

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.)

Editorial Notes

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 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; Pub. L. 115-334, title V, §5411(47), Dec. 20, 2018, 132 Stat. 4685.)

Editorial Notes

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-334 substituted “2279aa of this title” for “2279aa(7) of this title”.

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