Open Session:

1. Announcement of Notation Votes, and

2. Systemic Task Force Report

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings.

FOR FURTHER INFORMATION CONTACT: Stephen Llewellyn, Acting Executive Officer on (202) 663–4070.

Dated: March 24, 2006.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 06–3019 Filed 3–24–06; 12:23 pm]

BILLING CODE 6570–06–M

FARM CREDIT ADMINISTRATION

RIN 3052–AC15

Statement on Regulatory Burden

AGENCY: Farm Credit Administration (FCA).

ACTION: Notice.

SUMMARY: This notice is part of our most recent initiative to reduce regulatory burden for the Farm Credit System (FCS or System). Many System institutions responded to our May 2003 request for comments by identifying regulations that they considered burdensome, ineffective, or duplicative. Since May 2003, FCA has adopted a number of final rules addressing many of the comments. We are publishing contemporaneously a separate proposed rule in the **Federal Register** to change or remove several regulations. This notice responds to the comments that address regulations we are not changing at this time.

FOR FURTHER INFORMATION CONTACT: Jacqueline R. Melvin, Associate Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434; or Howard Rubin, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Background

On May 16, 2003, we published a notice in the **Federal Register** inviting the public to comment on our regulations and policies that may duplicate other requirements, are not effective in achieving stated objectives or impose burdens that are greater than the benefits received. See 68 FR 26551. We took this action in our continuing effort to improve the regulatory environment so System institutions can more effectively serve farmers, ranchers, aquatic producers, their cooperatives, and other rural residents. We received 19 comment letters, 16 of which were from System institutions, one from the Farm Credit Council, and one from CoBank, ACB's Northeast Regional Council. One comment letter was from an individual.

Since May 2003, we have published a number of final rules that addressed many of the comments, including those related to: (1) Required effective interest rate disclosures, (2) distressed loan restructuring, (3) lending authorities under title III of the 1971 Farm Credit Act, as amended (Act), (4) liquidity reserve requirements, and (5) risk weighting. Additionally, the FCA has provided additional guidance to System institutions on a number of the issues raised in the comments including a Board adopted policy statement in June 2005, that provides the framework for examination policies and a November 2004, Informational Memorandum that clarified our 2002 E-Commerce rule.

To further our effort to reduce regulatory burden we are publishing a proposed rule contemporaneously with this notice that proposes changes or deletions to five regulations that were identified by commenters as unnecessary and burdensome.

The purpose of this notice is to address comments raised about FCA regulations that will not be changed in connection with this project. A number of the issues raised by commenters are the subject of other regulatory projects scheduled for consideration by the FCA as set forth in FCA's Semiannual Regulatory Agenda published in the **Federal Register** on October 31, 2005. See 70 FR 65530.

However, in some cases, commenters identified regulations that implement statutory requirements or safety and soundness measures that cannot be changed or need significant further evaluation before we can consider whether changes are appropriate. Moreover, some of the comments are the same or similar to those we received and considered (but did not implement) over the past 10 years. Although we are not recommending changes to these regulations at this time, we may propose changes in the future. Additionally, some commenters appear to have misinterpreted our regulations and therefore no revision of our rules is needed in order to address the commenters' concerns. We have attempted to clarify those regulations in this notice. The following section summarizes the comments we received on regulations that we are not proposing to change at this time.

II. Regulations That We Are Not Proposing To Change at This Time

A. Employee Standards of Conduct

One commenter recommended that we revise § 612.2150(j) and (k), which limit when a System employee can act as an agent or broker in the sale of real estate or insurance. The commenter suggested that System employees acting as agents or brokers in the sale of real estate or insurance should be able to do so as long as such transactions do not involve the directors, employees, borrowers, or loan applicants of the employing institution. The Agency prohibits System employees who are licensed real estate agents or brokers from acting as agents or brokers for their respective institutions in order to avoid real and perceived conflicts of interest. We continue to believe that this is an important conflict-of-interest provision and are not proposing a change at this time.

