

I. Discussion of Comments

A. Borrower Rights

One commenter requested clarification of our interpretation that statutory borrower rights requirements do not apply to leasing. As stated in the preamble to the original proposal (62 FR 53581, Oct. 15, 1997), borrower rights do not apply to lease transactions.

B. Notice of Action on the Application

We received two comments on republished § 616.6800, which requires that each institution provide the applicant written notice of its decision on a lease application. The first comment suggested the rule should allow verbal notice. The second comment suggested the notice could be either express or implied, allowing the lessor to notify an applicant of approval by delivering lease documents to the applicant without a separate written notice of approval.

We believe that a written notice is appropriate to protect the interests of a lease applicant and to document that an institution has complied with this requirement. However, the notice does not have to be in a particular form and the delivery of written lease documents would satisfy the notice requirement.

C. Stock Purchase Requirements

One bank requested a clarification of § 614.4232, which requires that a lessee be a "voting stockholder" for a loan to a domestic lessor for leases on equipment or facilities (leveraged leases). Under § 616.6700, an institution may satisfy the requirement that an equipment lessee be a stockholder by issuing either one share of stock or one participation certificate. The final regulation makes a conforming amendment to § 614.4232 by removing the term "voting" to clarify that the bylaws could provide that a person owning one share of stock or one participation certificate would be considered a "stockholder" for purposes of this section.

D. Out-of-Territory Leasing

Final § 616.6200 provides farmers, ranchers, cooperatives, and other FCS customers flexibility to choose an FCS lessor regardless of whether they are located within that lessor's "territory." Section 616.6200 does not require an FCS lessor to satisfy any notice or concurrence requirements to serve lessees beyond the lessor's territory.

We received two comments on § 616.6200. One Farm Credit Bank (FCB) commented: "We commend you for removing territorial challenges through the addition of § 616.6200. This will

contribute toward System institutions being able to more effectively serve lease customers." While expressing appreciation for "the efforts of the FCA to improve the regulatory environment in which System institutions operate," a second FCB suggested that "any elimination of geographic operating territories with respect to leasing should be coordinated with the review of the proposed elimination of geographic boundaries with respect to lending activities under § 614.4070, and action on this aspect of the leasing regulation should be deferred until such time as FCA has reviewed all comments on the proposed revision to section 614.4070." We do not believe that action on the republished leasing rule must be delayed until we consider proposed amendments to § 614.4070, the customer choice rule. Our adoption of § 616.6200, allowing potential customers to choose an FCS lessor regardless of whether they are located within that lessor's territory, neither depends on nor determines the fate of the proposed out-of-territory lending rule. See 63 FR 60219 (Nov. 9, 1998); 63 FR 69229 (Dec. 16, 1998).

It is clear in the Farm Credit Act of 1971, as amended (Act) that the express statutory authority to lease is separate and distinct from the authority to lend. Section 2.4(b)(4) of the Act expressly authorizes production credit associations (PCAs) (and agricultural credit associations (ACAs) pursuant to section 7.8) to own and lease equipment, or lease with option to purchase. Section 1.11(c)(2) expressly authorizes FCBs (and agricultural credit banks (ACBs) pursuant to section 7.2) to own and lease equipment or facilities, or lease with option to purchase, and authorizes Federal land credit associations pursuant to section 7.6 to own and lease facilities, or lease with option to purchase. Section 3.7(a) expressly authorizes banks for cooperatives (BCs) (and ACBs pursuant to section 7.2) to own and lease equipment, or lease with option to purchase. The Act clearly creates express leasing authorities separate from lending authorities, and in no case does the Act expressly restrict the geographic location of lease customers.

The Farm Credit Administration (FCA) and the Farm Credit banks have long recognized the distinct nature of loans and leases in connection with the creation of the Leasing Corporation. Section 4.25 of the Act, which authorizes the establishment of service corporations, provides that a service corporation cannot "extend credit." Our interpretation is that this provision does not apply to leases. Thus, the chartering

of the Leasing Corporation was authorized because leases are not extensions of credit.

