C. Alignment of FTA Export Terms

Applicants typically apply for both long-term FTA and non-FTA authorizations to have flexibility in determining their export destinations.[150] As stated, however, this Final Policy Statement does not apply to applications and authorizations to export natural gas to FTA countries.[151] Under NGA section 3(c), DOE is required to grant FTA applications ''without modification or delay.'' [152] Because of this statutory standard, applicants for long-term FTA authorizations have not been subject to DOE's standard 20-year term for non-FTA authorizations, and numerous FTA orders already have export terms of 25 or more years. Nonetheless, authorization holders often prefer to align their FTA and non-FTA exports over the same time period for administrative efficiencies.[153] For this reason, DOE anticipates that authorization holders and applicants who take action under this Final Policy Statement will request a comparable extension in their existing or future long-term FTA export terms, respectively. Where possible, DOE requests that authorization holders and applicants submit a consolidated FTA and non-FTA extension application (using DOE's suggested template) to ensure more consistent, streamlined proceedings.

IV. Administrative Benefits

In this Final Policy Statement, DOE is not proposing any new requirements under 10 CFR part 590. Rather, DOE's intent is to minimize administrative burdens and to enhance certainty for both authorization holders and foreign buyers of U.S. LNG. This, in turn, will make U.S. export projects even more competitive in the global market.

[150] The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

[151] *See supra* note 3.

[152] 15 U.S.C. 717b(c).

[153] Under DOE's long-term orders, the volumes authorized for export to FTA and non-FTA countries are not additive to one another. Rather, each order grants authority to export the entire volume of a facility to FTA or non-FTA countries, respectively, to enhance flexibility. *See, e.g., Jordan Cove Energy Project L.P.,* DOE/FE Order No. 3413–A, at 122 (Term and Condition I) (stating that ''Jordan Cove may not treat the FTA and non-FTA export volumes as additive to one another'').

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Final Policy Statement.

Signing Authority

This document of the Department of Energy was signed on July 29, 2020, by Steven Eric Winberg, Assistant Secretary, Office of Fossil Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 29, 2020.

Treena V. Garrett

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–16836 Filed 8–24–20; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 615, and 621

RIN 3052–AD09

Criteria To Reinstate Non-Accrual Loans

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) amends our regulations governing how high-risk loans within the Farm Credit System are classified by clarifying the factors used to place loans in nonaccrual status and revising reinstatement criteria.

DATES: This regulation shall become effective no earlier than 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Pursuant to 12 U.S.C. 2252(c)(1), FCA will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Objectives

The final rule objectives are to:

- Enhance the usefulness of high-risk loan categories;
- Replace the subjective measure of ''reasonable doubt'' used for reinstating loans to accrual status with a measurable standard;
- Improve the timely recognition of a change in a loan's status; and
- Update existing terminology and make other grammatical changes.

II. Background

The Farm Credit Act of 1971, as amended (Act),[1] requires Farm Credit System (System) institutions to maintain financial statements in accordance with generally accepted accounting principles (GAAP).[2] FCA is charged with issuing regulations to implement this requirement. FCA regulations at Part 621 address accounting and reporting requirements for System institutions, including the use of GAAP. As part of these requirements, subpart C of part 621, ''Loan Performance and Valuation Assessment,'' establishes standard performance categories for high-risk loans and sets forth the criteria for reinstating those loans to accrual status.[3]

We issued a proposed rule on April 3, 2019, to amend subparts A and C of part 621.[4] Specifically, we proposed changes to § 621.6 on loan performance categories as well as the § 621.9 criteria for reinstating loans to accrual status. We proposed using more measurable standards and aligning high-risk loan categories with the criteria used to determine when a loan is suitable for reinstatement to accrual status. We also proposed emphasizing the role servicing plays in addressing high-risk loans and moving definitions currently located in the body of §§ 621.6 and 621.9 to the existing definition section of part 621. We proposed moving four terms and their meaning from subpart C to subpart A, which contains the ''Definition'' section at § 621.2. In doing so, we proposed some modifications to the terms. The comment period for the proposed rule closed on June 3, 2019.

III. Comments and Our Responses

We received eight comment letters on our proposed changes to subparts A and

[1] Public Law 92–181, 85 Stat. 583.

[2] *See, for example,* 12 U.S.C. 2254(b).

[3] 58 FR 48780, September 20, 1993.

[4] 84 FR 12959.

