

## Farm Credit Administration

## § 627.3

(b) Complaints regarding discrimination in lending by a Farm Credit institution under the Equal Credit Opportunity Act shall be referred to the Office of Congressional and Public Affairs, Farm Credit Administration, McLean, Virginia 22102-5090.

[57 FR 13639, Apr. 17, 1992. Redesignated at 62 FR 4441, Jan. 30, 1997]

### PART 627—TITLE IV CONSERVATORS, RECEIVERS, BRIDGE SYSTEM BANKS, AND VOLUNTARY LIQUIDATIONS

#### Subpart A—General Provisions

Sec.

627.1 Applicability.

627.2 Definitions.

627.3 Grounds for appointing a conservator or receiver.

627.4 Action for removal of a conservator or receiver.

#### Subpart B—Conservator and Conservatorships

627.10 FCSIC as conservator.

#### Subpart C—Receiver and Receiverships

627.20 FCSIC as receiver.

#### Subpart D—Voluntary Liquidation

627.40 Voluntary liquidation.

627.41 Preservation of equity.

AUTHORITY: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61, 5.61C of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a-7).

SOURCE: 57 FR 46482, Oct. 9, 1992, unless otherwise noted.

#### Subpart A—General Provisions

SOURCE: 88 FR 82244, Nov. 24, 2023, unless otherwise noted.

##### § 627.1 Applicability.

The provisions of this part apply to conservatorships, receiverships, and voluntary liquidations of System institutions chartered under titles I, II, III, IV, and VII of the Act.

##### § 627.2 Definitions.

For the purposes of this part, the following definitions apply:

*Act* means the Farm Credit Act of 1971, as amended.

*Conservator* means the Farm Credit System Insurance Corporation acting in its capacity as the conservator of a Farm Credit institution.

*Farm Credit institution(s) or institution(s)* means all Farm Credit banks, associations, service corporations chartered under title IV of the Act, and the Federal Farm Credit Banks Funding Corporation. These two terms do not include any bridge System bank chartered by FCA, in accordance with section 5.61C(h)(2) of the Act.

*FCSIC* means the Farm Credit System Insurance Corporation.

*Receiver* means FCSIC acting in its capacity as the receiver of a Farm Credit institution.

##### § 627.3 Grounds for appointing FCSIC as conservator or receiver.

(a) FCA may, in its discretion, appoint a conservator or receiver of a Farm Credit institution if FCA determines that one or more of the grounds in paragraph (b) of this section exists. FCA must appoint FCSIC as conservator or receiver of a Farm Credit institution. To the extent practicable, FCA will consult with FCSIC before taking a pre-resolution action that may result in a conservatorship or receivership of a Farm Credit institution.

(b) The grounds for appointing FCSIC as a conservator or receiver of a System institution are:

(1) The institution is insolvent because the value of its assets is less than its obligations to creditors and others, including its members. For the purpose of determining insolvency, “obligations to members” does not include stock or allocated equities held by current or former borrowers.

(2) There has been a substantial dissipation of assets or earnings of the institution due to the violation of any law, rule, or regulation, or one or more unsafe or unsound practice(s).

(3) The institution is in an unsafe or unsound condition to transact business, including having insufficient capital levels or otherwise. For the purpose of this part, “unsafe or unsound condition” includes, but is not limited to, the following conditions:

(i) For associations, a default by the association of one or more terms of its general financing agreement with its

#### § 627.4

funding bank that the Farm Credit Administration determines to be a material default;

(ii) For all institutions, permanent capital of less than one-half the minimum required level for the institution; or

(iii) For associations, stock impairment.

(4) The institution has committed a willful violation of a final cease and desist order issued by the Farm Credit Administration Board.

(5) The institution is concealing its books, papers, records, or assets, or is refusing to submit its books, papers, records, assets, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration Board.

(6) A Farm Credit bank is unable to make a timely payment of principal or interest on any insured obligation(s) defined in section 5.51(3) of the Act issued by the bank individually, or on which it is primarily liable.

#### § 627.4 Action for the removal of the conservator or receiver.

Within 30 days after the Farm Credit Administration Board appoints FCSIC as the conservator or receiver of a Farm Credit institution, pursuant to § 627.3, the institution may bring an action in the United States District Court for the judicial district in which its home office is located, or the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration Board to remove such conservator or receiver and, if the charter has been canceled, to rescind the cancellation of the charter. The institution's board of directors is empowered to meet subsequent to the appointment of a conservator or receiver and authorize the filing of an action in Federal court to remove the conservator or receiver. Only the institution's board of directors has the power to authorize an action to remove the conservator or receiver.

