

Office report criticized certain System loan sale practices that created hardships for many borrowers. See 57 FR 38237 (Aug. 24, 1992). As § 614.4337 addresses the obligations of System institutions that originate and subsequently sell the borrowers' loans, the FCA will not repeal this regulation.

F. Investment in Farmers' Notes

Several FCBs and associations requested that the FCA either eliminate or modify the full-recourse requirement in § 615.5172, which authorizes PCAs and ACAs to invest in Farmers' Notes. This regulation authorizes PCAs and ACAs, in accordance with the policies prescribed by the boards of their funding banks, to invest in notes and other obligations evidencing the purchase of farm equipment, machinery, and supplies by farmers and ranchers from private dealers and cooperatives. The regulation requires that the debtors on these Farmers' Notes must be eligible to borrow from PCAs and ACAs. More importantly, § 615.5172(d) states that "all notes in which the association invests shall be endorsed with full recourse against the cooperative or dealer."

Commenters claimed that this full-recourse requirement adversely impacts System competitiveness in the short-term credit market and restrains their business opportunities.

The commenters asserted that: (1) The recourse requirement should be a credit decision of the association, and (2) the full-recourse requirement is unrelated to safety and soundness.

Although the FCA realizes that the full-recourse requirement in § 615.5172(d) may deprive PCAs and ACAs of some profitable business opportunities, it implements several provisions of the Act. The Farmers' Notes program derives from section 2.2(10) of the Act, which authorizes associations to invest their funds, as approved by their funding bank, pursuant to FCA regulations. Therefore, the regulation implements the investment authorities, not the lending powers, of PCAs and ACAs. Because the full-recourse requirement precludes PCAs and ACAs from assuming any credit risk on Farmers' Notes, § 615.5172(d) ensures that these instruments are treated as investments rather than loans.

The full-recourse requirement prevents PCAs and ACAs from extending credit to an eligible borrower without complying with provisions of the Act that govern their lending authorities and capitalization requirements. Farm Credit banks and associations lack authority under

sections 1.5(16) and 2.2(11) of the Act, respectively, to purchase operating loans from non-System lenders. Furthermore, the commenters' recommendation is incompatible with provisions of the Act that require: (1) System institutions to accord borrower rights on agricultural or aquatic loans, and (2) farmers to purchase voting stock when they obtain credit from a System lender. For these reasons, the FCA cannot delete or modify the full-recourse requirement in § 615.5172(d) without an amendment to the Act to allow System banks and associations to purchase loans from non-FCS lenders.

III. Future Efforts To Reduce Unnecessary Regulatory Burdens on FCS Institutions

All remaining regulatory burden issues that System institutions raised during the comment period are being addressed in separate regulatory projects that have already been assigned to specific FCA task forces. Within the past 2 years, the FCA has responded to some System concerns about regulatory burdens by adopting final investment and related services regulations. This summer, the FCA proposed new eligibility regulations that are designed to relieve unnecessary regulatory burdens on the FCS while simultaneously enforcing statutory requirements and promoting safety and soundness. The FCA work groups are considering possible amendments to existing regulations that govern: (1) General Financing Agreements; (2) Agency prior approvals; (3) quarterly reports to shareholders; (4) letters of credit for international trade; (5) credit underwriting standards and independent credit judgments on loan participation; and (6) the 10-day notification requirement for changes in interest rates. Separately, the FCA will review whether § 611.330 could be amended so that FCS institutions could, under certain conditions, use ballots containing identity codes in non-weighted elections without compromising voter secrecy and the integrity of the electoral process. The Agency also plans to reevaluate the regulatory timeframes associated with the reconsideration of mergers, consolidations, and other corporate restructurings that have been approved by an institution's shareholders under § 611.1122(k).

Sections 4.9 and 5.17(a)(3) of the Act specifically require reports about young, beginning, and small farmer programs at FCS institutions. The FCA has no latitude to grant relief from these statutory reporting requirements. However, the Agency is currently

considering whether § 614.4165(d) is still necessary because other methods may be appropriate for ensuring compliance with the statutory reporting requirements for young, beginning, and small farmer programs.