C of part 621: One letter from the Federal Farm Credit Banks Funding Corporation on behalf of the System's Accounting Standards Workgroup (SASW); one letter from a Farm Credit bank (CoBank, ACB); and six letters from System associations. CoBank and two associations expressed support for remarks made by the SASW, but the associations noted either exceptions or additions to specific aspects of the SASW comments. Two associations submitted remarks substantially similar to those offered by SASW. Two other associations offered comments independent of the SASW comment letter.

In general, all the commenters supported our objectives in issuing the proposed rule. However, most commenters asked that we amend the rule to mirror the guidance provided by the Federal Financial Institutions Examination Council (FFIEC).[5] The commenters' reason for asking us to change our rules to mirror FFIEC standards was comparability within the financial services industry. In the proposed rule, we explained that, unlike commercial lenders and their regulators, neither FCA nor the System is subject to the reporting standards issued by the FFIEC.[6] However, FCA's present accounting classification rules are generally similar, although not identical, to FFIEC standards.[7] Further, we issued the proposed rule with an understanding of the financial regulatory environment as it relates to both the System's cooperative structure and status as a GSE. As a result, we continue our policy of maintaining a similarity to the FFIEC guidance, but deviating where necessary to accommodate the different operational and credit considerations of the System.

Separately, two associations commented on certain areas of discussion in the preamble to the proposed rule. One association expressed concern with the sample list of risk factors we gave for evaluating the collectability of a loan. This commenter stated that the examples of substantial collateral being abandoned and a lawsuit being filed against a primary obligor could, as stand-alone considerations, cause a loan to be placed into nonaccrual status. We believe there are many risks affecting current or future payments on a loan, including but not limited to those described in the preamble to the proposed rule. However, institutions must still evaluate the risk to the continued collection of principal or interest in connection with the requirements in § 621.6 to determine the proper loan performance category. The other commenter raised concerns with a footnote in the preamble to the proposed rule that gave samples of what might be an ''adverse action.'' This commenter remarked that the samples given were more expansive then those currently in regulations. We agree that we provided in the preamble to the proposed rule more examples of what might be considered an adverse action than are listed in § 617.7400(d). Just as examples given in part 617 of our regulations are not all-inclusive, the list we used in the preamble is also not all-inclusive. Both lists of examples are intended to inform the reader of possible items to consider when making the identification of an adverse action.

Below we address comments specific to our proposed changes to §§ 621.2, 621.6 and 621.9. All provisions are finalized as proposed, unless changes are discussed in our response to comments below.

A. Definitions [§ 621.2]

We proposed moving four existing terms, whose meanings are currently located in the body of regulatory provisions, to the ''Definitions'' section in § 621.2. In moving the terms, we also proposed contextual and grammatical changes to each of the terms to improve clarity. We finalize this action, but with changes to the definitions for three terms to respond to comments received.

1. *Term ''adequately secured''.*

We proposed clarifying language to explain that the term ''adequately secured'' describes collateral where there is a perfected security interest. Five of the eight commenters suggested the term ''adequately secured'' be replaced by ''well secured'' to mirror FFIEC terminology. These commenters also asked that the definition be replaced with the one used by other financial regulators. One association supported our proposed clarifications to the meaning of the term ''adequately secured'' and stated it did not believe the term should be changed to ''well secured'' as doing so would change System credit quality classifications, specifically the loss given default parameters for loan-to-net-realizable-value requirements.[8] Instead, this commenter suggested just using the term ''secured.'' Another association stated a preference for a clearer definition, making no comment on the term ''adequately secured'' itself. This commenter asked for the definition to discuss net realizable value.

We believe the existing term ''adequately secured'' is known and established in System policies and procedures. Changing it as suggested by some commenters could create unnecessary confusion. The term ''adequately secured'' has been used in FCA regulations since 1986[9] to describe loan security. Additionally, it is used in System-wide risk rating guidance for specific loan risk categories. Any of the suggested changes to the term would directly impact this credit guidance and potentially result in deviations from the operational and credit considerations of the System. Therefore, we do not believe changing the existing term, ''adequately secured,'' to either ''well secured'' or just ''secured'' would be appropriate.

