

Because section 4.29 of the Act only authorizes borrowers or members to purchase insurance, the Agency felt it was necessary to define "member" in the proposed regulation. The FCA did not intend for the definition of member to be interpreted to mean that persons not eligible to borrow could purchase "other" insurance from System institutions. In order to clarify this point, the FCA revised the definition of member in § 618.8040(b)(2) of the final rule to include the phrase "eligible to borrow."

2. Section 618.8040(b)(6)

Several commenters asked that the 5-percent limitation on compensation for sale of insurance be removed from the final regulation. One association did not object to the 5-percent limitation for full-time loan officers who also sell insurance as a part of their job. However, the commenter felt this limitation was too restrictive for full-time insurance salespersons and those persons involved in direction or management of insurance sales. The association further believes that such a limitation is not needed because the conflict of interest between loan making and insurance is not present, and it argued that such a limitation would restrict its ability to attract and motivate highly qualified insurance personnel.

The FCA continues to believe that unrestricted incentive compensation based on volume of insurance sales may lead to conflicts of interest or coercion in the case of loan officers and other employees involved in the lending operations of an institution. However, the FCA also recognizes that the potential for conflicts of interest or coercion is significantly less with regard to full-time insurance personnel. The FCA also agrees that in the case of full-time insurance sales personnel, such a limitation could impair an institution's ability to attract the best qualified people to these positions. Accordingly, proposed § 618.8040(b)(6) is modified so that, with respect to full-time insurance personnel or full-time managers and supervisors of insurance departments, the 5-percent limitation only applies to the sale of credit life and similar types of insurance (insurance that pays on a loan or mortgage in the event of death or disability of the debtor).

One commenter suggested that the final regulation should include commentary notes stating that insurance is the only service with regulatory restrictions on employee incentive compensation. The FCA does not believe that this is necessary because the regulatory structure and language make it clear that the restriction on

employee incentive compensation applies only to insurance.

C. Public Comments Received on the Sample Related Services List

The FCC commented that under Farm Business Consulting and Cooperative Business Consulting Services, the requirement that institutions must have procedures in place to "ensure conflicts of interest do not occur between the credit and the business consulting functions" is too burdensome. The FCC suggested that the special condition should require that institution "policies address and manage conflicts of interest to reduce risk to the entity by avoiding or disclosing certain conflicts as may be appropriate." The FCA recognizes that, as stated, the condition could be onerous. The Agency expects institutions to eliminate conflicts of interest whenever possible and operationally feasible. However, there may be instances when such conflicts cannot be eliminated, but with proper operating procedures, can be managed in such a way as to limit the risk posed to the institution to an acceptable level. Language in the attached RS List was modified to more clearly state this requirement.

Minnesota Mutual commented that the sample RS List did not include two types of insurance services, individual term life and mortgage accidental death insurance, currently offered by System institutions. The FCC also commented that "Group Term Life Insurance" should be changed to "Term Life Insurance" to conform to section 4.29(a)(1) of the Act. Although the FCA intended that these types of insurance be included within those on the RS List, the list has been modified to more accurately reflect these concerns.

The FCC commented that crop hail insurance and multiple-peril crop insurance should be combined into one category of single- and multiple-peril insurance in order to accommodate other types of single-peril crop insurance that may be available or become available in the future. After researching the legislative history of the 1980 amendments to the Act, the FCA believes that it is appropriate to limit the types of crop insurance that the System could sell to hail and multiple-peril crop insurance as is plainly stated in the Act. Accordingly, the FCA did not make this suggested change to the RS List.

As a final note, a small number of technical changes were made to proposed part 618, subparts A and B, in order to enhance the clarity of the regulations. Technical changes were also made to parts 611 and 620 in order

to conform with the regulatory changes in part 618.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 620

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

For the reasons stated in the preamble, parts 611, 618, and 620 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

§ 611.1125 [Amended]

2. Section 611.1125 is amended by removing the word "financially" in paragraph (b)(2).

PART 618—GENERAL PROVISIONS

3. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

§ 618.8030 [Redesignated as 618.8040]

4. In subpart B, § 618.8030 is redesignated as new § 618.8040.

5. Subpart A is revised to read as follows:

Subpart A—Related Services

Sec.
618.8000 Definitions.
618.8005 Eligibility.
618.8010 Related services authorization process.
618.8015 Policy guidelines.
618.8020 Feasibility requirements.