recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's capital and surplus. A national bank need notify the OCC under this paragraph (b)(1) only once. A national bank need not notify the OCC that the bank intends to re-fit an existing building for new tenants or to make normal repairs and incur maintenance costs to protect the value of the collateral.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (a) of this section.

(3) Unless informed otherwise, the bank may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the bank's notification, subject to any conditions imposed by the OCC.

§ 34.87 Accounting treatment.

A national bank shall account for OREO, and sales of OREO, in accordance with the Instructions for the preparation of the Consolidated Reports of Condition and Income.

Dated: March 7, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–6481 Filed 3–19–96; 8:45 am]

BILLING CODE 4810–33–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB52

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts amendments to the regulations governing disclosure of loan information. The FCA removes the requirement that Farm Credit institutions give borrowers 10 days prior notification of a change in the interest rate on their variable rate loans and replaces it with a 10-day post notification for interest rate changes for administered rate loans and a 30-day notice if the loan is tied to an external index. The current requirement to notify borrowers of a decrease in interest rate no later than on the day of the decrease has been changed to the same standard as an increase. This action would reduce the burden on institutions of a delay in interest rate changes while still providing borrowers with timely notice of a change. The final regulation also deletes reference to eligible borrower stock as a technical amendment.

EFFECTIVE DATE: The regulation shall become effective upon the expiration of 30 days after publication in the Federal Register during which either or both houses of Congress are in session. Notice of the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT:
Robert Child, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

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SUPPLEMENTARY INFORMATION: On November 24, 1995 (60 FR 57962), the FCA Board published for comment a proposed amendment to § 614.4367(c)(3). The existing regulation requires Farm Credit institutions to provide notification to borrowers of an increase in the borrowers' interest rates 10 days prior to the effective date of the change and implements section 4.13 of the Farm Credit Act of 1971, as amended (Act). The proposed regulation would have permitted a rate change notification 10 days after the effective date of the rate change. The FCA received nine comments in response to the proposed regulations. Commenters included the Farm Credit Council (FCC), seven Farm Credit institutions, and a state agriculture department.

Subsequent to the FCA Board's adoption of the proposed regulation, section 4.13 of the Act was amended by the Farm Credit System Reform Act of 1996, Pub. L. 104–105 (Feb. 10, 1996). Section 4.13 of the Act now provides that notice to the borrower of a change in interest rate may be made within a reasonable time after the effective date of an increase or decrease in the interest rate. The FCA believes that the proposed regulations were consistent with the recently enacted legislation and that the final regulation implements the requirements of the legislation. The following discussion contains a summary of the comments and the final amendment to § 614.4367(c)(3).

I. Summary of Comments

The FCC and several Farm Credit institutions expressed their general support of the proposed regulation and some commented that if adopted, the regulation would provide additional flexibility to Farm Credit institutions in making interest rate changes without any significant disadvantage to borrowers. The individual Farm Credit institution commenters, however, urged the FCA to provide institutions with even greater flexibility in making interest rate changes than was proposed. Four institutions commented that the notification of an increase in interest rates should be extended to 30 days after the effective date of the change for all loans, including those loans not tied to an external index. Three of those institutions also suggested that no notice is necessary for decreases in interest rates, while the other commented that the notification should be the same regardless of the direction of the change in rates.

In support of a 30-day post notification, the institutions stated that they would be able to reduce mailing costs by including the notice in the regular monthly billing notices. They also noted that it is unlikely that borrowers would attempt to fix their rates or re-finance their loans if notified of rate increases within 10 days as proposed. Even if some borrowers might desire to do this, the lenders indicated that such action could rarely be accomplished within 10 days. The institutions felt that it is more likely that borrowers use the rate change notification to monitor the trends in lenders' rates and will take action after observing the trend in rates. For this reason, the institutions asserted that a 30-day post notification is just as useful to borrowers as a 10-day notification, and the 30-day notice results in much less work and cost for the lenders.

The institutions' basis for requesting no notification for a decrease in rates is that most lenders will likely take actions necessary to promote and preserve customer relations. Thus, lenders would want to notify borrowers of decreases in rates regardless of FCA disclosure requirements. Such notification could be in combination with notices of news about the interest rate market, a marketing opportunity, or information on a new program or service.