We considered making some adjustments to the definition of ''adequately secured'' based on comments expressing concern with the phrase ''perfected security interest'' but decided to make no change to that element. We want institutions to consider whether a lien on collateral is valid and enforceable when making ''adequately secured'' decisions in the context of categorizing high-risk assets. Should a particular security interest not be properly perfected, we expect institutions to look to other collateral when deciding if the loan is ''adequately secured.'' However, we are replacing the term ''collateralized'' with ''secured'' in the introductory sentence of the definition to improve clarity and comparability with other financial regulators. Additionally, the final rule adds ''collateral in the form of'' to the beginning of item (1) in the definition of ''adequately secured.'' This change increases comparability with other financial regulators and adds clarity to the term's use as requested by commenters. We also corrected punctuation identified by one commenter as causing confusion. As

[5] FFIEC was created in 1979 through title X of Public Law 95–630. FFIEC facilitates uniformity in those federal examinations of financial institutions conducted by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau. FFIEC issues uniform principles, standards and reporting formats used by these regulators.

[6] FCA is not a FFIEC regulatory agency and therefore neither it nor the System is required to follow FFIEC standards.

[7] We consider the policy positions of other regulators to decide if we should follow them or take a different approach if appropriate to implement the requirements and expectations of the Act.

[8] The commenter referred to its individual risk guidance. The Combined Farm Credit System Risk Rating Guidance also uses the term adequately secured.

[9] *See* 51 FR 8644 (March 13, 1986). Also, the United States Department of Agriculture Farm Service Agency uses the term ''adequately secured'' in its guaranteed loan program requirements.

finalized, the rule clarifies that the term ''adequately secured'' means either a lienhold on property or a guarantee on repayment, or both.

2. *Term ''in the process of collection''.*

We proposed removing language on documented future collection of past due amounts, replacing it with language clarifying that the term ''in the process of collection'' includes both debt collection and loan servicing efforts expected to result in either the recovery of the loan balance (including accrued interest and penalties) or reinstatement of the loan to current status in the near future. One association supported the proposed removal of the 180 day timeframe in the definition, while all other commenters were silent on that specific aspect. The SASW, CoBank, and four associations commented that the definition of ''in the process of collection'' was too restrictive. Commenters explained that the use of a probable and specific event is a higher hurdle than the definition used by other financial regulators.

We agree with the comments that using probable and specific events within the definition is too constraining so we remove it from the final rule text. Instead, as suggested by commenters, we replace it by adding the word ''reasonably'' before ''expected to result in recovery.'' We believe this increases the definition's similarity to FFIEC guidance without adverse impact to the System's unique operating structure. We also remove the word ''and'' joining both ''debt collection and loan servicing efforts'', replacing it with ''or'' as is done in FFIEC guidance. We believe this change is appropriate as it may not always be applicable to have both debt collection and loan servicing occurring in all circumstances.

3. *Term ''past due''.*

We proposed replacing language within the definition of ''past due'' when discussing existing servicing actions. There were no specific comments on this proposed change to the definition. Instead, the SASW, CoBank, and four associations asked that the definition of ''past due'' be adjusted to reflect the definition used by other financial regulators under FFIEC. Commenters specifically remarked that our definition of ''past due'' is inconsistent with other financial regulators and suggested clarifying the term to allow for either interest or principle to be delinquent in satisfaction of the term ''past due.''

We reviewed the FFIEC definition for ''past due'' and believe the concerns of the commenters regarding separation of principle and interest was based on receipt of partial payments. As such, we adjust the definition to provide that when loan payments have not been received in full and on time, they will be ''past due.'' We believe adding ''in full'' addresses concerns that past due amount may consist of interest and not principal, or vice versa. If either principal or interest are due under the payment terms (as may be the case when there is a partial payment), but unpaid, the loan is past due.

4. *Term ''sustained performance''.*

We proposed clarifying that ''sustained performance'' on a loan is based on contractual payment terms. Only one comment was received on this proposed clarification. That commenter was an association that expressed support for the clarification. We final the term as proposed.

B. High-Risk Loan Classification [§ 621.6]

We proposed clarifying changes to the categories for high-risk loans in § 621.6, including removing redundancies and aligning § 621.6 with proposed changes to § 621.9. We also proposed removing the last sentence of this section's introductory paragraph that required loans meeting more than one performance category to be, in all cases, categorized as ''nonaccrual.'' One association objected to removing this sentence, expressing concern that doing so would result in inconsistencies in classifications due each association's interpretation of which is the most appropriate performance category to assign a loan. We do not share this commenter's concern and final this change as proposed. We believe institutions should determine the most appropriate performance category for a high-risk loan, understanding that no more than one category may be used at any given time. We also believe the other changes to §§ 621.6 and 621.9 will facilitate this decision-making process.

