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| **Title:** | **FINAL RULE--Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-Entry Procedures for Farm Credit Securities--12 CFR Part 615** |
| **Date of Issuance:** | **10/14/1997** |
| **Agency:** | **FCA** |
| **Federal Register Cite:** | **62 FR 53227** |

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB73

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-Entry Procedures for Farm Credit Securities

**ACTION:** Final rule.

[\*53227]

**SUMMARY:** The Farm Credit Administration (FCA), through the FCA Board (Board), adopts as final with minor technical changes a previously adopted interim rule that revises procedures governing the issuance, maintenance, and transfer of Farm Credit securities on the book-entry system of the Federal Reserve Banks (Book-entry System). This action completes rulemaking necessary to conform FCA book-entry procedures to the recently revised book-entry procedures of the Department of the Treasury (Treasury), which regulates the Book-entry System for Treasury securities. The action simultaneously finalizes conforming amendments in the book-entry regulations governing securities of the Farm Credit System Financial Assistance Corporation (FAC) and the Federal Agricultural Mortgage Corporation (Farmer Mac).

**EFFECTIVE DATE:** January 1, 1997, except that the technical amendments adopted herein are effective 30 days after publication during which either or both Houses of Congress are in session. A notice of effective date for the technical amendments will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 20, 1996, the FCA published interim regulations completely revising the procedures governing the issuance, maintenance, and transfer of Farm Credit securities on the Book-entry System ([61 FR 67188](file://fcahome/DavWWWRoot/readingrm/fedreg/Federal%20Register%20Documents/61%20FR%2067188.docx)). The FCA's interim rulemaking followed the action of Treasury, which revised its book-entry regulations to eliminate outdated legal concepts and incorporate significant changes in commercial and property law affecting the holding of securities through financial intermediaries. At the request of Treasury, and in coordination with other regulators of Government-Sponsored Enterprises (GSEs), the FCA made the interim rule effective on January 1, 1997, the same date on which Treasury's new book-entry regulations became effective. This coordinated action was designed to avoid market uncertainty and help ensure a consistent regulatory approach for all users of the Book-entry System, including Farm Credit System (System) institutions. The interim rulemaking provided for a post-effective date comment period.

More extensive background on FCA book-entry regulations can be found in the interim rulemaking document and is not repeated in this notice of final adoption. A detailed explanation of the rationale and effect of the Treasury's new book-entry regulations, known by the acronym "TRADES" (Treasury/Reserve Automated Debt Entry System) is set forth in Treasury's proposed and final rulemaking documents. See 61 FR 8420 (March 4, 1996) and 61 FR 43626 (August 23, 1996). Members of the public should refer to Treasury's TRADES rulemaking documentation for background on the history and mechanics of the Book-entry System and guidance on the general provisions of the book-entry regulations. As is its current policy regarding interpretation of book-entry regulations, the FCA expects to continue to follow Treasury TRADES interpretations and guidance with respect to FCA book-entry regulations and will coordinate with Treasury regarding future guidance and any necessary changes.

**II. Comments and Technical Changes**

The FCA received one written comment on the interim regulations. The Federal Farm Credit Banks Funding Corporation (Funding Corporation), responding on behalf of the System banks, fully supported the interim regulations but suggested several technical clarifications. In addition, the FCA has continued to consult with Treasury, the Federal Reserve Board, and the Federal Reserve Bank of New York regarding final implementation of the interim regulations. Treasury suggested that references to the United States in several sections of the interim regulations be omitted to avoid any implication that the United States guarantees Farm Credit securities. Treasury made the same suggestion to other GSE regulators in connection with their revised book-entry regulations. The FCA now adopts the interim book-entry regulations as final, but in response to these comments and suggestions, makes several minor technical changes in the regulations as discussed below.

**Section 615.5450(h)**

The Funding Corporation suggested that the FCA add "respectively" after the words "sections 4.2(c) and 4.2(d)" to clarify that consolidated securities are issued under section 4.2(c) and Systemwide securities are issued under section 4.2(d) of the Farm Credit Act of 1971, as amended (Act) (12 U.S.C. 2155(c)). The final rule incorporates this suggestion.

