

(Pub. L. 92-181, title VI, §6.3, as added Pub. L. 100-233, title II, §201, Jan. 6, 1988, 101 Stat. 1587; amended Pub. L. 100-399, title II, §201(a), (b), Aug. 17, 1988, 102 Stat. 990.)

#### AMENDMENTS

1988—Subsec. (a)(12). Pub. L. 100-399, §201(a), substituted “(within the meaning of section 1813 of this title)” for “(as defined in section 1813(b) of this title)”.

Subsec. (b). Pub. L. 100-399, §201(b), substituted “exclusive” for “original”.

#### 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.

#### HIRING, PROMOTION, COMPENSATION, AND DISCHARGE OF EMPLOYEES

Pub. L. 102-341, title VI, Aug. 14, 1992, 106 Stat. 906, provided: “That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-142, title VI, Oct. 28, 1991, 105 Stat. 910.

Pub. L. 101-506, title V, Nov. 5, 1990, 104 Stat. 1345.

Pub. L. 101-161, title V, Nov. 21, 1989, 103 Stat. 981.

Pub. L. 100-460, title V, Oct. 1, 1988, 102 Stat. 2259.

#### § 2278a-4. Certification of eligibility to issue preferred stock

##### (a) Book value less than par value of stock and equities

If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 2278b-7(a) of this title.

##### (b) Book value less than 75 percent of par value of stock and equities

If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 2278b-7(a) of this title.

##### (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);

(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 section 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), the term “high-cost debt” means securities or similar obligations issued before January 1, 1986, that ma-

ture 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 implementing 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 estab-