

# 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 620 and 630

RIN 3052-AB62

#### Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Quarterly Report

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

**SUMMARY:** The Farm Credit Administration (FCA) proposes to amend its regulations governing the preparation, filing, and distribution of Farm Credit System (FCS or System) bank and association reports to shareholders and investors. The proposal would implement the recent statutory amendment that eliminates the regulatory requirement that FCS institutions disseminate quarterly reports to shareholders. Routine distribution of quarterly reports to shareholders would be voluntary rather than mandatory, but FCS institutions would be required to make quarterly reports available to shareholders on request. Associations would no longer be required to distribute quarterly reports along with their information statements regardless of the date of their annual meetings.

However, to further promote shareholder access to timely information and full disclosure regarding adverse events affecting their institutions, the FCA proposes that FCS institutions prepare and distribute a notice to shareholders when an institution's permanent capital falls below the regulatory minimum standard. The proposal would also remove the requirement that banks present their financial statements on a combined basis with their related associations to ensure that the preparation of FCS institutions' financial statements is solely guided by generally accepted accounting principles (GAAP).

Lastly, the proposal would permit FCS debt securities offering documents to be referenced in the System's report to investors to reduce the repetition of information in documents provided to investors.

**DATES:** Comments should be received on or before November 12, 1996.

**ADDRESSES:** Comments may be mailed or delivered to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, McLean, Virginia 22102-5090, or sent by facsimile transmission to FAX number (703) 734-5784. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration.

#### FOR FURTHER INFORMATION CONTACT:

Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703)883-4498; or William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703)883-4020, TDD (703)883-4444.

#### SUPPLEMENTARY INFORMATION:

##### I. Change From Mandatory to Voluntary Dissemination of Quarterly Reports to Shareholders

On February 10, 1996, the President signed the Farm Credit System Reform Act of 1996 (1996 Act) into law.<sup>1</sup> Section 211 of the 1996 Act provides that "the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks." Section 211 applies only to dissemination requirements and does not affect the requirement that FCS institutions continue to prepare and file quarterly reports with the FCA in accordance with the quarterly report filing and content requirements of part 620.

Current § 620.10 requires each Farm Credit Bank (FCB), agricultural credit bank (ACB), bank for cooperative (BC) and direct lender association to distribute quarterly reports to shareholders, either by mail or by publication in newspapers or

periodicals in a trade area with circulation wide enough to be reasonably assured that all of the institution's shareholders are reached on a timely basis. Each FCB and ACB is also required to distribute its quarterly reports to the shareholders of related associations under certain circumstances. These quarterly report dissemination requirements conflict with section 211 of the 1996 Act because they exceed the requirements applicable to national banks, which are not required to disseminate quarterly reports to shareholders.<sup>2</sup> Accordingly, to conform with the 1996 Act, the FCA proposes to amend § 620.10 and several related provisions.<sup>3</sup>

Under the FCA's proposal, a substantial portion of existing § 620.10 would be removed.<sup>4</sup> While FCS institutions would still be required to prepare and file quarterly reports with the FCA under proposed §§ 620.2(a) and 620.10(a), they would no longer be required to distribute quarterly reports to shareholders. Banks would no longer have to distribute quarterly reports to shareholders of related direct lender associations under § 620.10(e) for quarters in which a significant event has occurred or which occurred during the preceding quarters that continues to materially affect the related associations. However, to ensure that shareholders who wish to obtain a copy of their association's or related bank's quarterly report can continue to do so, the FCA proposes to modify § 620.2 relating to preparing and filing reports.

Proposed § 620.2(h)(1) would require each FCS institution to include a statement in a prominent location within its annual report that the

<sup>2</sup> National banks that meet the reporting threshold of the Securities Exchange Act disclosure rules that are incorporated by reference in the Office of the Comptroller of the Currency's (OCC) rules at 12 CFR Part 11 must file quarterly reports with the OCC. These quarterly reports, while publicly available, are not required to be distributed to shareholders. Further, all national banks must file quarterly call reports with the OCC pursuant to 12 U.S.C. 161 and 12 CFR 4.11. These quarterly reports of condition are available from the OCC, but are not required to be distributed to shareholders.

<sup>3</sup> On April 10, 1996, the Board informed FCS institutions that they did not have to comply with the quarterly report distribution requirements in § 620.10 pending amendment of FCA quarterly report dissemination requirements to conform with the 1996 Act.

