

## § 615.5142

security no longer complies with requirements in this section, you must divest it in accordance with § 615.5143.

[64 FR 28899, May 28, 1999]

### § 615.5142 Association investments.

An association may hold eligible investments listed in § 615.5140, with the approval of its funding bank, for the purposes of reducing interest rate risk and managing surplus short-term funds. Each bank must review annually the investment portfolio of every association that it funds.

[64 FR 28899, May 28, 1999]

### § 615.5143 Disposal of ineligible investments.

You must dispose of an ineligible investment within 6 months unless we approve, in writing, a plan that authorizes you to divest the instrument over a longer period of time. An acceptable divestiture plan must require you to dispose of the ineligible investment as quickly as possible without substantial financial loss. Until you actually dispose of the ineligible investment, the managers of your investment portfolio must report at least quarterly to your board of directors about the status and performance of the ineligible instrument, the reasons why it remains ineligible, and the managers' progress in disposing of the investment.

[64 FR 28899, May 28, 1999]

### § 615.5144 Banks for cooperatives and agricultural credit banks.

As may be authorized by the banks for cooperatives' or agricultural credit banks boards of directors ownership investment may be made in foreign business entities solely for the purpose of obtaining credit information and other services needed to facilitate transactions which may be financed under section 3.7(b) of the Farm Credit Act Amendments of 1980. Such an investment shall not exceed the level required to access credit and other services of the entity and shall not be made for earnings purposes. The business entity shall be deemed to be principally engaged in providing credit information to and performing such servicing functions for its members where such activities constitute a materially im-

## 12 CFR Ch. VI (1-1-08 Edition)

portant line of business to its members. Also, investments must be made by a bank for cooperatives or agricultural credit bank for its own account and not on behalf of its members. The bank for cooperatives or agricultural credit bank shall use only those services provided by the business entity as necessary to facilitate transactions authorized by section 3.7(b) of the Farm Credit Act Amendments of 1980.

[46 FR 55088, Nov. 6, 1981, as amended at 54 FR 1151, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989; 61 FR 67187, Dec. 20, 1996. Redesignated at 64 FR 28899, May 28, 1999]

## Subpart F—Property, Transfers of Capital, and Other Investments

### § 615.5170 Real and personal property.

Real estate and personal property may be acquired, held, or disposed of by any Farm Credit institution for the necessary and normal operations of its business. The purchase, lease, or construction of office quarters shall be limited to facilities reasonably necessary to meet the foreseeable requirements of the institution. Property shall not be acquired if it involves, or appears to involve, a bank or association in the real estate or other unrelated business.

[50 FR 48554, Nov. 26, 1985. Redesignated at 58 FR 63056, Nov. 30, 1993, and amended at 60 FR 20011, Apr. 24, 1995]

### § 615.5171 Transfer of capital from banks to associations.

(a) *Definitions for this section*—(1) *Transfer of capital* means any payment or forbearance by a Farm Credit Bank or agricultural credit bank (collectively, bank) to an affiliated association, including but not limited to:

- (i) The purchase of nonvoting stock or participation certificates;
- (ii) The payment of cash;
- (iii) Debt forgiveness or reduction;
- (iv) Interest rate concessions or interest-free loans;
- (v) The transfer of loans at other than fair market value;
- (vi) The reduction or elimination of standard loan servicing or other fees; and

## Farm Credit Administration

## §615.5174

(vi) The assumption of operating or other expenses, such as legal fees or insurance premiums.

(2) *Preferential transfer of capital* means a transfer of capital that is not available to all similarly situated affiliated associations.

(3) *Nonroutine transfer of capital* means a transfer of capital that is not available in the ordinary course of business.

(b) *Considerations for preferential or nonroutine transfers of capital.* Before authorizing a preferential or nonroutine transfer of capital, a bank board of directors must take into account and document whether:

(1) The transfer of capital is in the best interests of all of the shareholders;

(2) The bank will be able to achieve its capital adequacy and business plan goals after making the transfer of capital; and

(3) The transfer of capital is the "least cost" alternative available and will enable the association to maintain sound, adequate, and constructive service to borrowers.

(c) *Notification requirements.* At least 30 days before making a preferential or nonroutine transfer of capital to an affiliated association, banks must provide shareholders and the Chief Examiner of the Farm Credit Administration with a description of the transfer and the documentation required by paragraph (b) of this section.

[64 FR 49961, Sept. 15, 1999]

### §615.5172 Production credit association and agricultural credit association investment in farmers' notes given to cooperatives and dealers.

(a) In accordance with policies prescribed by the board of directors of the Farm Credit Bank or agricultural credit bank and each production credit association and agricultural credit association (hereinafter association(s)), such association(s) may invest in notes, conditional sales contracts, and other similar obligations given to cooperatives and private dealers by farmers and ranchers eligible to borrow from such associations.

(b) Such notes and other obligations evidencing purchases of farm machinery, supplies, equipment, home appli-

ances, and other items of a capital nature handled by cooperatives and private dealers will be eligible for purchase as investments.

(c) The total amount which an association may invest in such obligations at any one time shall not exceed 15 percent of the balance of its loans outstanding at the close of the association's preceding fiscal year. In addition, the total amount which an association may invest in such obligations that are originated by any one cooperative or private dealer, at any one time, shall not exceed 50 percent of association capital and surplus.

(d) All notes in which an association invests shall be endorsed with full recourse against the cooperative or dealer. The association shall contact each notemaker who meets the association's credit standards to encourage him to become a borrower.

[54 FR 1158, Jan. 12, 1989, as amended at 55 FR 24888, June 19, 1990; 55 FR 38313, Sept. 18, 1990. Redesignated at 58 FR 63056, Nov. 30, 1993]

### §615.5173 Stock of the Federal Agricultural Mortgage Corporation.

Banks and associations of the Farm Credit System are authorized to purchase and hold Class B common stock of the Federal Agricultural Mortgage Corporation pursuant to section 8.4 of the Farm Credit Act.

[58 FR 63058, Nov. 30, 1993]

### §615.5174 Farmer Mac securities.

(a) *General authority.* You may purchase and hold mortgage securities that are issued or guaranteed as to both principal and interest by the Federal Agricultural Mortgage Corporation (Farmer Mac securities). You may purchase and hold Farmer Mac securities for the purposes of managing credit and interest rate risks, and furthering your mission to finance agriculture. The total value of your Farmer Mac securities cannot exceed your total outstanding loans, as defined by §615.5131(f).

(b) *Board and management responsibilities.* Your board of directors must adopt written policies that will govern your investments in Farmer Mac securities. All delegations of authority to specified personnel or committees