The second FCB commented that "FCA has * * * correctly * * * analyzed the statutory basis for leasing authorities as being independent of that for lending authorities," but indicates concern that "the operational impact of out-of-territory leasing activity would be comparable to the impact of out-of-territory lending." For more than 10 years, the Leasing Corporation has had authority to compete nationwide with all other FCS lessors for all types of leasing business. Section 616.6200 establishes that other FCS lessors have the ability to compete nationwide with the Leasing Corporation on a level playing field.

II. Summary of Significant Provisions of Final Rule

A. Purchase and Sale of Interests in Leases

The final regulation authorizes a System institution to purchase from any lessor any interest (including a participation interest) in a lease for equipment or facilities used in the operations of eligible borrowers. Specifically, the final regulation:

(1) Eliminates distinctions concerning the authority to purchase "lease interests" and "lease participation interests." The definition of "lease" limits the types of leases in which System institutions can buy an interest, that is, leases of equipment or facilities used in the operations of eligible borrowers;

(2) Eliminates cross-title restrictions on the purchase of lease interests to provide more flexibility because there is no statutory restriction; and

(3) Eliminates the retention requirement concerning the purchase of lease interests from outside the System. Requiring the servicer to have an ownership interest is not necessary to manage risk and is not required by law.

The following two provisions are parallel to provisions that apply to loans: (1) Permit lease transactions through agents on the same basis that is permitted for loans; and (2) provide for the purchase of participations in leases made to similar entities on generally the same basis as the purchase of participations in similar entity loans.

B. Lending and Leasing Limit

The final rule takes a consistent approach to limiting concentration of risk in individual System institutions. Limits on the financing (whether in the form of loans or leases) a System institution can provide to any one

customer protect against unnecessarily large risks to an institution's capital. Therefore, all loans and leases to a single customer will be measured against an institution's lending and leasing limit. The leasing limit for the Leasing Corporation under the final rule will limit its risk exposure in a manner similar to the lending and leasing limit that will apply to other System institutions.

- The definition of "borrower" includes any customer to whom an institution has made a lease or a commitment to make a lease.

- The definition of "loan" includes all types of leases (operating, financing, and lease interests).

- The rule prohibits a System institution from making a lease or a loan if the consolidated amount of all loans and leases to a single borrower exceeds 25 percent of the institution's lending and leasing limit base (except for loans made under title III of the Act, which vary between 10 percent and 50 percent depending on the type of loan and associated risk).

- The rule prohibits the Leasing Corporation from making leases to a single lessee or any related entities that exceed 25 percent of the Leasing Corporation's lending and leasing limit base.

- The rule adds the outstanding lease balances to the items included in the computation of obligations.

- All leases, except those permitted under § 614.4361, must comply with the leasing and lending limit at all times.

C. Out-of-Territory Leasing

The final rule provides System institutions with more flexibility to make leases outside their chartered territory. A System lessor is not required to satisfy any notice or concurrence requirements in order to serve lessees beyond the lessor's territory.

D. Leasing Policies, Procedures, and Underwriting Standards

The final regulation provides only a basic framework for leasing policies, procedures, and underwriting standards. From a safety and soundness perspective, System institutions engaged in leasing need to have adequate policies and procedures that address both loan and lease underwriting to ensure prudent management of both activities. From a payment risk perspective, we require institutions engaged in leasing to comply with the minimum loan underwriting standards in § 614.4150 regarding the minimum amount of financial information required of the applicant since the risks are very similar

for loans and leases. The loan underwriting regulations require written policies and procedures to address underwriting standards such as the minimum supporting credit and financial information required, credit analysis procedures, and repayment capacity of the applicant. The complexity and depth of the policies and underwriting standards should be consistent with the current or planned leasing activities and the institution's risk-bearing ability.

E. Documentation

We require each institution to document that the leased equipment or facility is authorized to be leased under its leasing authorities. Equipment ordinarily is considered to be movable personal property. Facilities include property that is attached, often permanently, to real estate. Certain agricultural property may have attributes of both. We do not provide a specific regulatory definition of equipment and facility. We expect each System institution involved in leasing to have the necessary expertise to make such a determination, and we will review such determinations during the course of our examination process.

F. Investment in Leased Assets

Section 616.6500 authorizes an institution to buy property to lease, if buying such property is consistent with the type of leasing activity being conducted or planned in the future. The purpose of this provision is to prohibit System institutions from speculating in the acquisition of property or facilities.

