

§614.4320 Production credit associations.

The rate of interest charged by an association shall be the rate authorized by the bank, within programs prescribed by the bank board. Interest shall be charged on loans for the actual number of days such loans are outstanding unless a different method is authorized by such programs.

[37 FR 11424, June 7, 1972. Redesignated at 46 FR 51878, Oct. 22, 1981, and amended at 54 FR 1150, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989]

Subpart H—Loan Purchases and Sales

SOURCE: 57 FR 38247, Aug. 24, 1992, unless otherwise noted.

§614.4325 Purchase and sale of interests in loans.

(a) *Definitions.* For the purposes of this subpart, the following definitions shall apply:

(1) *Interests in loans* means ownership interests in the principal amount, interest payments, or any aspect of a loan transaction and transactions involving a pool of loans, including servicing rights.

(2) *Lead lender* means a lending institution having a direct contractual relationship with a borrower to advance funds, which institution sells or assigns an interest or interests in such loan to one or more other lenders.

(3) *Loan* means any extension of credit or similar financial assistance of the type authorized under the Act, such as leases, guarantees, letters of credit, and other similar transactions.

(4) *Loan participation* means a fractional undivided interest in the principal amount of a loan that is sold by a lead lender to a participating institution in accordance with the requirements of §614.4330 of this subpart. The term "loan participation" does not include a subordinated participation interest.

(5) *Participating institution* means an institution that purchases a fractional undivided interest in the principal amount of a loan originated by another lender.

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

(i) 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

(ii) Has an obligation to make payments of principal or interest to any party resulting from:

(A) Default on the payment of principal or interest on the loan by the borrower or guarantor or any other deficiencies in the obligor's performance;

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

(C) 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

(D) Any other cause, except the retention at servicing rights alone shall not constitute recourse.

(7) *Subordinated participation interest* means an interest in a loan that bears the first risk of loss, including the retention of such an interest when a loan is sold to a pooler certified by the Federal Agricultural Mortgage Corporation pursuant to title VIII of the Act, or an interest in a pool of subordinated participation interests purchased to satisfy the requirements of title VIII of the Act with respect to a loan sold to such a certified pooler.

(b) *Authority to purchase and sell interests in loans.* Loans and interests in loans may only be sold in accordance with each institution's lending authorities, as set forth in subpart A of this part. No Farm Credit System institution may purchase from an institution that is not a Farm Credit System institution any interest in a loan, except for the purpose of pooling and securitizing such loans under title VIII of the Act, unless such an interest is a participation interest that qualifies under the institution's lending authority, as set forth in subpart A of this part, and meets the requirements of §614.4330 of this subpart.

(c) *Policies.* Each Farm Credit System institution that is authorized to sell or