

In consideration of the competing aims of reducing burden and providing timely information to borrowers, the FCA proposes to modify the notification requirements in § 614.4367. The proposed amendment would require written notification to be provided to borrowers with adjustable rate loans not later than 10 days after a change in the interest rate on the loans. Thus, for decreases in rates, the proposal would change the notification from not later than the effective date of the change, to not later than 10 days after the decrease. More significantly, the proposal would change the notification requirements for increases in interest rates from 10 days advance notification to 10 days after the change in rates. The FCA is proposing to change the time period applicable to both notices of increases and decreases in order to have a single notification, and thus simplify the requirement for all changes in adjustable interest rates.

The FCA believes that a 10-day post notification will provide borrowers with timely information on rate changes and will significantly reduce the burden on institutions, including the costs associated with delaying interest rate changes. Savings to lenders ultimately may be passed on to borrowers in the form of lower interest rates; however, the absence of a prior notice is a disadvantage to individual borrowers because they will not be in a position to react as quickly to refinancing opportunities. The disadvantage should be minimal, however, because borrowers have ready access to changes in financial markets and trends in interest rates through the news media and other sources. Administered rate loans have historically followed changes in the prime rate because the costs of funds to the associations generally follow shifts in market rates. Borrowers who follow the interest rate market would seldom be surprised by a change in interest rates charged by associations.

Although the FCA believes that the proposal is an appropriate balance between the needs of the institutions and borrowers, the FCA seeks comment on several issues. First, the FCA seeks comment on whether notices of rate changes tied to publicly available external indexes should be required within 30 days, rather than 10 days as proposed. Specifically, would permitting a longer time for such notices accrue additional cost-savings to System lenders that would exceed the potential cost to borrowers of added delay in receiving notice of the rate increase? Such cost savings may occur, for example, if lenders regularly send monthly statements to a significant number of borrowers having variable

rate loans tied to an external index. In these situations, the notification of rate increase could be incorporated in the monthly statement, thereby eliminating the need for a separate notice. Second, is a notice necessary for decreases in interest rates, and if so, is 10 days or 30 days a more appropriate time limit?

The FCA is also proposing a technical amendment to § 614.4367(a)(4) which addresses disclosures to purchasers of protected eligible borrower stock. Because only stock in existence at the time of enactment of the Agricultural Credit Act of 1987 (Pub. L. 100-233, Jan. 6, 1988) or stock issued within 9 months of enactment meets the definition of eligible borrower stock in section 4.9A of the Act, no further eligible borrower stock may be issued. Thus, all stock issued by Farm Credit institutions since 1988 is at risk. The proposal would delete the reference to eligible borrower stock in § 614.4367(a)(4) as unnecessary.

#### List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

#### **PART 614—LOAN POLICIES AND OPERATIONS**

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4014a, 4104b, 4106, and 4128; Secs. 1.3, 1.5, 1.6, 1.7, 1.9., 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2123, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

#### **Subpart K—Disclosure of Loan Information**

##### **§ 614.4367 [Amended]**

2. Section 614.4367 is amended by removing the words "Except with respect to eligible borrower stock under section 4.9A of the Act," and capitalizing the word "a" in paragraph (a)(4); and by removing the words "the effective date of a decrease in the interest rate and not later than 10 days before the effective date of an increase"

and adding in its place the words "10 days after the effective date of a change" in the second sentence of paragraph (c)(3).

Dated: November 17, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.  
[FR Doc. 95-28586 Filed 11-22-95; 8:45 am]

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#### **12 CFR Part 615**

RIN 3052-AB68

#### **Funding and Fiscal Affairs, Loan Policies and Operations, Funding Operations; Foreign Denominated Debt**

**AGENCY:** Farm Credit Administration.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Farm Credit Administration (FCA) requests public comment through an Advance Notice of Proposed Rulemaking (ANPRM) regarding the issuance of debt securities of the Farm Credit System (System) denominated in foreign currencies. The Federal Farm Credit Banks Funding Corporation (Funding Corporation), on behalf of the Farm Credit banks (banks), is considering offering Federal Farm Credit Banks Consolidated Systemwide debt securities (Systemwide debt securities) outside of the United States under a proposed Global Debt Program (Program). Under the Program, Systemwide debt issuances could be denominated in foreign currencies. The FCA specifically requests public comment regarding any safety and soundness risks that may be posed by the issuance of foreign denominated Systemwide debt securities.

