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FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

RIN 3052–AD55

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Determination.

SUMMARY: This document is part of the Farm Credit Administration's (FCA, our, or we) initiative to reduce regulatory burden for Farm Credit System (FCS or System) institutions, including the Federal Agricultural Mortgage Corporation (Farmer Mac). Several System institutions responded to our 2022 request for comments by identifying regulations they considered unnecessary, unduly burdensome or costly, duplicative of other requirements, outmoded, insufficient, ineffective, or not based on law, and this document responds to those comments.

DATES: March 3, 2025.

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SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this document is to respond to the comments submitted to us regarding our request to identify regulations that the public considered unnecessary, unduly burdensome or costly, duplicative of other requirements, outmoded, insufficient, ineffective, or not based on law.

II. Background

On July 20, 2022, we published a document in the **Federal Register** inviting the public to comment on our regulations that may duplicate other requirements, are ineffective, are not based on law, or impose burdens that are greater than the benefits received.[1] We also expressed interest in understanding how our regulations affect associations differently based on their location, size, and complexity of operations.

We received letters from AgFirst, FCB; AgGeorgia, ACA; AgriBank, FCB; AgTexas, ACA; Alabama, ACA; ArborOne, ACA; Central Texas, ACA; CoBank, ACB; Colonial, ACA; Farm Credit East, ACA; Farm Credit Illinois, ACA; Florida, ACA; Farm Credit Bank of Texas; the Farm Credit Council; Farm Credit Mid-America, ACA; First South, ACA; Farm Credit Foundations; the Federal Farm Credit Banks Funding Corporation; High Plains, ACA; Idaho, ACA; Louisiana Land Bank, ACA; Plains Land Bank, FLCA; Premier, ACA; Texas Farm Credit, ACA; and Western AgCredit, ACA. The Farm Credit Council stated that in preparing its response letter on behalf of all FCS institutions, it assembled and coordinated an FCS Regulatory Burden Workgroup of experts representing institutions across all four bank districts.

The letters commented on regulations concerning: investments, disclosure requirements, preparing and filing reports, and other FCA regulations and guidance. In addition, we received comments related to the FCA Examination Manual and the examination process. We referred those comments to FCA's Office of Examination.

This document restates the comments submitted, with certain non-substantive, technical changes made to improve clarity and readability (under the Comment heading), along with our response to the comments (under the FCA Response heading). Our responses take into consideration the comment and any proposed solution(s) the commenter suggested.

FCA organized the comments received into four categories. First, for some of the comments received, we took action between comment submission and publication of this document that addressed the concerns raised. Second, many of the comments we received seek changes that we cannot implement because they are inconsistent with the Farm Credit Act of 1971, as amended (Act), safety and soundness, and/or other FCA guidance or position(s). Third, some comments raise issues that are the subject of existing regulatory projects scheduled for consideration by FCA as set forth in our Fall 2024 Regulatory Projects Plan, which is available on the FCA website, and those issues will be addressed in the planned regulatory projects. Finally, in other cases, commenters identified issues that need further evaluation before we can consider whether changes are appropriate.

[1] 87 FR 43227 (July 20, 2022).

III. Action Taken by FCA Related to Comments Received

A. Accounting and Disclosure of Troubled Debt Restructuring (TDR) (§ 621.6(b))

Comment: GAAP requirements have changed, resulting in the elimination of TDRs. As a result, the maintenance of current requirements for TDRs is operationally burdensome and immaterial to the financial statements and credit quality of System institutions. Retaining the legacy reporting requirements for TDRs will require System institutions to maintain two operational and reporting processes for TDRs and modifications under the updated reporting requirements. The legacy process is highly manual and subjective, requiring extensive documentation. The revised GAAP allows for systematic solutions and automated processes for reporting in a more efficient manner. Further, many System institutions plan to repurpose existing fields in loan accounting systems and databases/data warehouses to achieve the new reporting requirements. If FCA retains the legacy reporting requirements for TDRs, then the repurposing of data fields will not be possible and it will, therefore, be more costly to implement an automated and well-controlled solution for modification disclosures under the required GAAP implementation deadline of Q1 2023.

FCA Response: In response to the TDR changes under GAAP, we issued an Informational Memorandum (IM) dated December 30, 2022, that, among other

things, explained that the TDR loan performance category contained in § 621.6(b) was no longer required under GAAP after January 1, 2023. Our Fall 2024 Regulatory Projects Plan indicates that we plan to propose an update to § 621.6(b) to reflect this change.

