

March 11, 2010



Fact Sheet on Director Elections Final Rule

On March 11, 2010, the Farm Credit Administration (FCA) Board approved a final rule that will clarify director election processes and update FCA regulations to incorporate interpretations made through bookletters to Farm Credit System (FCS) institutions. The final rule also consolidates general election procedures, clarifies the role of nominating committees, enhances eligibility and disclosure requirements for director candidates, and improves annual meeting information statement instructions and disclosures. The rule also adds new regulations on floor nominations and meetings of stockholders.

Objectives of the Final Rule

- Strengthen the independence of the nominating committees;
- Encourage greater stockholder participation in the director election process;
- Ensure that procedures on floor nominations are equitable and made known to stockholders;
- Clarify director election procedures;
- Enhance impartiality and disclosure in director elections;
- Incorporate FCA interpretations provided in previously issued bookletters into our regulations, and
- Reorganize our rules so that director elections processes and voting matters are in Part 611 and disclosures relating to director elections are in Part 620 of our rules.

Significant Provisions of the Final Rule

Stockholder Meetings

- Requires associations to hold annual stockholder meetings and encourages Farm Credit banks to hold annual or periodic meetings of stockholders. Establishes minimum requirements for banks and associations that want to hold their annual stockholder meetings online (which would allow a virtual floor from which floor nominations can be made), as long as a session of the annual meeting also takes place at a physical meeting space.

Associations as Stockholders of the Bank

- Allows Farm Credit banks to permit their stockholder-associations appropriate and reasonable use of association resources, property, and facilities to support a director candidate in bank director elections due to the associations' status as voting stockholders in the bank. Farm Credit banks must have policies and procedures specifically authorizing this activity. The bank's policy would need to consider the various sizes of stockholder-

associations in the district and include a maximum amount that a stockholder-association could expend to support a bank director candidate.

Director Eligibility

- Clarifies that a person is not eligible to be a director candidate in an upcoming election if that person was elected to the nominating committee and attended any meeting called by the nominating committee.
- Provides that voting stockholders with out-of-territory loans are eligible to serve as directors unless the association's bylaws prohibit it. If prohibited by the bylaws, the association would be required to inform such borrowers of their ineligibility in writing when the loan is made.

Nominating Committees

- Requires institutions to establish and maintain policies and procedures for its nominating committee that comply with FCA regulations on nominating committees.
- Provides that voting stockholders with out-of-territory loans are eligible to serve as nominating committee members unless the association's bylaws prohibit it. If prohibited by the bylaws, the association would be required to inform such borrowers of their ineligibility in writing when the loan is made.
- Requires institutions to establish procedures that provide stockholders the opportunity to vote on candidates for each nominating committee position.
- Allows a person elected to the nominating committee to resign his or her position and run as a director candidate as long as the person elected did not attend any meeting of the nominating committee.
- Limits the nominating committee's responsibilities to those defined by regulation. At the institution's discretion, a responsibility may include having the nominating committee identify candidates for next year's nominating committee.
- Requires the nominating committee to maintain records of its meetings, including attendance.

Floor Nominations

- Incorporates the floor nomination provisions from FCA's booklet (BL-055) and requires the institution to develop policies and procedures for making and accepting floor nominations.
- Requires no more than a second by a voting stockholder to any nomination from the floor.
- Requires the institution to explain the procedures for making floor nominations in the Annual Meeting Information Statement.

Annual Meeting Information Statements (AMIS)

- Requires institutions to issue their AMIS no earlier than 30 business days and no later than 10 business days before the meeting. Also requires the AMIS to be filed with FCA electronically when issued.
- Requires the AMIS to describe balloting procedures to be used for electing nominating committee members, including whether floor nominations for nominating committee members are permitted.
- Requires the AMIS to describe procedures for making nominations from the floor. Associations must allow floor nominations; banks may choose to allow floor nominations.

Impartiality in Director Elections

- Restricts a director, in his capacity as a director, from actively campaigning on behalf of other director candidates while recognizing that, as a *stockholder*, the director has a right to express his views on a director candidate.

- Affirms a director's right to campaign on his/her own behalf as a director candidate for re-election.

Voting and Voting Rights

- Requires an institution's bylaws to define its quorum requirement for stockholder meetings.
- Requires those associations that divide their territory into regions for nomination and/or election purposes to assign a voting stockholder with an out-of-territory loan to a particular region.

The rule will be effective 30 days after publication in the Federal Register during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the Federal Register.