

**(B) Standard for approval**

If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

**(3) Reclassification from level III to level IV**

The Director shall immediately reclassify the Corporation as within level IV if—

(A) the Corporation is classified as within level III; and

(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

**(b) Discretionary supervisory actions**

In addition to any other actions taken by the Director (including actions under subsection (a) of this section), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

**(1) Limitation on increase in obligations**

Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

**(2) Limitation on growth**

Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

**(3) Prohibition on dividends**

Prohibit the Corporation from making any payment of dividends.

**(4) Acquisition of new capital**

Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

**(5) Restriction of activities**

Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

**(6) Conservatorship**

Appoint a conservator for the Corporation consistent with this chapter.

**(c) Effective date**

This section shall take effect on January 1, 1992.

(Pub. L. 92-181, title VIII, §8.37, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

**§ 2279bb-7. Recapitalization of Corporation****(a) Mandatory recapitalization**

The Corporation shall increase the core capital of the Corporation to an amount equal to or

greater than \$25,000,000, not later than the earlier of—

(1) the date that is 2 years after February 10, 1996; or

(2) the date that is 180 days after the end of the first calendar quarter that the aggregate on-balance sheet assets of the Corporation, plus the outstanding principal of the off-balance sheet obligations of the Corporation, equal or exceed \$2,000,000,000.

**(b) Raising core capital**

In carrying out this section, the Corporation may issue stock under section 2279aa-4 of this title and otherwise employ any recognized and legitimate means of raising core capital in the power of the Corporation under section 2279aa-3 of this title.

**(c) Limitation on growth of total assets**

During the 2-year period beginning on February 10, 1996, the aggregate on-balance sheet assets of the Corporation plus the outstanding principal of the off-balance sheet obligations of the Corporation may not exceed \$3,000,000,000 if the core capital of the Corporation is less than \$25,000,000.

**(d) Enforcement**

If the Corporation fails to carry out subsection (a) of this section by the date required under paragraph (1) or (2) of subsection (a) of this section, the Corporation may not purchase a new qualified loan or issue or guarantee a new loan-backed security until the core capital of the Corporation is increased to an amount equal to or greater than \$25,000,000.

(Pub. L. 92-181, title VIII, §8.38, as added Pub. L. 104-105, title I, §117, Feb. 10, 1996, 110 Stat. 168.)

PART C—RECEIVERSHIP, CONSERVATORSHIP, AND LIQUIDATION OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION

**§ 2279cc. Conservatorship; liquidation; receivership****(a) Voluntary liquidation**

The Corporation may voluntarily liquidate only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board.

**(b) Involuntary liquidation****(1) In general**

The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 2183(b) of this title.

**(2) Application**

In applying section 2183(b) of this title to the Corporation under paragraph (1)—

(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

(C) a receiver may also be appointed for the Corporation if—

(i)(I) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

(II) the Corporation is classified under section 2279bb-4 of this title as within level III or IV and the alternative actions available under part B are not satisfactory; and

(ii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

### **(3) No effect on supervisory actions**

The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 2279bb-6 of this title.

## **(c) Appointment of conservator or receiver**

### **(1) Qualifications**

Notwithstanding section 2183(b) of this title, if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

(B) any person that—

(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

### **(2) Compensation**

#### **(A) In general**

A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

#### **(B) Limit on compensation**

Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

### **(C) Contractual arrangements**

The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

### **(3) Expenses**

A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) of this section shall—

(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

### **(4) Liability**

If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

### **(5) Indemnification**

The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

## **(d) Judicial review of appointment**

### **(1) In general**

Notwithstanding subsection (i)(1) of this section, not later than 30 days after a conservator or receiver is appointed under subsection (b) of this section, the Corporation may bring an action in the United States District Court for the District of Columbia for an order requiring the Farm Credit Administration Board to remove the conservator or receiver. The court shall, on the merits, dismiss the action or direct the Farm Credit Administration Board to remove the conservator or receiver.