G. Stock Purchase Requirements

We read the Act to impose a stock purchase requirement in connection with some leases, but not others. Lessees who lease equipment from PCAs, ACAs, BCs, or ACBs, under titles II or III of the Act, must be stockholders. Because cooperatives operate on a one-person, one-vote basis, the number of shares of stock does not affect membership rights. Therefore, the purchase of a single share of stock is sufficient to satisfy the stockholder requirement. Institutions may also satisfy the stock requirement by counting outstanding shares stockholders already own. An institution may also issue one participation certificate to satisfy the stock purchase requirement if authorized by the institution's bylaws. The stock requirement does not apply to the Leasing Corporation because its stockholders are System banks, rather than its lease customers. The disclosure requirements for equities issued as a

condition to obtain a lease would be the same as disclosure requirements for equities issued as a condition to obtain a loan as required under § 615.5250(a) and (b).

H. Disclosure Requirements

The final regulation contains two disclosure requirements designed to protect an applicant's interest. The first requires that lease applicants be provided a copy of all lease documents signed by the lessee within a reasonable time following lease closing. The second requires a System institution to render its decision on the lease application in as expeditious a manner as is practical and provide prompt written notice of its decision to the applicant.

I. Portfolio Limitations

We have concluded that the Act does not impose portfolio limitations on leases to processing and marketing operations. In the absence of a statutory requirement or a safety and soundness concern, we do not believe such a limitation on leasing activity is necessary.

III. Conforming Changes

The existing leasing regulations in §§ 618.8050 and 618.8060 will be deleted upon the effective date of the final rule. The final rule makes conforming technical changes to §§ 614.4710 and 621.7. The final rule also makes a technical change in § 614.4351 and § 618.8440 to correct erroneous citations. We also clarify in § 616.6300 that although a board of directors sets policy, it must direct management to develop procedures that reflect lease practices that control risk.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 616

Agriculture, Banks, banking, leasing.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 621

Accounting, Agriculture, Banks, banking, Penalties, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 614, 618 and 621 are amended and part 616 is added to

chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

Subpart E—Loan Terms and Conditions

2. Section 614.4232 is amended by removing the word “voting” from the introductory text, and revising paragraph (c) to read as follows:

§ 614.4232 Loans to domestic lessors.

(c) The lessee must hold at least one share of stock or one participation certificate; and

Subpart H—Loan Purchases and Sales

§ 614.4325 [Amended]

3. Section 614.4325 is amended by removing the word “leases,” from paragraph (a)(3).

4. The heading of subpart J is revised to read as follows:

Subpart J—Lending and Leasing Limits

5. Section 614.4350 is amended by revising paragraphs (a) and (c) to read as follows:

§ 614.4350 Definitions.

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity to which an institution has made a loan or a commitment to make a loan either directly or indirectly. Excluded are a Farm Credit System association or other financing institution that comply with the criteria in section 1.7(b) of the Act and the regulations in subpart P of this part. For the purposes of this subpart, the term “borrower” includes any

customer to whom an institution has made a lease or a commitment to make a lease.

(c) *Loan* means any extension of, or commitment to extend, credit authorized under the Act whether it results from direct negotiations between a lender and a borrower or is purchased from or discounted for another lender. This includes participation interests. The term “loan” includes loans and leases outstanding, obligated but undisbursed commitments to lend or lease, contracts of sale, notes receivable, other similar obligations, guarantees, and all types of leases. An institution “makes a loan or lease” when it enters into a commitment to lend or lease, advances new funds, substitutes a different borrower or lessee for a borrower or lessee who is released, or where any other person’s liability is added to the outstanding loan, lease or commitment.

§ 614.4351 [Amended]

6. Section 614.4351 is amended by adding the words “and leasing” between the words “lending” and “limit base” each place they appear in the heading and in the entire section; and by removing the reference “§ 615.5201(j)” and adding in its place the reference “§ 615.5201(l) in paragraph (a).

§ 614.4352 [Amended]

7. Section 614.4352 is amended by adding the words “and leasing” between the words “lending” and “limit base” in paragraphs (a) and (b)(1); and by adding the words “and leasing” between the words “lending” and “limits” in paragraph (b)(2).