We note that the final rule does not address disclosures required by the Accounting Standards Update related to credit losses and the disclosure of nonaccrual loans.[10] FCA addressed disclosure requirements related to the new accounting standard in a separate rulemaking process.[11] While the current incurred loss methodology under GAAP is based on a probable threshold, the measurement of credit losses is changing under the Financial Accounting Standards Board's (FASB) new credit loss standard. When effective, the new standard will replace the current GAAP incurred loss methodology with one that reflects lifetime expected credit losses for financial assets measured at amortized cost over the entire contractual term.[12] Although the new standard does not address when a financial asset should be placed in nonaccrual status, it will increase the credit quality-related disclosures for loans.

1. Identifying Nonaccrual Loans [§ 621.6(a)]

We proposed updating language in § 621.6(a) to clarify that a loan is properly categorized as a ''nonaccrual loan'' when there is a known risk to the continued collection of principal or interest. We also proposed clarifying the use of ''charge off'' in § 621.6 by retaining its classification use for loans with any portion charged off through means other than formal loan servicing as discussed in part 617 or a Troubled Debt Restructuring (TDR). The SASW, CoBank, and four associations suggested conforming our nonaccrual loan classification rules to those used by other financial regulators, which do not use charge offs in classifications.[13]

In response to these comments, the final rule does not include charge offs as a consideration when classifying a loan. By removing charge offs, the final rule increases comparability with the FFIEC's three possible conditions for nonaccrual status: Deterioration in the financial condition of the borrower; payment of full principal and interest is not expected; and loans 90 days or more past due. A loan with a charge off should still be considered for nonaccrual status if there is known risk to the continued collection of the principal or interest. If an institution has determined the collection of a loan's outstanding principal and interest, plus future interest accruals, over the full term of the loan is not expected because of a documented deterioration in the financial condition of the borrower, then the loan should be placed in nonaccrual status, including loans with charge offs.

As final, the rule regarding categorizing high-risk loans remains

[10] Accounting Standards Update No. 2016–13, Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, dated June 2016.

[11] *See* Proposed rule, ''Implementation of the Current Expected Credit Losses Methodology for Allowances, Related Adjustments to the Tier 1/Tier 2 Capital Rule, and Conforming Amendments.'' (84 FR 49684 September 23, 2019).

[12] On October 16, 2019, the FASB affirmed its decision to allow public business entities such as the System (who are not SEC filers) to defer adopting the new credit loss standard until January 1, 2023.

[13] *See* ''Nonaccrual Status'' definition in Glossary of FFIEC Instructions for Preparation of Consolidated Reports of Condition and Income, FFIEC 031 and 041, updated September 2019.

consistent with GAAP and the financial industry's performance categories.[14] Although not exactly matching FFIEC guidelines, those aspects of FFIEC guidance appropriate for System operations already exist in our rules, to the extent possible. Therefore, we are not making the other requested changes to § 621.6(a) beyond a corresponding adjustment to language on loans past due to read ''90 days or more past due.'' We also make a technical change to adjust the numbering of the subparagraphs required after removing the charge off provision.

One association questioned how the term ''charge off'' was used in a footnote of the preamble to the proposed rule. The commenter explained the usage of the term was inconsistent with how the term was applied in the context of existing §§ 621.6 and 621.9, noting that we did not propose a definition of ''charge off'' in § 621.2. Any identified loan loss, whether it is principal or interest, must be charged off. The charge off discussion in the proposed rule preamble related to earned but uncollected interest income that was accrued and determined to be uncollectible. FCA was not attempting to define the term charge off to include only interest income, but explaining that when an institution determines that the contractual value of a loan or other asset exceeds the amount that can reasonably be expected to be collected, the institution is expected to immediately charge off the asset in the amount determined to be uncollectible.[15]

2. Formally Restructured Loans (TDR) [§ 621.6(b)]

We proposed adding a short explanation of loans classified under the TDR category. The SASW, CoBank, and four associations suggested what we proposed was too narrow, explaining the reference to 'financial concession' does not encompass other potential concessions. These commenters suggested we replace the sentence with the GAAP definition. A separate commenter expressed support for our clarification effort to distinguish TDRs from other servicing.

