

with the FCA's status as an arm's-length regulator, and deny System institutions the opportunity to use their business judgment. The commenters specifically indicated that the agency should give priority to the removal of the prior approval requirements for general financing agreements (GFAs), financially related services (FRS), and certain insider loan transactions.

Since the enactment of the Agricultural Credit Act of 1987 (1987 Act),<sup>2</sup> the FCA has eliminated from the regulations many of the prior approval requirements that are not mandated by the Act. The FCA is in the process of reviewing all the remaining non-statutory prior approvals in order to determine whether they should be retained. The FCA has already established regulatory projects to determine whether the agency prior approvals of GFAs and FRS are still feasible. Another work group is currently reviewing whether the FCA should continue to pre-approve the retirement of protected stock outside the ordinary course of business.

At this time, the FCA is proposing to eliminate from both §§ 614.4470(b)(1) and (b)(3) the requirement that the agency pre-approve certain insider loan transactions at System associations. Section 614.4470(a) requires funding banks to pre-approve loans that their affiliated associations make to: (1) Their own directors or employees; (2) directors or employees of a jointly managed association; or (3) bank employees. Furthermore, § 614.4470(b) requires FCA approval of loans to any borrower whenever certain institution-affiliated parties will: (1) Receive proceeds of a loan in excess of an amount established by the funding bank; or (2) endorse, guarantee, or comake a loan that is in excess of the amount established by the funding bank.

The FCA agrees with the commenters that the prior approval requirements in §§ 614.4470 (b)(1) and (b)(3) are no longer appropriate since the FCA has become an arm's-length regulator. An existing regulation, 12 CFR 620.5, requires that System institutions disclose in their annual reports to shareholders insider loan transactions. In addition, the FCA has sufficient examination and enforcement powers to ensure that loans to institution-affiliated parties do not undermine the solvency of any FCS bank or association. If the agency prior approval requirements in § 614.4470(b) are repealed, the FCA intends to rely upon its examination

authority to determine whether: (1) Bank policy adequately deters insider abuses at institutions in its district; and (2) associations are complying with bank policy.

#### *B. Debt Policy and Consolidated Systemwide Notes*

Two Farm Credit banks requested that the FCA repeal §§ 615.5104 and 615.5105(c) because they are no longer necessary. Section 615.5104 requires each bank to adopt a policy for the management of its debt. Section 615.5105(c) requires each bank to identify in its debt management policy the maximum amount of discount notes that can be outstanding at any one time.

The FCA recently revised § 615.5135 to require each FCS bank to adopt an asset/liability management policy. See 58 FR 63034, November 30, 1993. This new regulation requires the policies of System banks to address the management of both assets and liabilities in a more comprehensive manner than §§ 615.5104 and 615.5105(c) currently require. Since the FCA agrees with the commenters that §§ 615.5104 and 615.5105(c) are now obsolete, the agency proposes to delete these two regulations. The new investment regulations in subpart E of part 615 enhance the ability of Farm Credit banks to control liquidity and solvency risks in their portfolios.

#### *C. Real and Personal Property*

An FCB and a BC commented that §§ 615.5170 (c) and (d) are outdated and should be removed from the FCA regulations. These commenters also asserted that the regulation improperly involves banks in the real and personal property acquisitions of their affiliated associations. After carefully evaluating the commenters' suggestions, the FCA proposes to repeal §§ 615.5170 (b) through (e).

The FCA has concluded that §§ 615.5170 (b) through (d) prescribe detailed operational standards, rather than performance criteria, for ensuring the safe and sound operation of System banks and associations. Furthermore, these provisions neither implement nor interpret provisions in the Act that govern the acquisition of real or personal property by FCS banks and associations. The FCA believes that these regulatory provisions impose burdens on System institutions that produce no corresponding benefits. The FCA also observes that paragraphs (b), (c), and (d) of § 615.5170 are obsolete because they impose responsibilities on the "district boards" that were abolished by section 409(d) of the

Agricultural Credit Technical Corrections Act of 1988.<sup>3</sup>

The FCA also believes that § 615.5170 (d) and (e) are no longer necessary because the safety and soundness concerns posed by information system processing technology are now adequately addressed in FCA Information Systems Bulletins. Additionally, Information Systems Bulletin 92-1 addresses information system risks in mergers and acquisitions.

The FCA proposes, however, to retain § 615.5170(a) because this provision implements the applicable sections of the Act. Sections 1.5(5) and 3.1(5) of the Act authorize each bank, subject to regulation by the FCA, to acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business. Sections 2.2(5) and 2.12(5) of the Act provide associations with similar authorities subject to the supervision by the district bank and regulation by the FCA. Section 615.5170(a) implements these sections of the Act by specifically stating that the ownership of real estate for office quarters of any bank or association "shall be limited to facilities reasonable and necessary to meet the foreseeable requirements of the institution." Furthermore, § 615.5170(a) expressly prohibits any FCS institution from acquiring real property "if it involves, or appears to involve, a bank or association in the real estate or other unrelated business." For safety and soundness reasons, § 615.5170(a) also prohibits banks and associations from directly investing in real estate because such extraneous business activities may increase the exposure of System institutions to loss.

#### *D. Deposits of Funds*

The FCA proposes to repeal § 615.5190. The FCA did not receive any comments concerning § 615.5190(a), but it proposes to repeal this provision. The FCA has determined that § 615.5190(a) is unnecessary because sections 1.5(14), 2.2(10), 2.12(18) and 3.1(12) of the Act provide the requisite authority for FCS institutions to deposit current funds in commercial banks that are either members of the Federal Reserve System, or are insured by the Federal Deposit Insurance Corporation (FDIC).

Two Farm Credit banks recommended that the FCA repeal § 615.5190(b) because there is no statutory basis for requiring the National Bank for Cooperatives (CoBank) to make foreign

<sup>2</sup>Pub. L. No. 100-233, 101 Stat. 1568, (January 6, 1988).

<sup>3</sup>Pub. L. No. 100-399, Section 409(d), 102 Stat. 989, 1003, (August 17, 1988).