

## § 614.4341

## 12 CFR Ch. VI (1-1-06 Edition)

### § 614.4341 Financial assistance.

No institution shall reverse any financial assistance provided under the 37-Bank Capital Preservation Agreement, or any other capital preservation/loss-sharing program that was received or accrued prior to July 1, 1986.

[53 FR 3191, Feb. 4, 1988]

### § 614.4345 Guaranty agreements.

Guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into by or among System banks and associations.

[49 FR 48910, Dec. 17, 1984, as amended at 54 FR 1151, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989]

## Subpart J—Lending and Leasing Limits

SOURCE: 58 FR 40321, July 28, 1993, unless otherwise noted.

### § 614.4350 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity to which an institution has made a loan or a commitment to make a loan either directly or indirectly. Excluded are a Farm Credit System association or other financing institution that comply with the criteria in section 1.7(b) of the Act and the regulations in subpart P of this part. For the purposes of this subpart, the term “borrower” includes any customer to whom an institution has made a lease or a commitment to make a lease.

(b) *Commitment* means a legally binding obligation to extend credit, enter into lease financing, purchase or participate in loans or leases, or pay the obligation of another, which becomes effective at the time such commitment is made.

(c) *Loan* means any extension of, or commitment to extend, credit authorized under the Act whether it results from direct negotiations between a lender and a borrower or is purchased from or discounted for another lender. This includes participation interests.

The term “loan” includes loans and leases outstanding, obligated but undisbursed commitments to lend or lease, contracts of sale, notes receivable, other similar obligations, guarantees, and all types of leases. An institution “makes a loan or lease” when it enters into a commitment to lend or lease, advances new funds, substitutes a different borrower or lessee for a borrower or lessee who is released, or where any other person’s liability is added to the outstanding loan, lease or commitment.

(d) *Primary liability* means an obligation to repay that is not conditioned upon an unsuccessful prior demand on another party.

(e) *Secondary liability* means an obligation to repay that only arises after an unsuccessful demand on another party.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999]

### § 614.4351 Computation of lending and leasing limit base.

(a) *Lending and leasing limit base.* An institution’s lending and leasing limit base is composed of the permanent capital of the institution, as defined in § 615.5201 of this chapter, with adjustments applicable to the institution provided for in § 615.5207 of this chapter, and with the following further adjustments:

(1) Where one institution invests in another institution in connection with the sale of a loan participation interest, the amount of investment in the institution purchasing this participation interest that is owned by the institution originating the loan shall be counted in the lending and leasing limit base of the originating institution and shall not be counted in the lending and leasing limit base of the purchasing institution.

(2) Stock protected under section 4.9A of the Act may be included in the lending and leasing limit base until January 1, 1998.

(3) Any amounts of preferred stock not eligible to be included in total surplus as defined in § 615.5301(i) of this chapter must be deducted from the lending limit base.

(b) *Timing of calculation.* The lending limit base will be calculated on a

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monthly basis as of the preceding month end.

[58 FR 40321, July 28, 1993, as amended at 59 FR 37403, July 22, 1994; 64 FR 34517, June 28, 1999; 70 FR 35348, June 17, 2005; 70 FR 53907, Sept. 13, 2005]

### § 614.4352 Farm Credit Banks and agricultural credit banks.

(a) *Farm Credit Banks.* No Farm Credit Bank may make or discount a loan to a borrower, if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceed 25 percent of the bank's lending and leasing limit base.

(b) *Agricultural credit banks.* (1) No agricultural credit bank may make or discount a loan to a borrower under the authority of title I of the Act, if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds 25 percent of the bank's lending and leasing limit base.

(2) No agricultural credit bank may make or discount a loan to a borrower under the authority of title III of the Act, if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds the lending and leasing limits prescribed in § 614.4355 of this subpart.

[58 FR 40321, July 28, 1993, as amended at 64 FR 34517, June 28, 1999]

### § 614.4353 Direct lender associations.

No association may make a loan to a borrower, if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds 25 percent of the association's lending and leasing limit base.

[58 FR 40321, July 28, 1999, as amended at 64 FR 34517, June 28, 1999]

### § 614.4354 Federal land bank associations.

No Federal land bank association may assume endorsement liability on any loan if the total amount of the association's endorsement liability on loans outstanding and undisbursed commitments to that borrower would exceed 25 percent of the association's lending and leasing limit base.

[58 FR 40321, July 28, 1999, as amended at 64 FR 34517, June 28, 1999]

### § 614.4355 Banks for cooperatives.

No bank for cooperatives may make a loan if the consolidated amount of all loans outstanding and undisbursed commitments to that borrower exceeds the following percentages of the lending and leasing limit base of the bank:

(a) *Basic limit.* (1) Term loans to eligible cooperatives: 25 percent.

(2) Term loans to foreign and domestic parties: 10 percent.

(3) Lease loans qualifying under § 614.4020(a)(3) and applying to the lessee: 25 percent.

(4) Standby letters of credit qualifying under § 614.4810: 35 percent.

(5) Guarantees qualifying under § 614.4800: 35 percent.

(6) Seasonal loans exclusive of commodity loans qualifying under § 614.4231: 35 percent.

(7) Foreign trade receivables qualifying under § 614.4700: 50 percent.

(8) Bankers' acceptances held qualifying under § 614.4710 and commodity loans qualifying under § 614.4231: 50 percent.

(9) Export and import letters of credit qualifying under § 614.4321: 50 percent.

(b) *Total limit.* (1) The sum of term and seasonal loans exclusive of commodity loans qualifying under § 614.4231: 35 percent.

(2) The sum of paragraphs (a)(1) through (a)(9) of this section: 50 percent.

[58 FR 40321, July 28, 1993, as amended at 62 FR 51015, Sept. 30, 1997; 64 FR 34517, June 28, 1999]

### § 614.4356 Farm Credit Leasing Services Corporation.

The Farm Credit Leasing Services Corporation may enter into a lease agreement with a lessee if the consolidated amount of all leases and undisbursed commitments to that lessee or any related entities does not exceed 25 percent of its lending and leasing limit base.

[64 FR 34517, June 28, 1999]

### § 614.4357 Banks for cooperatives look-through notes.

Where a bank for cooperatives makes a loan to an eligible borrower that is