§ 614.4353 [Amended]

8. Section 614.4353 is amended by adding the words “and leasing” between the words “lending” and “limit base”.

§ 614.4354 [Amended]

9. Section 614.4354 is amended by adding the words “and leasing” between the words “lending” and “limit base”.

§ 614.4355 [Amended]

10. Section 614.4355 is amended by adding the words “and leasing” between the words “lending” and “limit base” in the introductory paragraph; and by removing the word “lending” in the headings of paragraphs (a) and (b).

§§ 614.4356–614.4360 [Redesignated]

11. Sections 614.4356 through 614.4360 are redesignated as

§§ 614.4357 through 614.4361; and a new § 614.4356 is added to read as follows:

§ 614.4356 Farm Credit Leasing Services Corporation.

The Farm Credit Leasing Services Corporation may enter into a lease agreement with a lessee if the consolidated amount of all leases and undisbursed commitments to that lessee or any related entities does not exceed 25 percent of its lending and leasing limit base.

12. Newly designated § 614.4358 is amended by adding the words “and leasing” between the words “lending” and “limit” in the introductory text of paragraphs (a) and (b); by adding the words “and lease balances outstanding” after the word “loans” the first place it appears in paragraph (a)(1); by removing the reference “§ 614.4358” and adding in its place the reference “§ 614.4359” in paragraph (a)(3); by redesignating existing paragraph (b)(5) as paragraph (b)(6); and by adding a new paragraph (b)(5) to read as follows:

§ 614.4358 Computation of obligations.

(b) * * *
(5) Interests in leases sold when the sale agreement provides that:
(i) The interest sold must be:
(A) An undivided interest in all the lease payments or the residual value of all the leased property; or
(B) A fractional undivided interest in the total lease transaction;
(ii) The interest must be sold without recourse; and
(iii) Sharing of all lease payments must be on a pro rata basis according to the percentage interest in the lease payments.

§ 614.4359 [Amended]

13. Newly designated § 614.4359 is amended by adding the words “and leasing” between the words “lending” and “limit” in paragraphs (a) introductory text, (b), and (c); by removing the reference “§ 614.4356” and adding in its place, the reference “§ 614.4357” in paragraph (a)(1)(iii); and by removing the reference “§ 614.4358” and adding in its place, the reference “§ 614.4359” in the heading for column two in Table 1.

14. Newly designated § 614.4360 is amended by adding the words “and leasing” between the words “lending” and “limit” in the heading and each place they appear in paragraphs (a), (b), (c), and (d); by removing the reference “§ 614.4360” and adding in its place, the reference “§ 614.4361” in paragraph

(a); by removing the reference “§ 614.4359(b)(3)” and adding in its place, the reference “§ 614.4360(b)(3)” in paragraph (c); by redesignating paragraph (d) as paragraph (e); and by adding a new paragraph (d) to read as follows:

§ 614.4360 Lending and leasing limit violations.

* * * * *

(d) All leases, except those permitted under § 614.4361, reading “effective date of this subpart” in § 614.4361(a) and “effective date of these regulations” in § 614.4361(b) as “effective date of this amendment,” must comply with the lending and leasing limit on the date the lease is made, and at all times after that.

* * * * *

§ 614.4361 [Amended]

15. Newly designated § 614.4361 is amended by adding the words “and leasing” between the words “lending” and “limits” in each place they appear in paragraphs (a) and (b); and by removing the reference “§ 614.4359” and adding in its place, the reference “§ 614.4360” in paragraph (b).

Subpart Q—Banks for Cooperatives and Agricultural Credit Banks Financing International Trade

§ 614.4710 [Amended]

16. Section 614.4710 is amended by adding the words “and leasing” between the words “lending” and “limits” in the last sentence of the introductory paragraph and in paragraphs (a)(2) and (a)(3).

17. A new part 616 is added to read as follows:

PART 616—LEASING

Sec.

