address the management of both assets and liabilities in a more comprehensive manner than §§ 615.5104 and 615.5105(c) currently require. Since the FCA agrees with the commenters that §§ 615.5104 and 615.5105(c) are now obsolete, the agency proposes to delete these two regulations. The new investment regulations in subpart E of part 615 enhance the ability of Farm Credit banks to control liquidity and solvency risks in their portfolios.

C. Real and Personal Property

An FCB and a BC commented that §§ 615.5170 (c) and (d) are outdated and should be removed from the FCA regulations. These commenters also asserted that the regulation improperly involves banks in the real and personal property acquisitions of their affiliated associations. After carefully evaluating the commenters' suggestions, the FCA proposes to repeal §§ 615.5170 (b) through (e).

The FCA has concluded that §§ 615.5170 (b) through (d) prescribe detailed operational standards, rather than performance criteria, for ensuring the safe and sound operation of System banks and associations. Furthermore, these provisions neither implement nor interpret provisions in the Act that govern the acquisition of real or personal property by FCS banks and associations. The FCA believes that these regulatory provisions impose burdens on System institutions that produce no corresponding benefits. The FCA also observes that paragraphs (b), (c), and (d) of § 615.5170 are obsolete because they impose responsibilities on the ''district boards'' that were abolished by section 409(d) of the Agricultural Credit Technical Corrections Act of 1988.[3]

The FCA also believes that § 615.5170 (d) and (e) are no longer necessary because the safety and soundness concerns posed by information system processing technology are now adequately addressed in FCA Information Systems Bulletins. Additionally, Information Systems Bulletin 92–1 addresses information system risks in mergers and acquisitions.

The FCA proposes, however, to retain § 615.5170(a) because this provision implements the applicable sections of the Act. Sections 1.5(5) and 3.1(5) of the Act authorize each bank, subject to regulation by the FCA, to acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business. Sections 2.2(5) and 2.12(5) of the Act provide associations with similar authorities subject to the supervision by the district bank and regulation by the FCA. Section 615.5170(a) implements these sections of the Act by specifically stating that the ownership of real estate for office quarters of any bank or association ''shall be limited to facilities reasonable and necessary to meet the foreseeable requirements of the institution.'' Furthermore, § 615.5170(a) expressly prohibits any FCS institution from acquiring real property ''if it involves, or appears to involve, a bank or association in the real estate or other unrelated business.'' For safety and soundness reasons, § 615.5170(a) also prohibits banks and associations from directly investing in real estate because such extraneous business activities may increase the exposure of System institutions to loss.

D. Deposits of Funds

The FCA proposes to repeal § 615.5190. The FCA did not receive any comments concerning § 615.5190(a), but it proposes to repeal this provision. The FCA has determined that § 615.5190(a) is unnecessary because sections 1.5(14), 2.2(10), 2.12(18) and 3.1(12) of the Act provide the requisite authority for FCS institutions to deposit current funds in commercial banks that are either members of the Federal Reserve System, or are insured by the Federal Deposit Insurance Corporation (FDIC).

Two Farm Credit banks recommended that the FCA repeal § 615.5190(b) because there is no statutory basis for requiring the National Bank for Cooperatives (CoBank) to make foreign

[2] Pub. L. No. 100–233, 101 Stat. 1568, (January 6, 1988).

[3] Pub. L. No. 100–399, Section 409(d), 102 Stat. 989, 1003, (August 17, 1988).

deposits for the other BCs. The commenters also assert that § 615.5190(b) unnecessarily restricts other BCs from becoming active in the international arena.

Section 615.5190(b) was originally adopted in 1981 (46 FR 51881, October 22, 1981), when there were 12 BCs and the Central Bank for Cooperatives (CBC). After section 304 of the Farm Credit Act Amendments of 1980[4] granted international lending authorities to the BCs, the FCA decided that the CBC should conduct all international banking transactions on behalf of the district BCs. At the time, only the CBC had the expertise to reduce the safety and soundness risks that derive from currency exchange transactions. After the CBC and 10 district BCs merged to form the CoBank, the FCA amended § 615.5190(b) to require CoBank to assume the CBC's function. *See* 56 FR 2671, January 24, 1991.

After careful reflection on this issue, the FCA has determined that the safety and soundness risks inherent in currency exchange transactions should not be controlled by a regulation which flatly prohibits a BC or an agricultural credit bank (ACB), other than CoBank, from independently exercising its international banking authorities under section 3.7(a) of the Act. The existing regulation unduly restricts the business flexibility of BCs and ACBs, other than CoBank, to offer a full range of high-quality, low-cost international financial and credit services to their customers.

If § 615.5190(b) is repealed, the FCA will rely upon its examination and enforcement powers to ensure that all BCs and ACBs conduct their currency exchange transactions in a safe and sound manner. The FCA emphasizes that each BC and ACB is responsible for employing personnel who have the competency and expertise to conduct its international banking operations. In the alternative, a BC or an ACB may contract with commercial banks, other FCS banks operating under title III of the Act, or other qualified institutions for the management of its currency exchange transactions.

Another provision in § 615.5190(b) prohibits FCS banks from holding certificates of deposit that are denominated in foreign currencies as investments under § 615.5140. This provision predates the revisions to § 615.5140, which now requires System banks to acquire investments that are denominated only in United States dollars. The duplicative nature of § 615.5190 supports FCA's decision to repeal this regulation.