B. Call Reporting for Farm Credit Leasing (FCL) (§ 621.12)

Comment: FCA requires a separate Call Report for FCL, which adds burden and costs to prepare and file. This separate Call Report provides no value as FCL's financial results are fully incorporated in the CoBank Call Report and CoBank backstops FCL's obligations. Section 621.12 requires Call Reports to be filed for each institution chartered under the Act. However, wholly owned subsidiaries are typically excluded from the requirement for filing a separate Call Report through administrative action by FCA. In addition, FCA has previously recognized that FCL is integrated into CoBank by waiving the requirement for a separate Annual Report and providing regulatory relief from separate capital requirements.

FCA Response: The Farm Credit Leasing Corporation (FCL) is a chartered service corporation. It was chartered under section 4.25 of the Act and is currently wholly owned by CoBank. Unrelated to this comment, FCA determined and notified relevant parties that FCL is no longer required to prepare and file separate Call Reports. The existing structure and financial reporting from CoBank about FCL are sufficient to not require separate Call Reports from FCL. If FCL's structure or financial reporting changes in the future, FCA may require FCL to file Call Reports.

IV. Comments That Will Not Result in Changes

A. Approval of Equity Investments in Unincorporated Business Entities (UBEs) (§ 611.1155)

Comment: The detailed requirement of the information that must be provided to FCA for its approval (Part 611 Subpart J) before a UBE can be created is administratively burdensome, time consuming, and thus expensive to System institutions. The process for creating and seeking approval for UBEs to protect System institutions in their administration of acquired assets is administratively burdensome and should be simplified.

FCA Response: Section 611.1154 requires notice to FCA, and not FCA prior approval, when a System institution wishes to make an equity investment in UBEs whose activities are limited to acquiring and managing unusual or complex collateral associated with loans, providing hail or multi-peril crop insurance services with another System institution in accordance with § 618.8040, or another activity that FCA determines is appropriate for this provision. This provision provides a simplified process that avoids unnecessary administrative burdens and costs for investments in UBEs for the specified activities.

For all other UBEs, however, § 611.1155 requires pre-approval. We are not persuaded by the comment that a change is needed for these other UBEs. We continue to believe that it is prudent to have System institutions obtain preapproval for investing in these UBEs to avoid the burden and cost associated with potentially reversing investments if such investments were later deemed through the examination process to be inappropriate, unsafe or unsound, or contrary to law. FCA will, however, consider whether additional categories of UBE investments could be included in the provisions to reduce burden on System institutions.

B. Floor Nominations (§ 611.326)

Comment: The requirement that associations permit voting stockholders to make floor nominations for director positions circumvents the nominating committee's process and creates inefficiencies in the development of the association's election materials. The same requirement is not imposed on banks. Banks are only required to allow floor nominations if they are permitted by a bank's election policies and procedures.

FCA Response: Section 4.15 of the Act requires associations to allow for floor nominations for director positions. Therefore, we are unable to make association floor nominations optional. In the preamble to the final rule adopting § 611.326, we thoroughly discussed this requirement.[2]

C. Preparing and Filing Reports (§ 620.2(c))

Comment: This regulation permits System institutions to provide the reports made subject of this part (Part 620) electronically; however, the regulation requires System institutions to obtain ''shareholder agreement'' to do so. See § 620.2(c). This language effectively imposes an ''opt in'' requirement (a hurdle) for System institutions and their customers to benefit from electronic delivery, Part 609, and E–SIGN Act, rather than an ''opt out'' requirement. § 609.920 confirms that System institutions may interpret the Act and FCA ''broadly to allow electronic transmissions, communications, records, and submission, as provided by E–SIGN,'' § 609.920(b), and the E–SIGN Act ''preempts most statutes and regulations, including the Act and FCA Regulation.'' § 609.920(a). Section 620.2, therefore, seems to impose a hurdle on, in most instances, the use of electronic communications in System institution business, contrary to the purpose and intent of § 609.920 and the E–SIGN Act, presents a significant financial, administrative, and logistical burden to System institutions, without guaranteeing better receipt of, or access to, the report by shareholders, is inconsistent with other FCA regulations, which permit website access or notice (*e.g.,* § 620.15), is not in alignment with shareholders' preferred method of communication, which is electronic access or delivery in most circumstances, and does not better serve or support the cooperative. System institutions must operate efficiently and in the best interest of the cooperative. Many, if not most, businesses operate, and engage in, electronic commerce, with less reliance on paper due to preference, cost, administrative or logistical burdens, and delays associated with mail, and not all System institutions have shareholder agreements with all customers and/or may not be able to secure shareholder agreements from all customers before reports are required to be provided. Importantly, System institutions provide ready access to reports on their websites, which are accessible by all, and paper copies may also be available in branch offices, at customer events, and upon request.

