

## Farm Credit Administration

## § 627.2740

FCSIC may be appointed as receiver which is addressed by this section.

(c) Paragraph (b) of this section shall not apply unless the Farm Credit institution received adequate consideration for the transfer of financial assets at the time of the transfer, and the documentation effecting the transfer of financial assets reflects the intent of the parties to treat the transaction as a sale, and not as a secured borrowing, for accounting purposes.

(d) Paragraph (b) of this section shall not be construed as waiving, limiting, or otherwise affecting the power of the receiver to disaffirm or repudiate any agreement imposing continuing obligations or duties upon the institution in receivership.

(e) Paragraph (b) of this section shall not be construed as waiving, limiting or otherwise affecting the rights or powers of the receiver to take any action or to exercise any power not specifically limited by this section, including, but not limited to, any rights, powers or remedies of the receiver regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

(f) The receiver shall not seek to avoid an otherwise legally enforceable securitization agreement or participation agreement executed by a Farm Credit institution solely because such agreement does not meet the "contemporaneous" requirement of section 5.61(d) of the Act.

(g) This section may be repealed or amended by the Farm Credit Administration, but any such repeal or amendment shall not apply to any transfers of financial assets made in connection with a securitization or participation that was in effect before such repeal or modification.

[70 FR 55515, Sept. 22, 2005]

### § 627.2730 Preservation of equity.

(a) Except as provided for upon final distribution of the assets of the institution, no capital stock, participation certificates, equity reserves, or other allocated equities of an institution in receivership shall be issued, allocated, retired, sold, distributed, transferred,

assigned, or applied against any indebtedness of the owners of such equities.

(b) Notwithstanding paragraph (a) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

[57 FR 46482, Oct. 9, 1992, as amended at 63 FR 5724, Feb. 4, 1998]

### § 627.2735 Notice to holders of uninsured accounts and stockholders.

(a) Upon the placing of an institution in liquidation, the receiver shall immediately notify every borrower who has an uninsured account (voluntary or involuntary) as described in § 614.4513 of this chapter that the funds ceased earning interest when the receivership was instituted and will be applied against the outstanding indebtedness of any loans of such borrower unless, within 15 days of such notice, the borrower directs the receiver to otherwise apply such funds in the manner provided for in existing loan documents.

(b) As soon as practicable after the receiver takes possession of the institution, the receiver shall notify, by first class mail, each holder of stock and participation certificates of the following matters:

(1) The number of shares such holder owns;

(2) That the stock and other equities of the institution may not be retired or transferred until the liquidation is completed, whereupon the receiver will distribute a liquidating dividend, if any, to the owners of such equities; and

(3) Such other matters as the receiver or the Farm Credit Administration deems necessary.

### § 627.2740 Creditors' claims.

(a) The receiver shall publish promptly a notice to creditors to present their claims against the institution, with proof thereof, to the receiver by a date specified in the notice, which shall be not less than 90 calendar days after the first publication. The notice shall be republished approximately 30 days and 60 days after the first publication. The receiver shall promptly send, by first class mail, a similar notice to any creditor shown on the institution's books at the creditor's last address appearing thereon. Claims filed after the specified date