E. Farm Credit Securities as Illustrations

The FCA is proposing to repeal § 615.5498, which regulates the illustration of Farm Credit securities that are used for educational or illustrative purposes. The FCA proposes to delete § 615.5498 although it received no comments about this regulation. The purpose of this regulation is to deter counterfeiting of definitive FCS securities. Since virtually all FCS securities are now issued in book-entry form, § 615.5498 is obsolete. The Federal Farm Credit Banks Funding Corporation and individual System banks can implement adequate safeguards to minimize the risk of counterfeiting of the few securities that are still issued in definitive form.

F. Open Registered Mail and Express Policy

The FCA is proposing to repeal subpart P of part 615, which consists of §§ 615.5500, 615.5520, and 615.5530. These three regulations govern the shipment of negotiable securities through the United States Postal Service. The regulations of subpart P of part 615 were designed to eliminate the System's exposure to loss at a time when FCS negotiable securities were routinely shipped by mail between the Bureau of Printing and Engraving and the Federal Reserve Bank of New York. The practice of shipping negotiable securities through the mail was discontinued several years ago. The advent of electronic and computer technology for transferring negotiable securities through the book-entry system has rendered subpart P of part 615 obsolete.

G. Contributions and Membership in Other Organizations

Two FCBs petitioned the FCA either to delete or amend § 618.8220. This regulation requires the boards of directors of FCS banks and associations to approve: (1) Charitable contributions; and (2) the payment of membership dues in any voluntary association, club, or society. The regulation further requires boards of directors, during the approval process, to consider the business benefits and tax consequences of such contributions and memberships for the bank or association.

The commenters contend that § 618.8220 prohibits an institution's board of directors from delegating responsibility for such matters to management. The commenters also assert that board approval often prevents a Farm Credit bank or association from honoring unforeseen charitable requests in a timely manner. In this context, the commenters expressed concern that an FCS institution's reputation in its community will suffer damage if it does not respond to requests from charities and benevolent societies in a prompt and prudent manner.

The FCA agrees with the commenters that § 618.8220 unnecessarily interferes in the business operations of System institutions. Furthermore, § 618.8220 unnecessarily prescribes management practices to System banks and associations. The FCA observes that § 618.8220 imposes requirements on FCS institutions that are not commensurate with the safety and soundness risks posed by System charitable and social activities. The FCA's examination and enforcement powers can adequately deter System institutions from conducting these activities in an unsafe and unsound manner. For these reasons, the FCA is proposing to remove § 618.8220 to provide FCS institutions the additional flexibility they are seeking.

List of Subjects

12 CFR Part 614

Agriculture, Banks, Banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, Banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, parts 614, 615, and 618 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5, of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2,

[4] Pub. L. No. 96–592, Section 304, 94 Stat. 3437, 3444, (December 24, 1980).

2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart M—Loan Approval Requirements

§ 614.4470 [Amended]

2. Section 614.4470 is amended by removing the words ''and approved by the Farm Credit Administration'' from paragraphs (b)(1) and (b)(3).

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

3. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-4, 2279aa-6, 2279aa-7, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart C—Issuance of Bonds, Notes, Debentures and Similar Obligations

§ 615.5104 [Removed]

4. Section 615.5104 is removed.

§ 615.5105 [Amended]

5. Section 615.5105 is amended by removing paragraph (c).

Subpart F—Property and Other Investments

§ 615.5170 [Amended]

6. Section 615.5170 is amended by removing paragraphs (b), (c), (d), (e) and the designation for paragraph (a).

Subpart G—[Removed and reserved]

7. Subpart G, consisting of § 615.5190, is removed and reserved.

Subpart O—Issuance of Farm Credit Securities

§ 615.5498 [Removed and reserved]

8. Section 615.5498 is removed and reserved.

Subpart P—[Removed and reserved]

9. Subpart P, consisting of §§ 615.5500, 615.5520, and 615.5530, is removed and reserved.

PART 618—GENERAL PROVISIONS

10. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart F—Miscellaneous Provisions

§ 618.8220 [Removed and reserved]

11. Section 618.8220 is removed and reserved.

Dated: January 4, 1995.

Floyd Fithian,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 95–489 Filed 1–9–95; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–30–AD]

Airworthiness Directives; B. Grob Flugzeugbau Model G109B Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would apply to B. Grob Flugzeugbau (Grob) Model G109B gliders. The proposed action would require replacing the elevator inner hinges with hinges of improved design. Two occurrences where the elevator inner hinges separated from the elevator prompted the proposed action. The actions specified by the proposed AD are intended to prevent failure of these hinges because of delamination or corrosion, which, if not detected and corrected, could lead to loss of control of the glider.

DATES: Comments must be received on or before March 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from B. Grob Flugzeugbau, D–8939 Mattsies, Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Herman C. Belderok, Project Officer, Sailplanes, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 94–CE–30–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfarht-Bundesant (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Grob Model G109B gliders. The LBA reports that delamination and corrosion have caused the elevator inner hinges to separate from the elevator on two of the affected gliders. Under the original and current design, these hinges receive excessive stress on the laminated attachment point on the stabilizer and elevator, which causes the laminates to separate and moisture to become