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FARM CREDIT ADMINISTRATION

12 CFR Part 620

RIN 3052-AB94

Disclosure to Shareholders; Annual Report

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) issues a final rule amending the disclosure requirements in part 620 of its regulations. The final rule provides that a bank need not distribute its annual report to the shareholders of its related associations unless it experiences a "significant event." The final rule also requires all associations to disclose, in a separate section of their annual report, specified information about their financial and supervisory relationship with their funding bank. This final rule benefits banks, associations, and their shareholders because it allows the banks and associations to share necessary information with shareholders at a reduced cost.

EFFECTIVE DATE: This regulation will become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tong-Ching Chang, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4461, TDD (703) 883-4444; or Alison C. Samarias, Attorney Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our final rule are to:

- Ensure that association shareholders continue to receive the information they need about how their associations' relationships with related banks affect their own investments in the associations; and
- Allow banks (and indirectly their related associations and their shareholders) to save significant printing and mailing costs by relaxing the requirement that they must routinely distribute their annual reports to the shareholders of their related associations.

II. Background

This final rule is part of the FCA's continuing efforts to reduce unnecessary regulatory burden on the Farm Credit System (FCS or System). On August 18, 1998, we published a notice in the **Federal Register** that invited the public to identify existing regulations that impose unnecessary burden on the System.¹ Two FCS institutions asked us to repeal § 620.4(b)(1), which requires any Farm Credit bank that presents its financial statements on a combined basis with its related associations to distribute its annual report separately to the associations' shareholders.

On March 17, 2000, the FCA proposed amendments to the disclosure requirements in part 620 of its regulations (65 FR 14494). The proposed rule provided, in general, that a bank need not distribute its annual report to the shareholders of any related association that disclosed, in a separate section of its annual report, specified information about its financial and supervisory relationship with the bank. The proposed rule, however, required any System bank that experienced a "significant event" to distribute its annual report to the shareholders of its related associations.

The rule that we proposed had two objectives. First, the proposed rule ensured association shareholders would continue to receive information about the associations' relationship with its funding bank and how that relationship may affect the shareholders' investments in the association. Second, the proposed rule relaxed the requirement that System banks must routinely distribute their annual reports to the shareholders of their related associations. Relaxing this requirement allows banks to save significant printing

and mailing costs. The banks, in turn, can pass these cost savings on to their related associations, which can pass the savings on to their shareholders.

The FCA received four comment letters on the proposed rule; one each from: the Accounting Standards Work Group (ASWG), the Farm Credit Council (FCC), a Farm Credit bank, and a System association. All commenters supported the proposed rule. However, the commenters asked us to clarify certain provisions of the proposed rule and offered suggestions to improve the regulations. We have responded to the commenters' requests in the final rule.

A. Disclosure of FCS Banks' Annual Reports

Existing § 620.4(b) requires FCS banks that present their financial statements on a combined basis with their related associations to distribute their annual reports to association shareholders. However, the regulation permits FCS banks that present their financial statements on a bank-only basis to distribute their annual reports to the shareholders of their related associations only when the bank experiences a significant event that has a material effect on its associations.

The proposed rule would no longer have required an FCS bank to routinely distribute its annual report to the shareholders of a related association that disclosed, in a separate section of its annual report, specified information about its financial and supervisory relationship with the bank. Distribution of the report by the bank would have been required, however, whenever an FCS bank experienced a "significant event," as defined in existing § 620.1(r).²

The "separate section" would not have required any "new" disclosure. Currently, §§ 620.5 and 620.2(h)(2) specify the information that associations must include in this separate section.

² Section 620.1(r) provides that "Significant event means any event that is likely to have a material impact on the reporting institution's financial condition, results of operations, cost of funds, or reliability of sources of funds. The term 'significant event' includes, but is not limited to, actual or probable noncompliance with the regulatory minimum permanent capital standards or capital adequacy requirements, stock impairment, the imposition of or entering into enforcement actions, execution of financial assistance agreements with other institutions, collateral deficiencies that impact a bank's ability to obtain loan funds, or defaults on debt obligations."

¹ See 63 FR 44176.