FCA Response: As the comment notes, § 620.2(c) permits institutions to deliver shareholder reports electronically only with shareholder agreement. This is, effectively, an opt-in requirement for electronic delivery of shareholder reports. If a shareholder does not agree to electronic delivery, an institution is not permitted to deliver the reports electronically.

FCA believes this requirement is appropriate and is consistent with the E–SIGN Act, 15 U.S.C. 7001, *et seq.* Accordingly, FCA declines to change this requirement.

D. Preparing and Providing the Annual Report (§ 620.4)

Comment: This regulation requires System institutions to provide, within 90 calendar days of the end of its fiscal year, an annual report substantively

[2] 75 FR 18726 (April 12, 2010).

identical to the copy of the report sent to FCA under subparagraph (a)(1) of this regulation. System institutions are permitted to provide the report made subject of this part electronically; however, System institutions are required to obtain ''shareholder agreement'' to do so. See § 620.2(c). Requiring that System institutions mail a hard copy of the report to shareholders unless they first ''opt in'' to electronic delivery runs afoul of, or presents a hurdle to, § 609.920 and the E–SIGN Act in most instances, presents a significant financial, administrative, and logistical burden to System institutions, without guaranteeing better receipt of, or access to, the report by shareholders, is inconsistent with other FCA regulations, which permit website access or notice (*e.g.*, § 620.15).

FCA Response: As discussed in FCA's response to the previous comment, § 620.2(c) permits institutions to deliver shareholder reports electronically only with shareholder agreement. This requirement applies to annual reports required by § 620.4.

FCA believes this requirement is appropriate and is consistent with the E–SIGN Act, 15 U.S.C. 7001, *et seq.* Accordingly, FCA declines to change this requirement.

E. Preparing and Distributing the Information Statement (§ 620.20)

Comment: The regulation requires that System institutions post their Annual Meeting Information Statement (AMIS) on their website ''[i]n addition to the mailed AMIS.'' The requirement that electronic publication and notification is to be used as an additional, not alternative, method of communication is burdensome and expensive. Providing print communications to all stockholders provides a substantial logistical and financial burden on System institutions and often does not align with the communication method preferred by many stockholders, which is electronic.

FCA Response: As an initial matter, FCA regulation § 620.20(a)(3) does not require a System institution to post its AMIS on its website. This regulation states that a System institution may choose to post its AMIS on its website in addition to mailing the AMIS and, if it does so, the posted AMIS must remain on its website for a reasonable period of time, but not less than 30 calendar days.

As to the comment that providing a print AMIS to all stockholders is burdensome, as discussed in FCA's response to the previous two comments, § 620.2(c) permits institutions to provide reports to shareholders electronically with shareholder agreement. The AMIS is a shareholder report that may be provided electronically with shareholder agreement. Accordingly, FCA declines to change this requirement.

F. Use of Average Daily Balance (ADB) in Capital Ratio Calculations (§§ 615.5206, 628.10)

Comment: FCA call report requirements should be evaluated for consistency with other financial institution regulators (*e.g.*, OCC, FRB). Any additional reporting requirements need to be evaluated to determine the necessity of the information or perform a cost benefit analysis. For example, FCA should modify its regulatory capital ratio calculations to be consistent with other financial institution regulators. The current calculations requiring a 3-month average daily balance (''ADB''), in addition to calculating it based on ending balance, is overly burdensome, and the 3-month ADB actually materially misrepresents an entity's capital ratios during quarter-end reporting. The requirement to calculate quarterly averages (*e.g.*, 3-month ADBs) results in challenges to the System. For example, the requirement often results in the need for ad-hoc calculations and modifications to loan accounting/reporting systems as this is often not a standard offering from providers who are primarily focused on commercial banking needs.