Since we proposed the language to add clarity and comments received indicated the proposed additional language raised more questions, we are not finalizing the rule with this second sentence. We believe referencing a TDR under GAAP in the first sentence accurately reflects the category and, by removing the last sentence, the rule will avoid having to be amended for any future changes to GAAP. For this same reason we are not accepting the suggestion to quote GAAP within the rule. We also make a technical change to spell out the meaning of ''TDR'' within the rule text.

3. Classifying Loans 90 Days Past Due [§ 621.6(c)]

We proposed changes to the high-risk loan category, ''Loans 90 days past due still accruing interest,'' to improve readability and add clarity. We received no comments on our proposed changes, but as a conforming change to comments made on our definition of ''past due'' and other comments asking for our rules to more closely resemble FFIEC guidance, we have adjusted the language discussing this category to read ''90 days or more past due.'' This change allows the specific provision to read substantially similar to FFIEC guidance.

C. Reinstating Nonaccrual Loans [§ 621.9]

We proposed replacing the criteria a loan must satisfy before being reinstated to accrual status with requirements that are based upon repayment patterns and loan security. The SASW, CoBank, and four associations asked that we instead use the same reinstatement criteria as is contained in FFIEC guidance. In response to comments received, we again considered the FFIEC reinstatement guidance but continue to believe System operations require different reinstatement criteria. In particular, we are sensitive to the fact the FFIEC guidelines are premised upon monthly loan repayments whereas the System most often provides annual payment amortizations. Additionally, safety and soundness concerns related to the economics of primarily lending to the agricultural sector also warrant deviations from the reinstatement practices of commercial lenders. As such, we believe the final rule strikes the appropriate balance given the risks arising from the specialized lending activities of the System.

Some commenters questioned the value of qualifying reinstatement based on a loan becoming past due while classified as nonaccrual. We agree with these comments and final the rule with changes that remove the language regarding a loan becoming past due while in nonaccrual status from all of paragraph (a), excepting the core requirement that a loan be current when reinstated. Additionally, a commenter remarked on an apparent redundancy in the proposed text discussing servicing efforts. We agree and the final rule removes the identified redundancy between paragraph (a) and subparagraph (a)(1). Specifically, we removed from § 621.9(a)(1) the requirement that known risks have been addressed through servicing, because the servicing element is already mentioned in paragraph (a) as an aspect that must be considered for all loans in nonaccrual status. We also accepted the related comment that the proposed language of (a)(1) implied only servicing could address the risks leading a loan to be classified as nonaccrual. The final rule replaces the relevant phrase in (a)(1) with one asking that the risks be mitigated. This change leaves open the manner of mitigation, as suggested by the commenter.

One association asked that we entirely remove servicing as a consideration to reinstating a loan to accrual status. This same commenter asked if documentation maintained elsewhere in a loan file regarding servicing could serve to demonstrate an association's efforts for purposes of complying with § 621.9(a). Other commenters remarked that servicing should not be used at all in accounting classifications. We disagree that servicing does not play an important role in addressing high risk loans. Servicing a loan is a key element of addressing risk to collectability and assessing the loan's readiness to be reinstated to accrual status. Loans that receive effective and constructive loan servicing have a much greater likelihood of remaining current over time. Further, loan servicing is a critical process for institutions to work through with borrowers to address the underlying cause of the borrower's financial and repayment weaknesses that caused the loan's original nonaccrual designation. We also remind the commenters that the servicing element replaces the requirement to remove all reasonable doubt as to the willingness and ability of the borrower to perform under the loan terms. As explained in the preamble to the proposed rule, we looked for alternative criteria that were more measurable than the ''reasonable doubt'' requirement and identified loan servicing as an appropriate substitute. We continue to believe servicing addresses the safety and soundness concerns behind the ''reasonable doubt'' requirement and therefore is an appropriate replacement. As to the question on documentation, as a general matter we are not seeking duplication of existing servicing documentation when considering a loan for reinstatement. We

[14] *See* SEC Industry Guides, Statistical disclosure by bank holding companies, III Loan portfolio, C. Risk elements.

[15] *Refer to* 12 CFR 621.5(b).

anticipate a reference to documented servicing should be sufficient.

