amended Pub. L. 102–237, title V, § 502(m), Dec. 13, 1991, 105 Stat. 1869.)

AMENDMENTS

1991—Pub. L. 102–237 inserted before period at end '', except in the event of a restructuring or liquidation to a successor System institution''.

§ 2278b–4. Corporate powers

(a) In general

The Financial Assistance Corporation shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general business is conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

(9) obtain insurance against loss;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this part;

(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (within the meaning of section 1813 of this title) and pay fees therefor and receive interest thereon as may be agreed; and

(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this part.

(b) Power to remove, and jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have exclusive jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(Pub. L. 92–181, title VI, § 6.24, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1596; 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.

§ 2278b–5. Accounts

(a) Farm Credit Assistance Fund

(1) Establishment

The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this chapter as the ''Assistance Fund'') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this part. The moneys of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

(2) Funding

The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 2278b–6 of this title, and payments, as provided in section 2278b–8 of this title.

(b) Financial Assistance Corporation Trust Fund

The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this chapter as the ''Trust Fund'') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 2278b–9 of this title.

(Pub. L. 92–181, title VI, § 6.25, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1597.)

§ 2278b–6. Debt obligations

(a) Issuance

During the period beginning 61 days after January 6, 1988, and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

(1) in an aggregate amount not to exceed $2,800,000,000; and

(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

(B) the Assistance Board determines that such additional funds are needed to carry out this subchapter; and

(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

(b) Conditions

The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

(c) Interest payments

(1) Payment of interest during first 5-year period

During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

(2) Payment of interest during second 5-year period

(A) In general

During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation.

(B) Payment by System banks to Financial Assistance Corporation

During each year of the second 5-year period, System banks shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System banks shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

(C) Allocation

During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year.

(3) Payments by Treasury

The Secretary of the Treasury, in accordance with section 2278b–8 of this title, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System banks.

(4) Payment of interest after first 10-year period

During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System banks shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

(5) Repayment of Treasury-paid interest

(A) In general

On the maturity date of the last-maturing debt obligation issued under subsection (a), the Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on the debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on the payments.

(B) Assessment

In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank, on or about December 31 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual annuity type payment in an amount designed to accumulate, in total, including earnings thereon, the amount of the bank's ultimate obligation (as determined by the Corporation on a fair and equitable basis), and no greater than .0006 nor less than .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—

(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last 5 years prior to the date the Financial Assistance Corporation is obligated to make the repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and

(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings on the funds, are sufficient to make the repayment on the due date.

(C) Investment of funds

The Financial Assistance Corporation shall invest funds derived from the investment in eligible investments as defined in section 2278b–5(a)(1) of this title. The funds and the earnings on the funds shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

(D) Pass through

A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for the amounts.

(E) Liability

(i) Banks terminating System status or in liquidation

Any bank terminating System status pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date the bank was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation.

(ii) No anticipatory reductions in other obligations

The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation.

(iii) Refund of recoveries

The Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

(F) Associations terminating System status or in liquidation

Any association terminating System status pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

(G) Capital requirements

(i) In general

Until the date that is 5 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

(ii) During the final 5 years prior to repayment

During the—

(I) period beginning 5 years, and ending 4 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 60 percent;

(II) period beginning 4 years, and ending 3 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 30 percent; and

(III) period beginning 3 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 0 percent,

of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

(d) Refinancing and payment of principal; defaults

(1) In general

(A) Time of repayment

On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

(B) Payments by institutions

(i) In general

Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 2278b–7(a) of this title with respect to the obligation (or the successor to the institution) shall pay to the Financial Assistance Corporation, before the maturity date of the obligation, an amount equal to the par value of the stock outstanding for the institution.

(ii) Annual appropriation

Except as provided in clause (iii), each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership and institutions that have previously redeemed their preferred stock) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

(I) the greater of—

(aa) such amount as the institution may be required to appropriate under any assistance agreement the institution has with the Farm Credit System Assistance Board or the Farm Credit System Insurance Corporation; or

(bb) the amount that, if appropriated to the account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in the account to equal the par value of the preferred stock issued by the institution with respect to the obligation; plus

(II) any amount that had been appropriated to the account in a previous year but had thereafter been offset by losses.