FCA Response: As we noted in a 2020 preamble, FCA has long required institutions to compute their capital ratios using three-month average daily balances.[3] FCA continues to believe using the three-month average daily balances in its capital ratios is the appropriate safety and soundness measure given the seasonality in agriculture. The requirement to reconcile the three-month average daily balance amounts with the quarterly financial statements provides financial statement users the appropriate level of detail regarding the capital levels of System institutions.

G. Outside Director (§ 619.9235)

Comment: Section 619.9235 defines an outside director to be ''[a] member of a board of directors selected or appointed by the board, who is not a director, officer, employee, agent, or stockholder of any Farm Credit System institution.'' The commenter agrees that the Act prohibits an outside director from holding any other Farm Credit System position at the time of their initial appointment. However, the commenter asks that FCA consider amending this definition to allow an outside director to concurrently serve on the boards of subsidiary institutions and, with the association board's approval, serve on the boards of institutions that perform functions or services the association might otherwise perform on its own behalf. As currently drafted, § 619.9235 (i) places requirements on outside directors that are broader than the Act and other regulations; (ii) discourages associations from utilizing Section 4.25 Service Corporations; (iii) treats outside directors differently than elected directors; and (iv) can deny System institutions valuable skills and expertise possessed by outside directors.

FCA Response: The comment states that FCA regulation § 619.9235, which defines an outside director as, in pertinent part, a board member who is appointed or selected by the board and who is not a director of a System institution,[4] goes beyond the Act's requirements.[5] However, § 619.9235 implements provisions in the Act that prevent outside directors from serving more than one System institution at any given time.[6] Therefore, FCA is unable to change § 619.9235 to permit a bank or association outside director to concurrently serve on a service corporation board, or vice versa.

The comment also contends the independence requirement for outside directors results in disparate treatment from what is required to be a stockholder-elected director. The differences in treatment result from the required legal distinction that outside directors are independent of any System affiliation[7] while other directors in the

[3] *See* 85 FR 55786, 55794 (September 10, 2020). *See also* FCA regulation 615.5206(b) (requiring permanent capital and the asset base to be computed using 3-month ADBs); FCA regulation § 628.10(a) (requiring regulatory capital ratios to use 3-month ADBs).

[4] Section 4.27 of the Act states that a service corporation is a Farm Credit System institution.

[5] 619.9235 defines an outside director as ''A member of a board of directors selected or appointed by the board, who is not a director, officer, employee, agent, or stockholder of any Farm Credit System institution.''

[6] Section 1.4 of the Act states that for a System bank, ''at least one member [of the board of directors] shall be elected by the other directors, which member shall not be a director . . . of a System institution.'' Sections 2.1, 2.11, and 3.2 impose the same requirements for associations and banks for cooperatives.

[7] The brief discussion of this issue in the 1987 legislative history states that Congress ''believed it would be prudent for all boards to have a disinterested, objective member . . . . '' 133 Cong. Rec. S. 16831 (December 1, 1987). Congress explained that an outside director on the System boards adds a disinterested, objective member experienced in agricultural finance. (133 Cong. Rec. S16,836 (daily ed. Dec. l, l987) (comment of Sen.

Continued

cooperatively-structured System are not. As a cooperative, System institutions must be owner controlled. That owner control is partially achieved by having a board composed mainly of stockholder-elected directors, which directors must be owners of voting stock in the System institution.

For these reasons, we decline to make the change sought by the commenter.

H. Confidentiality and Security in Voting (§ 611.340)

Comment: Regarding regulation § 611.340 (Confidentiality and security in voting, and specifically § 611.340(e)), the regulation is overly burdensome and creates undue costs regarding the interpretation at the Agency of the duty to maintain and preserve undeliverable, late, and invalid ballots. To retain late ballots that come in months or even years after the close of an election will not change the outcome of the election, yet it does cause burden and cost to the association to pay tabulators to continue to track and retain late ballots. It is reasonable to put a limit on how long a tabulator should be required to retain late ballots (*e.g.* 30 days after the close of election) and allow for a shorter retention time in the regulation as it relates to undeliverable, late, or invalid ballots.

FCA Response: In an election of directors, ballots, proxy ballots, and election records must be retained at least until the end of the term of office of the director. This retention period applies to all ballots, including those that were undeliverable, late, or invalid. This retention enables an institution to document how it conducted a vote, including being able to show why a ballot was undeliverable, late, or invalid. The recordkeeping and storage burden is minimal when compared with the benefits derived from having access to materials in the event of a challenge to procedures involved in the election of a board member.

We are not persuaded by the comment that a change is needed.