### **(2) Stay of other actions**

On the commencement of an action under paragraph (1), any court having jurisdiction of any other action or enforcement proceeding authorized under this chapter to which the Corporation is a party shall stay the action or proceeding during the pendency of the action for removal of the conservator or receiver.

## **(e) General powers of conservator or receiver**

The conservator or receiver for the Corporation shall have such powers to conduct the conservatorship or receivership as shall be provided pursuant to regulations adopted by the Farm Credit Administration Board. Such powers shall be comparable to the powers available to a conservator or receiver appointed pursuant to section 2183(b) of this title.

## **(f) Borrowings for working capital**

### **(1) In general**

If the conservator or receiver of the Corporation determines that it is likely that there will be insufficient funds to pay the ongoing

administrative expenses of the conservatorship or receivership or that there will be insufficient liquidity to fund maturing obligations of the conservatorship or receivership, the conservator or receiver may borrow funds in such amounts, from such sources, and at such rates of interest as the conservator or receiver considers necessary or appropriate to meet the administrative expenses or liquidity needs of the conservatorship or receivership.

**(2) Working capital from Farm Credit banks**

A Farm Credit bank may loan funds to the conservator or receiver for a loan authorized under paragraph (1) or, in the event of receivership, a Farm Credit bank may purchase assets of the Corporation.

**(g) Agreements against interests of conservator or receiver**

No agreement that tends to diminish or defeat the right, title, or interest of the conservator or receiver for the Corporation in any asset acquired by the conservator or receiver as conservator or receiver for the Corporation shall be valid against the conservator or receiver unless the agreement—

- (1) is in writing;
- (2) is executed by the Corporation and any person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the Corporation;
- (3) is approved by the Board or an appropriate committee of the Board, which approval shall be reflected in the minutes of the Board or committee; and
- (4) has been, continuously, from the time of the agreement's execution, an official record of the Corporation.

**(h) Report to Congress**

On a determination by the receiver for the Corporation that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the financial condition of the receivership.

**(i) Termination of authorities**

**(1) Corporation**

The charter of the Corporation shall be canceled, and the authority provided to the Corporation by this subchapter shall terminate, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

**(2) Oversight**

The Office of Secondary Market Oversight established under section 2279aa-11 of this title shall be abolished, and section 2279aa-11(a) of this title and part B shall have no force or effect, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than

the conclusion of the receivership and discharge of the receiver.

(Pub. L. 92-181, title VIII, §8.41, as added Pub. L. 104-105, title I, §118, Feb. 10, 1996, 110 Stat. 168.)

**CHAPTER 24—FEDERAL FINANCING BANK**

Sec.	
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**§ 2281. Congressional findings and declaration of purpose**

The Congress finds that demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit and that such borrowings are not adequately coordinated with overall Federal fiscal and debt management policies. The purpose of this chapter is to assure coordination of these programs with the overall economic and fiscal policies of the Government, to reduce the cost of Federal and federally assisted borrowings from the public, and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions.

(Pub. L. 93-224, §2, Dec. 29, 1973, 87 Stat. 937.)

**EFFECTIVE DATE**

Pub. L. 93-224, §20, Dec. 29, 1973, 87 Stat. 942, provided that: "This Act [enacting this chapter and amending section 24 of this title] becomes effective upon the date of its enactment [Dec. 29, 1973], except that section 7 [section 2286 of this title] becomes effective upon the expiration of thirty days after such date [Dec. 29, 1973]."

**SHORT TITLE**

Pub. L. 93-224, §1, Dec. 29, 1973, 87 Stat. 937, provided: "That this Act [enacting this chapter and amending section 24 of this title] may be cited as the 'Federal Financing Bank Act of 1973'."

**SEPARABILITY**

Pub. L. 93-224, §19, Dec. 29, 1973, 87 Stat. 942, provided that: "If any provision of this Act [enacting this chapter and amending section 24 of this title], or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act [this