Providing for Issuance of Registered Definitive Securities in §§ 615.5451(c) and 615.5457(c)

The Funding Corporation noted that there are registered definitive Farm Credit securities outstanding and that registered definitive securities may be issued in the future. Thus, the Funding Corporation suggested that the reference to "bearer-definitive form" in § 615.5451(c) be replaced with a more generic reference to "definitive form," which would encompass both bearer and registered definitive form. Similarly, the Funding Corporation suggested deletion of the term "bearer" in § 615.5457(c). The FCA agrees that regulatory references to definitive securities should not be limited to bearer securities and is adding the phrase "either registered or" preceding the term "bearer" in both sections. In § 615.5451(c), this broader language authorizes Farm Credit securities to be issued in either registered or bearer form, and in § 615.5457(c), it permits Farm Credit securities being withdrawn from the Book-entry System to be converted into definitive securities and issued in either registered or bearer form to the extent permitted by the applicable securities documentation. As amended, this language is consistent with Treasury's in 31 CFR 306.117(d).

**Section 615.5457(a)**

The Funding Corporation requested clarification regarding the process for withdrawing eligible securities from the Book-entry System. Specifically, the Funding Corporation asked who requests that the securities be withdrawn and to whom the request is submitted.

The FCA's regulations on withdrawal of eligible book-entry securities for conversion to definitive form are modeled after Treasury's regulations at 31 CFR 306.117. Consistent with the TRADES regulations, requests for withdrawal and conversion of eligible book-entry securities could only be made to a Federal Reserve Bank through a participant as defined in the regulations. Thus an investor's request for withdrawal and conversion of eligible book-entry securities would proceed through the chain of the investor's financial intermediaries to a participant. In turn, the participant would transmit the withdrawal and conversion request to the Federal Reserve Bank, which would convert the book-entry securities into definitive securities and deliver them in accordance with the participant's instructions.

**Section 615.5457(d)**

The terms of certain issuances of Farm Credit securities provide for the redemption of such securities, either in whole or in part, at specified times prior to maturity. Since there may thus be more than one call date that applies to a particular issue of Farm Credit securities, the Funding Corporation requested clarification of which call date applies when requests to withdraw eligible book-entry securities are made. In response to this comment, the FCA inserts the term "the applicable" preceding the term "call date" to clarify that eligible book-entry securities may be converted to definitive securities only before the call date applicable to such securities. The amount of advance notice required for conversion requests to be honored is controlled by the securities documentation and Federal Reserve Bank Operating Circulars.

**New § 615.5460(c)**

In response to the Funding Corporation's comment suggesting that there should be more explicit authority in the regulations for conversion of definitive securities into book-entry securities, the FCA has added new § 615.5460(c). New § 615.5460(c) states that definitive Farm Credit securities may be converted to book-entry form in accordance with the terms of the applicable securities documentation and Federal Reserve Bank Operating Circular. This new provision complements the existing references in [\*53229] §§ 615.5456 and 615.5462 to conversion of definitive securities to book-entry form.

**Regulations Applicable to Securities Converted From Book-Entry to Definitive Form**

The Funding Corporation requested clarification as to which of the regulations in subpart O of part 615 apply to securities converted from book-entry to definitive form. In general, unless limited by their terms, the definitions in § 615.5450 apply to definitive securities, whether original issue or converted from book-entry. The conversion authority in §§ 615.5456 and 615.5457 covers the conversion process and related matters. Because §§ 615.5461 and 615.5462 apply specifically to lost and stolen definitive securities and the restrictive endorsement of bearer definitive securities, their requirements would apply to definitive securities converted from book-entry form. Converted securities also are subject to applicable securities documentation and any other provisions of law that may be applicable to the issuance, maintenance, and transfer of definitive securities.

The Funding Corporation also inquired whether converted securities are subject to 31 CFR part 306 of Treasury regulations, which sets forth general regulations governing treatment of definitive U.S. securities. Farm Credit securities are not U.S. securities and therefore are not subject to 31 CFR part 306. However, where appropriate and not inconsistent with FCA regulations, the Farm Credit banks may specify in their securities documentation that maintenance, transfer, and other procedures relating to definitive Farm Credit securities will be the same as those applicable to Treasury securities.

**References to the United States**

Treasury suggested to the FCA and other GSE regulators that their book-entry regulations omit references to the United States wherever possible to avoid any potential confusion regarding the liability of the United States for GSE securities. For this reason, the FCA is removing certain references to the United States in §§ 615.5452(a), 615.5454(c), and 615.5455(a). As the preamble to the interim regulations noted, any reference in FCA book-entry regulations to the United States, the Treasury, or the Federal Reserve Banks is not meant to imply any liability of the United States for Farm Credit securities. See section 4.4(c) of the Act.

**List of Subjects in 12 CFR Part 615**

Accounting, Agriculture, Banks, Banking, Government securities, Investments, and Rural areas.

