

Executive Order 13132, Federalism

This proposal has been reviewed for compliance with Executive Order 13132 on Federalism, and it has been determined that the regulation has no federalism implications, does not impose substantial direct compliance costs on State and local governments, and does not preempt State law.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, RBS will seek Office of Management and Budget (OMB) approval of the reporting and record keeping requirements contained in this proposed rule.

Title: Fiscal and Transfer Agent—Secondary Market Sales.

Type of Request: New collection.

Abstract: The Business and Industry (B&I) program was legislated in 1972 under section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. Secondary markets allow a lender to sell the loan and an investor to purchase the guaranteed portion of a loan, thereby increasing the lender's profit on the loan. This collection of information is necessary to standardize recordkeeping and facilitate the sale of guaranteed portions of loans on the secondary market. The agency is implementing statutory authority to establish a Fiscal and Transfer Agent (FTA) to provide central registration and act as the paying/transfer agent and administrative agent for secondary market transactions. The FTA will serve as a centralized, computerized recordkeeping facility for the Rural Business-Cooperative Service (RBS). The use of the FTA concept eliminates the need and cost for direct Government human and financial resources which will be required to administer recordkeeping transactions on the secondary market. The B&I program is administered by the Agency through Rural Development State Offices and sub-State offices serving each State.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 23.9 hours per response.

Respondents: Lending Institutions, Investors, Financial Services Firms.

Estimated Number of Respondents: 821.

Estimated Number of Responses per Respondent: 27.3.

Estimated Number of Responses: 22,385.

Estimated Total Annual Burden on Respondents: 533,920 hours.

Copies of this information collection can be obtained from Tracy Givlekian, Regulations and Paperwork Management Branch, at (202) 692-0039.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Comments may be sent to Tracy Givlekian, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250.

Background

RBS is proposing to implement new regulations to standardize record keeping and facilitate the sale of guaranteed portions of loans sold on the secondary market. Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988), as amended, provides legislative parameters for the sale of Guaranteed Loans on the secondary market. This section of the Act authorizes the Secretary to facilitate loan sales in accordance with regulations as established by the Secretary. RBS is implementing this existing statutory authority by promulgation of new regulations.

The Agency is proposing to implement by regulation the authority to solicit for an independent party to act as a Fiscal and Transfer Agent (FTA) to provide central registration and act as the paying/transfer agent and administrative agent for secondary

market transactions. The FTA will not be eligible to buy and sell loans. The FTA will be responsible to handle the mechanical aspects of secondary market operations. When this regulation becomes final, the Agency will enter into a contract with an independent party to act as the FTA. When that contract is in place, a **Federal Register** Notice will be issued to the public announcing the selection of the FTA as well as the date that lenders are required to use the selected FTA for processing secondary market sales under this regulation.

Current Agency regulations permit the lender to sell all or part of the guaranteed loan on the secondary market or retain the entire loan. However, there are inadequate mechanisms in place to facilitate the paperwork and accounting associated with secondary market transactions of Agency loans. While authority exists for guaranteed lenders to sell loans on the secondary market, most lenders are not active in the program.

Over the course of years of experience with secondary market sales, it has been demonstrated to the Agency that notification of subsequent sales has not consistently taken place in spite of requirements in Agency sales documents that require that notifications of subsequent sales be transmitted to the servicing office. Thus, a notification system has been in existence but has not been effective.

There are several viable options available to increase access to the capital needed to increase rural economic growth. Secondary markets allow an investor to purchase the guaranteed portion of a loan. There are several reasons why a lender may desire to sell the guaranteed portion of the loan. Selling increases the yield to the lender on the unguaranteed portion. The increased liquidity gained by selling the guaranteed portion of the loan may be used by the lender to make additional loans. The broadened customer base offers increased opportunities to sell other services offered by the lender. In addition to helping with current liquidity problems, the secondary market offers lenders a hedge against potential liquidity troubles if a lender knows that it can sell guaranteed portions if it encounters liquidity problems in the future. In rural areas, where capital is often in short supply, the secondary market allows a lender to meet the credit needs of the local business community by importing capital from other parts of the country.

The secondary market helps lenders make long-term fixed rate loans at a competitive interest rate to small