

Farm Credit Administration

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act. See part 602, subpart B, and part 603 of this chapter.

[51 FR 41939, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.281 Definitions.

For the purpose of this subpart:

(a) *Chairman* means the Chairman of the Farm Credit Administration Board or his or her designee.

(b) *Court* means any entity conducting a legal proceeding.

(c) *Demand* means any order, subpoena, or other legal process for testimony or documents.

(d) *Document* means any record or paper, including but not limited to a report, credit review, audit, examination, letter, telegram, memorandum, study, calendar and diary entry, log, graph, pamphlet, note, chart, tabulation, analysis, statistical or information accumulation, any kind of record of meetings and conversations, film impression, magnetic tape, or any electronic media, disk, film, or mechanical reproduction that is generated, obtained, or adopted by the FCA in connection with the conduct of its official business.

(e) *Employee* means any officer, former officer, employee or former employee of the FCA, any member of the Farm Credit Administration Board or former member of the Farm Credit Administration Board or the Federal Farm Credit Board, any receiver or conservator appointed by the FCA, or any agent or independent contractor acting on behalf of the FCA, even though the appointment or contract has terminated.

(f) *FCA* means the Farm Credit Administration.

(g) *FCA Counsel* means the General Counsel or his or her designee, a Department of Justice attorney, or counsel authorized by the FCA to act on behalf of the FCA or an employee.

(h) *General Counsel* means the General Counsel of the FCA or his or her designee.

(i) *Legal proceeding* means any administrative, civil, or criminal proceeding, including a discovery proceeding therein, before a court of law, administrative board or commission, hearing officer, or other body in which the FCA is not a named party or in which the FCA

has not instituted the administrative investigation or administrative hearing.

(j) *Official* means concerning the authorized business of the FCA.

(k) *Person* means any individual, or any agency, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein but does not include the FCA or any FCA employee.

[50 FR 7331, Feb. 22, 1985, as amended at 51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.282 General policy.

It is the policy of the FCA that official documents will not be voluntarily produced and the FCA employees will not voluntarily appear as witnesses in any legal proceeding. Under appropriate circumstances, the Chairman may grant exceptions in writing to this policy when the Chairman determines that the disclosure of official documents or testimony would be in the best interest of the FCA or in the public interest.

[51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.283 Request for testimony or production of documents.

(a) No FCA employee shall give testimony concerning official matters nor produce any official documents in any legal proceeding without the prior written authorization of the Chairman.

(b) If testimony by an FCA employee concerning official matters or the production of official documents is desired, the requesting party or his or her counsel shall submit a letter to the Chairman setting forth the title of the case, the forum, the requesting party's interest in the case, a summary of the issues in the litigation, the reasons for the request, and a showing that the desired testimony, documents, or information are not reasonably available from any other source. If an appearance or testimony is requested, the letter shall also set forth the intended use of the testimony, a general summary of the scope of the testimony requested, and a showing that no document could

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be provided and used in lieu of the testimony or other appearance requested.

(c) The General Counsel is authorized to consult with the requesting party or his or her counsel to: (1) Refine and limit the request so that compliance is less burdensome, or (2) obtain information necessary to make the determination described in § 602.282 of this part. Failure of the requesting party or his or her counsel to cooperate in good faith with the General Counsel to enable the Chairman to make an informed determination under this subpart may serve as the basis for a determination not to comply with the request.

[51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.284 Scope of permissible testimony.

(a) The scope of permissible testimony by an FCA employee is limited to that set forth in the written authorization granted that employee by the Chairman.

(b) FCA employees are not authorized to give opinion testimony. The FCA, as the regulatory agency charged with the responsibility of examining, supervising, and regulating the banks and associations and other institutions organized or chartered under the Farm Credit Act of 1971, as amended, relies on the ability of its employees to gather full and complete information in order to carry out its statutory responsibilities. The use of FCA employees to give opinion testimony would hamper the FCA's ability to carry out its statutory responsibilities and would cause a serious administrative burden on the FCA's staff.

[51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.285 Manner in which testimony is given.

(a) Authorized testimony of FCA employees will be made available only through depositions or written interrogatories. FCA employees are not authorized to appear and testify in court or to give interviews prior to a deposition or otherwise.

(b) Where, in response to a request, the Chairman determines that circumstances warrant authorizing testi-

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mony by an FCA employee, the requesting party shall cause a subpoena to be served on the employee in accordance with applicable Federal or State rules of procedure, with a copy of the subpoena sent by registered mail to the General Counsel.

(c) Normally, authorized depositions will be taken at the FCA office to which the employee is assigned, and at a time arranged with the employee that is reasonably fixed to avoid substantial interference with the performance of the employee's duties.

(d) Upon completion of the deposition of an FCA employee, a copy of the transcript of the testimony shall be furnished at the expense of the party requesting the deposition to the General Counsel for the FCA's files.

[50 FR 7331, Feb. 22, 1985, as amended at 51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.286 Manner in which documents will be produced.

(a) An FCA employee's authorization to produce official documents is limited to the authority granted that employee by the Chairman.

(b) Prior to the release of any official documents authorized by the Chairman to be released, the requesting party shall obtain a protective order satisfactory in form to the FCA from the court before which the action is pending to preserve the confidentiality of the documents subsequently produced.

(c) Certified or authenticated copies of official FCA documents authorized by the Chairman to be released under this subpart will be provided upon request.

[51 FR 41940, Nov. 20, 1986. Redesignated at 56 FR 28477, June 21, 1991]

§ 602.287 Fees.

Unless waived or reduced, the following fees shall be charged for documents produced by the FCA in connection with requests subject to this subpart:

(a) *Searches for documents.* \$1.50 for each one-quarter hour (or fraction thereof) per employee for time spent by clerical personnel in excess of the first quarter hour and \$3.15 for each one-