(iii) Limitation

An annual appropriation shall not be made to the extent that the appropriation would exceed the institution's net income (as determined pursuant to generally accepted accounting principles) in that year or to the extent that the appropriation would cause the institution's preferred stock to be impaired.

(iv) Use

The amount in the appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates. The account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses.

(v) Preferred stock

The appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements.

(C) Systemwide repayment

(i) In general

In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under subsections (c) and (e) of section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board or the Financial Assistance Corporation under sections 2278a–7(a) and 2278b–4, respectively, of this title, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the obligation equal to—

(I) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

(II) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.

(ii) Expense item

The annual increase in the present value of the estimated obligation of each bank to the Financial Assistance Corporation under this subparagraph shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank.

(iii) Pass through

A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the amount necessary to satisfy the payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, except that the bank shall remain primarily liable for the amount.

(iv) Banks leaving System

Any bank leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

(v) Associations terminating System status or in liquidation

Any association leaving the Farm Credit System pursuant to section 2279d of this title shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of the future payment obligation of its supervising bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

(D) Funds for payments

Payments under subparagraphs (B) and (C) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

(2) Refinanced obligations

The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 2154 and 2155 of this title shall not apply to such obligations.

(3) Defaults

(A) Certain principal and interest obligations

(i) Payment by Corporation

If a System bank defaults on the payment of interest due under subsection (c) during the first 15 years after an obligation is issued under subsection (a), on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B), the Financial Assistance Corporation shall pay the amount due by the System bank out of the Trust Fund, and shall recover the amount due from the defaulting System bank, and such amount shall be paid to the Trust Fund.

(ii) Payment by Insurance Fund

If the Financial Assistance Corporation has not recovered the full amount due from a defaulting bank by the end of the 12-month period beginning on the date of default, any uncollected amount shall be paid to the Trust Fund from the Insurance Fund established under section 2277a–9 of this title, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

(iii) Payment by remaining institutions

To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be allocated to other System banks in accordance with the allocation mechanism applicable under this chapter to the particular defaulted obligation.

(B) Principal of bonds issued to fund purchase of preferred stock

(i) Evaluation

Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 2278b–7(a) of this title with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

(ii) Availability of evaluation

A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

(iii) Redemption by institution; purchase by Secretary of the Treasury

If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 2278b–7 of this title with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 2278b–7 of this title with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution is prohibited from redeeming or elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 2278b–7 of this title so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 2278b–7(a) of this title to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

(C) Recourse by other System banks

A defaulting bank shall be liable to the remaining System banks for any amounts paid by the remaining banks under this paragraph.

(4) Payment by United States

(A) Inability to pay

Notwithstanding any other provision of this chapter, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a) or section 2278a–9(e)(3)(A) of this title, the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

(B) Recovery

(i) Certain principal and interest obligations

In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System bank on interest due from such System bank under subsection (c), on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting bank, from such defaulting bank. If the Secretary has not recovered the full amount due from the defaulting bank by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 2277a–9 of this title.

(ii) Principal of bonds issued to fund purchase of preferred stock

In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 2278b–7(a) of this title, the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

(iii) Priority

Notwithstanding any other provision of this chapter except for section 2277a–9(c)(2)(B) of this title, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

(e) Administration

(1) "Retail loan volume" defined

As used in this section, the term ''retail loan volume'' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

(2) Calculation of average annual loan volumes

For purposes of this section and section 2278a–9 of this title, average annual loan volumes shall be calculated using month-end balances.

(3) Exclusion of banks undergoing liquidation

For purposes of this section and section 2278a–9 of this title, the term ''bank'' shall not include a bank that had entered liquidation prior to October 28, 1992.

(Pub. L. 92–181, title VI, § 6.26, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1597; amended Pub. L. 100–399, title II, § 201(p)–(x), Aug. 17, 1988, 102 Stat. 991, 992; Pub. L. 102–552, title III, §§ 302–304(a), 305, 306, Oct. 28, 1992, 106 Stat. 4109–4111, 4114.)

AMENDMENTS

1992—Subsec. (c)(2)(B). Pub. L. 102–552, § 305(1)(A), (B), substituted ''banks'' for ''institutions'' wherever appearing in heading and text.

Subsec. (c)(2)(C), (D). Pub. L. 102–552, § 305(1)(C), added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

''(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

''(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

''(ii) the total performing loan volume of the System for the preceding year.