I. Criminal Referral (Bookletter-073)

Comment: Bookletter-073 ''Criminal Referral Guidance'' has increased the cost, complexity, and burden of filing criminal referrals under § 612 subpart B. It requires System institutions to file a criminal referral if a borrower has misstated financial statements or converted collateral valued at more than $5,000 regardless of intent, which is required to support a known or suspected violation of criminal law. This requirement does not provide latitude for an analysis of intent or a factual determination as to whether this was an isolated incident or mistake. As a result, institutions are required to report more incidents that do not constitute known or suspected violations of criminal law, which may require unnecessary, misleading, or otherwise inaccurate reports, but may also require separation of employment or other relationships unnecessarily and which may not warrant the safe harbor protections afforded under law. Further, reporting incidents prophylactically and without satisfying all of the requirements of § 612 subpart B is not legally required, may be impermissible, would increase the administrative and cost burdens on System institutions, would reduce the impact of any event that may actually warrant the attention of the authorities (*e.g.,* the FBI and U.S. Attorney's Office), would waste the resources of governmental agencies who are charged with receiving and reviewing such reports, and may impair a System institution's reputation and credibility with federal and local authorities. Other regulatory burdens are also caused by FCA's requirement to use its portal to file criminal referrals. The portal is an awkward tool that requires multiple entries of the same information. The portal does not readily allow the editing of a completed draft within the portal and does not consistently (if ever) allow for the linking of a supplemental referral to an original or initial referral. Relatedly, a criminal referral cannot be subsequently amended after it has been submitted through the portal, which may necessitate the filing of a new referral through the portal to update or append any additional information. Such steps result in administrative costs and inefficient uses of System resources.

FCA Response: Section 612.2301(a) requires that ''within 30 calendar days of determining that there is a known or suspected criminal violation . . . the institution shall refer such criminal violation . . . '' to various Federal law enforcement agencies using the FCA referral form. FCA Bookletter-073, which provides guidance on criminal referrals, including frequently asked questions (FAQs), states that ''known or suspected criminal activity'' means there appears to be a reasonable basis through discovery of relevant facts that a known or suspected federal criminal violation has occurred.[8]

FAQ #2 discusses the factual determinations that a System institution should consider when determining whether it must file a criminal referral. The FAQ explains that the institution should consider whether all the relevant facts constitute a *reasonable basis* for filing a criminal referral and conduct an objective analysis to determine whether to file a criminal referral. Intent, or a lack thereof, by itself is not a reason for not filing a criminal referral.

To the extent institutions are worried about liability for making a criminal referral, FAQ #13 explains the safe harbor provisions that provide immunity from liability for institutions and their personnel who make criminal referrals in good faith. Fear of reprisal, litigation, or reputation risk should not keep anyone from filing a criminal referral.

We believe that the criminal referral regulations, as explained by Bookletter BL–073, impose reasonable requirements to ensure the safety and soundness of the Farm Credit System. The FCA criminal referral regulations promote consistency, efficiency, and timeliness by FCS institutions in reporting and aiding the prosecution of known or suspected criminal activities. Federal law enforcement agencies need to receive timely and specific information from System institutions on known or suspected criminal violations to determine whether investigations and prosecutions are warranted. See section 5.17(a)(10) of the Farm Credit Act. As such, we are not persuaded by the comment that a change is needed at this time.

The commenter also raised issues with FCA's criminal referral portal. We are considering updates to the criminal referral portal to address the issues raised. In the meantime, institutions that have questions on completing and filing the FCA Referral Form may contact FCA's Office of General Counsel (OGC).[9] Institutions that have technical questions about the online criminal referral system may contact FCA's Helpline.[10] Both OGC and Helpline routinely help institutions with the criminal referral process.

J. Loan Purchases and Sales (Independent Credit Judgement) (§ 614.4325)

Comment: Section 614.4325(e) requires an association to reproduce a full Credit Summary (evidencing a complete analysis and independent credit decision) when purchasing a loan participation from another System

D. Boren, Chairman of the Subcommittee on Agricultural Credit)).

[8] FCA Bookletter BL–073, Criminal referral guidance, dated January 19, 2021.

[9] OGC's phone number for this purpose is 703–883–4020.

[10] FCA's Helpline may be contacted at 877–322–4503 or *helpline@fca.gov*.

institution. This is time-consuming, burdensome, and redundant when the originating lender has already performed the analysis. Each institution is responsible for their loans including participations; however, a simplified credit summary or abbreviated review of the original CDA should be sufficient.