B. Maximum 15-Year Amortization for Production Credit Association (PCA) Loans

One commenter suggested that we eliminate the 15-year amortization requirement for PCA loan terms and remove the restriction that a PCA loan may not be made for the purpose of acquiring unimproved real estate. Similar comments were raised during the 1997 rulemaking that implemented these provisions. Section 1.10(b) of the Act states, ''[l]oans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvesters of aquatic products).'' This section provides that FCA may, by regulation, provide for up to a 10-year repayment period. FCA has implemented this provision in § 614.4040(a), which allows PCAs to amortize loans for 15 years, although the repayment period cannot exceed 10 years. As we indicated in the 1997 final rule, these provisions are consistent with the differing lending authorities of PCAs and Federal Land Credit Associations (FLCAs) and recognize the importance of the Act's distinction between long-term real estate lenders and short- and intermediate-term lenders. In addition,

under the agriculture credit association (ACA) subsidiary structure, PCA customers have access to FLCA services to fill their long-term credit needs. Therefore, we are not proposing any change to our regulations in response to these comments at this time.

C. Loan Policies and Operations

We received many comments on a broad range of regulations contained in part 614 on loan policies and operations. One commenter stated the collateral evaluation requirements contained in § 614.4265 are burdensome and exceed comparable standards imposed on the System's competitors. Specifically, the commenter said that § 614.4265(d) on documenting the evaluation of the income and debt-servicing capacity for the property and operation where the transaction amount exceeds $250,000 is excessive.

One commenter stated that § 614.4325(e) requiring an independent judgment on the credit worthiness of borrowers in transactions involving the purchase of a group or pool of loans is burdensome. The commenter suggested the requirement be eliminated or revised to allow for System institutions to underwrite group or pooled participations on a composite analysis basis. Another commenter reiterated this position and stated the underwriter should have jurisdiction over whether or not the purchaser of the group or pool of loans would identify the extent of analysis needed.

Two commenters recommended that we eliminate the requirement in § 614.4325(h)(4)(ii) allowing an association, in transactions where its funding bank serves as its agent in the purchase of loans, to require its funding bank to purchase any interest in a loan that the association determines does not comply with the terms of the agency agreement or the association's loan underwriting standards.

The intent of these regulations is to implement various sections of the Act and/or important safety and soundness measures and we are not proposing to change them at this time. However, FCA is committed to ensuring that the System is able to meet the credit needs of farmers, ranchers, aquatic producers and harvesters, cooperatives, and rural residents. The FCA also recognizes that the operating environment of the FCS is changing rapidly. Therefore, we will continue to consider the commenters' suggestions to identify ways to relieve the System of unnecessary regulatory burdens.

D. Loans to Designated Parties

Several commenters recommended changes to the prior approval requirements of district banks for loans to designated parties made by their affiliate associations. One commenter stated direct lender associations should be responsible for administering their own loan approval processes, implementing appropriate internal controls, and reporting to their boards of directors. Two commenters suggested that approving loans to association directors and/or employees should be the responsibility of the direct lending association not their funding bank.

FCA initiated a rulemaking to implement the commenters suggestions in 1999–2001; however, FCA received many negative comments from System institutions on our proposed changes and did not adopt a final rule. We are therefore not proposing any changes at this time.

E. Flood Insurance

Two commenters asked us to exempt certain farm and ranch outbuildings and commercial agribusiness firms from flood insurance requirements by establishing a *de minimis* level of building contributory value, below which a flood insurance determination would not be required. The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 require that federally regulated lenders, including System institutions, document the determination of flood hazard status for all loans where a building or mobile home is offered as collateral to secure a loan. This determination is done by completing a standard flood hazard determination form (SFHDF). However, if the collateral is only bare land, there is no requirement to complete a SFHDF. The flood insurance statutes do not provide FCA discretion to establish a *de minimis* level of building contributory value, below which a flood insurance determination would not be required.

F. Related Services—Authorization Process

Several commenters addressed provisions of FCA regulations governing related services. These commenters stated that the approval process for related services is burdensome and discourages innovation. In 1995, when the Agency adopted its final rule on related services, we explained in the preamble that the review and approval process is the least burdensome way to adequately control program risks. While we are open to suggestions for reform in this area, we are not proposing any change at this point.