<sup>4</sup> Existing paragraphs (d), (e), (f), and (g) would be removed and paragraphs (a) and (c) would be modified and redesignated as new paragraphs (a) and (b).

<sup>1</sup> See Pub. L. 104-105, 110 Stat. 162 (Feb. 10, 1996).

institution's quarterly financial information is available on request to shareholders free of charge. In addition, the proposed regulation would require that the statement include approximate dates of availability of the quarterly financial information and the telephone numbers and addresses where shareholders may obtain a copy of the reports. Proposed § 620.2(h)(2) would further require each association to include a statement in a prominent location within each annual and quarterly report that the shareholders' investments in the association may be affected materially by the financial condition and results of operations of the association's related bank and that a copy of the bank's most recent financial report, if not otherwise provided, will be made available on request free of charge. The statement must also include the telephone numbers and addresses where shareholders may obtain copies of the related bank's financial reports.

Current § 620.20 requires each association to prepare and distribute to its shareholders, at least 10 days prior to any meeting at which directors are to be elected, an information statement that contains information pertinent to the annual meeting and incorporates by reference the association's annual report. Section 620.20(c) further requires that any association that holds its annual meeting of shareholders more than 134 days after the end of its fiscal year must also provide shareholders with its most recent quarterly report, either preceding or accompanying the information statement.<sup>5</sup> Under the proposal, § 620.20(c) would be removed and associations would not be required to provide shareholders with quarterly statements along with or prior to the information statement, regardless of the date of the association's annual meeting. Nevertheless, the FCA encourages associations that hold annual meetings significantly after the end of the fiscal year to provide shareholders with the most recent financial information. In

particular, current financial information may be essential when the shareholders are voting on matters of significant financial interest to the association.

Section 620.20(b) would continue to require each association, in its information statement, to incorporate by reference the annual report to shareholders and include other information necessary to make the information statement, in light of the circumstances under which it is made, not misleading. Under this requirement, for example, if a significant event (as defined by redesignated § 620.1(r)) has occurred subsequent to the annual report distribution, this provision would require an association to include sufficient current financial information about the significant event in the information statement so that the annual report incorporated by reference is not misleading.

No changes are proposed to § 615.5250(a)(2) of this chapter, which requires institutions to provide prospective borrowers with a copy of the institution's most recent quarterly report (if more recent than the annual report) prior to loan closing when the borrower must purchase equities as a condition for obtaining a loan. By providing updated financial information that may be important to the prospective shareholder's decision to purchase equity in the institution as a condition of obtaining a loan, in this situation, the quarterly report functions as a prospectus rather than a periodic disclosure report. FCS institution reports to shareholders thus serve the dual purpose of providing current financial information regarding an institution to both existing shareholders and to prospective borrowers/shareholders.<sup>6</sup> Since national banks are subject to extensive securities offering disclosure rules and prospectus delivery requirements under 12 CFR part 16, the FCA considers the quarterly report delivery requirement of § 615.5250(a)(2) of the FCA regulations to be compatible with the 1996 Act. Furthermore, this requirement is unlikely to cause an undue burden because the updated financial information can be furnished to prospective borrowers along with other loan documents.

Lastly, although the proposed amendments eliminate routine distribution of quarterly reports to shareholders, the FCA emphasizes that FCS institutions are not prohibited by the 1996 Act from continuing to distribute or publish quarterly reports to their shareholders. The FCA recognizes that the quarterly report may be used to

promote and maintain borrower/shareholder interest and participation in the institution, and supports the continued distribution or publication of the report for such purposes.

## II. Proposed Notice to Shareholders

In conformance with the cooperative structure of the System and as a matter of law, borrowers must become stockholders of FCS institutions. The Farm Credit Act of 1971, as amended (Act), encourages borrower/shareholder participation in management, control, and ownership of FCS institutions.<sup>7</sup> In the Farm Credit Amendments Act of 1985,<sup>8</sup> Congress expressly authorized the FCA to regulate disclosure to shareholders. Unlike shareholders of companies subject to Securities and Exchange Commission (SEC) disclosure requirements who have access to an established marketplace for financial information based on SEC filings,<sup>9</sup> System shareholders rely primarily on FCS institutions to provide them with current information regarding their institutions. The FCA believes that it is critical that shareholders receive timely notice of material changes in the capital position of the institutions they own so that they are equipped to exercise their ownership role. For these reasons, the FCA proposes to add a new subpart D relating to the preparation and distribution of a notice to shareholders.

