

## Farm Credit Administration

## § 623.3

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AUTHORITY: Secs. 5.9, 5.10, 5.17, 5.25-5.37; 12 U.S.C. 2243, 2244, 2252, 2261-2273.

SOURCE: 51 FR 21147, June 11, 1986, unless otherwise noted.

### § 623.1 Scope of part.

This part prescribes rules with regard to persons who may practice before the Farm Credit Administration and the circumstances under which attorneys, accountants, appraisers, or other persons may be suspended or debarred, either temporarily or permanently, from practicing before the Farm Credit Administration. In connection with any particular matter, reference also should be made to any special requirements of procedure and practice that may be contained in the particular statute involved or the rules and forms adopted by the Farm Credit Administration thereunder, which special requirements are controlling. In addition to any suspension hereunder, a person may be excluded from further participation in a particular adjudicative proceeding in accordance with §622.3 or in a formal investigation in accordance with §622.105.

### § 623.2 Definitions.

As used in this part:

- (a) *FCA* means the Farm Credit Administration.
- (b) *Board* means the Farm Credit Administration Board.
- (c) *Act* means the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001, et seq.
- (d) The terms *institution in the System*, *System institution* and *institution* mean all institutions enumerated in section 1.2 of the Act, any institution chartered pursuant to or established by the Act, except for the Farm Credit System Assistance Board and the Farm Credit System Insurance Corporation and any service organization chartered under part E of title IV of the Act.

(e) The term *presiding officer* includes the Board, one or more members thereof, FCA employees, or an administrative law judge. As used in this part, the

term shall be construed to refer to whichever of the above-identified individuals presides at a hearing or other proceeding, except as otherwise specified in the text;

(f) The term *attorney* means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia;

(g) The term *practice* means transacting any business with the FCA, including but not limited to:

(1) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the FCA or a presiding officer;

(2) The preparation or certification of any statement, opinion, report of financial condition and performance, financial statement, appraisal report, audit report, or other document or report by any attorney, accountant, appraiser or other person which is filed with or submitted to the FCA, with such person's consent or knowledge in connection with any filing with the FCA;

(3) A presentation to the FCA or a presiding officer at a conference or meeting relating to an institution's or person's rights, privileges or liabilities under the laws administered by the FCA and rules and regulations promulgated thereunder;

(4) Any business correspondence or communication with the FCA or a presiding officer; and

(5) The transaction of any other business with the FCA on behalf of another, in the capacity of an attorney, accountant, appraiser, licensed expert or any other capacity.

[51 FR 21147, June 11, 1986, as amended at 53 FR 27285, July 19, 1988]

### § 623.3 Who may practice.

(a) *By nonattorneys.* (1) An individual may appear on his or her own behalf; a member of a partnership may represent the partnership; a bona fide and duly authorized officer or other designated representative of a corporation, trust, association or other entity not specifically listed herein may represent the corporation, trust, association or other entity; and an authorized officer or other designated representative of any

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government unit, agency or authority may represent that unit, agency or authority.

(2) Any accountant, appraiser or licensed expert may practice before the FCA in a professional capacity.

(b) *By attorneys.* Any entity noted in paragraph (a) of this section may be represented in any proceeding or other matter before the FCA by an attorney.

(c) Any person transacting business with the FCA in a representative capacity may be required to show evidence of his or her authority to act in such capacity and certification of credentials.

§ 623.4 Suspension and debarment.

(a) *Grounds.* The Board may censure any person practicing before the FCA or may deny, temporarily or permanently, the privilege of any person to practice before the FCA if such person is found by the Board, after notice of and opportunity for hearing in the matter:

(1) Not to possess the requisite qualifications to represent others;

(2) To be lacking in character or professional integrity;

(3) To have engaged in any dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct before FCA; or

(4) To have willfully violated, or willfully aided and abetted the violation of, any provision of the laws administered by the FCA or the rules and regulations promulgated thereunder.

(b) *Automatic suspension.* (1) Any person who, after being licensed as a professional or expert by any competent authority, has been convicted by a Federal or State court of a felony, or of a misdemeanor involving moral turpitude, personal dishonesty or breach of trust, shall be suspended automatically from practicing before the FCA without a hearing.

(2) Any accountant, appraiser or licensed expert whose license to practice has been revoked in any State, possession, territory, Commonwealth or the District of Columbia, or who has been suspended or otherwise barred from practice before any Federal or State regulatory authority, shall be suspended automatically from practicing before the FCA without a hearing.

(3) Any attorney who has been suspended or disbarred by a court of the United States or in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended automatically from practicing before the FCA without a hearing.

(4) A conviction (including a judgment or order on a plea of nolo contendere), revocation, suspension or disbarment under paragraphs (b)(1), (2) and (3) of this section shall be deemed to have occurred when the convicting, revoking, suspending or disbarring agency or tribunal enters its judgment or order, regardless of whether an appeal is pending or could be taken.

(5) For purposes of this section, it shall be irrelevant that any attorney, accountant, appraiser or licensed expert who has been suspended, disbarred or otherwise disqualified from practice before a court, regulatory authority, or in a jurisdiction continues in professional good standing before other courts, regulatory authorities, or in other jurisdictions.

(c) *Temporary suspension.* (1) The Board, with due regard to the public interest and without preliminary hearing, by order, may temporarily suspend any person from appearing or practicing before it who by name, has been:

(i) Permanently enjoined (whether by consent, default or summary judgment or after trial) by any court of competent jurisdiction or by the Board in a final administrative order, by reason of his or her misconduct in any action brought by the FCA based upon violations of, or aiding and abetting the violation of any provision of any law that is administered by the FCA or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after hearing) or in any administrative proceeding in which the FCA is a complainant and he or she is a party, to have willfully committed, caused, aided or abetted a violation of any provision of any law that is administered by the FCA, or of any rule or regulation promulgated thereunder.

(2) An order of temporary suspension shall become effective when served by