One commenter supported changing the reinstatement criteria to allow a continuously current loan to be restored to accrual status without sustained performance. Six other commenters stated that the reinstatement criteria should not consider future performance or repayment. We believe the consideration of future repayment capacity is part of the process in determining the collectability of the loan and whether the loan should be reinstated to accrual status. Demonstrating future repayment capacity ensures the known risks to the collection of the loan have been mitigated. By requiring future repayment capacity, a reinstated loan should have mitigated the known risks to loan collection and the loan should not subsequently fall back into nonaccrual status in the next reporting period. We also believe this is consistent with prudent credit risk management practices. Further, the final rule adds flexibility for establishing the repayment pattern for loans placed in nonaccrual status when past due and that are adequately secured, which we believe improve the timely recognition of a change in a loan's status when compared to the existing rule.

One association asked that we incorporate into our nonaccrual regulations the guidance contained in our Informational Memorandum, ''Examination of Loans Guaranteed by Federal and Local Government Agencies,'' dated July 10, 1998. This IM discusses, among other things, the loan guarantees from United States Department of Agriculture Farm Services Agency. We do not believe our nonaccrual regulations should prescribe the accounting treatment for specific loan types and circumstances. We continue to believe guaranteed loans being serviced in accordance with the terms of a Government guarantee are normally presumed to be in process of collection and adequately secured.

Two associations commented that our performance criteria, used to reinstate nonaccrual loans, causes a direct negative monetary impact on member-borrowers. These commenters explained that under each of their board approved patronage program, member-borrowers are not eligible for patronage when a loan is in nonaccrual status, even if the loan is current on payments. Therefore, by not being able to reinstate the loan to accrual status once current, its member-borrowers are denied patronage.

FCA does not believe our regulations created the disadvantage cited by the commenters because each association sets its own patronage payment pools in a manner it determines is rational and equitable.[16] Further, FCA discourages System institutions from solely using loan performance categories for patronage policies. As illustrated by the above two comments, using loan performance categories for purposes other than what they are intended may inappropriately cost a member-borrower patronage he or she earned. One of the benefits of being a member-borrower of the System is the opportunity to earn, and be paid, patronage. When an institution has a patronage policy, the policy sets forth if patronage will be paid and the eligibility requirements for receiving patronage payments.[17] Should, for example, a policy provide that patronage may be denied or reduced based solely on a loan's performance classification, a member-borrower with a current loan in nonaccrual status would be denied patronage. Meaning, the institution relying solely on a performance classification when setting patronage pools may not be giving full consideration to whether those loans in nonaccrual status that also are current on payments contributed to the earnings of the institution and therefore should receive consideration for patronage payments.[18] Thus, these commenters can address their concerns about a loan classification's having a direct negative monetary impact on their member-borrowers by changing their own patronage policies.

As a corresponding change to those made in § 621.6, we final the rule without the proposed § 621.9(a)(2), which would have required charged off amounts to be collected prior to reinstatement. As discussed earlier, we removed charge offs as a consideration to placing a loan into nonaccrual status. For consistency, we also remove use of charge offs when reinstating a loan. In relation to this, the proposed subparagraphs (a)(3) and (a)(4) were renumbered (a)(2) and (a)(3) within this final rulemaking.

D. Other Comments on Subpart C of Part 621

We received several comments on a section of our regulations where no changes had been proposed. The comments were directed at our rules of aggregation in § 621.7, asking us to apply the rule at the loan level rather than the customer level. Commenters also asked us to consider revising or eliminating the rule of aggregation because it requires an institution to move a performing loan to nonaccrual status despite having its own performance assessment and collateral support. The commenters also stated FCA's rule of aggregation is not consistent with other financial regulators.

We proposed no changes to this section of our regulations so are not making any as part of this final rulemaking. Instead, we will take the request for changes to § 621.7 under consideration and potentially address them in future rulemakings. We do explain that when one loan to a borrower is placed into nonaccrual status, FCA regulations do not require an institution to automatically place all of a borrower's loans into nonaccrual status. The primary purpose of FCA's rule of aggregation is to ensure that when a borrower's loan is placed in nonaccrual status, an institution immediately evaluates whether or not other loans to the same borrower, or loans for which the same borrower is responsible for repayment, should also be placed in nonaccrual.[19] FCA regulation § 621.7(b) provides if the borrower's other loans represent an independent credit risk and are fully collectible, then they may remain in their current performance category and are not required to be moved to nonaccrual status. This is comparable to the recommendation of other financial regulators that a financial institution evaluate its loans and other extensions of credit to a single borrower when one of the borrower's loans meets the criteria for nonaccrual status.

IV. Regulatory Flexibility Act and Major Rule Conclusion

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the final rule would not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

[16] 12 CFR 615.5230(c)(3).