The FCA has previously noted that one of the reasons that the FCS institutions need sufficient capital is to protect the ownership, investment, and rights of shareholders.<sup>10</sup> The FCA continues to believe shareholders have the right to timely notice that their institution's capital is at such a critical level that it may threaten the institution's viability, the value of its stock, or its ability to meet the future credit needs of its borrowers. Furthermore, since 1986, the Act has

<sup>7</sup> See 12 U.S.C. 2001(b).

<sup>8</sup> Pub. L. 99-205, 99 Stat. 1678 (Dec. 23, 1985). See section 5.19(b)(1) of the Act.

<sup>9</sup> In addition to annual and quarterly filings, under sections 13 or 15(d) of the Securities Exchange Act of 1934, registrants are required to file with the SEC a current report within 5-15 days (depending on the event) upon determination of the occurrence of any of the following events: (1) Changes in control of registrant, (2) significant acquisition or disposition of assets, (3) bankruptcy or receivership, (4) changes in registrant's certifying accountant, (5) other events that the registrant deems of significant importance to security holders, and (6) resignations of registrant's directors because of a disagreement with the registrant on any matter relating to the registrant's operation, policies, or practices. The SEC does not require current reports to be distributed to shareholders.

<sup>10</sup> See proposed capital regulations at 60 FR 38521, July, 27, 1995. Amendments to the capital regulations were repropounded in June 1996. See 61 FR 42092, August 13, 1996.

<sup>5</sup> In comparison, national banks must prepare and make available to shareholders and others an annual disclosure statement. The annual disclosure statement must be made available by March 31 of each year, or by an earlier date as necessary to be made available to security holders in advance of the annual meeting of shareholders. National banks must make the annual disclosure statement continually available until the annual disclosure statement for the succeeding year becomes available, but there is no requirement that the statement be updated with subsequent periodic report information. National banks having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 may satisfy the annual disclosure statement requirement using either their annual reports to shareholders or their annual report filed with the Comptroller. See 12 CFR Part 18.

<sup>6</sup> See 51 FR 21336, June 12, 1986.

required the FCA to "cause institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the [FCA] deems appropriate."<sup>11</sup> One method to promote the maintenance of adequate capital is through informed shareholder participation in System institutions. While the FCA has the statutory authority to establish regulatory minimum capital standards, shareholders and their elected directors play an important role in making certain that institutions achieve and maintain adequate capital.

Accordingly, the FCA proposes that notice be provided to shareholders when an institution's capital falls below the regulatory minimum permanent capital standard. Proposed § 620.15(a) would require each FCS bank and direct lender association to prepare, file with the FCA, and distribute to shareholders, a notice within 20 days following the month-end that the institution initially determines that it is not in compliance with the minimum permanent capital standards established in part 615 of the FCA regulations.

Under certain circumstances, reporting institutions would be required to prepare and distribute a subsequent notice to shareholders. If the reporting institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in a notice, the reporting institution would be required to distribute to shareholders another notice within 20 days of the end of the current month. The FCA believes that such subsequent notices are necessary in circumstances when an institution's capital position continues to deteriorate.

Proposed § 620.15(c) would stipulate that each FCS institution required to prepare a notice under § 620.15(a) or (b) must distribute the notice to shareholders by mail or otherwise furnish the information required in the notice by publishing it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

The contents of notices need not be extensive, but must provide sufficient information to apprise shareholders of the institution's permanent capital position. Proposed § 620.17(a) requires reporting institutions to present the required information in any format that is conspicuous, easily understandable, and not misleading.

Proposed § 620.17(b) establishes the following minimum information requirements for notices:

(1) A statement that (i) briefly describes the regulatory minimum permanent capital standard established by the FCA and the notice requirement of proposed § 620.15(a); (ii) indicates the institution's current level of permanent capital; and (iii) notifies shareholders that the institution's permanent capital is below the FCA regulatory minimum standard.

(2) A statement of the effect that noncompliance has had on the institution and its shareholders, including whether the institution is currently prohibited by statute or regulation from retiring stock or distributing earnings or whether the FCA has issued a capital directive or other enforcement action to the institution.

(3) A complete description of any event(s) that may have significantly contributed to the institution's noncompliance with the minimum regulatory permanent capital standard.

