

§§ 622.83–622.100 [Reserved]

**Subpart D—Rules and Procedures  
Applicable to Formal Investigations**

**§ 622.101 Definitions.**

Unless noted otherwise, the definitions set forth in § 622.2 of subpart A shall apply to this subpart.

**§ 622.102 Scope.**

The rules in this subpart apply to formal investigations initiated by order of the Board and pertain to the exercise of powers specified in section 5.37 of the Act. These rules do not restrict or in any way affect the authority of the FCA, including but not limited to the powers enumerated in section 5.37 of the Act, to conduct examinations of System institutions.

**§ 622.103 Formal investigations are confidential.**

Information or documents obtained or testimony recorded in the course of a formal investigation shall be confidential and shall be disclosed only in accordance with the provisions of 12 CFR part 602.

**§ 622.104 Order to conduct formal investigation.**

A formal investigation begins with the issuance of an order by the Board. The order shall designate the person or persons who will conduct the investigation, issue, revoke, quash or modify subpoenas and subpoenas duces tecum, take or cause to be taken depositions, administer oaths, and receive affirmations as to any matter under investigation by the FCA. Upon application and for good cause shown, the Board may limit, modify, or withdraw the order at any stage of the proceeding.

**§ 622.105 Conduct of investigation.**

(a) *Review of order.* Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under formal investigation shall upon request be shown the order initiating such investigation.

(b) *Right to counsel.* Any person who, in a formal investigation, is compelled

to appear and testify or who appears and testifies by request or permission of the Board may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have this attorney:

(1) Advise such person before, during and after the conclusion of testimony;

(2) Question such person briefly at the conclusion of testimony to clarify any of the answers given; and

(3) Make summary notes during the testimony solely for the use of such person.

(c) *Appearance.* The provisions of § 622.3 are applicable to this subpart.

(d) *Exclusion.* (1) Any person who has given or will give testimony, and counsel representing such person, may be excluded from the taking of testimony of any other witness in the discretion of the designated FCA representative conducting the investigation.

(2) The designated FCA representative conducting the investigation shall report to the Board any instances where any person has been guilty of dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct during the course of the proceeding or any other instance involving a violation of these rules. The Board may thereupon take such action as the circumstances may warrant, including exclusion of the offending individual or individual from participation in the proceeding.

**§ 622.106 Service of subpoena and payment of witness fees.**

(a) *Service.* A subpoena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. Witnesses who are subpoenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The fees and mileage need not be tendered at the time a subpoena is served.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such

## Farm Credit Administration

## § 623.2

subpoena, apply to the FCA representative authorized in the order, or if unavailable to the Board, to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The FCA representative, or the Board, may:

- (1) Deny the application;
- (2) Quash or revoke the subpoena;
- (3) Modify the subpoena; or
- (4) Condition the granting of the application on such terms as the FCA representative or the Board, determines in his, her, or its discretion, to be just, reasonable, and proper.

### § 622.107 Transcripts.

Transcripts, if any, of an investigative proceeding shall be recorded by any means authorized by the designated FCA representative conducting the investigation. A person who has given testimony in an investigative proceeding (or counsel for such person) upon proper identification shall have the right to inspect the transcript of the person's testimony but may not obtain a copy if the FCA's representative conducting the investigation has cause to believe that the contents should not be disclosed.

## PART 623—PRACTICE BEFORE THE FARM CREDIT ADMINISTRATION

Sec.

- 623.1 Scope of part.
- 623.2 Definitions.
- 623.3 Who may practice.
- 623.4 Suspension and debarment.
- 623.5 Reinstatement.
- 623.6 Duty to file information concerning adverse judicial or administrative action.
- 623.7 Proceeding under this part.

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 Ad-

ministration. 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;