616.6000 Definitions.

616.6100 Purchase and sale of interests in leases.

616.6200 Out-of-territory leasing.

616.6300 Leasing policies, procedures, and underwriting standards.

616.6400 Documentation.

616.6500 Investment in leased assets.

616.6600 Leasing limit.

616.6700 Stock purchase requirements.

616.6800 Disclosure requirements.

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.9, 3.10, 3.20, 3.28, 4.3, 4.3A, 4.13, 4.13A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.3, 7.6, 7.8, 7.12, 7.13 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2130, 2131, 2141, 2149, 2154, 2154a, 2199, 2200, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2211, 2212, 2213, 2214,

2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279a-3, 2279b, 2279c-1, 2279f, 2279f-1).

§ 616.600 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Interests in leases* means ownership interests in any aspect of a lease transaction, including, but not limited to, servicing rights.

(b) *Lease* means any contractual obligation to own and lease, or lease with the option to purchase, equipment or facilities used in the operations of persons eligible to borrow under part 613 of this chapter.

(c) *Sale with recourse* means a sale of a lease or an interest in a lease in which the seller:

(1) Retains some risk of loss from the transferred asset for any cause except the seller's breach of usual and customary warranties or representations designed to protect the purchaser against fraud or misrepresentation; or

(2) Has an obligation to make payments to any party resulting from:

(i) Default on the lease by the lessee or guarantor or any other deficiencies in the lessee's performance;

(ii) Changes in the market value of the assets after transfer;

(iii) Any contractual relationship between the seller and purchaser incident to the transfer that, by its terms, could continue even after final payment, default, or other termination of the assets transferred; or

(iv) Any other cause, except that the retention of servicing rights alone shall not constitute recourse.

§ 616.6100 Purchase and sale of interests in leases.

(a) *Authority to buy interests in leases.* A Farm Credit System institution may buy leases and interests in leases.

(b) *Policies.* Each Farm Credit System institution that sells or buys interests in leases must do so only under a policy adopted by its board of directors that addresses the following:

(1) The types of leases in which the institution may buy or sell an interest and the types of interests which may be bought or sold;

(2) The underwriting standards for the purchase of interests in leases;

(3) Such limits on the aggregate lease payments and residual amount of interests in leases that the institution may buy from a single institution as are necessary to diversify risk, and such limits on the aggregate amounts the institution may buy from all institutions as are necessary to assure that service to the territory is not impeded;

(4) Identification and reporting of leases in which interests are sold or bought;

(5) Requirements for securing from the selling lessor in a timely manner adequate financial and other information about the lessee needed to make an independent judgment; and

(6) Any limits or conditions to which sales or purchases are subject that the board considers appropriate, including arbitration.

(c) *Purchase and sale agreements.*

Each agreement to buy or sell an interest in a lease must, at a minimum:

(1) Identify the particular lease(s) to be covered by the agreement;

(2) Provide for the transfer of lessee information on a timely and continuing basis;

(3) Identify the nature of the interest(s) sold or bought;

(4) Specify the rights and obligations of the parties and the terms and conditions of the sale;

(5) Contain any terms necessary for the appropriate administration of the lease, including lease servicing and monitoring of the servicer and authorization and conditions for action in the event of lessee distress or default;

(6) Provide for a method of resolution of disagreements arising under the agreement;

(7) Specify whether the contract is assignable by either party; and

(8) In the case of lease transactions through agents, comply with § 614.4325(h) of this chapter, reading the term “lease” or “leases” in place of the term “loan” or “loans,” as applicable.

(d) *Independent judgment.* Each institution that buys an interest in a lease must make a judgment on the payment ability of the lessee that is independent of the originating or lead lessor and any intermediary seller or broker. This must occur before the purchase of the interest and before any servicing action that alters the terms of the original agreement. The institution must not delegate such judgment to any person(s) not employed by the institution. A Farm Credit System institution that buys a lease or any interest in a lease may use information, such as appraisals or inspections, provided by the originating or lead lessor, or any intermediary seller or broker; however, the buying Farm Credit System institution must independently evaluate such information when exercising its judgment. The independent judgment must be documented by a payment analysis that considers factors set forth in § 616.6300. The payment analysis must consider such financial and other lessee

information as would be required by a prudent lessor and must include an evaluation of the capacity and reliability of the servicer. Boards of directors of jointly managed institutions must adopt procedures to ensure the interests of their respective shareholders are protected in participation between such institutions.