(4) A statement that the institution is required by regulation to distribute another notice to shareholders if the institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in the notice.

In addition, pursuant to proposed § 620.2(h)(1), the notice must include a statement in a prominent location that the institution's quarterly reports are available free of charge on request. The statement shall include approximate dates of availability of the quarterly reports and the telephone numbers and addresses where shareholders may obtain a copy of the reports.

Although the proposed regulation would require a reporting institution to distribute a notice to shareholders for noncompliance with the permanent capital standard, the FCA is considering using noncompliance with the total surplus to risk-adjusted assets ratio proposed by the FCA in June, 1996,<sup>12</sup> to trigger distribution of a notice to shareholders. Thus, if an institution's total surplus ratio falls below the regulatory standard, the institution would be required to notify shareholders of the noncompliance. The FCA specifically invites comments on the use of the total surplus to risk-adjusted assets standard as the point at which shareholders would be informed

that their institution is experiencing financial difficulties.

In addition, the FCA proposes to amend § 620.2(b)(3)(i) to allow the same alternatives FCS institutions have for director certification of quarterly reports to be applied to notices to shareholders. Thus, each notice need only be dated and manually signed by one board member on behalf of the individual board members, the person designated by the board to certify reports of condition and performance, and the chief executive officer.<sup>13</sup>

In proposing these regulations, the FCA seeks to balance the competing considerations of providing adequate notice to shareholders concerning their investments and the potential for regulatory burden on the FCS institutions. The FCA believes that the notice requirement will accentuate the importance of achieving and maintaining institutional viability through adequate capital and stress director and management accountability to shareholders who are interested in protecting their investment and maintaining their source of credit. The FCA recognizes that FCS institutions required to file and distribute a notice may incur costs associated with preparing and distributing the materials. On balance, the notice would be required only in those extraordinary circumstances where an institution is not in compliance with the FCA's minimum permanent capital standard.<sup>14</sup> Thus, the FCA does not believe the regulations will impose an undue regulatory burden. Moreover, given the cooperative structure of the System, the FCA believes such notifications are essential for timely and adequate disclosure to shareholders/members who have investments at risk and rely on the dependable credit services of the FCS institutions.

### III. Combined Financial Statement Presentation Requirements

#### A. Background

Each FCS institution is required by statute to make and publish an annual report of condition as prescribed by the FCA. The law and FCA regulations require that such reports contain

<sup>13</sup> Section 620.2(b)(3)(i) provides three certification signature alternatives for individual board members: the chairperson of the board, the chairperson of the audit committee; or a board member designated by the chairperson of the board.

<sup>14</sup> All FCS institutions were in compliance with the regulatory minimum permanent capital standard as of June 30, 1996. In addition, as noted in the proposed capital regulations, most FCS institutions would be able to meet the total surplus ratio requirement, if the standard was in effect today. See proposed capital regulations at 60 FR 38521, July 27, 1995.

<sup>12</sup> See proposed capital regulations at 60 FR 38521, July 27, 1995. Amendments to the capital regulations were repropounded in June 1996. See 61 FR 42092, August 13, 1996.

<sup>11</sup> See 12 U.S.C. 2154.

financial statements prepared in accordance with GAAP, except as otherwise directed by statute, and any additional information required by the FCA. With regard to consolidation/combination policy, GAAP provides that "the aim should be to make the financial presentation which is most meaningful in the circumstances."<sup>15</sup> Under GAAP, readers of the financial statements should be given information that is suitable to their needs without unnecessary detail.

In 1985, the System and its external auditor examined the issue of combining the financial statements of the banks and their related associations. After considering the financial and operational interdependence of the banks and their related associations, they concluded that presentation of combined financial statements would provide the most meaningful information to shareholders under the circumstances, and thus was the preferred disclosure approach under GAAP. Subsequently, in response to a request for clarification by the System, the FCA included a provision in its disclosure to shareholders regulations that required banks to present their financial statements on a combined basis with their related associations in reports to shareholders.<sup>16</sup>

After careful consideration of the appropriate accounting guidance in light of the structural changes that have occurred within the System, the FCA concludes that GAAP standards pertaining to combined financial statements do not require combined bank and association financial statements in all cases.<sup>17</sup> For instance,

presentation of the financial statements of an ACB and its related associations (which represent only a minority interest in the bank) on a combined basis may not be the most appropriate reporting format because combined financial statements may obscure the financial strength and standing of the bank and confuse the majority of the bank's non-System cooperative shareholders.