As part of its strategic plan, the FCA is considering comprehensive revisions to the Loan Accounting and Reporting System (LARS) and Call Report requirements. As results are achieved from this strategic goal, unnecessary or duplicative LARS and Call Report requirements on System institutions will be eliminated. However, changes to these reporting requirements and further changes to regulatory requirements must be accomplished without any adverse impact on the ability of the FCA to discharge its safety and soundness responsibilities under the Act.

Except for the specific issues outlined above that may be addressed in ongoing regulation projects, the FCA considers this its final response to comments received pursuant to its regulatory burden request.

Dated: November 17, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95-28583 Filed 11-22-95; 8:45 am]

BILLING CODE 6705-01-P

12 CFR Part 615

RIN 3052-AB66

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Global Debt

AGENCY: Farm Credit Administration.

ACTION: Interim rule; request for comment.

SUMMARY: The Farm Credit Administration (FCA) is issuing an interim regulation to clarify the Federal Farm Credit Banks Funding Corporation's (Funding Corporation) statutory authority to use more than one fiscal agent to facilitate the sale of Systemwide debt securities. The regulation permits the Funding Corporation to employ fiscal agents other than Federal Reserve Banks (FRBs) for issuance of dollar denominated Systemwide debt securities in foreign capital markets. Thus, the rule recognizes the authority of the Funding Corporation to issue, sell, and distribute Systemwide debt securities on behalf of the Farm Credit banks (banks) on a global basis. Updating existing FCA regulations allows the banks to engage in debt marketing practices used by other Government-Sponsored Enterprises (GSEs). In addition,

expanding debt marketing internationally may broaden the investor base for Systemwide debt securities and lead to lower funding costs.

DATES: The regulations shall become effective upon the expiration of 30 days after publication during which either or both Houses of Congress are in session. Written comments must be received on or before December 26, 1995. Notice of effective date will be published in the Federal Register.

ADDRESSES: Comments may be mailed or delivered 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:

Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498;
or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. Background

The Farm Credit System (System) funds its lending operations through the sale of debt securities in the domestic capital markets. The banks currently offer Systemwide debt securities, primarily consisting of Consolidated Systemwide bonds, medium-term notes and discount notes.¹ The Funding Corporation, acting on behalf of the banks, issues, markets, and handles the debt obligations of the System. The Funding Corporation also has the responsibility for establishing, subject to FCA approval, the amount, maturities, rates of interest, and terms and conditions of participation by the several banks in each issue of Systemwide debt securities.²

The Funding Corporation uses a selling group of investment dealers and dealer banks to market Systemwide debt securities. Systemwide debt securities are generally issued in book-entry form.³

¹ Systemwide debt securities are the joint and several obligations of the banks. See 12 U.S.C. 2155(a)(2) and 12 U.S.C. 2153(d).

² See 12 U.S.C. 2160.

³ Securities issued in book-entry form are assigned to an investor's account upon purchase. The investor receives a custody receipt from his or

The FRBs maintain the book-entry securities as agents of the banks.⁴ Pursuant to FCA regulations, Systemwide debt securities clear and settle through the Federal Reserve Banks' Book-entry System (Fed book-entry system).⁵ Foreign investors can purchase Systemwide debt securities through institutions and depositories that have appropriate accounts with an FRB. Currently, the banks do not issue securities through agents other than the FRBs either domestically or in foreign capital markets.

In contrast, other GSEs⁶ have launched global debt issuance programs to expand the sale of their debt securities into foreign capital markets. While most GSEs have issued or sold debt securities denominated in United States dollars (U.S. dollars) outside the United States, three⁷ also have issued debt securities denominated in foreign currencies. The global debt programs aim at increasing the depth and breadth of the market for the issuer's debt securities. The GSEs are seeking to diversify and control the cost of borrowing at a time when their overall funding needs are rising sharply. The foreign capital markets could provide the GSEs funding opportunities at rates that are attractive compared to domestic sources. Additionally, international debt sales may enhance the efficiency of GSE debt sales by expanding their sources of funding and reducing the burgeoning supply of GSE debt in the domestic market.