**DATES:** Written comments must be received on or before January 31, 1996.

**ADDRESSES:** Comments may be mailed or delivered to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration.

#### **FOR FURTHER INFORMATION CONTACT:**

Michael J. LaVerghetta, Senior Financial Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498,

or  
William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:****I. Background**

In a separate action published elsewhere in today's issue of the Federal Register, the FCA issued an interim regulation to clarify the Funding Corporation's statutory authority to use more than one fiscal agent to facilitate the sale of Systemwide debt securities. The interim regulation permits the Funding Corporation to employ fiscal agents that are not Federal Reserve Banks for issuance of dollar denominated Systemwide debt securities in foreign capital markets. The interim regulation provides guidance on two components of the Funding Corporation's proposed three-part Global Debt Program.<sup>1</sup> This ANPRM requests comments regarding the final part of the Program, pursuant to which the banks could issue foreign denominated Systemwide debt securities. Under the Program, non-dollar denominated Systemwide debt would be issued exclusively outside the United States using fiscal agents other than the Federal Reserve Banks.<sup>2</sup> Secondary market trading and safekeeping would be handled through international clearing systems. Other GSEs have developed similar global debt programs, and have issued non-dollar denominated global debt, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Banks (FHLBs), and the Student Loan Marketing Association (Sallie Mae).<sup>3</sup>

**II. Authority for Issuance of Foreign Currency Debt**

As noted in the preamble discussion of the FCA's companion interim rule on Global Debt issuance, the Farm Credit Act of 1971, as amended, (Act)<sup>4</sup> provides no specific guidance on the issuance of Systemwide debt securities outside the United States, but grants the banks broad authority to issue Systemwide debt securities to fund their operations.<sup>5</sup> While no provision of the Act requires Systemwide debt securities to be denominated in U.S. dollars, an FCA rule specifies that Systemwide debt securities shall be issued in

denominations of \$1000 and \$5000 or multiples thereof. See 12 CFR 615.5450. The specification of dollar denominations in this regulation can be interpreted to preclude the Funding Corporation from issuing foreign denominated Systemwide debt securities.

**III. Assessment of Regulatory Needs**

As demonstrated by its separate approval of global offerings of dollar denominated Systemwide debt securities, the FCA believes that the Act permits the agency latitude to recognize the increasing globalization of the capital markets and the needs of the System to adapt its funding techniques to changing markets. Moreover, absent overriding safety and soundness considerations, the FCA is disinclined to adopt a technical interpretation of its regulations that would prevent the banks from pursuing cost-effective and efficient methods of raising funds in the capital markets. This ANPRM is intended to assist the FCA in identifying potential safety and soundness risks in the issuance of foreign denominated Systemwide debt and in determining the need for regulatory guidance regarding this aspect of the Program.

**IV. Potential Safety and Soundness Issues**

The principal form of risk to an issuer of foreign denominated debt is foreign exchange risk. Before System banks and associations can loan the proceeds of sale of foreign denominated Systemwide debt securities to American farmers, ranchers, aquatic producers, rural homeowners, cooperatives, and rural utilities, the proceeds must be converted into U.S. dollars. Moreover, while the foreign denominated Systemwide debt securities are outstanding, the banks periodically must make payments in foreign currency of principal and interest to securityholders. In these instances when currency exchange transactions are necessary, fluctuations in currency exchange rates pose foreign exchange risks for the banks.