However, with respect to FCBs and related associations, the FCA continues to believe that GAAP supports presentation of combined financial statements as the most appropriate method of disclosure to shareholders. This conclusion is based on the closer bilateral effect of the results of operations on the banks and their respective associations and the majority voting control of the FCB by its related associations. Similarly, the FCA believes that GAAP supports the FCA's conclusion that financial statements for the *Report to Investors of the Farm Credit System* (Report to Investors) prepared on a combined basis continue to provide the most meaningful disclosure under current circumstances because of the financial and operational interdependence of the banks and their associations, and the banks' joint and several liability for Systemwide debt securities.

#### B. Proposed Amendments

The FCA proposes to amend its regulations by removing the requirement that banks must present the financial statements of the bank and its related associations on a combined basis. Under the proposal, FCS institutions would be exclusively guided by GAAP in making their determination of whether stand-alone, consolidated, or combined financial statement presentation is the preferred method. The FCA believes the proposed change will facilitate the presentation of financial statements by FCS institutions in a manner that conforms with GAAP and is the most appropriate under the institutions' prevailing circumstances.

Proposed § 620.2(g) would require each FCS institution to present its reports in accordance with GAAP and in a manner that provides the most meaningful disclosure to shareholders. Proposed § 620.2(g)(1) would further require that any FCS institution that presents its annual and quarterly financial statements on a combined or

consolidated basis shall also include, in the footnotes to the primary financial statements in the report, the statement of condition and statement of income of the institution on a stand-alone basis. The stand-alone statements may be in summary form and shall disclose the basis of presentation if different from accounting policies of the combined or consolidated statements. Conversely, proposed § 620.2(g)(2) would require banks that prepare bank-only financial statements to provide, in the footnotes to the primary statements, a condensed statement of condition and statement of income for its related associations, if any, on a combined basis.

The relationship between a bank and its related associations is an important one that warrants discussion in the financial statements to achieve full and complete disclosure regardless of how the bank presents its financial statements. Therefore, the FCA believes that the condensed association statements required to be prepared by a bank presenting bank-only statements should be accompanied by supplemental disclosures, either as a part of the footnotes or the *Management's Discussion and Analysis* section of the bank's financial statements. The FCA believes such supplemental disclosures are consistent with existing § 620.5(a)(9), which requires reporting entities to disclose the nature of business relationships with related FCS institutions.

Pursuant to § 620.5(a)(9), the supplemental disclosures should address the bank's statutory and regulatory authority to supervise or take actions that may affect the operating and financial policies of the associations, and any operational and financial interdependency of the bank and its related associations. Under § 620.5(e)(1) the supplemental disclosures should also address the statutory limitations on the associations' access to funds from sources other than the bank. Pursuant to § 620.5(e)(2) and (3), the FCA would expect a bank presenting financial statements on a bank-only basis to disclose the provisions of its capital-sharing agreements with related associations, if any, and the ability of the bank to gain access to the capital of the associations.

The FCA also proposes to amend existing § 620.4. The amendments would continue to require any bank that presents its financial statements on a combined basis to distribute its annual report to the shareholders of related associations. In such circumstances, FCS association borrowers/shareholders need the financial statements of both the bank and association to properly

<sup>15</sup> See American Institute of Certified Public Accountants Accounting Research Bulletin 51.

<sup>16</sup> The FCA fully supported the concept of combined bank and related association financial statements as the principal statements to be prepared by a district bank. The FCA believed excluding the associations from the banks' statements would result in publication of financial statements that did not show the true financial condition of the district bank, and that, under the circumstances, combined reporting was the preferred method of presentation under GAAP. See 51 FR 21336, June 12, 1986.

<sup>17</sup> In the fall of 1995, CoBank, ACB (CoBank), petitioned the FCA to amend its regulations to allow it to prepare its general purpose financial statements on a bank-only basis. CoBank stated that, due to its recent corporate restructuring, combining the bank and association financial statements would not be the most meaningful presentation of its financial position and results of operations for the majority of stockholders. Among other things, CoBank asserted that combining the financial statements of a class of customers/stockholders to the exclusion of other customers/stockholders would result in a confusing financial presentation for all readers of the financial statements. In December 1995, the FCA Board informed CoBank that, subject to specific conditions and pending review and consideration of whether to amend

existing § 620.2(g), the FCA would not criticize the bank for preparing its financial statements on a stand-alone basis, separate from its related associations, or for distributing its financial statements to the stockholders of the related associations only on request.

evaluate the operations and financial position of the association. In contrast, however, where GAAP supports bank preparation of bank-only financial statements, the FCA believes that the relationship between the bank and its related associations would no longer necessitate that the bank distribute its annual report to the shareholders of related associations in ordinary circumstances. Proposed § 620.4(b)(2) provides, however, that for periods where the bank has experienced a significant event that has a material effect on the associations, the bank's annual report must be distributed to the related associations' shareholders.

The FCA expects all reporting institutions to continue to prepare combined financial statements in accordance with part 630 of this chapter, which covers the *Report to Investors of the Farm Credit System*.

#### IV. Proposed Technical Changes to Part 620

The FCA proposes technical changes to part 620 to clarify the reporting requirements of related organizations. Proposed § 620.2(i) delineates the reporting requirements for the reporting institution when a significant event has materially affected a related organization. Specifically, any events that have affected one or more related organizations of the reporting institution that are likely to have a material effect on the financial condition, results of operations, cost of funds, or reliability of sources of funds of the reporting institution, would be considered significant events for the reporting institution and would require disclosure in the annual and quarterly reports under proposed §§ 620.5(g)(2)(vi) and 620.10(b). In addition, any events affecting a related organization that occurred during the preceding fiscal quarters that continue to have a material effect on the reporting institution would be considered significant events of the current fiscal quarter and would require disclosure in the annual and quarterly reports under proposed §§ 620.5(g)(2)(vi) and 620.10(b).

#### V. Report to Investors

The Farm Credit Banks Funding Corporation (Funding Corporation) petitioned the FCA to amend its regulations to allow it to incorporate by reference information contained in the *Federal Farm Credit Banks Consolidated Systemwide Bonds and Discount Notes Offering Circular* (Offering Circular) into the Report to Investors. Since incorporation by reference to another document is not currently provided for in the Report to

Investors regulations (12 CFR part 630), the Funding Corporation must provide some of the same disclosures in its annual and quarterly information statements as it does in its Offering Circular. The Funding Corporation asserts that allowing the use of incorporation by reference is a prudent and practical approach to disseminating information to investors because it improves the readability of the offering documents made available to investors by eliminating duplicative information.

The Report to Investors originally served as both the System's financial report and a prospectus for investors in Systemwide debt obligations issued by the Funding Corporation on behalf of the banks. The FCA recognizes that the dual purpose of the report has diminished due to the Funding Corporation's increased usage of offering circulars as the primary method to distribute prospectus information to investors. The FCA also recognizes that incorporation by reference is an accepted practice and is routinely permissible in reports filed with the SEC. Accordingly, the FCA proposes to amend its regulations by adding a new § 630.3(f),<sup>18</sup> which would permit the Funding Corporation to incorporate by reference information contained in offering documents for Farm Credit debt securities into the Systemwide financial reports to investors.

#### VI. Regulatory Impact

The FCA has determined that the proposed regulations would not have a significant effect on the general economy and would not be a significant regulatory action under Executive Order 12866. In addition, the proposed regulations pertain only to FCS institutions, and, therefore, would not present a conflict with the rules and regulations of other financial regulatory agencies. Due to the nature of the regulations, it is unlikely that the regulations would have any material impact on governmental entitlements, grants, user fees, or loan programs.

#### List of Subjects

##### 12 CFR Part 620

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

##### 12 CFR Part 630

Accounting, Agriculture, Banks, banking, Credit, Organization and functions (Government agencies),

<sup>18</sup> Under the proposed rule, existing § 630.3(f) and (g) would be redesignated as new paragraphs (g) and (h), respectively.

Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 620 and 630 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

#### PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 is revised 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).

##### Subpart A—General

2. Section 620.1 is amended by redesignating paragraphs (o), (p), and (q) as new paragraphs (p), (q), and (r), respectively, and adding new paragraph (o) to read as follows:

##### § 620.1 Definitions.

\* \* \* \* \*

(o) *Report* refers to the annual report, quarterly report, notice, or information statement required by this part unless otherwise specified.

\* \* \* \* \*

3. Section 620.2 is amended by revising paragraphs (a), (b)(3)(i), and (f) through (i) to read as follows:

##### § 620.2 Preparing and filing the reports.

\* \* \* \* \*

(a) Three copies of each report required by this section, including financial statements and related schedules, exhibits, and all other papers and documents that are part of the report shall be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090, or with such other Farm Credit Administration offices as the Chief Examiner designates. The Farm Credit Administration must receive the report within the period prescribed under applicable subpart sections. The reports shall be available for public inspection at the issuing institution and the Farm Credit Administration office with which the reports are filed. Bank reports shall also be available for public inspection at each related association office.

(b) \* \* \*

(3)(i) For each quarterly report or notice filed under this section, each member of the board or one of the following board members formally designated by action of the board to certify reports of condition and performance on behalf of the individual board members: The chairperson of the board; the chairperson of the audit committee; or a board member

designated by the chairperson of the board.

\* \* \* \* \*

(f) No disclosure required by subparts B and E of this part shall be deemed to violate any regulation of the Farm Credit Administration.

(g) Each Farm Credit institution shall present its reports in accordance with generally accepted accounting principles and in a manner that provides the most meaningful disclosure to shareholders.

(1) Any Farm Credit institution that presents its annual and quarterly financial statements on a combined or consolidated basis shall also include in the report the statement of condition and statement of income of the institution on a stand-alone basis. The stand-alone statements may be in summary form and shall disclose the basis of presentation if different from accounting policies of the combined or consolidated statements.

(2) Any bank that prepares its financial statements on a stand-alone basis shall provide supplemental information in the accompanying footnotes containing a condensed statement of condition and statement of income for the bank's related associations on a combined basis. The condensed statements shall disclose the basis of presentation if different from accounting policies of the bank-only statements.

(h)(1) Each annual report or notice shall include a statement in a prominent location within the report or notice that the institution's quarterly reports are available free of charge on request. The statement shall include approximate dates of availability of the quarterly reports and the telephone numbers and addresses where shareholders may obtain a copy of the reports.

(2) Each association shall include a statement in a prominent location within each report that the shareholders' investment in the association may be materially affected by the financial condition and results of operations of the related bank and that a copy of the bank's financial reports to shareholders, if not otherwise provided, will be made available free of charge on request. The statement shall also include the telephone numbers and addresses where shareholders may obtain copies of the related bank's financial reports.

(3) Each institution shall, after receiving a request for a report, mail or otherwise furnish the report to the requestor. The first copy of the requested report shall be provided to the requestor free of charge.

(i) Any events that have affected one or more related organizations of the reporting institution that are likely to have a material effect on the financial condition, results of operations, cost of funds, or reliability of sources of funds of the reporting institution shall be considered significant events for the reporting institution and shall be disclosed in the reports. Any significant event affecting the reporting institution that occurred during the preceding fiscal quarters that continues to have a material effect on the reporting institution shall be considered significant events of the current fiscal quarter and shall be disclosed in the reports.

#### **Subpart B—Annual Report to Shareholders**

4. Section 620.4 is amended by revising paragraph (b) to read as follows:

##### **§ 620.4 Preparing and distributing the annual report.**

\* \* \* \* \*

(b)(1) Any bank that presents its financial statements on a combined basis shall distribute its annual report to the shareholders of related associations within the period required by paragraph (a) of this section. Each bank shall coordinate such distribution with its related associations.

(2) Any bank that presents its financial statements on a bank-only basis shall distribute its annual report to the shareholders of related associations within the period required by paragraph (a) of this section in all instances where the bank experiences a significant event that has a material effect on the associations. Each bank shall coordinate such distribution with its related associations.

\* \* \* \* \*

5. Section 620.5 is amended by revising paragraph (g)(2)(vi) to read as follows:

##### **§ 620.5 Contents of the annual report to shareholders.**

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(vi) Discuss any events affecting a related organization that are likely to have a material effect on the reporting institution's financial condition, results of operations, cost of funds, or reliability of sources of funds.

\* \* \* \* \*

#### **Subpart C—Quarterly Report**

6. The heading for subpart C is revised as set forth above.

7. Section 620.10 is revised to read as follows:

##### **§ 620.10 Preparing the quarterly report.**

(a) Each Farm Credit bank and direct lender association shall prepare a quarterly report within 45 days after the end of each fiscal quarter, except that no report need be prepared for the fiscal quarter that coincides with the end of the fiscal year of the institution.

(b) The report shall contain, at a minimum, the information specified in § 620.11 and, in addition, such other material information (including significant events) as is necessary to make the required disclosures, in light of the circumstances under which they are made, not misleading.

