

RBS and RUS, USDA

§ 4290.900

(h) *Breakup fee.* If an Enterprise accepts your Commitment and then fails to close the Financing because it has accepted funds from another source, you may charge a “breakup fee” equal to the closing fee that you would have been permitted to charge under paragraph (d) or (e) of this section.

§ 4290.880 Assets acquired in liquidation of Portfolio securities.

(a) *General rule.* You may acquire assets in full or partial liquidation of a Portfolio Concern’s obligation to you under the conditions permitted by this § 4290.880. The assets may be acquired from the Portfolio Concern, a guarantor of its obligation, or another party.

(b) *Timely disposition of assets.* You must dispose of assets acquired in liquidation of a Portfolio security within a reasonable period of time.

(c) *Permitted expenditures to preserve assets.* (1) You may incur reasonably necessary expenditures to maintain and preserve assets acquired.

(2) You may incur reasonably necessary expenditures for improvements to render such assets saleable.

(3) You may make payments of mortgage principal and interest (including amounts in arrears when you acquired the asset), pay taxes when due, and pay for necessary insurance coverage.

(d) *The Secretary approval of expenditures.* This paragraph (d) applies if you have outstanding Leverage or are applying for Leverage. Any application for the Secretary’s approval under this paragraph must specify all expenses estimated to be necessary pending disposal of the assets. Without the Secretary’s prior written approval:

(1) Your total expenditures under paragraphs (c)(1) and (c)(2) of this section plus your total Financing(s) to the Portfolio Concern must not exceed your overline limit under § 4290.740; and

(2) Your total expenditures under paragraph (b) of this section plus your total Financing(s) to the Portfolio Concern must not exceed 35 percent of your Regulatory Capital.

LIMITATIONS ON DISPOSITION OF ASSETS

§ 4290.885 Disposition of assets to RBIC’s Associates or to competitors of Portfolio Concerns.

Except with the Secretary’s prior written approval, you are not permitted to dispose of assets (including assets acquired in liquidation) to any Associate or to competitors of Portfolio Concerns if you have outstanding Leverage. As a prerequisite to such approval, you must demonstrate that the proposed terms of disposal are at least as favorable to you as the terms obtainable elsewhere.

§ 4290.900 Management fees for services provided to an Enterprise by RBIC or its Associate.

(a) *General.* This § 4290.900 applies to management services that you or your Associate provide to a Portfolio Concern during the term of a Financing or prior to Financing. It does not apply to management services that you or your Associate provide to an Enterprise that you do not finance.

(b) *The Secretary’s approval.* You must obtain the Secretary’s prior written approval of any management services fees and other fees described in this section that you or your Associate charge.

(c) *Permitted management fees.* You or your Associate may provide management services to a Portfolio Concern financed by you if:

(1) You or your Associate have entered into a written contract with the Portfolio Concern;

(2) The fees charged are for services actually performed;

(3) Services are provided on an hourly fee, project fee, or other reasonable basis;

(4) You can demonstrate to the Secretary, upon request, that the rate does not exceed the prevailing rate charged for comparable services by other organizations in the geographic area of the Portfolio Concern; and

(5) All of the management services fees paid to your Associate by a Portfolio Concern for management services provided by the Associate are allocated back to you for your benefit.

(d) *Fees for service as a board member.* You or your Associate may receive fees