[17] Each institution determines its own patronage policy, setting forth eligibility criteria. *See* 12 CFR 615.5230(c)(3).

[18] *Refer to* 12 CFR 615.5230(c)(3), providing in relevant part that ''payment of patronage shall be established on a rational and equitable basis that will ensure that each patron of the institution receives its fair share of the earnings of the institution and bears its fair share of the expenses of the institution.''

[19] *See* 58 FR 48780 (Sept. 20, 1993).

Under the provisions of the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this final rule is not a ''major rule,'' as the term is defined at 5 U.S.C. 804(2).

List of Subjects in 12 CFR Parts 611, 615 and 621

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 615 and 621 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 611—ORGANIZATION

■ 1. The authority citation for part 611 is revised to read as follows:

Authority: Secs. 1.2, 1.3, 1.4, 1.5, 1.12, 1.13, 2.0, 2.1, 2.2, 2.10, 2.11, 2.12, 3.0, 3.1, 3.2, 3.3, 3.7, 3.8, 3.9, 4.3A, 4.12, 4.12A, 4.15, 4.20, 4.21, 4.25, 4.26, 4.27, 4.28A, 5.9, 5.17, 5.25, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2002, 2011, 2012, 2013, 2020, 2021, 2071, 2072, 2073, 2091, 2092, 2093, 2121, 2122, 2123, 2124, 2128, 2129, 2130, 2154a, 2183, 2184, 2203, 2208, 2209, 2211, 2212, 2213, 2214, 2243, 2252, 2261, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 414 of Pub. L. 100–399, 102 Stat. 989, 1004.

§ 611.1205 [Amended]

■ 2. Section 611.1205 is amended by removing ''§ 621.2(c)'' and adding in its place ''§ 621.2'' wherever it appears.

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 3. The authority citation for part 615 is revised to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a), Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 939A, Pub. L. 111–203, 124 Stat. 1326, 1887 (15 U.S.C. 78o–7 note).

§ 615.5131 [Amended]

■ 4. Section 615.5131 is amended by removing the word ''§ 621.2(f)'' and adding in its place the word ''§ 621.2'' each place it appears.

PART 621—ACCOUNTING AND REPORTING REQUIREMENT

■ 5. The authority citation for part 621 is revised to read as follows:

Authority: Secs. 4.12(b)(5), 4.14, 4.14A, 4.14D, 5.17, 5.22A, 8.11 of the Farm Credit Act (12 U.S.C. 2183, 2202, 2202a, 2202d, 2252, 2257a, 2279aa–11); sec. 514 of Pub. L. 102–552.

■ 6. Section 621.2 is amended by:
■ a. Removing the paragraph designations (a) through (n); and
■ b. Adding definitions in alphabetical order for ''Adequately secured'', ''In the process of collection'', ''Past due'', and ''Sustained performance'' to read as follows:

§ 621.2 Definitions.

* * * * *

Adequately secured means the loan is secured by either or both:

(1) Collateral in the form of perfected security interests in, or pledges of, real and/or personal property (including securities with an estimable value) having a net realizable value sufficient to repay the loan's outstanding principal and accrued interest.

(2) The guarantee of a financially responsible party in an amount sufficient to repay the loan's outstanding principal and accrued interest.

* * * * *

In the process of collection means debt collection or loan servicing efforts are proceeding in due course and are reasonably expected to result in the recovery of the loan's principal balance, accrued interest and penalties or reinstatement of the loan to current status within a reasonable time period.

* * * * *

Past due means a contractually scheduled loan payment has not been received in full on or before the contractual due date and remains due.

* * * * *

Sustained performance means the borrower has resumed on-time payment of the full amount of scheduled contractual loan payments over a sustained period. In accordance with the contractual payment schedule, the sustained on-time repayment period is demonstrated by making 6 consecutive monthly payments, 4 consecutive quarterly payments, 3 consecutive semiannual payments, or 2 consecutive annual payments. The payments considered are those listed in the loan contract as due during the sustained performance period, regardless of whether scheduled payments are interest-only, unequally amortized principal and interest, equally amortized principal and interest, or a combination of payment amounts.

■ 7. Revise § 621.6 to read as follows:

§ 621.6 Categorizing high-risk loans and other property owned.

Each institution must employ the practices of this section when categorizing high-risk loans and loan-related assets. A loan must not be put into more than one performance category.

