

bank, production credit associations and agricultural credit associations may make the following special types of loans on commodities covered by price support programs. Notwithstanding the regulations covering other loans made by an association, loans may be made to members on any commodity for which a Commodity Credit Corporation price support program is in effect, at such rate of interest and upon such terms as the bank board may prescribe subject to the following conditions:

(a) The commodity offered as security for the loan shall be eligible for price support under a Commodity Credit Corporation price support program and shall be stored in a bonded public warehouse, holding storage agreement for such commodity approved by Commodity Credit Corporation.

(b) The member shall have complied with all Commodity Credit Corporation eligibility requirements.

(c) The loan shall mature not later than 30 days prior to the expiration of the period during which the Commodity Credit Corporation loan or other price support may be obtained on the commodity and shall be secured by pledge of negotiable warehouse receipts covering the commodity.

(d) The borrower shall appoint the association as his attorney-in-fact to obtain a Commodity Credit Corporation loan (or other such price support as is available) in the event that the borrower fails to do so prior to maturity or repayment of the loan.

[37 FR 11424, June 7, 1972. Redesignated at 46 FR 51878, Oct. 22, 1981, and amended at 55 FR 24886, June 19, 1990]

Subpart P—Farm Credit Bank and Agricultural Credit Bank Financing of Other Financing Institutions

§ 614.4540 Definitions.

When used in this subpart:

(a) The term *person* means an individual, corporation, partnership, association, joint stock company, trust, fund, or any organized group of individuals or entities whether incorporated or unincorporated.

(b) The term *affiliate* of another person means a person that directly, or indirectly through one or more intermediaries,

(1) Owns, controls, or has the power to vote shares of any class of voting securities of such person; or

(2) Controls in any manner the election of a majority of directors of such person; or

(3) Exercises or has the power to exercise a controlling influence over the management of such person.

(c) The term *subsidiary* of another person means any person 10 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person.

(d) The term *depository institution* means any national bank, State bank, trust company, savings institution, or credit union.

(e) The term *other financing institution (OFI)* means any person enumerated in section 1.7(b)(1)(B) of the Act, except to the extent that depository institutions, as defined herein, are specifically excluded from the term.

(f) The term *national money markets* means those money markets serviced by the largest banks in the United States which operate on a national level and conduct international operations as well.

(g) The term *regional money markets* means those money markets generally served by intermediate size banks which do not ordinarily operate on a national level but which may trade funds among themselves and provide services to community banks.

(h) The term *bank(s)* refers collectively to Farm Credit Banks, as defined in section 1.3 of the Act, and agricultural credit bank(s) as defined in part 619.

(i) The term *association(s)* refers collectively to production credit associations, and agricultural credit associations.

[46 FR 51886, Oct. 22, 1981, as amended at 55 FR 24886, June 19, 1990]

§ 614.4545 General.

(a) The banks have a responsibility to make loans and extend other financial assistance to, and discount for or purchase from, any OFI which meets

the criteria set forth in § 614.4550 and complies with the various other requirements of this subpart.

(b) An OFI meeting the basic eligibility criteria in § 614.4550 of this subpart shall have its request for access evaluated on the basis of its ability to make and service a sound loan portfolio and its managerial and financial strength. The presence of two or more OFI's serving the same territory or the failure of an OFI to enter into loan participations with production credit associations or agricultural credit associations shall not be considered in evaluating the request for access. Financial assistance may be provided through a direct loan to the OFI, or by purchasing or discounting individual loans made by the OFI.

(c) A bank shall determine, in considering a request to establish an access relationship, whether the OFI should be considered by itself, or together with its affiliates or subsidiaries as a combined entity, for the purpose of determining eligibility in applying the criteria set forth in § 614.4550 of this subpart. A determination to consider an OFI together with its affiliates as a combined entity shall require the consistent application of each of the eligibility criteria to the combined entity on a consolidated basis. In making its determination, the bank shall give due regard to the total relationship between the various parties, including but not necessarily limited to the following factors:

- (1) Ownership of voting stock;
- (2) Common management and employees;
- (3) Common directors;
- (4) Contractual and correspondent relationships;
- (5) Prior business dealings; and
- (6) Liability interrelationships, including but not limited to fund flows.

(d) Where a bank makes a determination to consider an OFI together with its affiliates as a combined entity, the OFI must demonstrate that the larger organization of which it is considered a part will continue to use the same proportion of its resources for agricultural or aquatic lending. The OFI must also demonstrate that all resources available to the consolidated entity are

being used to alleviate the shortage of funds for agriculture.

(e) In dealing with an OFI affiliated with a cooperative, the bank shall consider the possible effects of such relationship on the operations and credit policies of the cooperative. Such OFI which is an otherwise eligible entity may discount or borrow on the security of notes of farmers, ranchers, or producers or harvesters of aquatic products (as distinguished from notes of cooperatives), evidencing loans to finance the cost of supplies, equipment, or services obtained from such affiliated cooperative, if the bank board finds that an additional source of credit is needed to facilitate financing of such transactions and the primary benefits of such credit will inure to the borrowing farmers, ranchers, or producers or harvesters of aquatic products.

[46 FR 51886, Oct. 22, 1981; 46 FR 54726, Nov. 4, 1981, as amended at 55 FR 24886, June 19, 1990]

§ 614.4550 Basic eligibility criteria.

(a) An OFI shall be afforded access on a reasonable basis to a bank as a source of funds if it meets all of the eligibility criteria set forth below:

(1) The OFI is duly organized and qualified to make loans under the laws of each jurisdiction in which it operates. The OFI shall be a person primarily engaged in the business of extending short- and intermediate-term credit to farmers, ranchers, and/or producers or harvesters of aquatic products. A person engaged in other business activities shall not be eligible to obtain credit from a bank merely because it has the power to make loans to farmers, ranchers, and/or producers or harvesters of aquatic products. The fact that an OFI has powers not related to such credit activities or receives income from other sources shall not in and of itself render it ineligible. A person whose primary function is to finance the sale of products by its affiliates shall not be eligible for access.

(2) The OFI is significantly involved in lending for agricultural or aquatic purposes. The OFI has at least 15 percent of its loan volume at the seasonal peak in agricultural and/or aquatic loans. The bank shall consider requests with a lesser percent if the OFI demonstrates that it is making a special