

Farm Credit Administration

§ 614.4337

(6) Provide for sharing of fees, interest charges, and costs between participating institutions;

(7) Provide for a method of resolution of disagreements arising under the agreement between two or more institutions;

(8) Specify whether the contract is assignable by either party; and

(9) Provide for the issuance of certificates evidencing a participation interest in a loan.

(b) *Intrasystem participations.* Loans participated between or among Farm Credit System institutions shall meet the borrower eligibility, membership, loan term, loan amount, loan security, and stock purchase requirements of the originating lender.

[57 FR 38247, Aug. 24, 1992, as amended at 67 FR 1285, Jan. 10, 2002]

§ 614.4335 Borrower stock requirements.

(a) *In general.* Except as provided in paragraph (b) of this section, a borrower shall meet the minimum borrower stock purchase requirements as a condition of obtaining a loan.

(b) *Loans designated for sale into a secondary market.* (1) An institution's bylaws may provide that the institution's minimum borrower stock purchase requirements do not apply if a loan is designated, at the time it is made, for sale into a secondary market.

(2) If a loan designated for sale under paragraph (b)(1) of this section is not sold into a secondary market during the 180-day period that begins on the date of designation, the institution's minimum borrower stock purchase requirements shall apply.

(c) *Retirement of borrower stock—(1) In general.* Borrower stock may be retired only if the institution meets the minimum permanent capital requirements imposed by the FCA pursuant to the Act or regulations and, except as provided in paragraph (c)(2) of this section, in accordance with the following:

(i) Borrower stock may be retired if the entire loan is sold without recourse, provided that when the loan is sold without recourse to another Farm Credit System institution, the borrower may elect to hold stock in either the selling or purchasing institution.

(ii) Borrower stock may not be retired when the entire loan is sold with recourse.

(iii) When an interest in a loan is sold without recourse, a proportionate amount of borrower stock may be retired, but in no event may stock be retired below the institution's minimum stock purchase requirements for the interest retained.

(iv) If an institution repurchases a loan on which the stock has been retired, the borrower shall be required to repurchase stock in the amount of the minimum stock purchase requirement.

(2) *Loans sold into a secondary market.* An institution's bylaws may provide that all outstanding voting stock held by a borrower with respect to a loan shall be retired when the loan is sold into a secondary market.

(d) *Applicability.* In the case of a loan sold into a secondary market under title VIII of the Act, paragraphs (b)(1) and (c)(2) of this section apply regardless of whether the institution retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

[62 FR 63646, Dec. 2, 1997]

§ 614.4337 Disclosure to borrowers.

When a loan or an interest in a loan other than a participation interest is sold with servicing rights, the disclosure shall be made to the borrower in accordance with this section:

(a) The selling institution shall disclose to the borrower at least 10 days prior to the borrower's next payment date;

(1) The name, address, and telephone number of the purchasing institution;

(2) The name and address of the party to whom payment is to be made;

(3) A description of the impact of the sale on statutory borrower rights after the sale;

(4) Any terms in the agreement that would permit a purchaser to change the terms or conditions of the loan.

(b) A Farm Credit System institution that purchases a loan or a non-participation interest therein shall not take any servicing action that adversely affects the borrower until it ensures that disclosure has been made to the borrower of:

§ 614.4340

(1) The name, address, and telephone number of the purchasing institution; and

(2) The address where the payment should be sent.

Subpart I—Loss-Sharing Agreements

§ 614.4340 General.

(a) Upon the approval of the board of directors of the respective Farm Credit System institutions, any System bank, association, or service corporation or service association may enter into an agreement to share loan and other losses with any other institution(s) of the System. As appropriate, a loss-sharing agreement may contain provisions relating to definitions of terms, terms and conditions for activation, determinations of assessment formulas, limitations on assessments, reimbursements, administration, arbitration, and provisions for amendment and termination.

(b) System institutions may agree among themselves to share losses for the purpose of protecting against the impairment of capital stock or participation certificates, or for any other purpose. Agreements may provide for sharing losses that arise in the future or that were recognized by one or more of the signatory institutions before the date of the agreement. Agreements may contain provisions that are not entirely reciprocal among the signatories to the agreement. Loss-sharing agreements can provide for the sharing of loan losses, operating losses, casualty losses, losses on high risk assets, or any other losses.

[49 FR 48910, Dec. 17, 1984, as amended at 54 FR 1151, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989]

§ 614.4341 Financial assistance.

No institution shall reverse any financial assistance provided under the 37-Bank Capital Preservation Agreement, or any other capital preservation/loss-sharing program that was received or accrued prior to July 1, 1986.

[53 FR 3191, Feb. 4, 1988]

12 CFR Ch. VI (1–1–10 Edition)

§ 614.4345 Guaranty agreements.

Guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into by or among System banks and associations.

[49 FR 48910, Dec. 17, 1984, as amended at 54 FR 1151, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989]

Subpart J—Lending and Leasing Limits

SOURCE: 58 FR 40321, July 28, 1993, unless otherwise noted.

§ 614.4350 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity to which an institution has made a loan or a commitment to make a loan either directly or indirectly. Excluded are a Farm Credit System association or other financing institution that comply with the criteria in section 1.7(b) of the Act and the regulations in subpart P of this part. For the purposes of this subpart, the term “borrower” includes any customer to whom an institution has made a lease or a commitment to make a lease.

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

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