(e) *Sales with recourse.* When a lease or interest in a lease is sold with recourse:

(1) For the purpose of determining the lending and leasing limit in subpart J of part 614 of this chapter, the lease must be considered, to the extent of the recourse or guaranty, a lease by the buyer to the seller, and in addition, the seller must aggregate the lease with other obligations of the lessee; and

(2) The lease subject to the recourse agreement must be considered an asset sold with recourse for the purpose of computing capital ratios.

(f) *Similar entity lease transactions.* The provisions of § 613.3300 of this chapter that apply to interests in loans made to similar entities apply to interests in leases made to similar entities. In applying these provisions, the term "loan" shall be read to include the term "lease" and the term "principal amount" shall be read to include the term "lease amount."

§ 616.6200 Out-of-territory leasing.

A System institution may make leases outside its chartered territory.

§ 616.6300 Leasing policies, procedures, and underwriting standards.

The board of each institution engaged in lease underwriting must adopt a written policy (or policies). Management, at the direction of the board, must develop procedures that reflect lease practices that control risk and comply with all applicable laws and regulations. Any leasing activity must comply with the lending policies and loan underwriting requirements in § 614.4150 of this chapter. An institution engaged in the making, buying, or syndicating of leases also must adopt written policies and procedures that address the additional risks associated with leasing. Written policies and procedures must address the following, if applicable:

(a) Appropriateness of the lease amount, purpose, and terms and conditions, including the residual value established at the inception of the lease;

(b) Process for estimating the leased asset's market value during the lease term;

(c) Types of equipment and facilities the institution will lease;

(d) Remarketing of leased property and associated risks;

(e) Property tax and sales tax reporting;

(f) Title and ownership of leased assets;

(g) Title and licensing for motor vehicles;

(h) Liability associated with ownership, including any environmental hazards or risks;

(i) Insurance requirements for both the lessor and lessee;

(j) Classification of leases in accordance with generally accepted accounting principles; and

(k) Tax treatment of lease transactions and associated risks.

§ 616.6400 Documentation.

Each institution must document that any asset it leases is within its statutory authority.

§ 616.6500 Investment in leased assets.

An institution may acquire property to be leased that is consistent with current or planned leasing programs.

§ 616.6600 Leasing limit.

All leases made by Farm Credit System institutions shall be subject to the lending and leasing limit in subpart J of part 614 of this chapter.

§ 616.6700 Stock purchase requirements.

(a) Each System institution, except the Farm Credit Leasing Services Corporation, making an equipment lease under titles II or III of the Act must require the lessee to buy or own at least one share of stock or one participation certificate in the institution making the lease, in accordance with its bylaws.

(b) The disclosure requirements of § 615.5250(a) and (b) of this chapter apply to stock (or participation certificates) bought as a condition for obtaining a lease.

§ 616.6800 Disclosure requirements.

(a) Each System institution must give to each lessee a copy of all lease documents signed by the lessee within a reasonable time following lease closing.

(b) Each System institution must make its decision on a lease application as soon as possible and provide prompt written notice of its decision to the applicant.

PART 618—GENERAL PROVISIONS

18. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart C—[Removed and Reserved]

19. Subpart C, consisting of §§ 618.8050 and 618.8060, is removed and reserved.

Subpart J—Internal Controls

§ 618.8440 [Amended]

20. Section 618.8440 is amended by removing the reference "or (d)" in paragraph (b)(6).

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

21. The authority citation for part 621 continues to read as follows:

Authority: Secs. 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2279aa–11).

Subpart C—Loan Performance and Valuation Assessment

§ 621.7 [Amended]

22. Section 621.7 is amended by removing the reference "§ 614.4358(a)(2)" and adding in its place, the reference "§ 614.4359(a)(2)" in paragraph (a)(2)(iii).

Dated: June 18, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–147–AD; Amendment 39–11208; AD 99–13–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes; Model MD–88 Airplanes; and Model MD–90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes; Model MD–88 airplanes; and Model MD–90 airplanes, that requires a one-time inspection of the forward attach pins of the outboard flight spoiler actuators to determine whether the pins are of correct length, and follow-on corrective actions. This amendment is prompted by a report that forward attach pins of