The banks may use various techniques to hedge against this foreign exchange risk. One commonly used technique is to execute a currency swap agreement under which another party agrees to supply the amount of foreign currency necessary to make future payments of principal and interest on debt obligations. While a currency swap agreement may provide an effective hedge against foreign exchange risk, the success of the currency swap depends on whether the counterparty will fulfill its obligations under the agreement. Thus, where foreign currency swap

agreements are used to hedge against foreign exchange risk, "counterparty risk" becomes the most significant type of risk. Other techniques for hedging against foreign exchange risk, such as options and futures contracts, may present other risks that need to be identified.

In light of the potential exchange, counterparty, and other risks that may be involved in the issuance of foreign denominated Systemwide debt securities, the FCA is requesting additional information from the Funding Corporation, Farm Credit institutions, and other interested parties regarding the existence and containment of such risks. In particular, the FCA requests that comments address the following questions:

**A. General**

1. Under what economic and market scenarios will the banks consider it advantageous to assume the additional risks of issuing foreign denominated Systemwide debt securities instead of raising loan funds through the sale of dollar denominated debt?

2. How should the FCA adapt its current debt approval procedures to encompass foreign currency debt offerings?<sup>6</sup>

**B. Currency Selection and Risk**

1. What criteria should be used to determine suitability of particular foreign currencies for Systemwide debt issuances?

2. What internal procedures and approvals should the System use to apply such criteria?

3. Should there be limits on total System and individual bank exposure to each foreign currency?

4. How could total System and individual bank exposure to foreign currencies be monitored and who should have the responsibility within the System to do so?<sup>7</sup>

5. Describe any other controls that can be employed to minimize or manage foreign currency exposure?

**C. Counterparty Risk**

1. What standards should be used to establish, evaluate, and manage counterparty risk in currency swaps undertaken to offset foreign currency exposure?

2. What role should the Funding Corporation play in monitoring total System risk exposure to counterparties

<sup>6</sup> See 12 CFR 615.5101(d).

<sup>7</sup> The banks currently maintain, on a voluntary basis, a listing of investment credit exposures to financial and corporate institutions. This listing is prepared and published by the Funding Corporation.

<sup>1</sup> The proposed Global Debt Program is described in greater detail in connection with the interim regulation published separately in today's issue of the Federal Register.

<sup>2</sup> The Federal Reserve Banks may not act as fiscal agent for Government Sponsored Enterprise (GSE) debt obligations that are issued exclusively outside the United States.

<sup>3</sup> During the past year, FNMA and the FHLBs sold foreign debt securities in Deutsche marks. Sallie Mae sold Japanese yen-denominated bonds.

<sup>4</sup> 12 U.S.C. 2001-2279bb-6.

<sup>5</sup> See sections 1.5(10), 3.1(10), and 4.2 of the Act.

in currency swap transactions and otherwise?

3. What procedures should be established to demonstrate that the banks have adequate management expertise and internal controls to effectively evaluate counterparty risk prior to engaging in foreign currency deals?

#### *D. Lead Managers and Performance Risk*

After a foreign currency debt offering has been initiated and the securities have been allocated to the global dealers, performance risk becomes largely the responsibility of the "lead manager(s)" or lead global dealer(s). Lead managers can take back securities for their own account or reallocate them to other global dealers for sale.

Are there any risks unique to the selection of lead managers for non-dollar denominated debt offerings? If so, how should lead managers be selected for such offerings?

#### *E. Other Risks of Non-dollar Denominated Offerings*

There may be other risks of non-dollar denominated offerings, such as daylight overdrafts, market exposure, and performance of other agents (*e.g.*, paying, settlement, transfer, exchange, calculation agents).

1. How should such risks be managed and quantified?

2. What factors should be considered in developing criteria for selection and performance of other agents and who should approve their activities?

#### *F. Other Comments and Information*

The FCA invites any other pertinent comments and information that may assist it in developing appropriate guidance in the area of foreign denominated Systemwide debt security offerings.

Dated: November 17, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration.