(a) *Nonaccrual loans.* A loan is categorized as nonaccrual if there is a known risk to the continued collection of principal or interest. Once a loan is categorized as nonaccrual, it must remain in that category until reinstated to accrual status pursuant to § 621.9. Loans placed into nonaccrual status when current are also subject to the notice and review provisions of part 617 of this chapter. A loan must be categorized as nonaccrual if one or more of the following conditions exist:

(1) The loan may or may not be past due, but the institution has determined collection of the outstanding principal and interest, plus future interest accruals, over the full term of the loan is not expected because of a documented deterioration in the financial condition of the borrower;

(2) The loan is 90 days or more past due and is not otherwise eligible for categorization under paragraph (c) of this section; or

(3) Legal action, including foreclosure or other forms of collateral conveyance, has been initiated to collect the outstanding principal and interest.

(b) *Formally restructured loans (TDR).* A loan is categorized as a formally restructured loan (Troubled Debt Restructure(TDR)) if the restructuring is determined to be a TDR under generally accepted accounting principles and the guidance issued by the Financial Accounting Standards Board.

(c) *Loans 90 days past due still accruing interest.* A loan is categorized as 90 days past due still accruing interest when it is 90 days or more contractually past due, adequately secured, and in the process of collection. If the loan is not adequately secured, it cannot be categorized under this category unless there is evidence to suggest repayment within a reasonable time period of either the past due amount or the remaining principal and interest owed.

(d) *Other property owned.* Any real or personal property, other than an interest-earning asset, that has been acquired as a result of full or partial liquidation of a loan, through foreclosure, deed in lieu of foreclosure, or other legal means.

■ 8. Revise § 621.9 to read as follows:

§ 621.9 Reinstatement to accrual status.

(a) Before being reinstated to accrual status, a loan must be current on contractual payments and the borrower offered servicing in accordance with the institution's policies maintained under either § 614.4170 or part 617 of this chapter, whichever is applicable. Additional reinstatement eligibility requirements are dependent upon certain characteristics of the loan under review.

(1) A loan that was current when placed in nonaccrual status pursuant to § 621.6(a)(1) may be reinstated to accrual status if the known risks to the continued collection of principal or interest have been mitigated. If the loan was past due when placed in nonaccrual status, it may only be reinstated under either paragraph (a)(2) or (a)(3) of this section, as applicable.

(2) A loan placed in nonaccrual status when past due and not adequately secured must remain current on contractual payments for a period of sustained performance before it may be reinstated.

(3) A loan placed in nonaccrual status when past due and adequately secured must have a recent repayment pattern demonstrating future repayment capacity to make on-time payments before it may be reinstated. The repayment pattern is established in one of two ways:

(i) Sustained performance in making on-time contractual payments, or

(ii) A recent history of making on-time partial payments in amounts the same or greater than newly restructured payment amounts.

(b) Nothing in this section prevents a current loan from being reinstated to accrual status in response to a Credit Review Committee decision issued under section 4.14D(d) of the Farm Credit Act of 1971, as amended, when that decision was made in compliance with applicable laws, regulations, and in accordance with generally accepted accounting principles.

Dated: July 21, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–16135 Filed 8–24–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0777; Project Identifier MCAI–2020–01071–T; Amendment 39–21217; AD 2020–17–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Aviation Model MYSTERE–FALCON 900, FALCON 900EX, FALCON 2000, and FALCON 2000EX airplanes. This AD was prompted by reports of loose or missing nuts on the pilot and co-pilot ventral seat belt attachment points. This AD requires a detailed inspection of certain seat belt attaching point nuts for any loose or missing nuts and replacement, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 9, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 9, 2020.

The FAA must receive comments on this AD by October 9, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0777.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0777; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *Tom.Rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0168R1, dated July 29, 2020 (''EASA AD 2020–0168R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model MYSTERE–FALCON 900, FALCON 900EX, FALCON 2000, and FALCON 2000EX airplanes.

This AD was prompted by reports of loose or missing nuts on the pilot and co-pilot ventral seat belt attachment points. The FAA is issuing this AD to address this condition, which could lead to detachment of the seat belt at a critical phase of flight, such as landing or, in the case of turbulence or emergency landing, resulting in the flight crew becoming unrestrained from their seat, causing injury to the flight crew and/or subsequent loss of control of the airplane. This condition could impede the continued safety of flight. See the MCAI for additional background information.