FCA Response: Section 614.4325(e) requires each FCS institution to make a judgement on the creditworthiness of the borrower that is independent of the originating or lead lender when purchasing an interest in a loan. The purchasing institution may use information, such as appraisals or collateral inspections, furnished by the originating or lead lender, or any intermediary seller or broker, but must independently evaluate such information when exercising its independent credit judgment.

The independent credit judgment must be documented by a credit analysis that considers factors established within the institution's loan underwriting standards adopted pursuant to § 614.4150 and be independent of the originating institution and any intermediary seller or broker. § 614.4325(e) clarifies that an evaluation of the capacity and reliability of the servicer must be included as part of the credit analysis of a prudent lender.

The regulation does not refer to a ''full'' or ''complete'' credit summary as indicated by the commenter. As such, we are not persuaded by the comment that a change is needed.

V. Comments That We Will Address in Existing Regulatory Projects

A. Contents of Annual Report to Shareholders (ARS) (§ 620.5)

Comment: The requirement to include permanent capital ratio in the annual report is administratively burdensome and costly, is not relied upon by FCA or other key stakeholders and does not provide valuable information on the System institution.

FCA Response: We plan to address this comment as part of the proposed permanent capital rulemaking project listed on our Fall 2024 Regulatory Projects Plan. This project will consider removing the permanent capital ratio as an ARS disclosure.

B. Similar Entities (§ 613.3300)

Comment: The regulation is more restrictive than required by the Act. Based on the language of the statute, it appears as if Congress intended the 50 percent test to be satisfied only at the time the System institution first enters the transaction, whereas the regulation requires an ''at any time'' requirement. For example, the regulation provides, in relevant part: ''Percentage held in the principal amount of the loan. The participation interest in the same loan held by one or more Farm Credit bank(s) or association(s) shall not, at any time, equal or exceed 50 percent of the principal amount of the loan.'' § 613.3300(c)(2). Compare, *e.g.,* 12 U.S.C. 2122, § 3.1(11)(B)(i)(I)(bb); 12 U.S.C. 2206a, § 4.18A(b)(2) (the Act uses the words ''would'' and ''will'' when applied to the similar entity requirements; ''would'' and ''will'' imply a prospective pro-forma test at the time the System institution enters the transaction, not an ongoing compliance obligation).

FCA Response: FCA is currently engaged in a rulemaking that plans to consider the commenter's point raised about the limit in § 613.3300(c)(2). On September 6, 2024, FCA published an Advanced Notice of Proposed Rulemaking in the **Federal Register** requesting comment on certain provisions in the current similar entity regulation, § 613.3300.[11]

VI. Comments That Need Further Evaluation

A. Disclosure Requirements for Sales of Borrower Stock (§ 615.5250)

Comment: This regulation requires that System institutions provide a prospective borrower with the annual report, the most recent quarterly report, if filed more recently than the annual report, the capitalization bylaws, and a written description of the terms and conditions under which the equity is issued, prior to closing. Section 609.920 permits System institutions to provide the disclosures electronically, confirms that System institutions may interpret the Act and FCA regulations ''broadly to allow electronic transmissions, communications, records, and submission, as provided by E–SIGN,'' § 609.920(b), and the E–SIGN Act ''preempts most statutes and regulations, including the Act and [FCA regulations].'' The commenter cited section 609.920(a). And, neither the Act nor FCA regulation provides how long prior to closing the disclosures must be provided. Providing the disclosures prior to consummation of the loan documents (even on the same day and within the same sitting) is prior to closing, and certain loans (*e.g.,* personal property or equipment loans, point-of-sale financing) must be closed efficiently to satisfy the needs of the customer or operation, support the mission, and/or remain competitive. There has been an inconsistency in the System on the examination (interpretation) of ''prior to closing'' and on the delivery requirements associated with these disclosures. The inconsistency in examination (interpretation) and approach exceed not only the Act and FCA regulation but also the E–SIGN Act, which preempts the Act and FCA regulation. In some of the examinations performed or interpretations being made, words would have to be read into the E–SIGN Act, the Act, and/or FCA regulation (*e.g.,* a System institution must provide the disclosures at least 24 hours in advance of closing or by mail or paper form) to support the positions being taken. Such interpretations and approaches not only exceed the regulator's authority, which is impermissible, but also impose administrative costs and burdens on System institutions, threaten their competitiveness in the market, fail to support the mission, do not guarantee receipt prior to closing, do not comport with preferred methods of delivery for most customers, and are inconsistent with delivery methods of other financial institutions that are similarly situated.