''(D) SPECIAL RULE.—For purposes of determining the average loan volume of Farm Credit Banks, loan volume shall consist of loans made by such banks with the exception of loans made to associations.''

Subsec. (c)(3), (4). Pub. L. 102–552, § 305(1)(B), substituted ''banks'' for ''institutions''.

Subsec. (c)(5). Pub. L. 102–552, § 304(a), amended par. (5) generally, substituting present provisions for provisions relating to repayments by System institutions generally, time of payments, and terms of payments.

Subsec. (d)(1)(B). Pub. L. 102–552, § 302, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 2278b–7(a) of this title with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.''

Subsec. (d)(1)(C). Pub. L. 102–552, § 303, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board under section 2278a–7(a) of this title, each System institution shall pay to the Financial Assistance Corporation a proportion of such obligation equal to—

''(i) the average performing loan volume of the institution for the preceding 15 years; divided by

''(ii) the average performing loan volume of all of the System institutions for the same period.''

Subsec. (d)(1)(D), (E). Pub. L. 102–552, § 305(2), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: ''(D) SPECIAL RULE.—For purposes of determining the average loan volume of Farm Credit Banks, loan volume shall consist of loans made by such banks with the exception of loans made to associations.''

Subsec. (d)(3)(A). Pub. L. 102–552, § 306(1)(A), inserted heading and struck out former heading ''Interest'', in cl. (i), inserted ''on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),'', struck out ''of the interest'' after ''the amount'' in two places, and substituted ''bank'' for ''institution'' wherever appearing, in cl. (ii), struck out ''of interest'' after ''the full amount'', and substituted ''defaulting bank'' for ''defaulting institution'' and ''any uncollected amount'' for ''such uncollected interest'', and in cl. (iii), substituted ''allocated to other System banks in accordance with the allocation mechanism applicable under this chapter to the particular defaulted obligation.'' for ''added to the amount of interest due from remaining System institutions, under subsection (c), and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), shall pay to the Trust Fund a proportion of the uncollected interest equal to—

''(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

''(II) the total performing loan volume of the System.''

Subsec. (d)(3)(B). Pub. L. 102–552, § 306(1)(B), inserted heading and struck out former heading ''Principal''.

Subsec. (d)(3)(C). Pub. L. 102–552, § 306(1)(C), substituted ''banks'' for ''institutions'' wherever appearing in heading and text, ''bank'' for ''institution'', and ''any amounts'' for ''the amount of any interest''.

Subsec. (d)(4)(A). Pub. L. 102–552, § 306(2)(A), inserted ''or section 2278a–9(e)(3)(A) of this title''.

Subsec. (d)(4)(B)(i). Pub. L. 102–552, § 306(2)(B)(i), inserted heading and struck out former heading ''Interest payments'', substituted ''bank'' for ''institution'' wherever appearing, and inserted ''on the payment of principal or interest due under subparagraphs (B) and (C) of section 2278a–9(e)(3) of this title, on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),''.

Subsec. (d)(4)(B)(ii). Pub. L. 102–552, § 306(2)(B)(ii), inserted heading and struck out former heading ''Principal payments''.

Subsec. (e). Pub. L. 102–552, § 305(3), added subsec. (e).

1988—Subsec. (c)(2)(D). Pub. L. 100–399, § 201(q), substituted ''Farm Credit Banks'' for ''Federal intermediate credit banks and Federal land banks''.

Pub. L. 100–399, § 201(p), inserted ''and Federal land banks'' after ''credit banks'' and struck out ''production credit'' before ''associations''.

Subsec. (c)(5)(B). Pub. L. 100–399, § 201(r)(1), substituted ''payments under this paragraph'' for ''interest payments''.

Pub. L. 100–399, § 201(r)(2), substituted ''referred to in subsection (d)(1)(E)'' for ''issued under subsection (d)(1)(C)''.

Subsec. (c)(5)(C)(i). Pub. L. 100–399, § 201(r)(1), substituted ''payments under this paragraph'' for ''interest payments''.

Subsec. (d). Pub. L. 100–399, § 201(s), inserted ''; defaults'' after ''principal'' in heading.

