

(2) With your affiliated Farm Credit bank's concurrence, arrange to pay any obligations or assessments to the bank after termination.

(c) *Obligations to other Farm Credit institutions.* You must pay or make adequate provision for payment of obligations to any Farm Credit institution (other than your affiliated bank) under any loss-sharing or other agreement.

§ 611.1265 Retirement of a terminating association's investment in its affiliated bank.

(a) *Safety and soundness restrictions.* Notwithstanding anything in this subpart to the contrary, we may prohibit a bank from retiring the equities you hold in the bank if the retirement would cause the bank to fall below its regulatory capital requirements after retirement, or if we determine that the bank would be in an unsafe or unsound condition after retirement.

(b) *Retirement agreement.* Your affiliated bank may retire the purchased and allocated equities held by your institution in the bank according to the terms of the bank's capital revolvment plan or an agreement between you and the bank.

(c) *Retirement in absence of agreement.* Your affiliated bank must retire any equities not subject to an agreement or revolvment plan no later than when you or the successor institution pays off your loan from the bank.

(d) *No retirement of unallocated surplus.* When your bank retires equities you own in the bank, the bank must pay par or face value for purchased and allocated equities, less any impairment. The bank may not pay you any portion of its unallocated surplus.

(e) *Exclusion of equities from capital ratios.* If another Farm Credit institution makes an agreement to retire equities you hold in that institution after termination, we may require that institution to exclude part or all of those equities from assets and capital when the institution calculates its capital and net collateral ratios under subparts H and K of part 615 of this chapter.

§ 611.1270 Repayment of obligations—terminating bank.

(a) *General rule.* If your institution is a terminating bank, you must pay or

make adequate provision for the payment of all outstanding debt obligations, and provide for your responsibility for any probable contingent liabilities identified.

(b) *Satisfaction of primary liability on consolidated or System-wide obligations.* After consulting with the other Farm Credit banks, the Funding Corporation, and the FCSIC, you must pay or make adequate provision for payment of your primary liability on consolidated or System-wide obligations in a method that we deem acceptable. Before we make a final decision on your proposal and as we deem necessary, we may consult with the other Farm Credit banks, the Funding Corporation, and the FCSIC.

(c) *Satisfaction of joint and several liability and liability for interest on individual obligations.*

(1) You and the other Farm Credit banks must enter into an agreement, which is subject to our approval, covering obligations issued under section 4.2 of the Act and outstanding on the termination date. The agreement must specify how you and your successor institution will make adequate provision for the payment of your joint and several liability to holders of obligations other than those obligations on which you are primarily liable, in the event we make calls for payment under section 4.4 of the Act. You and your successor institution must also provide for your liability under section 4.4(a)(1) of the Act to pay interest on the individual obligations issued by other System banks. As a part of the agreement, you must also agree that your successor institution will provide ongoing information to the Funding Corporation to enable it to fulfill its funding and disclosure duties. The Funding Corporation may, at its option, be a party to the agreement to the extent necessary to fulfill its duties with respect to financing and disclosure.

(2) If you and the other Farm Credit banks are unable to reach agreement within 90 days before the proposed termination date, we will specify the manner in which you will make adequate provision for the payment of the liabilities in question and how we will make

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joint and several calls for those obligations outstanding on the termination date.

(3) Notwithstanding any other provision in these regulations, the successor institution will be jointly and severally liable for consolidated and System-wide debt outstanding on the termination date (other than the obligations on which you are primarily liable). The successor institution will also be liable for interest on other banks' individual obligations as described in section 4.4(a)(1) of the Act and outstanding on the termination date. The termination application must include evidence that the successor institution will continue to be liable for consolidated and System-wide debt and for interest on other banks' individual obligations.

§ 611.1275 Retirement of equities held by other System institutions.

(a) *Retirement at option of equity holder.* If your institution is a terminating institution, System institutions that own your equities have the right to require you to retire the equities on the termination date.

(b) *Value of equity holders' interests.* You must retire the equities in accordance with the liquidation provisions in your bylaws unless we determine that the liquidation provisions would result in an inequitable distribution to stockholders. If we make such a determination, we will require you to distribute the equity in accordance with another method that we deem equitable to stockholders. Before you retire any equity, you must make the following adjustments to the amount of stockholder equity as stated in the financial statements on the termination date:

(1) Make deductions for any taxes due to the termination that have not yet been recorded;

(2) Deduct the amount of the exit fee; and

(3) Make any adjustments described under § 611.1250(c) that we may require as we deem appropriate.

(c) *Transfer of affiliated association's investment.* As an alternative to equity retirement, an affiliated association that reaffiliates with another Farm Credit bank instead of terminating with its bank has the right to require the terminating bank to transfer its in-

vestment to its new affiliated bank when it reaffiliates. If your institution is a terminating bank, at the time of reaffiliation you must transfer the purchased and allocated equities held by the association, as well as its share of unallocated surplus, to the new affiliated bank. Calculate the association's share before deduction of the exit fee as of the month end preceding the reaffiliation date (or the termination date if it is the same as the reaffiliation date) in accordance with the liquidation provisions of your bylaws, unless we determine that the liquidation provisions would result in an inequitable distribution. If we make such a determination, we will require you to distribute the association's share of your unallocated surplus in accordance with another method that we deem equitable to stockholders. Before you distribute any unallocated surplus, you must make the following adjustments to stockholder equity as stated in the financial statements as of the month end preceding the reaffiliation date (or the termination date if it is the same as the reaffiliation date):

(1) Add back any taxes due to the termination, and the exit fee; and

(2) Make any adjustments described under § 611.1250(c) that we may require as we deem appropriate.

(d) *Prohibition on certain affiliations.* No Farm Credit institution may retain an equity interest otherwise prohibited by law in a successor institution

§ 611.1280 Dissenting stockholders' rights.

(a) *Definition.* A dissenting stockholder is an equity holder (other than a System institution) in a terminating institution on the termination date who either:

(1) Was eligible to vote on the termination resolution and voted against termination;

(2) Was an equity holder on the voting record date but was not eligible to vote; or

(3) Became an equity holder after the voting record date.

(b) *Retirement at option of a dissenting stockholder.* A dissenting stockholder may require a terminating institution to retire the stockholder's equity interest in the terminating institution.