deposit cutoff level ($57.0 million) will be required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900) for the twelve-month period starting September 1996. However, nonexempt institutions with total deposits less than the nonexempt deposit cutoff level ($57.0 million) may file the FR 2900 quarterly. Institutions that obtain funds from non-U.S. sources or that have foreign branches or international banking facilities are required to file the Report of Certain Eurocurrency Transactions (FR 2950/2951) at the same frequency as they file the FR 2900.

Institutions with reservable liabilities at or below the exemption level ($4.3 million) (known as exemptinstitutions) must file the Quarterly Report of Selected Deposits, Vault Cash, and Reservable Liabilities (FR 2910q) if their total deposits equal or exceed the exempt deposit cutoff level ($46.4 million). Exempt institutions with total deposits less than the exempt deposit cutoff level ($46.4 million) but at least equal to the exemption amount ($4.3 million) must file the Annual Report of Total Deposits and Reservable Liabilities (FR 2910a). Institutions that have total deposits less than the exemption amount ($4.3 million) are not required to file deposit reports if their deposits can be estimated from other data sources.

Finally, the Board may require a depository institution to report on a weekly basis, regardless of the cutoff level, if the institution manipulates its total deposits and other reservable liabilities in order to qualify for quarterly reporting. Similarly, any depository institution that reports quarterly may be required to report weekly and to maintain appropriate reserve balances with its Reserve Bank if, during its computation period, it understates its usual reservable liabilities or it overstates the deductions allowed in computing required reserve balances.

Notice and public participation. The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments involve expected, ministerial adjustments prescribed by statute and by an interpretative statement reaffirming the Board's policy concerning reporting practices. Moreover, the low reserve tranche adjustment and the reservable liabilities exemption adjustment are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities exemption adjustment and the increases for reporting purposes in the deposit cutoff levels reduce regulatory burdens on depository institutions, and the low reserve tranche adjustment will have a *de minimis* effect on depository institutions with net transaction accounts exceeding $52 million. Accordingly, the Board finds good cause for determining, and so determines, that notice and public participation is unnecessary, impracticable, and contrary to the public interest.

The provisions of 5 U.S.C. 553(d) relating to notice of the effective date of a rule have not been followed in connection with the adoption of these amendments because the low reserve tranche adjustment and the reservable liabilities adjustment are expected, ministerial amendments prescribed by statute. Moreover, they are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities adjustment and the increase in deposit cutoff levels for reporting purposes relieve a restriction on depository institutions, and the low reserve tranche will have a *de minimis* effect on depository institutions with net transaction accounts exceeding $52 million. Accordingly, there is good cause to determine, and the Board so determines, that such notice is impracticable or unnecessary.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR Part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for Part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. In § 204.9 paragraph (a) is revised to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement [1]
Net transaction accounts:	
$0 to $52.0 million	3 percent of amount.
over $52.0 million	$1,560,000 plus 10 percent of amount over $52.0 million.
Nonpersonal time deposits.	0 percent.
Eurocurrency liabilities.	0 percent.

[1] Before deducting the adjustment to be made by the paragraph (a)(2) of this section.

(2) *Exemption from reserve requirements.* Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1) of this section not in excess of $4.3 million determined in accordance with § 204.3(a)(3).

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 15, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–28522 Filed 11–22–95; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

RIN 3052–AB53

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Final Statement on Regulatory Burden.

SUMMARY: This is the second phase of an ongoing effort by the Farm Credit Administration (FCA) to reduce regulatory burdens on the Farm Credit System (FCS or System). Many System institutions responded to the FCA's request for comments by identifying regulations that they consider to be burdensome. The FCA deleted several unnecessary or obsolete regulations in the first phase of this project. This document informs the public of those regulations that the FCA will retain without amendment because they are necessary to: (1) Implement or interpret the Farm Credit Act of 1971, as amended (Act), or (2) protect the safety and soundness of the System. The FCA also identifies pending or future actions that will respond to the remaining regulatory burden issues.

EFFECTIVE DATE: November 24, 1995.

FOR FURTHER INFORMATION CONTACT:

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or

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SUPPLEMENTARY INFORMATION:

I. Background

On June 10, 1993, the FCA Board approved a Statement on Regulatory Burden (Statement) seeking public comment on the appropriateness of requirements that the FCA regulations impose on the FCS. See 58 FR 34003 (June 23, 1993). More specifically, the FCA asked the public to identify regulations that either duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived. In response to the notice, System institutions or their trade associations requested that the FCA repeal or amend several regulations.

In the first phase of this project, the FCA reduced unnecessary regulatory burdens on the FCS by repealing several regulations and two Agency prior approval requirements. See 60 FR 20008 (Apr. 24, 1995); 60 FR 27401 (May 24, 1995).

Today, the FCA notifies the FCS and other interested parties of those regulations that it will retain without amendment. Although System institutions sought the repeal or modification of the regulations identified below, the FCA, consistent with its Statement on Regulatory Philosophy,[1] concludes that these regulations are either required by statute or are necessary for safety and soundness. For these reasons, the FCA will not delete or amend the following regulations: §§ 611.1122; 614.4070; 614.4165; 614.4335; 614.4336; 614.4337; and 615.5172. An explanation of the FCA's rationale for these particular regulatory requirements follows.

