

(c) Mandatory determination of eligibility**(1) In general**

The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 2278b-7 of this title, if—

(A) the institution requests such certification;

(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 2278a-6 of this title.

(2) Effective date of certification

If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

(d) Implementation

As soon as practicable after January 6, 1988, the Assistance Board shall take such actions as are necessary to carry out this section.

(e) "Other similar equities" defined

Except where otherwise provided in this chapter, the term "other similar equities" includes allocated equities.

(Pub. L. 92-181, title VI, §6.4, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1588; amended Pub. L. 100-399, title II, §201(c), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsecs. (c) to (e). Pub. L. 100-399 redesignated second subsec. (c) and subsec. (d) as (d) and (e), respectively.

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.

§ 2278a-5. Assistance**(a) In general**

The Assistance Board shall assist an institution that has been certified under section 2278a-4 of this title by—

(1) authorizing the institution to issue preferred stock under section 2278b-7 of this title, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c) of this section;

(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under section 2278b-7 of this title, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

(3) on a request by the institution, authorizing the issuance of preferred stock under sec-

tion 2278b-7 of this title to facilitate the merger of the requesting institution with one or more other System institutions; or

(4) providing assistance by such other methods as the Assistance Board determines appropriate.

(b) "High-cost debt" defined

For purposes of subsection (a)(2) of this section, the term "high-cost debt" means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

(c) Minimum equity value

The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under section 2278b-7 of this title sufficient to—

(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

(d) Limitation

Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no assistance shall be provided in connection with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

(Pub. L. 92-181, title VI, §6.5, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1588; amended Pub. L. 100-399, title II, §201(d), (e), Aug. 17, 1988, 102 Stat. 991.)

REFERENCES IN TEXT

Section 410(c) of the Agricultural Credit Act of 1987, referred to in subsec. (d), is section 410(c) of Pub. L. 100-233, which is set out as a note under section 2011 of this title.

AMENDMENTS

1988—Subsecs. (a)(1) to (3), (c). Pub. L. 100-399, §201(e), struck out "the appropriate provision of" after "under" wherever appearing.

Subsec. (d). Pub. L. 100-399, §201(d), substituted "Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no" for "No".

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.

§ 2278a-6. Special powers**(a) In general**

In the case of a System institution that requests certification under section 2278a-4 of this title, the Assistance Board may—

(1) require the institution to obtain approval from the Assistance Board before implement-

ing business, operating, and investment plans and policies;

(2) if one or more of the conditions described in section 2183(b) of this title are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

(A) approve or require a merger or consolidation of the institution to the extent authorized under this chapter;

(B) initiate action to appoint a receiver under section 2183(b) of this title; or

(C) exercise any enforcement power authorized under this chapter;

(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 2159(b) and 2254(b) of this title;

(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

(8) require the institution to obtain approval from the Assistance Board of—

(A) the hiring policies of the institution;

(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution;

(C) any change in the management of the institution; and

(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

(9) suspend for any period of time, or terminate, any certification granted to an institution under section 2278a-4 of this title if the Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this subchapter; and

(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

(b) Suspension of assistance

(1) Notification

The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(9) of this section.

(2) Enforcement

The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under section 2278b-7 of this title, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this subchapter.

(c) Undated letters of resignation

The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after January 6, 1988, the Assistance Board shall destroy all such letters over which it has control.

(d) Reports

During the 5-year period beginning on January 6, 1988, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this subchapter into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

(Pub. L. 92-181, title VI, §6.6, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1589; amended Pub. L. 100-399, title II, §201(f)-(i), Aug. 17, 1988, 102 Stat. 991; Pub. L. 101-624, title XVIII, §1843(a)(2), Nov. 28, 1990, 104 Stat. 3836.)

AMENDMENTS

1990—Subsec. (a)(8)(B). Pub. L. 101-624 struck out before semicolon at end “notwithstanding the authority of the Farm Credit Administration to approve such matters”.

1988—Subsec. (a)(8)(B). Pub. L. 100-399, §201(f), struck out “under sections 2226 and 2252(a)(15) of this title” after “such matters”.

Subsec. (a)(9). Pub. L. 100-399, §201(g), struck out “may” before “suspend”.

Subsec. (b)(1). Pub. L. 100-399, §201(h), substituted “(a)(9)” for “(a)(8)”.

Subsec. (b)(2). Pub. L. 100-399, §201(i), struck out “the appropriate provision of” after “stock under”.

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.

§ 2278a-7. Administration

(a) Expenses

The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 2278b-5 of this title.

(b) Interim funding

Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 2151 of this title. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

(c) Assistance operations

The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

(d) Access to FCA documents

The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material, for the purpose of carrying out the special powers of the Assistance Board under section 2278a-6 of this title, under such terms and conditions, acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

(Pub. L. 92-181, title VI, §6.7, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1591; amended Pub. L. 100-399, title II, §201(j), Aug. 17, 1988, 102 Stat. 991.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-399 substituted “material,” for “material” and “under such terms and conditions, acceptable” for “under terms and conditions that are acceptable”.

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.

§ 2278a-8. Limitation of powers

(a) Purposes

The powers of the Assistance Board under this subchapter shall be exercised only for the purposes specified in this subchapter and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial

services to farmers, ranchers, and the cooperatives of such.

(b) Prohibition

The powers of the Assistance Board under this subchapter shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

(Pub. L. 92-181, title VI, §6.8, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1591.)

§ 2278a-9. Succession

(a) Assets and liabilities

On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this part, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

(b) Contracts

The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this part.

(c) Adjustment of assessments

Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 2216f(a)(14) or 2216g¹ of this title (as in effect immediately before January 6, 1988) at the book value of such obligations (determined as of January 6, 1988) and shall pay such amounts to the holders of such debt and equity obligations.

(d) Surplus funds

To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

(e) Preservation agreements

(1) Transfer of obligations

Notwithstanding any other provision of this chapter or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Inter-

¹ See References in Text note below.