Subsec. (d)(1)(C). Pub. L. 100–399, § 201(t), in introductory provisions substituted ''issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 2162(c) of this title, or issued to provide funds to cover the expenses of the Assistance Board under section 2278a–7(a) of this title,'' for ''referred to in section 410(c) of the Agricultural Credit Act of 1987,'' and ''such obligation'' for ''such principal'', in cl. (i) substituted ''institution'' for ''bank'', and in cl. (ii) substituted ''institutions'' for ''banks''.

Subsec. (d)(1)(D). Pub. L. 100–399, § 201(q), substituted ''Farm Credit banks'' for ''Federal intermediate credit banks and Federal land banks''.

Pub. L. 100–399, § 201(p), inserted ''and Federal land banks'' after ''credit banks'' and struck out ''production credit'' before ''associations''.

Subsec. (d)(1)(E). Pub. L. 100–399, § 201(u), substituted ''subparagraphs (B) and (C)'' for ''subparagraph (B)''.

Subsec. (d)(3)(A)(i), (iii). Pub. L. 100–399, § 201(v), substituted ''subsection (c)'' for ''this subsection''.

Subsec. (d)(3)(B)(iii). Pub. L. 100–399, § 201(w), inserted ''is prohibited from redeeming or'' after ''If such institution''.

Subsec. (d)(4)(B)(iii). Pub. L. 100–399, § 201(x), substituted ''section 2277a–9(c)(2)(B) of this title'' for ''section 2277a–9 of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 201(q) of Pub. L. 100–399 effective immediately after amendment made by section 401 of Pub. L. 100–233, which was effective 6 months after Jan. 6, 1988, and amendment by section 201(p), (r)–(x) of 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 of Pub. L. 100–399, set out as a note under section 2002 of this title.

§ 2278b–7. Preferred stock

(a) Issuance

(1) In general

Each System institution that is certified under section 2278a–4 of this title may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

(2) Dividends

(A) In general

Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

(B) Exception

Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 2278b–6(d)(3)(B)(iii) of this title, and the Farm Credit System Insurance Corporation, with respect to any of such stock that the Insurance Corporation purchases or otherwise acquires under section 2278b–6(d)(3)(B)(iii) of this title or section 2278b–6(d)(4)(B)(ii) of this title, to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

(3) Voting rights

A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

(b) Purchase

The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsection (a) to the extent that the issuance of such stock is approved by the Assistance Board.

(Pub. L. 92–181, title VI, § 6.27, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1602; amended Pub. L. 100–399, title II, § 201(y)–(aa), Aug. 17, 1988, 102 Stat. 992.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–399, § 201(y), struck out ''(a) or (b)'' after ''section 2278a–4''.

Subsec. (a)(2)(B). Pub. L. 100–399, § 201(z), substituted ''Farm Credit System Insurance Corporation'' for ''Reserve Account Board'' and ''Insurance Corporation purchases'' for ''Board purchases''.

Subsec. (b). Pub. L. 100–399, § 201(aa), substituted ''subsection (a)'' for ''subsections (a) and (b)''.

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.

§ 2278b–8. Payments

(a) In general

Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 2278b–6(c) of this title during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 2278b–6(c) of this title.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this part.

(Pub. L. 92–181, title VI, § 6.28, as added Pub. L. 100–233, title II, § 201, Jan. 6, 1988, 101 Stat. 1603; amended Pub. L. 100–399, title II, § 201(bb), Aug. 17, 1988, 102 Stat. 992; Pub. L. 102–552, title III, § 304(b), Oct. 28, 1992, 106 Stat. 4114.)

AMENDMENTS

1992—Subsecs. (b), (c). Pub. L. 102–552 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF THE TREASURY.—

''(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) of this section exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

''(2) ALLOCATION.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under paragraph (1) equal to—

''(A) the amount of the performing loan volume of the institution, determined in accordance with section 2278b–6(c)(2)(D) of this title (based on the average loan volume for the preceding year); divided by

''(B) the total performing loan volume of the System for the preceding year.''

1988—Subsec. (b)(2). Pub. L. 100–399 in introductory provision substituted ''paragraph (1) equal'' for ''this paragraph'' and in subpar. (A) substituted ''section 2278b–6(c)(2)(D) of this title'' for ''subsection (c)(1)(D) of this section''.

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.

§ 2278b–9. One-time stock purchase

(a) Amount of stock purchase

(1) In general

Except as provided in paragraphs (2) and (3), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 2278b–3 of this title in an amount equal to the amount by which the unallocated retained