

same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section [Jan. 6, 1988], regardless of the decision not to merge.

“(C) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both banks proposing to merge based on the voting requirement of subsection (b)(1).

“(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.”

#### BANK FOR COOPERATIVES INITIAL BOARD OF DIRECTORS

Section 414(a) of Pub. L. 100-233, as amended by Pub. L. 100-399, title IV, § 406(a), Aug. 17, 1988, 102 Stat. 1000, provided that: “Notwithstanding section 3.2 [probably means section 3.2 of Pub. L. 92-181, 12 U.S.C. 2123], the initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971 [12 U.S.C. 2121].”

#### § 2122. Corporate existence; general corporate powers

Each bank for cooperatives shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

- (1) Adopt and use a corporate seal.
- (2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.
- (3) Make contracts.
- (4) Sue and be sued.
- (5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.
- (6) Make loans and commitments for credit, provide services and other assistance as authorized in this chapter, and charge fees therefor.
- (7) Operate under the direction of its board of directors.
- (8) Elect by its board of directors a president, any vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this chapter, define their duties and require surety bonds or make other provisions against losses occasioned by employees.
- (9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, or agents elected or provided for; its property acquired, held, and transferred; its loans made; its general business conducted; and the privileges granted it by law exercised and enjoyed.
- (10) Borrow money and issue notes, bonds, debentures, or other obligations individually or in concert with one or more other banks of the

System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11)(A) Participate in loans under this subchapter with one or more other banks for cooperatives and with commercial banks and other financial institutions upon such terms as may be agreed among them, and participate with one or more other Farm Credit System institutions in loans made under this subchapter or other subchapters of this chapter on the basis prescribed in section 2206 of this title.

(B)(i) Participate in any loan of a type otherwise authorized under this subchapter that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

(I) a bank for cooperatives may not participate in a loan—

(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, will cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this chapter, unless agreed to by the Bank or association; and

(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

(ii) As used in this subparagraph, the term “similar entity” means an entity that, while not eligible for a loan under section 2129 of this title, is functionally similar to an entity eligible for a loan under section 2129 of this title in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

(iii) As used in this subparagraph, the term “participate” or “participation” refers to multi-lender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) or, to the extent necessary to facilitate trans-

actions which may be financed under section 2128(b) of this title, any other financial organization, domestic or foreign, as may be authorized by its board of directors, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13)(A) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized under regulations issued by the Farm Credit Administration.

(B) As may be authorized by its board of directors, buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock.

(C) As may be authorized by its board of directors, and solely for the purposes of obtaining credit information and other services needed to facilitate transactions which may be financed under section 2128(b) of this title, invest in ownership interests in foreign business entities that are principally engaged in providing credit information to and performing such servicing functions for their members in connection with the members' international activities.

(14) Conduct studies and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(17) As may be authorized by the board of directors, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under section 2128(b) of this title: *Provided, however*, That nothing herein shall authorize the banks for cooperatives to engage in the business of accepting domestic deposits.

(18) As may be authorized by its board of directors, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.

(Pub. L. 92-181, title III, §3.1, Dec. 10, 1971, 85 Stat. 602; Pub. L. 96-592, title III, §301, Dec. 24, 1980, 94 Stat. 3443; Pub. L. 99-205, title II, §205(e)(1), Dec. 23, 1985, 99 Stat. 1705; Pub. L. 100-233, title VIII, §802(n), Jan. 6, 1988, 101 Stat. 1712; Pub. L. 100-399, title IX, §901(b), Aug. 17, 1988, 102 Stat. 1007; Pub. L. 102-552, title V, §502, Oct. 28, 1992, 106 Stat. 4130; Pub. L. 103-376, §§2, 6, Oct. 19, 1994, 108 Stat. 3497, 3500; Pub. L. 107-171, title V, §5401(a), May 13, 2002, 116 Stat. 349.)

## AMENDMENTS

2002—Par. (11)(B)(iii), (iv). Pub. L. 107-171 redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under subchapter I or II of this chapter, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory."

1994—Par. (11)(B)(i)(I)(bb). Pub. L. 103-376, §6, substituted "other Farm Credit System institutions" for "the other banks for cooperatives under this subparagraph" and "all Farm Credit System institutions" for "all banks for cooperatives".

Par. (11)(B)(iv). Pub. L. 103-376, §2, added cl. (iv).

1992—Par. (11). Pub. L. 102-552 designated existing provisions as subpar. (A) and added subpar. (B).

1988—Par. (12). Pub. L. 100-399 substituted "(within the meaning of section 1813 of this title)" for "as defined in section 1812 of this title."

Pars. (12), (13)(B), (C), (17), (18). Pub. L. 100-233 struck out "and approved by the Farm Credit Administration" after "board of directors".

1985—Pub. L. 99-205 substituted "regulation" for "supervision" in provision preceding par. (1).

Par. (13)(A). Pub. L. 99-205 inserted "under regulations issued" after "authorized".

Pars. (16) to (19). Pub. L. 99-205 struck out par. (16) respecting power of bank for cooperatives to perform any function delegated to it by the Farm Credit Administration, and redesignated pars. (17) to (19) as (16) to (18), respectively.

1980—Par. (11). Pub. L. 96-592, §301(1), inserted provisions respecting participation with one or more other Farm Credit System institutions in loans.

Par. (12). Pub. L. 96-592, §301(2), inserted applicability to any insured State nonmember bank and to other domestic or foreign financial organizations.

Par. (13). Pub. L. 96-592, §301(3), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pars. (18), (19). Pub. L. 96-592, §301(4), added pars. (18) and (19).

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of this title.

## EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-205 effective thirty days after Dec. 23, 1985, see section 401 of Pub. L. 99-205, set out as a note under section 2001 of this title.

## § 2123. Board of directors

(a)(1) Each bank for cooperatives not merged into the United Bank for Cooperatives or the National Bank for Cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

(2)(A) If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives (other than the National Bank for Cooperatives) shall be carried out with each voting stockholder of a bank for cooperatives having one