

- (A) is assessed a civil money penalty; or
- (B) is removed or prohibited from participating in the conduct of the affairs of the institution.

(3) Institution-related party

The term “institution-related party” means—

- (A) a director, officer, employee, or agent for a Farm Credit System institution or any conservator or receiver of such an institution;
- (B) a stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution; and
- (C) an independent contractor (including any attorney, appraiser, or accountant) that knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution.

(4) Liability or legal expense

The term “liability or legal expense” means—

- (A) a legal or other professional expense incurred in connection with any claim, proceeding, or action;
- (B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and
- (C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

(5) Payment

The term “payment” means—

- (A) a direct or indirect transfer of any funds or any asset; and
- (B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which the funds or assets are segregated, without regard to whether the obligation to make the payment is contingent on—
 - (i) the determination, after that date, of the liability for the payment of the amount; or
 - (ii) the liquidation, after that date, of the amount of the payment.

(b) Prohibition

The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including any conservator or receiver of the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

(c) Factors to be taken into account

The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action under subsection (b). The factors may include—

(1) whether there is a reasonable basis to believe that an institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution;

(2) whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution’s troubled condition (as defined in regulations prescribed by the Corporation);

(3) whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution;

(4) whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

(A) section 215, 657, 1006, 1014, or 1344 of title 18; or

(B) section 1341 or 1343 of title 18, affecting a Farm Credit System institution;

(5) whether the institution-related party was in a position of managerial or fiduciary responsibility; and

(6) the length of time that the party was related to the Farm Credit System institution and the degree to which—

(A) the payment reasonably reflects compensation earned over the period of employment; and

(B) the compensation represents a reasonable payment for services rendered.

(d) Certain payments prohibited

No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if the payment is made—

(1) in contemplation of the insolvency of the institution or after the commission of an act of insolvency; and

(2) with a view to, or with the result of—

(A) preventing the proper application of the assets of the institution to creditors; or

(B) preferring 1 creditor over another creditor.

(e) Rule of construction

Nothing in this section—

(1) prohibits any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, so long as the insurance policy or bond does not cover any legal or liability expense of an institution described in subsection (a)(2); or

(2) limits the powers, functions, or responsibilities of the Farm Credit Administration.

(Pub. L. 92-181, title V, §5.61B, as added Pub. L. 104-105, title II, §218, Feb. 10, 1996, 110 Stat. 181.)

§ 2277a-11. Investment of funds

Money of the Corporation not otherwise employed shall be invested in obligations of the

United States or in obligations guaranteed as to principal and interest by the United States.

(Pub. L. 92-181, title V, §5.62, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a-12. Exemption from taxation

Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

(Pub. L. 92-181, title V, §5.63, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1618.)

§ 2277a-13. Omitted

CODIFICATION

Section, Pub. L. 92-181, title V, §5.64, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1619, which required the Farm Credit System Insurance Corporation to submit an annual report to Congress on the operations of the Corporation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 167 of House Document No. 103-7.

§ 2277a-14. Prohibitions

(a) Corporate name

(1) Use of corporate name

It shall be unlawful for any person or entity to use the words "Farm Credit System Insurance Corporation" or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

(2) False representation

(A) By outside person or entities

It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

(B) System banks

It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

(3) Penalty

Any person or entity that willfully violates any provision of this subsection shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

(b) Payments or distributions while in default

(1) In general

It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if

such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

(2) Liability of directors

Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than \$1,000, imprisoned not more than 1 year, or both.

(3) Applicability

This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(c) Failure to file statement or pay premium

(1) In general

Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than \$100 for each day that such violations continue, which penalty the Corporation may recover for its use.

(2) Applicability

This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

(d) Employment of persons convicted of criminal offenses

(1) In general

Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution.

(2) Penalty

For each willful violation of paragraph (1), the institution involved shall be subject to a penalty of not more than \$100 for each day during which the violation continues, which the Corporation may recover for its use.

(Pub. L. 92-181, title V, §5.65, as added Pub. L. 100-233, title III, §302, Jan. 6, 1988, 101 Stat. 1619; amended Pub. L. 101-624, title XVIII, §1837, Nov. 28, 1990, 104 Stat. 3834; Pub. L. 102-237, title V, §502(k), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102-237 struck out "insured" before "System".

1990—Subsec. (d)(1). Pub. L. 101-624, §1837(1), substituted "insured System institution" for "insured System bank".

Subsec. (d)(2). Pub. L. 101-624, §1837(2), substituted "institution" for "bank".