FCA Response: Further evaluation is needed before we can consider whether changes are appropriate.

B. Disclosures in Annual Report to Shareholders (ARS) (§ 620.6)

Comment: As identified in the 2017 FCC commentary, the requirements of § 620.6, and, in particular, to the provisions relating to retirement account information policies, are not only unduly burdensome and costly, but also confusing, if not misleading to stockholders.

FCA Response: Further evaluation is needed before we can consider whether changes are appropriate.

C. Monitoring of Performance Categories and Other Property Owned (§ 621.10)

Comment: Nonaccrual reporting requirements are significantly greater under FCA call reports than other regulators. The costs associated with tracking nonaccruals and modifying loan accounting systems to meet FCA requirements are overly burdensome. The nonaccrual reporting requirements can cost in excess of $1,000,000 in custom code and personnel costs to customize the core functionality of a premier loan accounting service provider's software. This is the same software as others are using in the System, which means the cost to the System overall is considerable. Accrual loan roll forward (RC–K) is overly

[11] See 89 FR 72759 (Sep. 6, 2024).

burdensome and inconsistent with prudential regulator reporting requirements.

FCA Response: Further evaluation is needed before we consider whether a change to this regulation is appropriate.

D. Eligible Investments (§ 615.5140)

Comment: FCA's regulations regarding eligible investments found in Part 615, and specifically in § 615.5140(b) include a restricted list of investments that can be purchased by Farm Credit Associations. The regulation also limits the investments of associations to no more than 10 percent of total outstanding loans. Both limitations are unnecessarily restrictive and place undue burden on associations' ability to manage risk. Association investment options currently are limited to (i) securities that are issued by or unconditionally guaranteed or insured by the United States Government or its agencies and (ii) those guaranteed portions of loans that are originated by non-Farm Credit lenders and sold into the secondary market that USDA fully and unconditionally guarantees or insures as to both principal and interest. System institution investment portfolios are reviewed approximately every six months and System institutions are constantly required to tweak investment policies and procedures, with little to no beneficial impact. At a minimum, because these investments are guaranteed, there should be less scrutiny (or fewer limitations) imposed on these investments and the review cycle should be extended. Moreover, the regulatory restrictions on eligible investments in § 615.5140(b) limit opportunities for balance sheet diversification and liquidity needs. Banks were once the direct lender, with associations being the service providers; the relationships, roles, and sophistication levels of associations have significantly changed since then. Associations are also more complex, larger, and have a greater need to better manage their own safety and soundness, with reduced reliance on banks. Associations have gained expertise to manage investments in a safe and sound manner that supports the ability to expand their investments, diversify their earnings, and allow for more stabilization of their balance sheets to better support the cooperative model. There is no reason to differentiate between associations and banks with regard to eligible investments as there once was, and System institution guidance and regulations require the monitoring of, and reporting on, such investments, and such investments are audited and subject to examination. With these and other controls and reviews, eligible investment limitations should no longer be applied to associations in a way that is dissimilar to those of banks. The eligible list of investments that can be purchased by associations, therefore, should be broadened to match those that can be purchased by banks.

FCA Response: Further evaluation is needed before we can consider whether changes are appropriate.

E. Audit Committee Financial Expert (§ 620.30(a))

Comment: Section 620.30(a) requires that an association's audit committee ''must include any director designated as a financial expert under § 61l.210(a)(2) of this chapter.'' This requirement, along with the time commitment required to serve on a board committee, places an undue burden on other board committees by limiting who is able to serve on those committees. As discussed more fully below, the aims of § 620.30(a) can be served, without unduly burdening other board committees, by requiring one director designated as a financial expert to serve on the audit committee instead of every so designated director. Associations typically have several board committees, such as audit, compensation, risk, governance, etc. Committees allow boards to divide the work of the board into manageable sections and address complex issues in depth. Because board committees often take deep dives into complex issues, the time commitment required to serve on a committee often precludes a director from serving on two committees at the same time. This is particularly true of the audit committee, which tends to require a great deal of time and effort by each member. As a result, a director serving on the audit committee likely is not able to serve on other board committees. As association boards become more sophisticated, they often include several directors who satisfy the ''financial expert'' qualifications set forth in § 611.210(a)(2). By requiring each designated financial expert to be a member of the audit committee, § 611.210(a)(2) effectively precludes any designated financial expert from serving on any other board committee. As association may satisfy § 620.30(a) by having one designated financial expert on its board and audit committee. If a board has more than one director who qualifies as a financial expert, the association should be able to satisfy § 620.30(a) by having any of the designated financial experts serve on the audit committee. An association should otherwise be able to determine where its directors' expertise will best serve the association. For the reasons stated, we request that § 620.30(a) be revised to require an audit committee to include at least one director designated as a financial expert under § 611.210(a)(2).