II. System Global Debt Program Proposal

The Funding Corporation proposes to establish a global debt marketing

her bank or non-bank dealer instead of receiving a certificate. Payment of principal and interest on book-entry securities is credited to the investor's account and does not require presentation of a coupon or certificate. Investors may choose, as a custodian, any bank or other financial institution that maintains book-entry accounts with a member of the Federal Reserve System.

⁴ See 12 CFR part 615, subpart O.

⁵ The FRBs operate a book-entry system, which provides book-entry holding and settlement for all U.S. dollar denominated securities issued by the U.S. Government, certain agencies, instrumentalities (including GSEs), and international organizations of which the United States is a member. The Fed book-entry system enables specified depositories and other institutions, with an appropriate account with an FRB or Branch, to hold, make payments, and transfer securities and funds through the FRBs' Fedwire electronic funds transfer system.

⁶ The Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Student Loan Marketing Association (Sallie Mae) and the Federal Home Loan Banks (FHLBs) have introduced global debt programs.

⁷ Fannie Mae, Sallie Mae, and the FHLBs have issued non-dollar denominated debt securities.

program for issuance of Systemwide debt securities similar to the other GSEs. The Funding Corporation has requested FCA's confirmation that the Farm Credit Act of 1971, as amended⁸ (Act), allows the banks to issue Systemwide debt securities in foreign capital markets using fiscal agents other than the FRBs. The proposed System Global Debt Program (Program) contemplates three approaches to enter into foreign capital markets that vary in scope and complexity.

The first approach is designed to increase secondary market sales of Systemwide debt securities outside the United States. To accomplish this, the Funding Corporation would use international depositories and clearing systems for maintaining and servicing book-entry Systemwide debt securities. By expanding secondary market trading and safekeeping to accountholders in clearing systems beyond the Fed book-entry system, the Funding Corporation could increase and support demand by foreign investors. Primary issuances of dollar denominated Systemwide debt securities would continue to be issued through the FRBs in book-entry form.

The Program's second method to heighten the System's presence in foreign capital markets involves both primary issuance and secondary market sales of Systemwide debt securities outside the United States. Dollar denominated Systemwide debt securities would be issued through fiscal agents other than the FRBs, either exclusively outside the United States or simultaneously inside and outside the United States. Secondary market trading and safekeeping of the debt securities would be accomplished through international depositories and clearing systems.

Under the third approach, Systemwide debt securities would be denominated in foreign currencies and issued exclusively outside the United States through fiscal agents other than the FRBs. Secondary market trading and safekeeping would be handled through international clearing systems. Such non-dollar denominated Systemwide debt securities issued in foreign capital markets are the subject of an Advance Notice of Proposed Rulemaking also adopted by the FCA Board on November 16, 1995, and published elsewhere in today's issue of the Federal Register.

⁸ 12 U.S.C. 2001-227966-6.

III. Statutory and Regulatory Considerations

A. General

The Act grants broad authority to: (1) The banks to issue debt obligations to fund their operations; and (2) the FCA to approve the issuance of System debt in the capital markets. Under section 4.2, Systemwide debt obligations must be issued solely through the Funding Corporation, while section 4.9(b)(1) of the Act authorizes the Funding Corporation to "issue, market, and handle the obligations" of the banks. Under section 4.9(b)(2) of the Act, the Funding Corporation, acting for the banks and subject to FCA approval, "shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations." Sections 4.2 and 5.17(a)(4) of the Act require FCA approval of the issuance of all System debt obligations.

B. Secondary Market Sales Outside the United States

In general, secondary market trading and sales of Systemwide debt securities have been limited to the United States market. However, secondary market sales of dollar denominated Systemwide debt securities outside the United States are compatible with current statutory and regulatory requirements. The initial issuance of such debt securities would be subject to the standard FCA approval process.⁹

C. Issuance of Systemwide Debt Outside the United States

The Act is silent concerning issuance of Systemwide debt outside the United States. No provision of the Act explicitly or implicitly prohibits the banks, acting through the Funding Corporation, from issuing debt obligations outside the United States. Furthermore, there appears to be no other Federal statute or judicial ruling that would prohibit the banks from issuing Systemwide debt securities outside the United States. Nevertheless, the laws of the various host countries may restrict some aspects of System debt issuances within their borders.

D. Use of Issuing and Servicing Agents Other Than the FRBs

Section 4.8(a) of the Act, which governs the issuance and sale of System obligations through fiscal agents, clearly contemplates that the banks can issue their debt obligations through one or more fiscal agents. Section 4.8(a) states:

Each bank of the System * * * may provide for the sale of obligations issued by it, consolidated obligations, or System-wide obligations, through a *fiscal agent or agents*, by negotiation, offer, bid, syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate. (Emphasis added.)

Section 4.8(a) does not, however, identify a fiscal agent or agents that the banks are authorized to use for debt issuances.

The FCA regulations governing the issuance, maintenance, and servicing of Farm Credit securities refer only to the authority of FRBs to act as agents for the banks.¹⁰ The absence of any reference in the regulations to fiscal agents other than the FRBs may appear to restrict the authority of the Funding Corporation to select a fiscal agent other than an FRB. In light of the apparent latitude permitted under section 4.8(a), the FCA believes the authority of the Funding Corporation to employ fiscal agents other than FRBs should be clarified.

IV. Need for Amended Regulations

The FCA regulations governing issuance of Systemwide debt securities were promulgated nearly 20 years ago. The existing regulations reflect a period when the FRBs served as the exclusive fiscal agents for GSE debt issuances in a predominantly domestic market. Since then, global debt markets and international clearing systems have evolved and become more closely integrated with the United States domestic securities market. Due to substantial increases in GSE debt issuances, the domestic GSE debt market has become highly competitive. As a result, the GSEs are seeking to expand their market horizon and lower their cost of funds by using international delivery systems to reach foreign investors.

The FRBs may not act as fiscal agents for GSE debt obligations that are issued outside of the United States. Therefore, GSEs that embark upon global debt programs must employ fiscal agents that have the capability of issuing, maintaining, and servicing international debt offerings. As noted, the Act does not restrict the issuance of Systemwide debt securities to domestic markets or the use of fiscal agents to the FRBs. To clarify this authority, the FCA is adopting a new subpart P in 12 CFR part

615 dealing with issuance of Global Systemwide debt securities. The FCA regulations governing the authority of the FRBs to issue book-entry Farm Credit securities are not affected by the new rules and remain in effect.¹¹

The FCA believes the new regulations will preserve the flexibility provided to the banks under the Act by allowing them to pursue the most cost-effective and efficient method of raising funds in the capital markets. The FCA also recognizes the increasingly global nature of capital markets and supports the objectives of the proposed Program. By developing the capability to issue debt internationally, the System may increase its name recognition, broaden its investor base, diversify its sources of funding, and obtain more cost-effective financing.

The new subpart differentiates Systemwide debt securities distributed outside the United States from those issued through the FRBs under existing Funding Corporation programs. The regulation defines a Global agent as any fiscal agent, other than the FRBs, used by the Funding Corporation to facilitate the sale of global debt securities. Global debt securities are defined as obligations 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 agent and distributed either exclusively outside the United States or simultaneously inside and outside the United States. Issuances of global debt securities will be subject to the standard FCA approval process.

The FCA believes that it is unlikely that any substantial operational or business risks to the System will be posed by clearance and settlement of transactions in the systems outside the Fed book-entry system. Systemwide debt securities issued internationally would likely be handled through established and interconnected international clearinghouses, all of which have book-entry systems available to distribute and settle primary sales and to transfer beneficial interests in secondary market sales among their respective holding institutions, participants, and accountholders. In general, book-entry systems are considered superior to other means for evidencing ownership and are universally accepted by investors in the global marketplace. All issuers of debt or equity securities must employ an entity to issue, hold, trade, and clear book-entry securities in the name of accountholders, unless the securities are issued in definitive (i.e., tangible) form to facilitate sales. To date, the

¹⁰ See 12 CFR part 615, subpart O which authorizes each FRB to issue and maintain book-entry Farm Credit securities, service book-entry Farm Credit securities by making payment of interest and payment at maturity or upon call, transfer or pledge Farm Credit securities to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with an FRB and provide other services as fiscal agent.

