

## Farm Credit Administration

## § 615.5208

substitutes, residual interests, and credit-enhancing interest-only-strips in accordance with § 615.5210.

[70 FR 35351, June 17, 2005]

### § 615.5208 Allotment of allocated investments.

(a) The following conditions apply to agreements that a Farm Credit Bank or agricultural credit bank enters into with an affiliated association pursuant to § 615.5207(b)(2):

(1) The agreement must be for a term of 1 year or longer.

(2) The agreement must be entered into on or before its effective date.

(3) The agreement may be amended according to its terms, but no more frequently than annually except in the event that a party to the agreement is merged or reorganized.

(4) On or before the effective date of the agreement, a certified copy of the agreement, and any amendments thereto, must be sent to the field office of the Farm Credit Administration responsible for examining the institution. A copy must also be sent within 30 calendar days of adoption to the bank's other affiliated associations.

(5) Unless the parties otherwise agree, if the bank and the association have not entered into a new agreement on or before the expiration of an existing agreement, the existing agreement will automatically be extended for another 12 months, unless either party notifies the Farm Credit Administration in writing of its objection to the extension prior to the expiration of the existing agreement.

(b) In the absence of an agreement between a Farm Credit Bank or an agricultural credit bank and one or more associations, or in the event that an agreement expires and at least one party has timely objected to the continuation of the terms of its agreement, the following formula applies with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and does not apply to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(1) The allotment formula must be calculated annually.

(2) The permanent capital ratio of the Farm Credit Bank or agricultural credit bank must be computed as of the date that the existing agreement terminates, using a 3-month average daily balance, excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are allotted to the bank under applicable allocation agreements. The permanent capital ratio of each nonagreeing association must be computed as of the same date using a 3-month average daily balance, and must be computed excluding its allocated investment in the bank.

(3) If the permanent capital ratio for the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with § 615.5208(b)(2) is 7 percent or above must be allotted 50 percent to the bank and 50 percent to the association.

(4) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is 7 percent or above, the allocated investment of each nonagreeing association whose capital ratio is below 7 percent must be allotted to the association until the association's capital ratio reaches 7 percent or until all of the investment is allotted to the association, whichever occurs first. Any remaining unallotted allocated investment must be allotted 50 percent to the bank and 50 percent to the association.

(5) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with § 615.5208(b)(2) is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent must be determined, and an amount of the allocated investment of each nonagreeing association must be allotted to the Farm Credit Bank or agricultural credit bank, as follows:

(i) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital

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needed by the bank, the allocated investment of each nonagreeing association must be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount must be allotted to the bank. Next, if the permanent capital ratio of any nonagreeing association is less than 7 percent, a sufficient amount of unallotted allocated investment must then be allotted to each nonagreeing association, as necessary, to increase its permanent capital ratio to 7 percent, or until all such remaining investment is allotted to the association, whichever occurs first. Any unallotted allocated investment still remaining must be allotted 50 percent to the bank and 50 percent to the nonagreeing association.

(ii) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations must be allotted to the bank.

(c) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their allocation agreements to increase the allotment of the allocated investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the associations would continue to meet their minimum permanent capital requirement. In the case of a nonagreeing association, the Farm Credit Administration may require a revision of the allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration may, at the request of one or more of the institutions affected, waive the requirements of this paragraph if

the FCA deems it is in the overall best interest of the institutions affected.

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**§ 615.5209 Deferred-tax assets.**

For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in this section.

(a) Each institution must deduct an amount of deferred-tax assets, net of any valuation allowance, from its assets and its total capital that is equal to the greater of:

(1) The amount of deferred-tax assets that is dependent on future income or future events in excess of the amount that is reasonably expected to be realized within 1 year of the most recent calendar quarter-end date, based on financial projections for that year, or

(2) The amount of deferred-tax assets that is dependent on future income or future events in excess of 10 percent of the amount of core surplus that exists before the deduction of any deferred-tax assets.

(b) For purposes of this calculation:

(1) The amount of deferred-tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences may not be deducted from assets and from equity capital.

(2) All existing temporary differences should be assumed to fully reverse at the calculation date.

(3) Projected future taxable income should not include net operating loss carryforwards to be used within 1 year or the amount of existing temporary differences expected to reverse within that year.

(4) Financial projections must include the estimated effect of tax-planning strategies that are expected to be implemented to minimize tax liabilities and realize tax benefits. Financial projections for the current fiscal year (adjusted for any significant changes that have occurred or are expected to occur) may be used when applying the capital limit at an interim date within the fiscal year.

(5) The deferred tax effects of any unrealized holding gains and losses on available-for-sale debt securities may be excluded from the determination of