

§ 614.4330

(2) The amount of the loan subject to the recourse agreement shall be considered a loan sold with recourse for the purpose of computing permanent capital ratios.

(h) *Transactions through agents.* Transactions pertaining to purchases of loans, including the judgement on creditworthiness, may be performed through an agent, provided that:

(1) The institution establishes the necessary criteria in a written agency agreement that outlines, at a minimum, the scope of the agency relationship and obligates the agent to comply with the institution's underwriting standards;

(2) The institution periodically reviews the agency relationship to determine if the agent's actions are in the best interest of the institution;

(3) The agent must be independent of the seller or intermediate broker in the transaction; and

(4) If an association's funding bank serves as its agent, the agency agreement must provide that:

(i) The association can terminate the agreement upon no more than 60 days notice to the bank;

(ii) The association may, in its discretion, require the bank to purchase from the association any interest in a loan that the association determines does not comply with the terms of the agency agreement or the association's loan underwriting standards.

[57 FR 38247, Aug. 24, 1992, as amended at 58 FR 40321, July 28, 1993; 62 FR 51015, Sept. 30, 1997; 64 FR 34517, June 28, 1999; 67 FR 1285, Jan. 10, 2002]

§ 614.4330 Loan participations.

Agreements to purchase or sell a participation interest shall be subject to the provisions of § 614.4325 of this subpart, and, in addition, shall satisfy the requirements of this section.

(a) *Participation agreements.* Agreements to purchase or sell a participation interest in a loan shall, in addition to meeting the requirements of § 614.4325(d) of this subpart, at a minimum:

(1) Define the duties and responsibilities of the participating institution and the lead lender, and/or the servicing institution, if different from the lead lender.

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(2) Provide for loan servicing and monitoring of the servicer;

(3) Set forth authorization and conditions for action in the event of borrower distress or default;

(4) Provide for sharing of risk;

(5) Set forth conditions for the offering and acceptance of the loan participation and termination of the agreement;

(6) Provide for sharing of fees, interest charges, and costs between participating institutions;

(7) Provide for a method of resolution of disagreements arising under the agreement between two or more institutions;

(8) Specify whether the contract is assignable by either party; and

(9) Provide for the issuance of certificates evidencing a participation interest in a loan.

(b) *Intrasystem participations.* Loans participated between or among Farm Credit System institutions shall meet the borrower eligibility, membership, loan term, loan amount, loan security, and stock purchase requirements of the originating lender.

[57 FR 38247, Aug. 24, 1992, as amended at 67 FR 1285, Jan. 10, 2002]

§ 614.4335 Borrower stock requirements.

(a) *In general.* Except as provided in paragraph (b) of this section, a borrower shall meet the minimum borrower stock purchase requirements as a condition of obtaining a loan.

(b) *Loans designated for sale into a secondary market.* (1) An institution's bylaws may provide that the institution's minimum borrower stock purchase requirements do not apply if a loan is designated, at the time it is made, for sale into a secondary market.

(2) If a loan designated for sale under paragraph (b)(1) of this section is not sold into a secondary market during the 180-day period that begins on the date of designation, the institution's minimum borrower stock purchase requirements shall apply.

(c) *Retirement of borrower stock—(1) In general.* Borrower stock may be retired only if the institution meets the minimum permanent capital requirements imposed by the FCA pursuant to the