II. Regulations That Will Be Retained Without Revision

A. Merger Requirements

Two commenters suggested that the FCA revise § 611.1122, which establishes timing and disclosure requirements for the merger of FCS institutions. One of the commenters asserted that the regulation mandates excessive periods for review and consideration of merger applications. As a result, the commenters believe that § 611.1122 unnecessarily postpones the effective date of such mergers. The commenters suggested that the FCA develop new procedures to expedite mergers of FCS banks and associations. In addition, one of the commenters advised the FCA to revise § 611.1122 because it requires too many disclosures to members.

Section 7.11 of the Act requires the FCA to act upon merger applications within 60 days of their receipt. In the event that the FCA fails to act within the 60-day period, the affected institutions are authorized by section 7.11 of the Act to submit their merger or consolidation plan directly to their shareholders. The 60-day period provides the FCA with sufficient time to review: (1) Complex transactions, or (2) multiple mergers or consolidations that are being processed concurrently. Although the Act allows the FCA 60 days to consider a proposed merger between System institutions, the Agency does not always require 60 days to process each merger application. The FCA acts upon the vast majority of corporate restructuring applications within the prescribed time period. However, the FCA requires the flexibility offered by section 7.11 of the Act and § 611.1122 in order to process complex transactions. Although the FCA will not repeal the 60-day timeframe for processing corporate applications, it is considering approaches that could shorten the time for processing noncomplex or noncontroversial corporate applications.

Commenters claim that § 611.1122 requires too many disclosures to institution shareholders about pending consolidations and mergers. These commenters suggest that the FCA amend the regulation so it would require the merging or consolidating institutions to provide their shareholders with a brief summary of the proposed transaction. However, the commenters suggest that the regulation continue to require a complete disclosure to the FCA about such corporate restructurings.

In the FCA's view, a brief summary of the proposed transaction does not adequately protect the right of shareholders to make informed decisions about the future of their institutions. When two or more institutions combine, stockholders exchange their equity interest in the original institution for stock in a larger institution. As owners of each FCS bank or association, the shareholders/borrowers have a right to make informed decisions about the future of their institution. For this reason, the FCA will not amend the disclosure requirements in § 611.1122.

B. Chartered Territories

A Farm Credit Bank (FCB) and its Federal land bank associations (FLBAs) have requested that the FCA repeal § 614.4070 so that System institutions no longer have the authority to make or participate in loans outside their chartered territories. According to sections 1.5(6) and 2.2(13) of the Act, the lending authorities of FCS banks and associations are subject to FCA regulations. Furthermore, section 5.17(a)(9) of the Act authorizes the FCA to prescribe regulations that are necessary or appropriate for carrying out the Act, while section 5.17(a)(5) allows FCA regulations to confer approval upon certain actions of FCS institutions. In the absence of § 614.4070, FCS banks and associations would only be authorized to make or participate in loans inside their chartered territories.

The repeal of § 614.4070 would deprive System institutions of the flexibility, under certain conditions, to finance borrowers who conduct operations outside their chartered territories. The consent and notification requirements in § 614.4070 prevent unrestrained competition between System institutions. At this time, the FCA declines to modify or repeal § 614.4070 because it balances the needs of borrowers and System institutions.

C. Borrower Stock Requirements for Loans Sold Into Secondary Markets

Two commenters requested that the FCA repeal § 614.4335(a), which requires borrowers whose loans are destined for sale in a secondary market to purchase stock in System institutions. These commenters claim that this stock-purchase requirement places System lenders at a disadvantage with their competitors.

The FCA responds that the stock-purchase requirement in § 614.4335 derives from section 4.3A(c) of the Act. Section 4.3A(c) of the Act states that all System institutions must sell stock when they make loans to new borrowers ''notwithstanding any other provision of this Act.'' Furthermore, section 4.3A(g) of the Act states that section 4.3A controls if it is inconsistent with any other provision of the Act except section 4.9A.

Prior to 1987, former sections 1.16(c) and 2.13(f) of the Act expressly waived the requirement that borrowers purchase stock for loans that were destined for sale to, or participation

[1] See 60 FR 26034, May 16, 1995.

with, non-System lenders. However, sections 1.16(c) and 2.13(f) of the Act were repealed by the Agricultural Credit Act of 1987 (1987 Act).[2] Furthermore, section 301 of the 1987 Act consolidated the stock capitalization requirements for all Farm Credit banks and associations into section 4.3A of the amended Act, which indicates that all borrowers are required, without exception, to purchase stock in the System bank or association that makes their loans. The Act, as amended, no longer contains any provision that explicitly exempts borrowers whose loans are originated for sale from complying with the statutory stock-purchase requirement. The committee reports and the congressional debates to the 1987 Act are silent as to reasons why Congress amended the Act so it no longer exempts loans that are destined to secondary markets from the stock-purchase requirement. In fact, there is no indication in the legislation that Congress considered the impact section 4.3A of the Act would have on the: (1) Ability of FCS banks and associations to sell loans to non-System lenders; and (2) development of the Federal Agricultural Mortgage Corporation (Farmer Mac) as a secondary market for agricultural and rural home loans.