The proposed rule, however, would have provided banks with relief from the distribution requirement only if each related association presented this information in a separate section of its annual report. The separate section about the association's financial and supervisory relationship with the bank could have incorporated "by reference" information from other sections of the annual report. This separate section of the association's annual report would have included the following information, which is already required by § 620.5, when applicable:

- The association's obligation to borrow only from the bank (unless the bank gives the association approval to borrow elsewhere);
- The major terms of any capital preservation, loss sharing, or financial assistance agreements between the association and the bank;
- Any statutory or bank bylaw provisions authorizing bank access to the capital of the association;
- The extent the bank assumed the association's exposure to interest rate risk; and
- Any other material operational and financial conditions contributing to an interdependent relationship between the association and the bank.

The commenters supported the FCA's proposal to apply the same regulatory standards to all FCS banks, regardless of whether they prepare their financial statements on a bank-only basis or a combined basis with their affiliated associations. In addition, the commenters were not opposed to association disclosure of information about the financial and supervisory relationship with their funding banks in a separate section of their annual reports.

Three commenters, however, expressed concern that a bank's obligation to distribute its annual report to association shareholders hinged on a related association's decision to disclose relevant information about its relationship with its funding bank in a separate section of its annual reports. The FCS bank commented that it does not control the annual financial statements of its associations, which are audited by independent certified public accountants and, therefore, "the bank is fundamentally dependent on the actions of the associations to determine whether a distribution of annual reports is required." In addition, the commenter stated that the proposed rule places "the onus on the bank for distributing bank annual reports for failure of its related association(s) to comply with FCA regulations."

As an alternative, the ASWG, which is made up of staff from both banks and associations, suggested that the final rule require each association to disclose in a separate section of its annual report adequate information about its relationship with its funding bank. The ASWG also stated that a bank should be responsible for distribution of its annual report to its associations' shareholders only when the requirement to distribute is triggered by a "significant event."

The FCA responds to the commenters' concerns by adopting a final rule that requires all FCS associations to disclose in a separate section of their annual reports specified information about their financial and supervisory relationship with their funding bank. The final rule, like the proposed rule, does not create any new disclosure requirements for banks or associations. In fact, the final rule only requires that associations reorganize information in their annual reports they have always disclosed. Final § 620.5(a)(10) now requires associations to address their relationship with their funding bank in a separate section of their annual report. As a result, the final rule does not impose any additional burdens on FCS associations.

The new separate section requirement replaces the existing provision on FCS banks' annual report distribution. Final § 620.4(b) no longer requires any FCS bank to distribute its annual report to association shareholders unless it "experiences a significant event that has a material effect on the associations." Under the final rule, the same shareholder disclosure standards apply to all FCS banks. FCS banks that prepare their financial statements on a combined basis with their related associations are subject to the same requirement for distributing annual reports to association shareholders as FCS banks that prepare their financial statements on a bank-only basis.

The final rule addresses the commenters' concerns about the disclosure obligations of both FCS banks and associations. The final rule clarifies that System banks are not responsible for ensuring that each related association disclose in a separate section of its annual report information about its relationship with the funding bank. Under the final rule, a System bank must distribute its annual report directly to association shareholders only when it experiences a significant event that has a material effect on its related associations. As a result, the final rule saves banks the significant costs of routinely distributing its annual report to association shareholders. Additionally, FCS banks will not need

to oversee the preparation of annual reports by their related associations because final § 620.5 specifies the information that associations must disclose in their annual reports.

Two commenters expressed concern that FCS banks could not distribute their annual report within the 90-day time frame established by proposed § 620.4(b)(2) if an association's annual report failed to disclose information about its financial and supervisory relationship with the bank. The final rule addresses the concerns by removing the proposed bank disclosure requirement that was based on an association's failure to disclose.

Our approach in the final rule also simplifies disclosure by FCS associations without sacrificing safety and soundness. By requiring a separate section of each association's annual report to disclose information already contained in the annual report about its relationship with the bank, the association's shareholders will have easy access to information that could affect their own investments in the FCS. In addition, we made two clarifying changes in § 620.5(a)(10)(iii) and (v) to explain the existing requirements. These changes are not substantive and they impose no new or additional burden on associations.

B. Obtaining Copies of Financial Reports

Existing § 620.2(h) requires System institutions to provide telephone numbers and addresses where shareholders may obtain copies of certain financial reports. The proposed amendments would have expanded this requirement by providing that annual reports must contain the telephone numbers and addresses (including, if available, electronic mail and Web site addresses) where shareholders may obtain copies of the reports.