G. Related Services—Farm-Related Businesses

The commenters also suggested that FCA remove prohibitions on providing financially related services to farm-related businesses. Current § 618.8005 repeats the language of section 2.5 of the Act. We will continue to review this issue to determine whether we may appropriately broaden eligibility requirements. However, we are not proposing any change in our regulations at this time.

H. Related Services—Feasibility Reviews

Two commenters suggested the requirement that a funding bank's board of directors verify that its affiliate associations have performed feasibility analyses before offering a related service for the first time is not required by the Act and is burdensome. The commenters recommended the determination that the feasibility analysis is complete be done by FCA examination personnel.

Three sections of the Act (sections 1.12, 2.5, and 2.12) require that the board of directors of the Farm Credit Banks must determine the feasibility of an association providing a related service. Section 618.8025 states that to comply with this statutory requirement the bank board of directors need only determine that the association's feasibility analysis is complete and that the analysis determines that it is feasible to make this related service available.

I. Authorized Insurance Service

Five commenters addressed FCA regulations authorizing System institutions to offer insurance services to their members and borrowers. Some commenters suggested that the requirement that a borrower sign a written notice acknowledging that any insurance offered is optional is burdensome and unnecessary. Two commenters recommended the FCA eliminate the requirement that System institutions offer more than one insurer.

The Agency has previously stated that the signed consent does not necessarily impose additional paperwork requirements on the banks and associations because required notices can be incorporated into existing loan documents. The Act requires that ''the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers, if at least two insurers have been approved.'' To effectuate the statutory requirement,

§ 618.8040(b)(4)(v) states that if the bank or association has selected less than two insurers, it has to document the reasons why it is unable to offer borrowers additional insurers.

Another commenter stated that the current 5-percent restriction on incentive compensation for loan officers tied to sales of crop insurance is too restrictive. The preamble to § 618.8040(b)(6)(60 FR 34090, June 30, 1995) states that ''the FCA continues to believe that unrestricted incentive compensation based on volume of insurance sales may lead to conflicts of interest or coercion in the case of loan officer * * *.'' At the time, the regulation was modified to allow unlimited incentive compensation for full-time insurance personnel or full-time managers and supervisors of insurance departments. While we believe that the 1995 regulation remains appropriate and are not proposing any changes, we may review this regulation in the future.

J. Releasing Borrower Information

One commenter suggested that §§ 618.8320 and 618.8330 be amended to include an exception that would allow System employees to disclose borrower information in response to a lawful subpoena, summons, warrant, or court order. Under the current regulations, if an employee is summoned as a witness, the employee must appear, advise the court of these regulations, and disclose information after being ordered by the court.

These regulations were amended in the direct final rule published August 9, 1999 (64 FR 43046). The final regulation allows a bank or association to disclose confidential information under the lawful order of a court if the Government or institution is not a party to the litigation. As a result, institutions do not automatically have to contest every order to produce documents or testimony. Confidential borrower information as defined by § 618.8320(a) may be released only if a judge issues the order. We believe that this requirement is necessary to protect borrower confidentiality because the judge can impartially decide whether the litigant needs the confidential information in the institution's possession.

One commenter also suggested that we expand § 618.8320 (b)(4) to include any kind of transaction authorized under the Act, including lease transactions, sales of participations, and other interests in loans. This regulation states that, ''[i]nformation concerning borrowers may be given for the confidential use of any Farm Credit institution in contemplation of the extension of credit or the collection of loans.'' Lease transactions, sales of participations, and other interests in loans are all considered extensions of credit for purposes of this section. Therefore, no regulatory changes are necessary to implement the commenter's suggestion.

K. Young, Beginning and Small (YBS) Farmers and Ranchers Reporting

Four commenters addressed the requirements for tracking, monitoring, and reporting loans to YBS farmers and ranchers. One commenter stated that the methodology used to report these loans is cumbersome and not very informative. Another commenter suggested that the reporting requirements should apply only to the primary customer. Two commenters recommended that we change the reporting requirements so that they are consistent with small borrower reporting used by the commercial lending industry, which bases reporting on loan size, not borrower assets and income.

FCA's current YBS definitions and data collection requirements are based on other Government agencies' definitions, as well as the objective of the congressionally mandated mission for System institutions to serve YBS farmers and ranchers. Section 614.4165 does not require this reporting. These requirements are contained in annual Call Report instructions for preparing the Young, Beginning, and Small Farmers and Ranchers Report. The Call Report instructions state that reporting is required if ''* * * any individual that is obligated on the promissory note meets the definitional criteria as a young or beginning borrower.'' Therefore, a System institution is required to report a loan as young or beginning if any person obligated on the note meets any of these definitions. The Agency solicits this supplemental information to help us provide a more in-depth report to Congress on the performance of the System in fulfilling its statutory mission set forth in section 4.19 of the Act. The Agency recently completed its YBS Call for 2005. Therefore, we do not intend to change this policy at this time. However, the YBS Call Report is reviewed annually and could be subject to change in the future.

L. Interest Rate Shock and Ramp Requirements

One commenter recommended that the Agency eliminate interest rate shock and ramp requirements for System associations that are match funded. Section 615.5135 requires that bank boards develop and implement interest rate risk (IRR) management programs. One requirement of this regulation is that IRR management programs measure the potential impact of certain risks on projected earnings and market values by conducting interest rate shock tests and simulations of multiple economic scenarios at least on a quarterly basis. This is a safety and soundness requirement that FCA believes is appropriate and therefore we are not proposing any regulatory change at this time.

M. Confidentiality in Voting

Four commenters asked us to clarify or amend § 611.330. Some commenters were unsure when a third-party tabulator is required to tally stockholder votes and asked for clarification. Other commenters stated that the requirement for a third-party tabulator is unnecessary and burdensome. One commenter suggested that we remove the requirement that weighted votes be tabulated by an independent third party because this is not required by the Act.

Section 4.20 of the Act requires that FCS institutions implement safeguards to protect shareholders' rights to a secret ballot. Section 611.330 implements this section of the Act. Section 611.330(b) requires the use of an independent third party to tabulate vote results if the ballot contains an identifying code. If no code is used, then there is no regulatory requirement for an independent third party. For weighted votes, such as association ballots that are weighted by the number of shareholders determined by the bank, the votes must be tabulated by an independent third party. Otherwise, when an association submits a weighted vote, the factor that determines the weight (*e.g.*, number of shareholders) would breach the confidentiality requirement of section 4.20 of the Act because the bank could determine who submitted the ballot by the weight factor. At this time, we believe that our regulations help ensure that the appropriate safeguards are in place to protect shareholders' right to a secret ballot and we do not find these regulations to be unnecessary or burdensome. Therefore, we are not proposing any changes to § 611.330.

N. Employee Standards of Conduct—Disclosure Requirements

One commenter suggested that we limit the standards of conduct disclosure obligation to officers. Section 612.2155(b) requires that System employees complete standards of conduct disclosures at intervals determined by the board.

As explained in the preamble to FCA's final rule on Personnel Administration (59 FR 24889, May 13, 1994), § 612.2155 allows System institutions to determine employee reporting frequency for matters not required by part 620 disclosures, but the institution must establish reporting requirements sufficient to permit the effective enforcement of the regulations and the standards of conduct policy. This allows System institutions to exclude certain individuals or classes of individuals from the reporting requirement based on the functions the employee performs. For instance, positions where there is a substantial degree of supervision and a low level of responsibility may make the reporting requirement unnecessary. Therefore, System institutions already have the ability to limit who must complete the standards of conduct disclosure as requested by the commenter.

O. Federal Land Credit Associations (FLCAs)

One commenter suggested that we revise § 614.4030 to permit FLCAs to participate with non-System institutions on loans authorized under title I and title II of the Act. This regulatory requirement implements section 1.5(12)(C) of the Act, which provides that an FLCA may participate with non-System lenders on title I type loans only. However, an FLCA could become an agricultural credit association with a PCA and an FLCA subsidiary so that the ACA had short- and intermediate-term lending authority enabling the ACA to participate in loans authorized under title I and title II of the Act.