For the reasons stated in the interim rule release, supplemented by the above analysis and discussion, the FCA Board adopts as final with technical changes the interim rule amending Part 615 published at [61 FR 67188](file://fcahome/DavWWWRoot/readingrm/fedreg/Federal%20Register%20Documents/61%20FR%2067188.docx), Dec. 20, 1996, governing book-entry procedures for Farm Credit, FAC, and Farmer Mac securities. The effective date of this rule remains January 1, 1997, except that the technical amendments adopted herein are effective 30 days after publication during which either or both Houses of Congress are in session. A notice of effective date for the technical amendments will be published in the **Federal Register**.

**PART 615--FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS**

1. The authority citation for part 615 continues to read as follows:

**Authority:** Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-3, 2279aa-4, 2279aa-6, 2279aa-7, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a) of Pub. L. 100-233, 101 Stat. 1568, 1608.

**Subpart O--Book-entry Procedures for Farm Credit Securities**

2. Section 615.5450 is amended by revising paragraph (h) to read as follows:

**§ 615.5450 -- Definitions.**

\* \* \* \* \*

(h) Farm Credit securities means consolidated notes, bonds, debentures, or other similar obligations of the Farm Credit banks and Systemwide notes, bonds, debentures, or similar obligations of the Farm Credit banks issued under sections 4.2(c) and 4.2(d), respectively, of the Act, or laws repealed thereby.

\* \* \* \* \*

3. Section 615.5451 is amended by revising paragraph (c) to read as follows:

**§ 615.5451 -- Book-entry and definitive securities.**

\* \* \* \* \*

(c) Consolidated and Systemwide securities also may be issued in either registered or bearer definitive form.

4. Section 615.5452 is amended by revising the section heading and the introductory text of paragraphs (a)(1) and (a)(2) to read as follows:

**§ 615.5452 -- Law governing rights and obligations of Federal Reserve Banks, Farm Credit banks, and Funding Corporation; rights of any person against Federal Reserve Banks, Farm Credit banks, and Funding Corporation.**

(a) \* \* \*

(1) The rights and obligations of the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

\* \* \* \* \*

(2) The rights of any person, including a participant, against the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

\* \* \* \* \*

5. Section 615.5454 is amended by revising paragraph (c)(1) to read as follows:

**§ 615.5454 -- Creation of participant's security entitlement; security interests.**

\* \* \* \* \*

(c)(1) The Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks have no obligation to agree to act on behalf of any person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a security entitlement that is in favor of a Federal Reserve Bank, a Farm Credit bank, the Funding Corporation, or a person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a security entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

\* \* \* \* \*

6. Section 615.5455 is amended by revising paragraph (a) to read as follows:

**§ 615.5455 -- Obligations of the Farm Credit banks and the Funding Corporation; no adverse claims.**

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 615.5454(c)(1), for the [\*53230] purposes of this subpart O, the Farm Credit banks, the Funding Corporation and the Federal Reserve Banks shall treat the participant to whose securities account an interest in a book-entry security has been credited as the person exclusively entitled to issue a transfer message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to such security, notwithstanding any information or notice to the contrary. The Federal Reserve Banks, the Farm Credit banks, and the Funding Corporation are not liable to a person asserting or having an adverse claim to a security entitlement or to a book-entry security in a participant's securities account, including any such claim arising as a result of the transfer or disposition of a book-entry security by a Federal Reserve Bank pursuant to a transfer message that the Federal Reserve Bank reasonably believes to be genuine.

\* \* \* \* \*

7. Section 615.5457 is amended by revising paragraphs (c) and (d) to read as follows:

**§ 615.5457 -- Withdrawal of eligible book-entry securities for conversion to definitive form.**

\* \* \* \* \*

(c) Farm Credit securities which are to be delivered upon withdrawal may be issued in either registered or bearer form, to the extent permitted by the applicable securities documentation.

(d) All requests for withdrawal of eligible book-entry securities must be made prior to the maturity or the applicable date of call of the Farm Credit securities.

8. Section 615.5460 is amended by adding a new paragraph (c) to read as follows:

**§ 615.5460 -- Additional provisions.**

\* \* \* \* \*

(c) Conversion of definitive securities into book-entry securities. Definitive Farm Credit securities may be converted to book-entry form in accordance with the terms of the applicable securities documentation and Federal Reserve Operating Circular.

**Dated:** October 3, 1997.

**Floyd Fithian,**

Secretary, Farm Credit Administration Board.

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