Three institutions commented that there should be no regulatory requirements for notification of a change in interest rates. One institution noted that a notification requirement is too onerous for loans tied to an external index, and that other non-System lenders are not required to notify borrowers of rate changes on similar loan products priced to LIBOR (London Interbank Offered Rate) or prime indexes. Another institution commented that notification serves no purpose and that if the FCA believes that the statute requires notice, such notice should be in the least burdensome means possible. The institution noted that the least burdensome requirement would be to require notice of an increase in conjunction with regularly scheduled billing notices, and that a less favorable alternative would be 30 days post notice for increases and no notice for decreases. The remaining Farm Credit institution commenter stated that changing the prior notification to a 10-day post notification would not reduce any administrative or cost burden on the institution because existing loan products and systems are designed to meet current regulations and would be contractually out of sync with a post-notification system. The commenter asserted that the proposed amendments do not help institutions that have loans tied to external indexes and Congress did not intend to require prior or post notice for such loans. The commenter contended that loans that are priced to an external index should be exempt from any notice requirements as long as: (1) The interest rate is tied to an index entirely outside the control of the Farm Credit System; (2) the index is widely publicized; (3) interest rate disclosures clearly referencing the index are made when the loan is originated and closed; and (4) disclosures are required for any change to the index or the margin points (or spread).

The state agriculture department commented that as a matter of principle, debtors ought to be notified in advance of interest rate increases on their loans. The commenter asserted that the minimum economic advantage that may be gained by lenders would be more than offset by the negative perception the proposed changes would create in the eyes of borrowers. Further, the commenter contended that many farmers do not receive financial publications containing external indexes, and if they did, they would not necessarily be able to determine the change in their interest rate from a change in the index. The commenter finally noted that it did not believe post-notification would significantly reduce burden on Farm Credit institutions and that if institutions are concerned about mailing costs, they could delay a change in interest rates so that the required notice could coincide with another regular mailing.

II. Response to Commenters and Discussion of Final Regulation

In response to the commenters who asserted that the FCA should eliminate any notification requirements for changes in interest rates, the plain language of section 4.13 of the Act, as recently amended, requires notification to borrowers of a change in their interest rates. Further, the FCA has reviewed the legislative history of the amendment and is not aware of any expressed Congressional intent to exempt loans tied to external indexes from the notice requirement. In addition, the recent amendment to section 4.13 clearly requires notification of an increase or decrease in the interest rate. Therefore, the FCA interprets the Act as requiring notification of increases or decreases in interest rates for all loans within a reasonable time of the effective date of the change. The final regulation contains what the FCA concludes to be a reasonable time for notification under the Act, after giving consideration to the views of the commenters, the needs of borrowers for timely notice, and the FCA's desire to reduce burden on Farm Credit institutions.

The final regulation requires a 10-day post notification for interest rate changes for administered rate loans. For loans tied to an external index, prompt notification is required, but must be given within 30 days of the change in interest rate. The FCA carefully considered the comments addressing the 30-day post notification requirement for all loans and finally determined that the need to provide timely information to borrowers outweighed the regulatory burden that a 10-day post notice may entail. Although administered rate loans may closely follow changes in the prime rate or the institution's cost of funds, many variables may go into a decision to change an administered rate. Thus a borrower with an administered rate loan cannot be as certain of a rate change merely by following the prime rate or other index as is the case of a loan that is clearly tied to an external index. For those loans that are clearly priced to an external index, however, the FCA believes that delaying the notice by 20 days does not seriously disadvantage the borrower and may result in less burden on the institutions, in part, by reducing mailing costs. In those situations, borrowers can likely determine the change in their rates sooner than 30 days by following the changes in the index. The final regulation, both where a 10-day and 30-day post notification is permitted, will allow the institutions to make changes in borrowers' interest rates more quickly than under a prior-notification requirement.

The FCA is also amending § 614.4367(a)(4) which addresses disclosures to purchasers of stock. All references to protected eligible borrower stock are eliminated because the issuance of such stock is no longer authorized.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, 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 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, 2124, 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; sec. 207 of Pub. L. 104–105, 110 Stat. 162.

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); 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 in the interest rate.'' and adding in its place, the words ''10 days after the effective date of a change in the interest rate. However, if the interest rate is directly tied to an external index that is widely publicized, the notice of change must be made promptly but not later than 30 days after the change in interest rate.'' at the end of paragraph (c)(3).

Dated: March 12, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–6648 Filed 3–19–96; 8:45 am]

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