

Farm Credit Administration

§ 614.4335

within the lending limits established in subpart J of this part.

(2) The amount of the loan subject to the recourse agreement shall be considered a loan sold with recourse for the purpose of computing permanent capital ratios.

(h) *Transactions through agents.* Transactions pertaining to purchases of loans, including the judgement on creditworthiness, may be performed through an agent, provided that:

(1) The institution establishes the necessary criteria in a written agency agreement that outlines, at a minimum, the scope of the agency relationship and obligates the agent to comply with the institution's underwriting standards;

(2) The institution periodically reviews the agency relationship to determine if the agent's actions are in the best interest of the institution;

(3) The agent must be independent of the seller or intermediate broker in the transaction; and

(4) If an association's funding bank serves as its agent, the agency agreement must provide that:

(i) The association can terminate the agreement upon no more than 60 days notice to the bank;

(ii) The association may, in its discretion, require the bank to purchase from the association any interest in a loan that the association determines does not comply with the terms of the agency agreement or the association's loan underwriting standards.

[57 FR 38247, Aug. 24, 1992, as amended at 58 FR 40321, July 28, 1993; 62 FR 51015, Sept. 30, 1997]

§ 614.4330 Loan participations.

Agreements to purchase or sell a participation interest shall be subject to the provisions of § 614.4325 of this subpart, and, in addition, shall satisfy the requirements of this section.

(a) *Participation agreements.* Agreements to purchase or sell a participation interest in a loan shall, in addition to meeting the requirements of § 614.4325(d) of this subpart, at a minimum:

(1) Define the duties and responsibilities of the participating institution and the lead lender, and/or the servic-

ing institution, if different from the lead lender.

(2) Provide for loan servicing and monitoring of the servicer;

(3) Set forth authorization and conditions for action in the event of borrower distress or default;

(4) Provide for sharing of risk;

(5) Set forth conditions for the offering and acceptance of the loan participation and termination of the agreement;

(6) Provide for sharing of fees, interest charges, and costs between participating institutions;

(7) Provide for a method of resolution of disagreements arising under the agreement between two or more institutions;

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

(9) Provide for the issuance of certificates evidencing an undivided interest in a loan.

(b) *Retention requirement.* No participation interest may be purchased from an institution that is not a Farm Credit System institution unless the servicing institution has an ownership interest in the principal amount equal to the lesser of 10 percent of the principal amount or such lesser amount as represents the servicing institution's lending limit, which ownership interest cannot be assigned separately from the servicing rights.

(c) *Intrasystem participations.* Loans participated between or among Farm Credit System institutions shall meet the borrower eligibility, membership, loan term, loan amount, loan security, and stock purchase requirements of the originating lender.

§ 614.4335 Borrower stock requirements.

(a) As a condition of obtaining a loan from or through a Farm Credit System institution, including loans originated for sale to other lenders, a borrower shall meet the institution's minimum stock purchase requirements.

(b) Borrower stock may be retired only if the institution meets its minimum permanent capital standards and only in accordance with paragraphs (b)(1) or (b)(2) of this section.

(1) When a loan is sold to a party that is not a certified agricultural mortgage