

Farm Credit Administration

§ 614.4460

decline in permanent capital after the loan was made.

(2) Loans on which funds are advanced pursuant to a commitment that was within the lending and leasing limit at the time the commitment was made, even if the lending and leasing limit subsequently declines.

(3) A loan that exceeds the lending and leasing limit as a result of the consolidation of the debt of two or more borrowers as a consequence of a merger or the acquisition of one borrower's operations by another borrower. Such a loan may be extended or renewed, for a period not to exceed 1 year from the date of such merger or acquisition, during which period the institution may advance and/or readvance funds not to exceed the greater of:

(i) 110 percent of the advances to the borrower in the prior calendar year; or

(ii) 110 percent of the average of the advances to the borrower in the past 3 calendar years.

(c) For all lending and leasing limit violations except those exempted under § 614.4360(b)(3), within 90 days of the identification of the violation, the institution must develop a written plan prescribing the specific actions that will be taken by the institution to bring the total amount of loans and commitments outstanding or attributed to that borrower within the new lending and leasing limit, and must document the plan in the loan file.

(d) All leases, except those permitted under § 614.4361, reading "effective date of this subpart" in § 614.4361(a) and "effective date of these regulations" in § 614.4361(b) as "effective date of this amendment," must comply with the lending and leasing limit on the date the lease is made, and at all times after that.

(e) Nothing in this section limits the authority of the FCA to take administrative action, including, but not limited to, monetary penalties, as a result of lending and leasing limit violations.

[58 FR 40321, July 28, 1993. Redesignated and amended at 64 FR 34517, June 28, 1999]

§ 614.4361 Transition.

(a) A loan (not including a commitment) made or attributed to a borrower prior to the effective date of this subpart, which does not comply with the

limits contained in this subpart, will not be considered a violation of the lending and leasing limits during the existing contract terms of such loans. A new loan must conform with the rules set forth in this subpart. A new loan includes but is not limited to:

(1) Funds advanced in excess of existing commitment;

(2) A different borrower is substituted for a borrower who is subsequently released; or

(3) An additional person becomes an obligor on the loan.

(b) A commitment made prior to the effective date of these regulations which exceeds the lending and leasing limit may be funded to the full extent of the legal commitment. Any advances that exceed the lending and leasing limit are subject to the provisions prescribed in § 614.4360.

[58 FR 40321, July 28, 1993. Redesignated and amended at 64 FR 34517, 34518, June 28, 1999]

Subparts K-L [Reserved]

Subpart M—Loan Approval Requirements

§ 614.4450 General requirements.

Authority for loan approval is vested in the Farm Credit banks and associations.

[51 FR 41947, Nov. 20, 1986]

§ 614.4460 Loan approval responsibility.

Approval of the following loans is the responsibility of each district board of directors. The responsibility may be discharged by prior approval of such loans by the appropriate bank board, or establishment of a policy under which the authority to approve such loans is delegated to bank management (except paragraphs (d) and (e) of this section which cannot be delegated to management). If the approval of such loans is to be delegated to bank management, the loans are to be submitted promptly for post review by the bank board and a report disclosing all material facts relating to the credit relationship involved shall be submitted annually by bank management to the district board.

§ 614.4470

(a) Loans to a member of the Farm Credit Administration Board.

(b) Loans to a member of the district board.

(c) Loans to a cooperative of which a member of a bank board of directors is a member of the board of directors, an officer, or employee.

(d) Loans to the president of a Farm Credit bank.

(e) Loans to employees of the Farm Credit Administration.

(f) Loans where directors, officers or employees designated above:

(1) Are to receive proceeds of the loan in excess of an amount prescribed by an appropriate bank board, or

(2) Are stockholders or owners of equity in a legal entity to which the loan is to be made wherein they have a significant personal or beneficial interest in the loan proceeds thereof or the security, or

(3) Are endorsers, guarantors or comakers in excess of an amount prescribed by an appropriate bank board.

[38 FR 27837, Oct. 9, 1973, as amended at 39 FR 29585, Aug. 16, 1974. Redesignated at 46 FR 51878, Oct. 22, 1981, and amended at 51 FR 41947, Nov. 20, 1986; 54 FR 1151, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989; 56 FR 2674, Jan. 24, 1991]

§ 614.4470 Loans subject to bank approval.

(a) The following loans (unless such loans are of a type prohibited under part 612) shall be subject to prior approval of the bank supervising the association in which the loan application originates:

(1) Loans to a director of the association.

(2) Loans to a director of an association which is under joint management when the application originates in one of the associations.

(3) Loans to an employee of the association.

(4) Loans to an employee of an association which is under joint management when the application originates in one of the associations.

(5) Loans to bank employees when the application originates in one of the associations supervised by the employing bank.

(b) Loans to any borrower shall be subject to the prior approval of the

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bank supervising the association in which the loan application originates whenever a director or an employee of the association or an employee of the bank supervising the association:

(1) Will receive proceeds of the loan in excess of the amount prescribed by the supervising bank board, or

(2) Has a significant personal or beneficial interest in the loan, the proceeds, or the security, or controls the borrower, or

(3) Is an endorser, guarantor, or comaker with respect to the loan in excess of an amount prescribed by the supervising bank board.

(c) Any loan which will result in any one borrower being obligated (as defined in subpart J of this part) in excess of an amount established by the supervising bank under its policies for delegation of authority to associations shall be subject to prior approval of the supervising bank.

[47 FR 49832, Nov. 3, 1982, as amended at 58 FR 40324, July 28, 1993; 60 FR 20010, Apr. 24, 1995]

Subpart N—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

§ 614.4510 General.

Direct lenders shall be responsible for the servicing of the loans that they make. However, loan participation agreements may designate specific loan servicing efforts to be accomplished by a participating institution. Each direct lender shall adopt loan servicing policies and procedures to assure that loans will be serviced fairly and equitably for the borrower while minimizing the risk for the lender. Procedures shall include specific plans that help preserve the quality of sound loans and that help correct credit deficiencies as they develop.

(a) The Farm Credit Bank shall provide guidelines for the servicing of loans by the Federal land bank associations. The servicing may be accomplished either under the direct supervision of the bank or under delegated authority.

(b) The servicing of loans which are participated in by Farm Credit System