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## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Parts 101, 133, and 135**

#### **Administration, Index to Approved SBA Reporting and Recordkeeping Requirements, and Intergovernmental Review of Small Business Administration Programs and Activities**

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

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**SUMMARY:** In response to President Clinton's government-wide regulatory reform directive, the Small Business Administration has completed a page-by-page and line-by-line review of all of its existing regulations. As a result, SBA is proposing to clarify and streamline its regulations, revising or eliminating any duplicative, outdated, inconsistent or confusing provisions. This proposed rule would reorganize all of present Parts 101, 133, and 135 and consolidate them into one new rule. As part of this streamlining process large portions of present Part 101 will be removed from the regulations and published in the U.S. Government Manual. Present Parts 133 and 135 will be revised, updated and consolidated with Part 101. Finally, the remaining sections have been rewritten into a straightforward "plain English" style of writing.

**DATES:** Comments must be submitted on or before December 26, 1995.

**ADDRESSES:** Written comments should be addressed to David R. Kohler, Regulatory Reform Team Leader (101), U.S. Small Business Administration, 409 3rd Street, SW., Suite 13, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Cheri C. Wolff, Chief Counsel for General Litigation; Office of General Counsel, at (202) 205-6643.

**SUPPLEMENTARY INFORMATION:** On March 4, 1995, President Clinton issued a Memorandum to Federal agencies directing them to simplify their regulations and eliminate those that are unnecessary. In response to this directive SBA completed a page-by-page, line-by-line review of all of its existing regulations to determine which should be revised or eliminated.

The proposed rule would revise, amend, reorganize, and consolidate all of present 13 CFR Parts 101, 133, and 135. This proposed new consolidated rule would reorganize Part 101 into four subparts and renumber all remaining sections to reflect this new configuration. Subpart "A" would cover the Agency's purpose, management, field office functions, use of its seal, the application of Federal law to SBA programs and activities, and what forms are authorized for public use. SBA proposes to update, streamline and revise these provisions. SBA proposes to eliminate the listing of specific program functions, field office locations and all internal delegations of authority from Part 101 as inappropriate for inclusion in regulatory form. The U.S. Government Manual (a special edition of the Federal Register) contains a listing of program functions. As required by the Freedom of Information

Act, SBA proposes to periodically publish field office locations and all internal delegations of authority as a notice in the Federal Register. Consistent with this change SBA proposes to include in the list of internal delegations of authority its designation of a debarring/suspending official for contractors doing business directly with SBA. In addition, and pursuant to new OMB regulations (see the Federal Register, Vol. 60, No. 110, pp. 30438-30456) SBA proposes to eliminate the list of specific SBA reporting and recordkeeping requirements approved by the Office of Management and Budget (OMB) contained in present Part 133. In lieu of this Part, SBA proposes to periodically publish an amended list of OMB approved reporting and recordkeeping requirements utilized by SBA as a notice in the Federal Register.

SBA proposes to eliminate present § 101.6, "Litigation", as unnecessary and to amend present § 101.9, which waives or limits the use of certain existing exemptions to the public participation requirements of the Administrative Procedure Act (APA), has also been amended. SBA proposes to eliminate the waiver of the "agency management and personnel" exemption and the limitations placed on the use of the "good cause" exemption as unnecessary and overbroad. Congress has determined that agency management and personnel matters have no significant substantive impact on the public and has accordingly exempted them from the APA. By eliminating the agency management and personnel exemption, SBA proposes to act consistently with the Congressional determination. SBA will continue to have the right to use the public participation procedures of APA for management and personnel matters if the SBA deems it necessary or desirable. The limitations presently placed on the use of the "good cause" exemption are unnecessary since SBA does not promulgate the type of regulations that require the use of this exemption. However, SBA proposes to maintain the exemption for matters relating to "public property, loans, grants, benefits, or contracts" as necessary and appropriate.

Subpart "B" would cover and update the provisions concerning the employment of fee counsel by SBA. Subpart "C" would provide an overview of the authority of the SBA Inspector General under the Inspector General Act of 1978 and eliminate references to the investigatory powers of the Administrator under the Small Business Act. Congress transferred those powers