The FCA is aware that the stock-purchase requirement for loans destined to secondary markets causes inconvenience to System lenders and their borrowers. Nevertheless, § 614.4335(a) is consistent with the plain language of section 4.3A of the Act. However, the FCA observes that FCS banks and associations have flexibility within the confines of section 4.3A of the Act to devise practical solutions that will minimize the difficulties associated with the borrower stock requirements. For example, a recent FCA Bookletter, OE–403 (Dec. 23, 1994), concluded that FCS banks and associations are not required to sell stock if they ''table fund'' loans for non-System lenders that are certified Farmer Mac poolers.

D. Borrower Rights and Loan Sales

Two commenters requested that the FCA amend § 614.4336 so that borrower rights would not apply to loans that are sold to established secondary markets or non-System lenders. These commenters assert that borrower rights increase the transaction costs associated with the sale of loans to other lenders. More importantly, non-System institutions usually will not purchase loans that are subject to borrower rights requirements.

In order to fully respond to the commenters, the FCA has examined those provisions of the Act that govern borrower rights on FCS loans. According to sections 4.14A(a) (5) and (6) of the Act, borrower rights attach only to loans that System banks (other than banks for cooperatives), associations, and other financing institutions make to farmers, ranchers, and aquatic producers and harvesters. Furthermore, the disclosure requirements in section 4.13 of the Act do not apply to consumer loans that are subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.* Thus, borrower rights requirements do not attach to home loans that System banks and associations make to rural residents who are not agricultural or aquatic producers. For this reason, the borrower rights provisions in title IV of the Act do not impede the sale of non-farm rural home loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, Farmer Mac, or non-System lenders.

According to section 8.9(a) of the Act, borrower rights do not apply to agricultural mortgage loans that collateralize Farmer Mac securities. Furthermore, section 8.9(b) of the Act prescribes specific procedures for detaching borrower rights from agricultural mortgage loans that FCS lenders sell to Farmer Mac poolers. Two regulations, §§ 614.4336(a)(1) and 614.4367(b), implement these statutory authorities.

Some System institutions have expressed strong opposition to § 614.4336(a)(2), which prescribes two alternatives for resolving borrower rights when loans are sold to non-System lenders that are not Farmer Mac poolers. More specifically, § 614.4336(a)(2) requires the FCS lender to either: (1) Incorporate these statutory borrower rights into the loan agreement so that the purchaser assumes these obligations; or (2) obtain the borrower's signed, written consent to the sale, including the relinquishment of borrower rights. As noted earlier, System institutions assert that § 614.4336(a)(2) effectively precludes the sale of most loans to non-System lenders.

Some System lenders have opined that the sale of loans to non-System institutions automatically extinguishes borrower rights. The FCA fully responded to this claim when § 614.4336(a)(2) was adopted as a final regulation in 1992. See 57 FR 38237 (Aug. 24, 1992). From the FCA's perspective, the rationale for § 614.4336(a)(2) remains valid.

As explained in the preamble to § 614.4336(a)(2), the FCA finds no support in either the Act or its legislative history for the claim that the loan sale authorities of FCS institutions supersede the borrower rights provisions in title IV of the Act. In fact, the System's loan sale authorities already existed at the time that the Act was amended to guarantee certain protections to FCS borrowers. In this context, § 614.4336(a)(2) balances the statutory authority of System lenders to sell their loans with the borrower rights provisions of the Act. The FCA observes that § 614.4336(a)(2) prevents potential disputes that could erupt if borrower rights issues are left unresolved when loans are sold to non-System lenders who are not Farmer Mac poolers. Uncertainty over the status of borrower rights may also deter an informed non-System lender from purchasing loans from FCS banks and associations.

The approach advocated by the commenters would allow FCS institutions to unilaterally deprive borrowers of their statutory rights without their consent. Accordingly, the FCA will retain § 614.4336(a) because it implements the Act by equitably balancing borrower rights with the authority of FCS banks and associations to sell loans to non-System lenders.

Recently, the FCA has received inquiries about the application of borrower rights to loans that are guaranteed by other Federal agencies. This issue is currently under consideration at FCA.

E. Disclosures

Under § 614.4337(a), an FCS bank or association that sells a loan to another lender is required to disclose to the borrower specified information about the purchaser, the servicing agent, borrower rights, and changes in the loan terms. Two commenters suggested that the disclosure of loan sales and the corresponding reporting requirements in § 614.4337(a) are unnecessary because they should be handled by the purchaser of the loan, rather than the FCS institution.

The FCA believes that the disclosure requirements in § 614.4337(a) are the responsibility of the seller, not the purchaser, of System loans. As previously discussed, the Act imposes borrower stock and borrower rights requirements on loans that are originated by System banks and associations. These institutions are in the best position to explain the impact of the sale on these matters. Furthermore, disclosures concerning servicing rights were added to this regulation after a General Accounting

[2] Pub. L. 100–233, 101 Stat. 1568, (Jan. 6, 1988).

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

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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,