

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FARM CREDIT ADMINISTRATION

### 12 CFR Parts 611, 612, 614, and 617

RIN 3052-AC04

#### Organization; Standards of Conduct and Referral of Known or Suspected Criminal Violations; Loan Policies and Operations; Borrower Rights; Effective Interest Rate Disclosure

**AGENCY:** Farm Credit Administration (FCA).

**ACTION:** Proposed rule.

**SUMMARY:** The FCA (agency, we, or our) proposes to amend its regulations governing disclosure of effective interest rates (EIR) and related information on loans. The proposed rule clarifies the current rule as to when and how qualified lenders must disclose the EIR and other loan information to borrowers; when and how the cost of Farm Credit System (FCS or System) borrower stock must be disclosed to borrowers; and how loan origination charges and other loan information must be disclosed to borrowers. The proposal requires lenders to use a discounted cash flow method in determining the EIR to provide meaningful disclosures to borrowers. However, it does not prescribe detailed calculation procedures. To make the regulations easier to understand and use by borrowers, lenders, and other users, we have rewritten the existing regulations in part 614, subpart K, Disclosure of Loan Information, in a question-and-answer format and moved them to a new part 617.

**DATES:** Please send your comments to the FCA by March 6, 2003.

**ADDRESSES:** You may send comments by electronic mail to "[reg-comm@fca.gov](mailto:reg-comm@fca.gov)" or through the Pending Regulations section of FCA's Web site, "<http://www.fca.gov>." You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-

5090 or by facsimile to (703) 734-5784. You may review copies of all comments we receive at our office in McLean, Virginia.

#### FOR FURTHER INFORMATION CONTACT:

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or

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#### SUPPLEMENTARY INFORMATION:

##### I. Objectives

The objectives of our proposal are to:

- Ensure that borrowers receive meaningful and timely disclosure of the EIR and related information on loans;
- Promote consistency in the method used to determine the EIR; and
- Make the regulations easy to understand and use by borrowers, lenders, and other users.

##### II. Background

Section 4.13(a) of the Farm Credit Act of 1971, as amended (Act), requires the FCA to enact regulations requiring "qualified lenders" <sup>1</sup> to provide borrowers, not later than the time of loan closing, with meaningful and timely disclosure of:

- The current rate of interest on the loan;
- The amount and frequency of interest rate adjustments and the factors that the lender may take into account in adjusting rates for adjustable or variable rate loans;
- The effect of any loan origination charges or purchases of stock or participation certificates on the rate of interest on the loan;
- A statement indicating that stock purchased is at risk; and
- A statement indicating the various types of loan options available to borrowers.

The requirements of section 4.13 of the Act are applicable to all loans made

by "qualified lenders" not subject to the Truth in Lending Act (TILA).<sup>2</sup>

Under section 4.13(a) of the Act, qualified lenders must give borrowers notice of any change in the interest rate applicable to a borrower's loan within a "reasonable time" after the change. In addition, section 4.13(b) of the Act requires qualified lenders that offer more than one rate of interest to borrowers to: (1) Provide, upon borrower request, a review of the loan to determine if the proper rate has been established; (2) explain to the borrower, in writing, the basis for the rate charged; and (3) explain to the borrower, in writing, how the credit status of the borrower may be improved to receive a lower interest rate on the loan.

Current FCA regulations implement the disclosure requirements of the Act, but contain limited guidance on several key issues. Additionally, when the statute on EIR disclosure went into effect in the 1980s, borrower stock requirements were generally 5 to 10 percent of the loan amount. Disclosure has varied more in recent years because FCS institutions have established a variety of stockholder capitalization and stock retirement policies. Current System borrower stock purchase requirements range from the minimum (the lesser of 2 percent or \$1,000) to various higher amounts. Perhaps more significantly, the capitalization requirements are applied not only on a per loan basis, but also on a per borrower basis. With the multiple stock purchase requirements, new loan programs, and varied methodologies for calculation of effective interest rates, compliance with current EIR disclosure regulations has become more challenging and has led to inconsistent disclosure among qualified lenders.

In August 1998, FCA issued a notice soliciting comments from the public to identify regulations and policies that are ineffective or impose a burden on the System.<sup>3</sup> We received comments requesting that changes be made to our regulations on the EIR disclosure. In a letter to the FCA dated May 17, 2000, the Farm Credit Council (FCC) consolidated input from each Farm Credit district and requested that more changes to our borrower rights regulations be made. We considered all

<sup>1</sup> "Qualified lenders" include System lenders (except for a bank for cooperatives) and non-System lenders (other financing institutions (OFIs)) for loans made with funding from a Farm Credit bank. See 12 U.S.C. 2202a(a)(6).

<sup>2</sup> 15 U.S.C. 1601 *et seq.* TILA applies to consumer loans and specifically exempts agricultural loans.

<sup>3</sup> See 63 FR 44176, August 18, 1998.