

the other financial regulatory agencies, to the extent appropriate for System institutions. In the interim, the FCA Board has decided to allow FCS institutions to apply the risk-based capital treatment adopted by the other financial regulatory agencies to non-agency ABS and MBS investments the institutions are authorized to purchase and hold under § 615.5140.

Accordingly, upon the effective date of this interim final rule, FCS institutions will be authorized to apply a 20-percent risk-weight to highly rated non-agency ABS and MBS investments.

In formulating regulations, we strive continually to maintain approaches consistent with the other financial regulatory agencies. We have indicated in previous rulemakings that we intend to make our risk-based capital requirements generally consistent with the requirements of the other financial regulatory agencies, to the extent appropriate to the System institutions. Lowering the capital requirements on high quality investments would increase the lending capacity of FCS institutions by freeing up capital. The additional lending capacity could be used to serve agriculture and rural America and support other mission activities of the System.

In general, the FCA believes that allowing FCS institutions to apply a 20-percent risk weighting for non-agency ABS and MBS in which the institutions are authorized to invest would not adversely affect the risk-absorbing capacity or overall capitalization of the institutions. To apply the 20-percent risk-weighting treatment, the non-agency ABS and MBS investments must be eligible investments in accordance with § 615.5140. Under § 615.5140, a non-agency ABS or MBS investment is eligible only if it satisfies the following requirements, among others. It must:

- Satisfy the criteria specified for its asset class;
- Be marketable (*i.e.*, it must be able to be sold quickly at a price that closely reflects its fair value in an active and universally recognized secondary market); and
- Be rated at the highest credit rating by an NRSRO.

Investments that become “ineligible” investments under § 615.5140 must be immediately assigned to the 100-percent risk-weight category and disposed of in accordance with § 615.5143. Lastly, FCS institutions’ application of the 20-percent risk weighting to eligible non-agency ABS and MBS will be subject to the FCA Board’s further consideration and approval of a final rule that would amend the current risk-weighting

requirements of our capital regulations or other action.

III. Section Analysis

In the section analysis below, we explain our amendments to the current capital regulations.

Section 615.5210(f)(2)(ii)(L)—New Item Added to the 20-Percent Risk-weight Category

We add a new paragraph (L) to the 20-percent risk-weighting category in § 615.5210(f)(2)(ii) for non-agency ABS and MBS investments. We emphasize that the investment must meet the eligibility requirements of § 615.5140 of our investment regulations to be included in the 20-percent risk-weighting category. As mentioned previously, under § 615.5140, a non-agency ABS or MBS investment must receive the highest credit rating by an NRSRO and must be marketable (*i.e.*, may be able to be quickly sold at a price that closely reflects its fair value in an active and universally recognized secondary market).

IV. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), we find good cause exists for waiving the notice of proposed rulemaking as to this interim final rule because the notice is impracticable, unnecessary, and contrary to the public interest.

The other financial regulatory agencies recently adopted extensive amendments to their regulatory capital standards governing banking organizations so these standards would more closely reflect a banking organization’s relative exposure to credit risk. Those amendments, among others, include lowering to 20 percent the risk weighting for highly rated non-agency ABS and MBS investments, which have reduced exposure to credit risk. The changes were effective for transactions settled after January 1, 2002.

In addition, as discussed previously, since fiscal year 2001 the FCA Board’s regulatory plan has included a rulemaking project that would address many of the changes implemented by the other financial regulatory agencies and, to the extent appropriate for System institutions, make our risk-based capital requirements generally consistent with the other agencies’ requirements. In the interim, we believe good cause exists to allow FCS institutions to risk-weight non-agency ABS and MBS investments at 20 percent. As the other financial regulatory agencies have concluded, these investments have reduced exposure to credit risk. It is appropriate

to have consistent regulatory capital treatment for transactions involving similar risk among lenders. Finally, lowering the capital requirements on high quality investments would increase the lending capacity of FCS institutions by freeing up capital. The additional lending capacity can be used to serve agriculture and rural America and support other mission activities.

Accordingly, because this change is narrow and non-controversial, will relieve a regulatory burden, and will immediately further the mission of the System, we find that pre-promulgation comment is impracticable, unnecessary, and contrary to the public interest.

We are issuing these regulations with a request for comments and will consider all comments received (in response to both this request and to our future notice of proposed rulemaking) when adopting the regulations in final form.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

■ For the reasons stated in the preamble, we propose to amend part 615 of chapter VI, title 12 of the Code of Federal Regulations as follows:

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.