

Farm Credit Administration

§ 614.4590

§ 613.3010(b)(1) of this chapter establishes for Farm Credit Banks and agricultural credit banks.

(d) The borrower rights requirements in part C of title IV of the Act, and section 4.36 of the Act, and the regulations in subparts K, L, and N of part 614 shall apply to all loans that an OFI funds or discounts through a Farm Credit Bank or agricultural credit bank, unless such loans are subject to the Truth-in-Lending Act, 15 U.S.C. 1601 *et seq.*

(e) As a condition for obtaining funding, discount and other similar financial assistance from a Farm Credit Bank or agricultural credit bank, all State banks, trust companies, or State-chartered savings associations shall execute a written consent that authorizes their State regulators to furnish examination reports to the Farm Credit Administration upon its request. Any OFI that is not a depository institution shall consent in writing to examination by the Farm Credit Administration as a condition precedent for obtaining funding, discount and other similar financial assistance from a Farm Credit Bank or agricultural credit bank, and file such consent with its Farm Credit funding bank.

§ 614.4570 Recourse and security.

(a) *Full recourse and guarantee.* All obligations that are funded or discounted through a Farm Credit Bank or agricultural credit bank shall be endorsed 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 ob-

taining 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

§ 614.4600

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.

§ 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 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 bor-

12 CFR Ch. VI (1-1-04 Edition)

rower 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.

(5) The reputation and financial strength of the exporter.

(e) The banks may establish foreign trade receivable financing programs by which eligible parties pledge collections to the bank, and then may borrow from the bank up to a stated maximum percentage of the total amount of receivables pledged at any one time.

(f) When financing foreign trade receivables, the banks shall take such precautions and obtain such credit information as necessary to ascertain that all parties to the transaction(s) being financed are reputable and capable of performing their responsibilities under the contract of sale.

(g) When financing foreign trade receivables, the banks shall determine that all shipments are covered by maritime insurance while on the high seas.