FCA Response: Further evaluation is needed before we can consider whether the recommended changes are appropriate.

F. Electronic Filing of Part 620 (Informational Memorandum, Electronic Filing of Part 620 Regulatory Report, Dated October 13, 2006)

Comment: This Informational Memorandum requires each System institution to maintain a dated and signed hard copy of regulatory reports filed in compliance with § 620. The IM exceeds the requirements of the Act and FCA regulation and imposes costs on System institutions beyond those imposed by law. No reasonable basis exists for maintaining paper copies of System institution records, and other applicable law (*e.g.,* federal rules of evidence) does not require same.

FCA Response: Further evaluation is needed before we can consider whether updates to this Informational Memorandum are appropriate.

G. Revised Guidelines on Submission of Proposals to Merge (Merger Guidance)

Comment: The practical merger process adopted by FCA is inconsistent with FCA regulations and guidance provided. For example, in practice, FCA's review period of merger applications far exceeds the regulatory 60-day period. FCA routinely asks for additional items for review that are neither listed in FCA regulations nor the corresponding informational memoranda. Increasingly, FCA is requiring entities to address issues unrelated to the safety and soundness of the proposed merged entity (*e.g.,* climate-related risk assessments) in their disclosure materials. Additionally, there appears to be very little practical consideration given to the specific circumstances of each merger when structuring the merger conditions. For example, often the conditions of merger are the same regardless of the size of the merging institutions, whether the particular merger being reviewed would have a material financial impact or any other factors related to the specific proposed merger. Finally, the costs associated with sending required disclosures and information in hard copy form by mail to stockholders, which often is hundreds of pages in length, contains reports and information

that many stockholders have previously received, and which may be stale by the time disclosures are sent to shareholders, is excessive and the process is impractical.

FCA Response: Further evaluation is needed before we can consider whether updates to FCA's merger guidance are appropriate.

VII. Non-Regulatory Comments Received

FCA also received comments related to the Examination Manual, examination process, and to FCA regulatory interpretations and explanations. We referred the examination-related comments to FCA's Office of Examination, which has taken or may take action to address the comments, as appropriate. We will not provide any further response to those comments within this document. In this document, we responded to comments related to regulatory interpretations and explanations.

VIII. Future Efforts To Reduce Regulatory Burden on System Institutions

For over 30 years, we have been making a concerted effort to remove regulatory burden whenever possible and will continue to do so into the future. However, we will maintain regulations that are necessary to implement the Act and/or are critical for the safety and soundness of the System. Our approach is intended to enable the System to continue to provide credit to America's farmers, ranchers, aquatic producers, their cooperatives, and rural communities.

Dated: February 24, 2025.

Ashley Waldron,

Secretary to the Board, Farm Credit Administration.

[FR Doc. 2025–03172 Filed 2–28–25; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1982; Airspace Docket No. 24–ASO–23]

RIN 2120–AA66

Establishment of Class E Airspace; Windsor, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface for ECU Health Bertie Hospital Heliport, Windsor, NC, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this heliport.

DATES: Effective 0901 UTC, June 12, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year.

FAA Order JO 7400.11J, Airspace Designations, and Reporting Points, as well as subsequent amendments, can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone: (404) 305–5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it establishes Class E airspace extending upward from 700 feet above the surface at ECU Health Bertie Hospital Heliport, Windsor, NC.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2024–1982 in the **Federal Register** (89 FR 88184; November 7, 2024), proposing to establish Class E airspace extending upward from 700 feet above the surface for ECU Health Bertie Hospital Heliport, Windsor, NC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11J lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of ECU Health Bertie Hospital Heliport, Windsor, NC, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for instrument flight rules (IFR) operations at the heliport. Controlled airspace is necessary for the safety and management of IFR operations in the area.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a