

# Rules and Regulations

Federal Register

Vol. 61, No. 13

Friday, January 19, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 3

[Docket No. 95-28]

RIN 1557-AB14

#### Capital; Capital Adequacy Guidelines

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains a correction to the final rule which was published Wednesday, December 20, 1995 (60 FR 66042). The final rule related to the risk-based capital requirements for claims on or guaranteed by a country that is a member of the Organization for Economic Cooperation and Development (OECD).

**EFFECTIVE DATE:** April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey White, Senior International Economic Advisor, International Banking and Finance Department, (202) 874-5235; Saumya Bhavsar, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090; or Ronald Shimabukuro, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, Washington, D.C. 20219.

**SUPPLEMENTARY INFORMATION:** The amendatory instructions to the final rule incorrectly identified paragraphs (c)(20) and (c)(17) of section 1 of appendix A to part 3 as paragraphs (c)(19) and (c)(16), respectively.

#### Correction of Publication

Accordingly, the publication on December 20, 1995, of the final rule which was the subject of FR Doc. 95-30664, is corrected as follows:

On page 66044, in the second column, amendatory instruction 2 to appendix A to part 3, in the second line, "(c)(19)" should read "(c)(20)". On page 66044, in the second column, amendatory instruction 3 to appendix A to part 3, in the second line, "(c)(16)" should read "(c)(17)". On page 66044, in the third column, in the regulatory text, in the second line, "(16)" should read "(17)".

Dated: January 11, 1996.

Eugene A. Ludwig,

*Comptroller of the Currency.*

[FR Doc. 96-555 Filed 1-18-96; 8:45 am]

BILLING CODE 4810-33-P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 231

[Regulation EE; Docket No. R-0912]

#### Netting Eligibility for Financial Institutions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board has amended Regulation EE to clarify that, for purposes of qualifying as a financial institution under Regulation EE, a person may represent that it is a financial market intermediary either orally or in writing. This amendment is intended to remove uncertainty in the financial markets as to the form of such representations.

**EFFECTIVE DATE:** February 20, 1996.

**FOR FURTHER INFORMATION CONTACT:** Oliver Ireland, Associate General Counsel (202/452-3625), or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For users of Telecommunications Device for the Deaf, please contact Dorothea Thompson (202/452-3544).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Federal Deposit Insurance Corporation Improvement Act of 1991 (Act) (Pub. L. 102-242, §§ 401-407; 105 Stat. 2236, 2372-3; 12 U.S.C. 4401-4407) validates netting contracts among financial institutions. Parties to a netting contract agree that they will pay or receive the net, rather than the gross, payment due under the netting contract. The Act provides certainty that netting

contracts will be enforced, even in the event of the insolvency of one of the parties. The Act's netting provisions are designed to promote efficiency and reduce systemic risk within the banking system and financial markets.

The netting provisions apply to bilateral netting contracts between two financial institutions and multilateral netting contracts among members of a clearing organization. Section 402(9) of the Act defines "financial institution" to include a depository institution, a securities broker or dealer, a futures commission merchant, and any other institution as determined by the Board. In addition, the Act's definition of "broker or dealer" (section 402(1)(B)) includes any affiliate of a registered broker or dealer, to the extent consistent with the Act, as determined by the Board.

In 1994, the Board adopted Regulation EE (12 CFR part 231) to expand the application of the Act's netting provisions to a broader range of financial market participants (59 FR 4780, February 2, 1994). Under Regulation EE, persons meeting certain tests based on market activity will qualify as "financial institutions" under the Act. The tests were designed to capture institutions that are significant market participants whose coverage could enhance market liquidity and whose failure without coverage could have systemic risk implications.

The Regulation EE tests have both a qualitative and a quantitative aspect. First, to qualify as a financial institution under the rule, a person<sup>1</sup> must represent that it will engage in financial contracts as a counterparty on both sides of one or more financial markets. Second, the person must meet one of two quantitative thresholds: It must have either (1) had one or more financial contracts of a total gross dollar value of at least \$1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates, or (2) had total gross mark-to-market positions of at least \$100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period.

