

Farm Credit Administration

§ 614.4590

with the full recourse or unconditional guarantee of the OFI.

(b) *General collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall take as collateral all notes, drafts, and other obligations that it funds or discounts for each OFI; and

(2) Each Farm Credit Bank and agricultural credit bank shall perfect, in accordance with State law, a senior security interest in any and all obligations and the proceeds thereunder that the OFI pledges as collateral.

(c) *Supplemental collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall develop policies and loan underwriting standards that establish uniform and objective requirements to determine the need and amount of supplemental collateral or other credit enhancements that each OFI shall provide as a condition for obtaining funding, discount and other similar financial assistance from such Farm Credit bank.

(2) The amount, type, and quality of supplemental collateral or other credit enhancements required for each OFI shall be established in the general financing agreement and shall be proportional to the level of risk that the OFI poses to the Farm Credit Bank or agricultural credit bank.

§ 614.4580 Limitation on the extension of funding, discount and other similar financial assistance to an OFI.

(a) No obligation shall be purchased from or discounted for and no loan shall be made or other similar financial assistance extended by a Farm Credit Bank or agricultural credit bank to an OFI if the amount of such obligation added to the aggregate liabilities of such OFI, whether direct or contingent (other than *bona fide* deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such OFI or the amount of such liabilities permitted under the laws of the jurisdiction creating such OFI, whichever is less.

(b) It shall be unlawful for any national bank that is indebted to any Farm Credit Bank or agricultural credit bank, on paper discounted or purchased, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities,

direct or contingent, will exceed the limitation described in paragraph (a) of this section.

§ 614.4590 Equitable treatment of OFIs and Farm Credit System associations.

(a) Each Farm Credit Bank and agricultural credit bank shall apply comparable and objective loan underwriting standards and pricing requirements to both OFIs and Farm Credit System direct lender associations.

(b) The total charges that a Farm Credit Bank or agricultural credit bank assesses an OFI through capitalization requirements, interest rates, and fees shall be comparable to the charges that the same Farm Credit Bank or agricultural credit bank imposes on its direct lender associations. Any variation between the overall funding costs that OFIs and direct lender associations are charged by the same funding bank shall result from differences in credit risk and administrative costs to the Farm Credit Bank or agricultural credit bank.

(c) Upon request, each Farm Credit Bank or agricultural credit bank must provide each OFI and OFI applicant, that has or is seeking to establish a funding relationship with the Farm Credit Bank or agricultural credit bank, a copy of its policies, procedures, loan underwriting standards, and pricing guidelines for OFIs. The pricing guidelines must identify the specific components that make up the cost of funds for OFIs, and the amount of these components expressed in basis points.

(d) Upon request of any OFI or OFI applicant, that has or is seeking to establish a funding relationship with the Farm Credit Bank or agricultural credit bank, the bank must explain in writing the reasons for any variation in the overall funding costs it charges to OFIs and affiliated direct lender associations. The written explanation must compare the cost of funds that the Farm Credit Bank or agricultural credit bank charges the OFIs and affiliated direct lender associations. When possible, the written explanation shall compare the costs of funding that the bank charges several OFIs and Farm Credit associations that are similar in

§ 614.4595

size. However, the Farm Credit Bank or agricultural credit bank must not disclose financial or confidential information about any individual Farm Credit association.

[63 FR 36547, July 7, 1998, as amended at 69 FR 29863, May 26, 2004]

§ 614.4595 Public disclosure about OFIs.

A Farm Credit Bank or agricultural credit bank may disclose to members of the public the name, address, telephone number, and Internet Web site address of any affiliated OFI only if such OFI, through a duly authorized officer, consents in writing. Each Farm Credit Bank and agricultural credit bank must adopt policies and procedures for requesting, obtaining, and maintaining the consent of its OFIs and for disclosing this information to the public.

[69 FR 29863, May 26, 2004]

§ 614.4600 Insolvency of an OFI.

If an OFI that is indebted to a Farm Credit Bank or agricultural credit bank becomes insolvent, is in process of liquidation, or fails to service its loans properly, the Farm Credit Bank or agricultural credit bank may take over such loans and other assets that the OFI pledged as collateral. Once the Farm Credit Bank or agricultural credit bank exercises its remedies, it shall have the authority to make additional advances, to grant renewals and extensions, and to take such other actions as may be necessary to collect and service loans to the OFI's borrower. The funding Farm Credit Bank or agricultural credit bank may also liquidate the OFI's loans and other assets in order to achieve repayment of the debt.

Subpart Q—Banks for Cooperatives and Agricultural Credit Banks Financing International Trade

§ 614.4700 Financing foreign trade receivables.

(a) Banks for cooperatives and agricultural credit banks, under policies adopted by their boards of directors, are authorized to finance foreign trade

12 CFR Ch. VI (1–1–08 Edition)

receivables on behalf of eligible cooperatives to include the following:

- (1) Advances against collections;
- (2) Trade acceptances;
- (3) Factoring; and
- (4) Open accounts.

(b) To reduce credit, political, and other risks associated with foreign trade receivable financing, the banks for cooperatives and agricultural credit banks shall avail themselves of such guarantee and insurance plans as are available in the United States and other countries, such as the Foreign Credit Insurance Association and the Export-Import Bank of the United States. Exceptions may be made where a prospective borrower has had a long-standing successful business relationship with the eligible cooperative borrower or an eligible cooperative which is not a borrower if the prospective borrower has a high credit rating as determined by the bank.

(c) When financing a draft drawn on a foreign importer, the banks should retain recourse to the exporter unless their credit evaluation of and experience with the importer indicate recourse is not necessary or unless appropriate guarantees or insurance plans are used.

(d) The financing of foreign trade receivables shall be limited by the policies of each bank's board of directors. The policies shall provide a method of determining the maximum amount in dollars, by country, to be financed and establishing a maximum percentage of the amount of a draft drawn on a foreign party against which the bank may advance funds. The banks shall take into consideration the following factors:

- (1) The reputation and financial strength of the foreign importer.
- (2) The reputation and payment record of the class of importers in the same country as the subject importer in regard to prompt payment of drafts drawn upon them.
- (3) The quality of the supporting documents offered with the draft.
- (4) The degree of ease with which necessary foreign exchange conversion can be made, or the extent to which foreign currency exposure may be hedged by forward or future contracts.