P. Territorial Concurrence

One commenter asked that we clarify and simplify the territorial concurrence rules contained in § 614.4070. The commenter suggested that FCA adopt a rule that would not require territorial concurrence when an association makes a loan to an eligible borrower that either resides or has operations in the direct lender association's territory. Currently, a bank or association operating under title I or II of the Act must get territorial concurrence when it lends to an eligible borrower that: (1) Is headquartered and operating in its territory even though the operation financed is conducted partially outside its territory, (2) is headquartered outside its territory to finance eligible borrower operations that are conducted partially within its territory and partially outside its territory, (3) finances eligible borrower operations conducted wholly outside its chartered territory, provided such loans are authorized by the policies of the bank and/or association involved and do not constitute a significant shift in loan volume away from the bank or association's assigned territory, or (4) has operations wholly outside its chartered territory. We are not proposing a regulatory change at this time because of the potentially significant impact of changing this rule. However, we will continue to apply and clarify our existing rule on a case-by-case basis to help ensure consistent application of § 614.4070.

Q. Loan Terms and Conditions—General Requirements

One commenter suggested that the Agency allow System institutions with long-term lending authority to make loans in participation with Government agency lenders when the loan-to-value ratio of the entire debt is greater than 85 percent, but the Government agency lender takes the first risk of loss on the portion of the indebtedness that exceeds the 85-percent limit. The commenter asserts that this would make financing more available for YBS farmers and ranchers.

Section 1.10(a) of the Act requires a long-term mortgage loan that: (1) Is secured by a first-lien interest in real estate, and (2) does not exceed 85 percent of the appraised value of the mortgaged property, except that FCS banks and associations may finance up to 97 percent of the appraised value of the property if the loan is guaranteed by a governmental agency. In addition, section 12 of the Farm Credit System Reform Act of 1996 amended section 1.10(a) of the Act so that System mortgage lenders can rely on private mortgage insurance (PMI) when the loan-to-value ratio exceeds 85 percent. Under the Act, if the Government agency in the commenter's example is acting as a guarantor of the entire loan, the System lender can finance up to 97 percent; however, if the Government agency is acting as another lender ''participating'' in the loan, then the 85-percent rule (with the PMI exception) applies.

R. Disclosure to Shareholders

We received several comments on FCA's regulatory requirements on disclosures to shareholders. Many of the issues raised by commenters are being addressed in other regulatory projects scheduled to be considered by FCA. However, one commenter suggested that the costs and efforts in preparing and mailing the Association Annual Meeting Information Statement (AAMIS) are not justified by the marginal benefit derived by stockholders, and sought more flexibility in providing the AAMIS to stockholders. The FCA believes the requirements for items to be disclosed in the AAMIS are reasonable and do provide benefits. However, the FCA does allow the AAMIS to be mailed to stockholders with the annual report so long as the annual meeting is held within the time requirements prescribed in the regulations.

S. Grounds for Appointment of Conservators and Receivers

One commenter stated that § 627.2710(b) requires FCA determination of a ''material'' default by an association on a general financing agreement (GFA) before action can be taken by the affiliated bank. The commenter stated that this is an infringement on the bank-association contractual relationship that places the bank in the position of entering into a lending relationship with an association without being able to collect the debt due without FCA's approval. However, while a bank has authority to declare an association in default of a GFA, it cannot place an association in receivership. The preamble to this final regulation dated July 22, 1998 (63 FR 39219) stated that ''[t]he FCA Board further believes that the Agency, not the bank nor the association, should be responsible for determining, as a ground for appointing a conservator or receiver, what constitutes a material default of the GFA.'' We are therefore not proposing any change at this time.

III. Future Efforts To Reduce Regulatory Burdens on FCS Institutions

As noted above, we will consider remaining regulatory burden issues raised during the comment period in separate regulatory projects. We will continue our efforts to remove regulatory burden. However, we will maintain those regulations that are necessary to implement the Act and are critical for the safety and soundness of the System. Our approach will enable the FCS to continue to provide credit to America's farmers, ranchers, aquatic producers, their cooperatives and other rural residents.

Dated: March 23, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E6–4493 Filed 3–27–06; 8:45 am]

BILLING CODE 6705–01–P