8. Part 620 is amended by redesignating subparts D, E, and F as new subparts E, F, and G, respectively, and adding a new subpart D to read as follows:

#### **Subpart D—Notice to Shareholders**

##### **§ 620.15 Notice.**

(a) Each Farm Credit bank and direct lender association shall prepare, file with the Farm Credit Administration, and distribute a notice to shareholders, within 20 days following the month-end that the institution initially determines that it is not in compliance with the minimum permanent capital standard prescribed under § 615.5205 of this chapter.

(b) An institution that has given notice to shareholders pursuant to paragraph (a) of this section or subsequent notice pursuant to this paragraph shall also prepare, file with the Farm Credit Administration, and distribute to shareholders a notice within 20 days following any subsequent month-end at which the institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in the most recent notice distributed to shareholders.

(c) Each institution required to prepare a notice under § 620.15 (a) or (b) shall distribute the notice to shareholders by mail or otherwise furnish the information required in the notice by publishing it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

##### **§ 620.17 Contents of the notice.**

(a) The information required to be included in a notice must be conspicuous, easily understandable, and not misleading.

(b) A notice, at a minimum, shall include:

(1) A statement that:

(i) Briefly describes the regulatory minimum permanent capital standard established by the Farm Credit Administration and the notice requirement of § 620.15(a);

(ii) Indicates the institution's current level of permanent capital; and

(iii) Notifies shareholders that the institution's permanent capital is below the Farm Credit Administration regulatory minimum standard.

(2) A statement of the effect that noncompliance has had on the institution and its shareholders, including whether the institution is currently prohibited by statute or regulation from retiring stock or distributing earnings or whether the Farm Credit Administration has issued a capital directive or other enforcement action to the institution.

(3) A complete description of any event(s) that may have significantly contributed to the institution's noncompliance with minimum regulatory capital standard.

(4) A statement that the institution is required by regulation to distribute another notice to shareholders if the institution's permanent capital ratio decreases by one half of 1 percent or more from the level reported in the notice.

#### Subpart E—Association Annual Meeting Information Statement

9. Section 620.20 is amended by removing paragraph (c) and revising paragraph (b) to read as follows:

##### § 620.20 Preparing and distributing the information statement.

\* \* \* \* \*

(b) The statement shall incorporate by reference the annual report to shareholders required by subpart B of this part and contain the information specified in § 620.21 and such other material information as is necessary to make the required statement, in light of the circumstances under which it is made, not misleading.

#### PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

10. The authority citation for part 630 is revised to read as follows:

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

#### Subpart A—General

11. Section § 630.3 is amended by redesignating existing paragraphs (f) and (g) as new paragraphs (g) and (h), respectively, and adding new paragraph (f) to read as follows:

##### § 630.3 Publishing and filing the report to investors.

\* \* \* \* \*

(f) Information in documents prepared for investors in connection with the offering of debt securities issued through the Federal Farm Credit Banks Funding Corporation may be incorporated by reference in the annual and quarterly reports in answer or partial answer to any item required in the reports under this part. A complete description of any offering documents referenced must be clearly identified in the report (e.g., *Federal Farm Credit Banks Consolidated Systemwide Bonds and Discount Notes*—Offering Circular issued on [insert date]). Offering documents referenced in either an annual or quarterly report prepared under this part must be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102-5090, either prior to or at the time of submission of the report under paragraph (h) of this section. Any referenced offering document is subject to the delivery and availability requirements set forth in § 630.4(a)(5) and (6).

\* \* \* \* \*

Dated: October 3, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96-25818 Filed 10-10-96; 8:45 am]

BILLING CODE 6705-01-P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 95-SW-34-AD]

##### Airworthiness Directives; Sikorsky Aircraft-Manufactured Model S-64F Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Sikorsky Aircraft-manufactured S-64F helicopters. This proposal would require inspections, and replacement, if necessary, of the main gearbox second

stage lower planetary plate (plate). This proposal is prompted by two incidents in which the second stage planetary plate was found cracked. The actions specified by the proposed AD are intended to prevent failure of the plate due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter.

DATES: Comments must be received by December 10, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-SW-34-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Erickson Air-Crane Co., 3100 Willow Springs Rd., P.O. Box 3247, Central Point, Oregon 97502. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5114, fax (817) 222-5961.

##### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.