The FCC construed the proposed regulation as requiring all institutions to make their financial reports available on their Web sites. Further, the ASWG stated the regulations should not "attempt to address all possible means for obtaining reports." Accordingly, final § 620.2(h) permits, but does not require, System institutions to offer their shareholders additional means to request copies of financial reports, beyond the traditional telephone numbers and mailing addresses. If an institution has no other available means besides traditional telephone numbers and mailing addresses, the rule does not require the institution to take action to make other options available to its shareholders.

Existing § 620.4(a) requires a System institution to prepare and distribute to its shareholders an annual report. While the proposed rule did not include any suggested changes to this section, the FCC noted the FCA does not specify the medium to be used by System institutions for providing information to their shareholders. The FCC stated that "delivery of information through an electronic medium generally could satisfy delivery or transmission obligations under the Farm Credit Act and Regulations." While the FCC did not specifically recommend that FCA amend § 620.4(a) to allow both paper and electronic distribution of shareholder reports, the FCC suggested that we should address this issue.

In this regard, the FCA has an internal task force that is reviewing electronic commerce issues. This task force will present its findings and make recommendations to the FCA Board that may address this issue. Meanwhile, existing § 620.4(a) requires System institutions to "distribute" their annual reports on paper until the issuance of additional guidance in this area. However, our regulations do not prevent System institutions, if they so choose, from making their annual reports available on their Web sites.

List of Subjects in 12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we amend part 620 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa-11); secs. 424 of Pub. L. 100-233, 101 Stat. 1568, 1656.

Subpart A—General

2. Revise § 620.2(h)(1) and (2) to read as follows:

§ 620.2 Preparing and filing the reports.

* * * * *

(h)(1) Each institution's annual report or notice must state, in a prominent location within the report or notice:

- (i) That the institution's quarterly reports are available free of charge on request;
- (ii) The approximate dates the quarterly reports will be available; and
- (iii) The telephone numbers and addresses (including information on any

other distribution method the institution makes available) where shareholders can request or obtain copies of the quarterly reports.

(2) Each association must state, in a prominent location within each report:

- (i) That the shareholders' investment in the association may be materially affected by the financial condition and results of operations of the related bank;
- (ii) That (if not otherwise provided) a copy of the bank's financial reports to shareholders will be made available free of charge on request; and

(iii) The telephone numbers and addresses (including information on any other distribution method the association makes available) where shareholders can request or obtain copies of the related bank's financial reports.

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Subpart B—Annual Report to Shareholders

3. Revise § 620.4(b) to read as follows:

§ 620.4 Preparing and distributing the annual report.

* * * * *

(b)(1) A bank must distribute its annual report to the shareholders of all related associations if the bank experiences a significant event that has a material effect on those associations.

(2) Any bank that is required by paragraph (b)(1) of this section to distribute its annual report must coordinate its distribution with its related associations.

* * * * *

4. Add new § 620.5(a)(10) to read as follows:

§ 620.5 Contents of the annual report to shareholders.

(a) *Description of business.* * * *

* * * * *

(10) For associations, in a separate section of the annual report, discuss the institution's financial and supervisory relationship with its funding bank. This separate section may incorporate by reference information from other sections of the annual report. At a minimum, the separate section must include the statement required by § 620.2(h)(2)(i) and the following information required elsewhere in this section, if applicable:

- (i) The association's obligation to borrow only from the bank unless the bank gives the association approval to borrow elsewhere;
- (ii) The major terms of any capital preservation, loss sharing, or financial assistance agreements between the association and the bank;

(iii) Any statutory or bank bylaw provisions authorizing bank access to the capital of the association;

(iv) The extent the bank assumed the association's exposure to interest rate risk; and

(v) Any other material operational and financial conditions that may affect the interdependent relationship between the association and the bank.

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Dated: March 6, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-SW-13-AD; Amendment 39-12132; AD 2001-04-13]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model SA.315B, SA.316B, SA.316C, SE.3160, and SA.319B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Eurocopter France (ECF) Model SA.315B, SA.316B, SA.316C, SE.3160, and SA.319B helicopters. That AD requires initial and recurring inspections of the main rotor blade (blade) spar for cracks. This amendment requires initial and recurring dye penetrant or eddy current inspections for a cracked blade spar at 100-hour time-in-service (TIS) intervals or 600 cycles, whichever occurs first, rather than the 25-hour TIS intervals currently required. This amendment is prompted by an accident in which an ECF Model SA.315B helicopter blade failed due to fatigue cracking. The actions specified by this AD are intended to prevent separation of a blade and subsequent loss of control of the helicopter.

DATES: Effective April 16, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas