

of this title shall not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

**(b) Borrowers rights**

At the time of application for a loan (as defined in section 2202a(a)(5) of this title), originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 2202, 2202a, 2202b, 2202c, 2202d, and 2219a of this title shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 2202, 2202a, 2202b, 2202c, 2202d, and 2219a of this title, if applicable.

(Pub. L. 92-181, title VIII, §8.9, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 100-399, title VI, §601(j), Aug. 17, 1988, 102 Stat. 1005; Pub. L. 104-105, title II, §208(b), Feb. 10, 1996, 110 Stat. 174.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-105 inserted “(as defined in section 2202a(a)(5) of this title)” after “application for a loan”.

1988—Subsecs. (a), (b). Pub. L. 100-399 substituted “2202d, and 2219a” for “and 2219b” wherever appearing.

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-10. Funding for guarantee; reserves of Corporation**

**(a) Guarantee**

The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

**(b) Guarantee fees**

**(1) Initial fee**

At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

**(2) Annual fees**

Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than ½ of 1 percent of the principal amount of the loans then constituting the pool.

**(3) Determination of amount**

The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

**(4) Review by GAO**

The Comptroller General of the United States may review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

**(c) Corporation reserve against guarantees losses required**

**(1) In general**

So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

**(2) Exhaustion of reserve required**

The Corporation may not issue obligations to the Secretary of the Treasury under section 2279aa-13 of this title in order to meet the obligations of the Corporation with respect to any guarantees provided under this subchapter until the reserve established under paragraph (1) has been exhausted.

**(d) Fees to cover administrative costs authorized**

The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this subchapter to recover its costs for performing such administration.

(Pub. L. 92-181, title VIII, §8.10, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1701; amended Pub. L. 104-316, title I, §106(f), Oct. 19, 1996, 110 Stat. 3831.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-316 substituted “Review” for “Annual review” in heading and “may review” for “shall annually review” in text.

**§ 2279aa-11. Supervision, examination, and report of condition**

**(a) Regulation**

**(1) Authority**

Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

(A) for the examination of the Corporation and its affiliates; and

(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this subchapter, including through the use of the authorities granted to the Farm Credit Administration under—

(i) part C of subchapter V; and

(ii) beginning 6 months after December 13, 1991, section 2252(a)(9) of this title.

**(2) Considerations**

In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

- (A) the purposes for which the Corporation was created;
- (B) the practices appropriate to the conduct of secondary markets in agricultural loans; and
- (C) the reduced levels of risk associated with appropriately structured secondary market transactions.

**(3) Office of Secondary Market Oversight**

(A) Not later than 180 days after December 13, 1991, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.

**(b) Examinations and audits****(1) In general**

The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

**(2) Frequency**

The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

**(3) Access**

The examiners shall—

- (A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and
- (B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

**(c) Annual report of condition**

The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

**(d) FCA assessments to cover costs**

The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted

under this section, including the cost of any examination.

**(e) “Affiliate” defined**

As used in this subchapter, the term “affiliate” shall mean an entity effectively controlled or owned by the Corporation, except that such term shall not include an originator (as defined in section 2279aa(7) of this title).

**(f) Employees and personnel**

The Farm Credit Administration Board shall ensure that—

(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.

(Pub. L. 92-181, title VIII, § 8.11, as added Pub. L. 100-233, title VII, § 702, Jan. 6, 1988, 101 Stat. 1702; amended Pub. L. 101-624, title XVIII, § 1840, Nov. 28, 1990, 104 Stat. 3835; Pub. L. 102-237, title V, § 503(a), Dec. 13, 1991, 105 Stat. 1870; Pub. L. 102-552, title III, § 308(b)(2), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104-105, title I, § 111, Feb. 10, 1996, 110 Stat. 165.)

## AMENDMENTS

1996—Subsec. (e). Pub. L. 104-105 substituted “section 2279aa(7) of this title” for “paragraphs (3) and (7), respectively, of section 2279aa of this title” and struck out “a certified facility or” before “an originator”.

1992—Subsec. (a)(1)(B)(ii). Pub. L. 102-552 substituted “December 13, 1991” for “the date of enactment of this section”.

1991—Subsec. (a)(1). Pub. L. 102-237, § 503(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of this chapter, the Farm Credit Administration shall have the authority to—

“(A) provide for the examination of the condition of the Corporation and its affiliates; and

“(B) provide for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.”

Subsec. (a)(3). Pub. L. 102-237, § 503(a)(2), added par. (3).

Subsec. (f). Pub. L. 102-237, § 503(a)(3), added subsec. (f).

1990—Subsec. (a)(1). Pub. L. 101-624, § 1840(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of this chapter, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

“(A) providing for the examination of the condition of the Corporation; and

“(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this subchapter, including through the use of the enforcement powers of the Farm Credit Administration under part C of subchapter V of this chapter.”

Subsec. (e). Pub. L. 101-624, § 1840(2), added subsec. (e).

**§ 2279aa-12. Securities in credit enhanced pools****(a) Federal laws****(1) Applicability of certain Federal securities laws**

For purposes of section 77c(a)(2) of title 15, no security representing an interest in, or obligations backed by, a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a "government security" for purposes of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] or for purposes of the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.].

**(2) No full faith and credit of the United States**

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

**(b) State securities laws****(1) General exemption**

Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

**(2) State override**

The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on January 6, 1988, enacts a law that—

- (A) specifically refers to this subsection; and
- (B) expressly provides that paragraph (1) shall not apply to the State.

**(c) Authorized investments****(1) In general**

Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary,

trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

**(2) State limitations on purchase, holding, or investment**

If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

**(3) Nonapplicability of provisions****(A) Subsequent State law**

Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on January 6, 1988, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

**(B) Effect of subsequent State law**

The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

**(d) State usury laws superseded**

A provision of the Constitution or law of any State shall not apply to an agricultural loan made by an originator or a certified facility in accordance with this subchapter for sale to the Corporation or to a certified facility for inclusion in a pool for which the Corporation has provided, or has committed to provide, a guarantee, if the loan, not later than 180 days after the date the loan was made, is sold to the Corporation or included in a pool for which the Corporation has provided a guarantee, if the provision—

- (1) limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by an agricultural lender or a certified facility; or
- (2) limits or prohibits a prepayment penalty (either fixed or declining), yield maintenance, or make-whole payment that may be charged, taken, or received by an agricultural lender or a certified facility in connection with the full or partial payment of the principal amount due on a loan by a borrower in advance of the scheduled date for the payment under the terms of the loan, otherwise known as a prepayment of the loan principal.

(Pub. L. 92-181, title VIII, §8.12, as added Pub. L. 100-233, title VII, §702, Jan. 6, 1988, 101 Stat. 1703;