¹¹ See 12 CFR part 615, subpart O.

⁹ See 12 U.S.C. 2153, 2252(a)(4).

experience of the other GSEs engaged in global debt marketing programs also suggests that using international clearing systems is an acceptable business practice.

Nevertheless, the FCA believes that the operational risk inherent in the development of a global debt program is significant enough to warrant the requirement that the Funding Corporation Board of Directors approve each prospective global agent and clearing system. Additionally, the Funding Corporation must establish appropriate selection criteria for global agents. The FCA expects that selection criteria will be based on factors such as credit ratings, capital, reputation, experience, and management capabilities to ensure that the entity is suitable to assume and carry out the functions of a fiscal agent, including the appointment of subordinate agents if necessary.¹²

Promulgation of new subpart P of 12 CFR part 615 effectively approves the first two aspects of the proposed Program as previously outlined. Thus, the Funding Corporation may engage global agent(s) to issue and service dollar denominated global debt securities and facilitate their secondary market trading in foreign capital markets by using international clearing systems.

The FCA has decided that the third aspect of the proposed Program—issuance of non-dollar denominated Systemwide debt securities—presents issues that need to be addressed through conventional notice-and-comment rulemaking rather than in the present expedited rulemaking. The Act does not restrict the issuance of Systemwide debt securities to dollar denominated securities. However, issuance of non-dollar debt obligations could raise safety and soundness concerns for the banks, including currency and counterparty risks. The FCA, therefore, intends to explore these potential safety and soundness issues through an Advance Notice of Proposed Rulemaking prior to developing regulations.

V. Expedited Rulemaking Procedure

The Act permits the Funding Corporation to market debt securities on a global basis and use global agents to issue and service such securities.

¹² Depending upon the agreement between the Funding Corporation and the entity acting as global agent, a global agent may only retain primary responsibility over certain fiscal functions and thus may need to appoint other agents, such as paying agent, transfer agent, calculation agent, exchange agent, or register agent to perform other functions necessary for clearance and settlement of transactions.

Moreover, marketing and issuance of dollar denominated debt by GSEs is an established practice that appears to present minimal safety and soundness risk. Accordingly, the FCA finds that pre-promulgation notice and comment on a new subpart P that merely clarifies existing authority is unnecessary and is not in the public interest.¹³ Thus, this regulation shall take effect as a final regulation in accordance with section 5.17(c)(1) of the Act, upon the expiration of 30 days after publication in the Federal Register, during which either or both Houses of Congress are in session. The FCA solicits and will consider comments on whether the requirements of new subpart P need further clarification.

List of Subjects in 12 CFR Part 615

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

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

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

1. 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, 4.3A, 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, 2154a, 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.

2. Subpart P is added to read as follows:

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.

§ 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.

Dated: November 17, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.
[FR Doc. 95-28584 Filed 11-22-95; 8:45 am]

BILLING CODE 6705-01-P

12 CFR Parts 615 and 620

RIN 3052-AB60

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Director Elections

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts amendments to the regulations relating to the implementation of cooperative principles to allow greater flexibility in the method by which directors of Farm Credit System (System) associations and banks for cooperatives are elected, consistent with cooperative principles. The amendments permit regional election of directors.

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after publication during which either or both houses of Congress are in session. Notice of the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John J. Hays, Policy Analyst, Regulation Development, Office of Examination, (703) 883-4498, TDD (703) 883-4444; or Rebecca S. Orlich, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On June 9, 1995, the FCA Board published proposed amendments to its regulations governing the election of directors. See 60 FR 30470 (June 9, 1995). The FCA received 9 comment letters in response

¹³ See 5 U.S.C. 553(b)(B).