<sup>1</sup> "Person" is defined broadly to include any legal entity, such as a corporation, partnership, or individual.

with counterparties that are not its affiliates.

#### Form of Representation

Regulation EE does not require a person to make the "market intermediary" representation in any particular form. Some market participants, however, have requested that the Board clarify that the representation can be made orally or in writing. The Board has amended § 231.3(a) of Regulation EE accordingly. The regulation does not require written representations (either as part of a financial contract or outside of the contract). Representations can be made orally and need not be made to a particular counterparty. This amendment should remove any lingering uncertainty in the financial markets as to the form of the representation as well as reduce the burden on any institutions that assumed the representation had to be in writing.

#### Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule applies only to entities with a large volume of financial contracts and, in any case, does not impose any additional requirements on entities affected by the regulation.

#### Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

#### Administrative Procedure Act

The Administrative Procedure Act generally requires agencies to publish a notice of proposed rule making before adopting a final rule (5 U.S.C. 553(b)). In certain circumstances, however, the Act allows an agency to forego to the notice-and-comment process. These circumstances include when the agency for good cause finds that notice and comment are unnecessary or contrary to the public interest (5 U.S.C. 553(b)(B)). The amendment to Regulation EE does not make a substantive change to the rule but rather clarifies that by not specifying a form of representation in the original rule, the Board intended that the representations could be made orally or in writing. The amendment clarifies a market uncertainty and may

reduce burden for any institutions that assumed the representation had to be in writing. For these reasons, the Board finds that public comment is unnecessary and contrary to the public interest. Therefore, the Board finds that this amendment fits within the Act's exceptions from the notice-and-comment procedure.

#### List of Subjects in 12 CFR Part 231

Banks, banking, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR Part 231 is amended as set forth below:

#### **PART 231—NETTING ELIGIBILITY FOR FINANCIAL INSTITUTIONS (REGULATION EE)**

1. The authority citation for Part 231 continues to read as follows:

Authority: 12 U.S.C. 4402(1)(B) and 4402(9).

2. In § 231.3, the introductory text of paragraph (a) is revised to read as follows:

#### **§ 231.3 Qualification as a financial institution.**

(a) A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it represents, orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets and either—

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, January 11, 1996.

William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 96–506 Filed 1–18–96; 8:45 am]

BILLING CODE 6210–01–P

#### **FARM CREDIT ADMINISTRATION**

#### **12 CFR Parts 615 and 620**

**RIN 3052–AB60**

#### **Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Director Elections; Effective Date**

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA) published a final regulation under parts 615 and 620 on November 24, 1995 (60 FR 57919). The final regulation relates to the implementation of cooperative principles to allow greater flexibility in the method by which directors of Farm

Credit System associations and banks for cooperatives are elected, consistent with cooperative principles. The final amendments permit regional election of directors. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the Federal Register during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is January 2, 1996.

**EFFECTIVE DATE:** The regulation amending 12 CFR parts 615 and 620 published on November 24, 1995 (60 FR 57919) is effective January 2, 1996.

#### **FOR FURTHER INFORMATION CONTACT:**

John J. Hays, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Rebecca S. Orlich, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: January 11, 1996.

Floyd Fithian,

*Secretary, Farm Credit Administration Board.*  
[FR Doc. 96–526 Filed 1–18–96; 8:45 am]

BILLING CODE 6705–01–P

#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. 95–NM–229–AD; Amendment 39–9483; AD 96–01–07]**

#### **Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection to verify that the attachment screws at a pressure switch located on the trim tank fuel transfer line are properly torqued, and that lockwires are installed. This amendment is prompted by reports of loose screws and missing lockwires at this attachment. The actions specified in this AD are intended to prevent loose or missing screws, which could allow fuel