

as reported to the Internal Revenue Service on the final federal income tax return for the applicable tax year, or the amount of net increase in the estate's or trust's value resulting from its business or investment interests.

(c) For purposes of applying this subpart and calculating the three-year average referenced in § 1400.600, that average shall be for the adjusted gross income for the three tax years immediately preceding the applicable crop, program or fiscal year, as determined by CCC. For an entity that is not required to file a federal income tax return, or an individual or entity that did not have taxable income in one or more tax years, the average shall be the adjusted gross income, including losses, averaged for the three tax years immediately preceding the applicable crop, program or fiscal year, as determined by CCC. However, a new entity will have its adjusted gross income averaged only for those years of the base period for which it was in business, but a new entity shall not be considered "new" to the extent it takes over an existing operation and has any elements of common ownership or interests with the preceding entity, or with individuals or entities with an interest in the "old" entity. When there is such commonality, income of the "old" entity will be averaged with that of the "new" entity for the base period.

#### **§ 1400.602 Compliance.**

(a) To comply with the average adjusted gross income limitation, an individual or entity, including all interest holders in an entity, general partnership or joint venture, shall provide the following as required by CCC:

(1) A certification in the manner prescribed by CCC from a certified public accountant or attorney that the average adjusted gross income of the individual or entity does not exceed this limitation;

(2) A certification in the manner prescribed by CCC from the individual or entity that the average adjusted gross income of the individual or entity does not exceed this limitation; or

(3) Submission to CCC of the relevant Internal Revenue Service documents and supporting financial data as requested by CCC. Supporting financial data may include State income tax returns, financial statements, balance sheets, reports prepared for or provided to another Government agency, information prepared for a private lender, and other credible information relating to the amount and source of the individual's or entity's income.

(b) Audits of certifications of average adjusted gross income may be conducted as necessary to determine compliance with the requirements of this subpart. As a part of this audit income tax returns may be requested and if requested must be supplied. Relevant income tax returns and documentation must be retained a minimum of two years after the end of the calendar year corresponding to the year for which payments or benefits are requested. If an individual or entity has submitted information to CCC, including a certification from a certified public accountant or attorney, that relied upon information from a form previously filed with the Internal Revenue Service, such individual or entity shall provide to CCC a copy of any amended form filed with the Internal Revenue Service within 30 days of the filing.

(c) The individual or entity shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart, including all documents referred to in paragraph (a)(2) of this section. Failure to provide necessary and accurate information to verify compliance, or failure to comply with this subpart's requirements, will result in ineligibility for all program benefits subject to this subpart for the year or years subject to the request.

(d) All information provided to CCC for the purposes of determining compliance with this subpart will remain confidential and not be subject to any request submitted under the Freedom of Information Act.

#### **§ 1400.603 Commensurate reduction.**

(a) Any program payment or benefit subject to this subpart provided to an entity, general partnership or joint venture shall be reduced by an amount commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual or entity determined to have an average adjusted gross income in excess of the limitation under the standards provided elsewhere in this subpart for the direct recipient of such payments.

(b) Ownership interest in an entity shall be reviewed to the fifth level of ownership to determine whether a commensurate reduction is applicable and the extent of such reduction. If an ownership interest is not held by an individual in the fifth level of ownership in an entity, no payment or benefit shall be made with respect to such interest.

Signed in Washington, DC, on May 28, 2003.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

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## **FARM CREDIT ADMINISTRATION**

### **12 CFR Part 615**

**RIN 3052-AC14**

#### **Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy—ABS and MBS Investments; Effective Date**

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA) published an interim final rule with request for comments under part 615 on March 28, 2003 (68 FR 15045). This interim final rule amends our regulatory capital standards to allow Farm Credit System institutions to use a lower risk weighting for highly rated investments in non-agency asset-backed securities (ABS) and mortgage-backed securities (MBS) that have reduced exposure to credit risk. We are adopting this rule so that the capital requirements for risk weighting of highly rated non-agency ABS and MBS investments will more closely reflect an institution's relative exposure to credit risk and help achieve a more consistent regulatory capital treatment with the other financial regulatory agencies. In accordance with 12 U.S.C. 2252, the effective date of the interim final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 13, 2003.

**EFFECTIVE DATE:** The regulation amending 12 CFR part 615 published on March 28, 2003 (68 FR 15045) is effective May 13, 2003.

#### **FOR FURTHER INFORMATION CONTACT:**

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(12 U.S.C. 2252(a)(9) and (10))