#### Subpart B—Conservator and Conservatorships

SOURCE: 88 FR 82244, Nov. 24, 2023, unless otherwise noted.

#### 12 CFR Ch. VI (1–1–25 Edition)

#### § 627.10 FCSIC as Conservator.

(a) *Appointment.* (1) The Farm Credit Administration Board may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the conservator of a Farm Credit institution upon finding that one or more of the grounds identified in § 627.3(b) exists. The Farm Credit Administration Board may appoint, *ex parte* and without notice, FCSIC as conservator for any Farm Credit institution.

(2) Upon appointing FCSIC as the conservator of an institution, the Chairman of the Farm Credit Administration shall immediately notify such institution and, in the case of an association, its funding bank. The Farm Credit Administration will immediately publish notice of the appointment of the conservator in the FEDERAL REGISTER.

(b) *Conservatorship.* (1) Once the Farm Credit Administration Board issues the order placing a Farm Credit institution in conservatorship, all rights, privileges, and powers of its members, board of directors, officers, and employees, are transferred to and vested exclusively in FCSIC as conservator, except that the board of directors of the institution retains authority to initiate an action in a Federal district court to remove the conservator pursuant to § 627.4.

(2) The Farm Credit Administration will continue to examine Farm Credit institutions in conservatorship in accordance with section 5.19 of the Act.

(3) A qualified public accountant must audit a Farm Credit institution in conservatorship in accordance with part 621 of this chapter.

(4) Pursuant to the requirements of part 621 of this chapter, each institution in conservatorship must prepare and file with the Farm Credit Administration financial reports, certified by FCSIC, as required by § 621.14.

(5) Each institution in conservatorship must prepare and issue published financial reports in accordance with the requirements of part 620 of this chapter. FCSIC, as the conservator of the institution, will provide the signatures and certifications required by § 620.3.

## Farm Credit Administration

## § 627.40

### (c) *Termination of the conservatorship.*

(1) Whenever the Farm Credit Administration Board determines the problem(s) or condition(s) that led to the conservatorship have been corrected and resolved, and the institution is in a position to resume normal operations, it may terminate the conservatorship and direct FCSIC to turn over the institution's operations to such management that FCA designates. Once new management is in place, the conservatorship terminates and FCA discharges FCSIC as conservator; or

(2) Whenever the Farm Credit Administration Board determines the institution should be placed in receivership, the Farm Credit Administration Board will appoint FCSIC as the receiver of such institution.

## Subpart C—Receiver and Receiverships

SOURCE: 88 FR 82244, Nov. 24, 2023, unless otherwise noted.

### § 627.20 FCSIC as receiver.

(a) *Appointment.* (1) The Farm Credit Administration Board may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the receiver of a Farm Credit institution upon finding that one or more of the grounds identified in § 627.3(b) exists. The Farm Credit Administration Board may appoint, *ex parte* and without notice, FCSIC as receiver for any Farm Credit institution.

(2) Upon appointing FCSIC as the receiver of an institution, the Chairman of the Farm Credit Administration shall immediately notify such institution and, in the case of an association, its funding bank. The Farm Credit Administration will immediately publish notice of the appointment of the receiver in the FEDERAL REGISTER.

(b) *Funding bank role for association in liquidation.* In the event of the voluntary or involuntary liquidation of an association, the funding bank must institute appropriate measures to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by, or otherwise transferred to another System institution.

(c) *Receivership.* (1) Once the Farm Credit Administration Board issues the

order placing a Farm Credit institution in receivership, all rights, privileges, and powers of its members, the board of directors, officers, and employees, are transferred to and vested exclusively in FCSIC as receiver, except that the institution's board of directors retains authority to initiate an action in a Federal district court to remove the receiver pursuant to § 627.4.

(2) The Farm Credit Administration Board simultaneously will cancel the charter of the institution when it appoints FCSIC as receiver.

(d) *Uninsured accounts.* Once the Farm Credit Administration Board has placed an institution into receivership, FCSIC, in accordance with section 4.37 of the Act will, as soon as practicable, notify every borrower who holds an uninsured voluntary or involuntary account, as described in § 614.4175 of this subchapter, at the institution that:

(1) Such accounts ceased earning interest from the date the Farm Credit Administration Board placed the institution into receivership; and

(2) FCSIC, as receiver, will immediately apply the funds in a borrower's uninsured account(s) as payment against the outstanding balance of the borrower's loan(s).

(e) *Final discharge and release of the receiver.* The receivership terminates after FCSIC makes a final distribution of the assets of the liquidated institution. Then, the Farm Credit Administration Board will completely and finally release and discharge the receiver.

## Subpart D—Voluntary Liquidation

SOURCE: 63 FR 5725, Feb. 4, 1998, unless otherwise noted.

### § 627.40 Voluntary liquidation.

(a) A Farm Credit institution may voluntarily liquidate by a resolution of its board of directors, but only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board. Upon adoption of such resolution to liquidate, the Farm Credit institution shall submit the proposed voluntary liquidation plan to the Farm Credit

## § 627.41

Administration for preliminary approval. The Farm Credit Administration Board, in its discretion, may appoint a receiver as part of an approved liquidation plan. If a receiver is appointed for the Farm Credit institution as part of a voluntary liquidation, the receivership shall be conducted pursuant to subpart C of this part, except to the extent that an approved plan of liquidation provides otherwise.

(b) If the Farm Credit Administration Board gives preliminary approval to the liquidation plan, the board of directors of the Farm Credit institution shall submit the resolution to liquidate and the liquidation plan to the stockholders for approval.

(c) The resolution to liquidate and the liquidation plan shall be approved by the stockholders if agreed to by at least a majority of the voting stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting.

(d) The Farm Credit Administration Board will consider final approval of the liquidation plan after an affirmative stockholder vote on the resolution to liquidate.

(e) Any subsequent amendments, modifications, revisions, or adjustments to the liquidation plan shall require Farm Credit Administration Board approval.

(f) The Farm Credit Administration Board, in its discretion, reserves the right to terminate or modify the liquidation plan at any time.

[63 FR 5725, Feb. 4, 1998. Redesignated and amended at 88 FR 82246, Nov. 24, 2023]

### § 627.41 Preservation of equity.

(a) Immediately upon the adoption of a resolution by its board of directors to voluntarily liquidate a Farm Credit institution, the capital stock, participation certificates, equity reserves, and allocated equities of the Farm Credit institution shall not be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities. Such activities could resume if the stockholders of the Farm Credit institution disapprove the resolution to liquidate or the Farm Credit Administration Board disapproves the liquidation plan. In the event the resolution

## 12 CFR Ch. VI (1–1–25 Edition)

to liquidate is approved by the stockholders of the Farm Credit institution and the liquidation plan is approved by the Farm Credit Administration Board, the liquidation plan shall govern disposition of the equities of the Farm Credit institution.

(b) Notwithstanding paragraph (a) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

[63 FR 5725, Feb. 4, 1998. Redesignated and amended at 88 FR 82246, Nov. 24, 2023]

## PART 628—CAPITAL ADEQUACY OF SYSTEM INSTITUTIONS

### Subpart A—General Provisions

Sec.

628.1 Purpose, applicability, and reservations of authority.

628.2 Definitions.

628.3 Operational requirements for certain exposures.

628.4–628.9 [Reserved]

### Subpart B—Capital Ratio Requirements and Buffers

628.10 Minimum capital requirements.

628.11 Capital buffer amounts.

628.12–628.19 [Reserved]

### Subpart C—Definition of Capital

628.20 Capital components and eligibility criteria for tier 1 and tier 2 capital instruments.

628.21 Capital bylaw or board resolution to include equities in tier 1 and tier 2 capital.

628.22 Regulatory capital adjustments and deductions.

628.23 Limit on inclusion of third-party capital in total (tier 1 and tier 2) capital.

628.24–628.29 [Reserved]

### Subpart D—Risk-Weighted Assets—Standardized Approach

628.30 Applicability.

#### RISK-WEIGHTED ASSETS FOR GENERAL CREDIT RISK

628.31 Mechanics for calculating risk-weighted assets for general credit risk.

628.32 General risk weights.

628.33 Off-balance sheet exposures.

628.34 OTC derivative contracts.

628.35 Cleared transactions.

628.36 Guarantees and credit derivatives: Substitution treatment.

628.37 Collateralized transactions.