

ing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

(3) Nondiscrimination requirement

The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

(b) Certification by Corporation

Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1) of this section.

(c) Maximum time period for certification

Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

(d) Revocation

(1) In general

After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a) of this section.

(2) Effect of revocation

Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

(e) Affiliation of FCS institutions with facility

(1) Establishment of affiliate authorized

Notwithstanding any other provision of this chapter, any Farm Credit System institution, acting for such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affil-

ate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) of this section as a certified facility.

(2) Exclusive agency agreement authorized

Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1)) to sell the qualified loans of such institutions exclusively to or through the facility.

(Pub. L. 92-181, title VIII, §8.5, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1694; amended Pub. L. 104-105, title I, §106, Feb. 10, 1996, 110 Stat. 164.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-105, §106(1)(A), inserted “(other than the Corporation)” after “facilities”.

Subsec. (a)(2). Pub. L. 104-105, §106(1)(B), inserted “(other than the Corporation)” after “facility” in introductory provisions.

Subsec. (e)(1). Pub. L. 104-105, §106(2), struck out “(other than the Corporation)” after “System institution”.

§ 2279aa-6. Guarantee of qualified loans

(a) Guarantee authorized for certified facilities

(1) In general

Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation—

(A) shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the applicable standards established under section 2279aa-8 of this title and which are held by such facility; and

(B) may issue a security, guaranteed as to the timely payment of principal and interest, that represents an interest solely in, or an obligation fully backed by, a pool consisting of qualified loans that—

(i) meet the applicable standards established under section 2279aa-8 of this title; and

(ii) have been purchased and held by the Corporation.

(2) Inability of facility to pay

If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

(3) Power of Corporation

Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide

by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

(b) Other responsibilities of and limitations on certified facilities

As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

(1) Loan default resolution

The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

(2) Subrogation of United States and Corporation to interests of facility

The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 2279aa-13 of this title to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

(B) second, to reimburse the Corporation for any such guarantee payments.

(3) Loan servicing

The originator of any loan in such pool shall be permitted to retain the right to service the loan.

(4) Minority participation in public offerings

The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

(5) No discrimination against States with borrowers rights

The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

(c) Additional authority of Board

To ensure the liquidity of securities for which guarantees have been provided under this sec-

tion, the Board shall adopt appropriate standards regarding—

(1) the characteristics of any pool of qualified loans serving as collateral for such securities; and

(2) transfer requirements.

(d) Aggregate principal amounts of qualified loans

(1) Initial year

During the first year after January 6, 1988, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

(2) Second year

During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

(3) Third year

During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

(4) Subsequent years

In years subsequent to the year referred to in paragraph (3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

(e) Purchase of guaranteed securities

(1) Purchase authority

The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

(2) Issuance of debt obligations

The Corporation (and affiliates) may issue debt obligations solely for the purpose of ob-

taining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 2279aa(9) of this title), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

(3) Terms and limitations

(A) Terms

The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

(B) Requirement

Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

(C) Authority

The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 2279aa-13(a) of this title remains outstanding.

(Pub. L. 92-181, title VIII, §8.6, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1695; amended Pub. L. 100-399, title VI, §601(f)-(h), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 102-237, title V, §503(d), Dec. 13, 1991, 105 Stat. 1877; Pub. L. 104-105, title I, §§107, 108(a), (c)(2), 109(a), (b)(4), Feb. 10, 1996, 110 Stat. 164, 165; Pub. L. 110-234, title V, §5406(b), May 22, 2008, 122 Stat. 1158; Pub. L. 110-246, §4(a), title V, §5406(b), June 18, 2008, 122 Stat. 1664, 1920.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (a)(1)(A), (B)(i). Pub. L. 110-246, §5406(b), inserted “applicable” before “standards”.

1996—Subsec. (a)(1). Pub. L. 104-105, §107(1), designated part of existing text as subpar. (A) and added subpar. (B).

Subsec. (a)(2). Pub. L. 104-105, §108(c)(2), struck out “subject to the provisions of subsection (b) of this section” after “paragraph (1),”.

Subsec. (b). Pub. L. 104-105, §§108(a), 109(a)(2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec.(b). Text read as follows: “In the case of any pool referred to in subsection (a) of this section, the Corporation shall—

“(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

“(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this subchapter;

“(3) require that full recourse be taken against reserves and retained subordinated participating inter-

ests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

“(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.”

Subsec. (b)(4) to (6). Pub. L. 104-105, §109(b)(4), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out heading and text of former par. (4). Text read as follows: “The facility shall comply with the standards adopted by the Board under subsection (c) of this section in establishing and maintaining the pool.”

Subsec. (c). Pub. L. 104-105, §109(a), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c) which related to standards requiring diversified pools, including establishment of minimum criteria for pools of qualified loans, provisions to encourage loans to small farms and family farmers, and requirements for congressional review of standards.

Subsec. (d). Pub. L. 104-105, §109(a)(2), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (d)(4) to (7). Pub. L. 104-105, §107(2), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out heading and text of former par. (4). Text read as follows: “Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).”

Subsecs. (e), (f). Pub. L. 104-105, §109(a)(2), redesignated subsecs. (f) and (g) as (d) and (e), respectively. Former subsec. (e) redesignated (c).

Subsec. (g). Pub. L. 104-105, §109(a)(2), redesignated subsec. (g) as (e).

Subsec. (g)(2). Pub. L. 104-105, §107(3), substituted “2279aa(9) of this title” for “2279aa(9)(B) of this title”.

1991—Subsec. (g). Pub. L. 102-237 added subsec. (g).

1988—Subsec. (a)(1). Pub. L. 100-399, §601(f), substituted “represents interests solely in, or obligations fully backed by, any pool consisting solely of qualified loans which meet the standards established under section 2279aa-8 of this title and which are” for “represents interests in, or obligations backed by, any pool of qualified loans”.

Subsec. (e). Pub. L. 100-399, §601(g), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “registration requirements (if any) with respect to such securities; and”.

Subsec. (f)(1). Pub. L. 100-399, §601(h), substituted “date of the enactment” for “effective date”, both of which for purposes of codification were translated as “January 6, 1988.”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

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.

§ 2279aa-7. Repealed. Pub. L. 104-105, title I, § 108(b), Feb. 10, 1996, 110 Stat. 164

Section, Pub. L. 92-181, title VIII, §8.7, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1698, related to reserves and subordinated participation interests of certified facilities, including provisions relating to cash contributions, retention of subordinated participation interests, additional requirements relating to reserves under section 2279aa-6(b)(2) of this title, and authority of Board of Directors of Federal Agricultural