



AgCountry Farm Credit Services, ACA Capitalization Bylaws

ARTICLE VIII – CAPITAL STOCK AND PARTICIPATION CERTIFICATES

800 Authorization, Classes, Par or Face Value

The Association is authorized to issue and have outstanding such amounts of stock as are necessary to meet the capital adequacy standards under the Regulations and is specifically authorized to issue:

- 800.1 **Class B Common Stock** – An unlimited number of shares of Class B Common Stock with a par value of \$5.00 per share;
- 800.2 **Class C Common Stock** – An unlimited number of shares of Class C Common Stock with a par value of \$5.00 per share;
- 800.3 **Class D Common Stock** – Up to 500 million shares of Class D Common Stock with a par value of \$5.00 per share;
- 800.4 **Class E Participation Certificates** – An unlimited number of Class E Participation Certificates with a face value of \$5.00 per share;
- 800.5 **Preferred Stock** – Preferred Stock in the amounts and subject to the conditions and limitations set forth in Section 820.6. Issuance of classes of preferred stock shall be approved by a majority of the shares voting of each class of equities adversely affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote.

Other Classes of Stock – Such number of shares of such other classes of capital stock including preferred stock, as may be provided for in an amendment to these Bylaws adopted from time to time, as provided in Articles VIII and XV.

810 Minimum Capital Requirement

810.1 Loans

Any time that a borrower obtains a loan from the Association, such borrower shall be required to own Class B Common Stock or Class E Participation Certificates having an aggregate par value or face amount equal to a minimum of 2 percent or \$1,000, whichever is less, of such borrower's aggregate outstanding loan balance (including the amount of the new loan) or such greater amount, not to exceed \$5,000 as may be determined by the Board from time to time.

810.2 Leases

As a condition of obtaining an equipment lease, facility lease, or other lease from the Association, the lessee shall be required to own Class B Common Stock or Class E Participation Certificates in an amount as may be determined by the Board from time to time, which amount may not be less than the ownership requirement set forth in the Act or Regulations and in any event which amount may not be less than one share for an equipment lease.

810.3 Secondary Market Loans

Notwithstanding any other provisions of these bylaws, no purchase or issuance of voting stock or participation certificates shall be required in the case of a loan made on or after February 10, 1996, that is designated at the time the loan is made for sale into the secondary market. Except, however, if the loan so designated for sale is not sold into the secondary market during the 180 days beginning on the date of designation, the stock and participation certificate purchase requirements shall apply. If the loan is sold into the secondary market after the end of the 180-day period, the stock and participation certificates shall be retired provided that the Association would not, after or due to such retirement, fail to meet the applicable minimum capital adequacy standards established by FCA pursuant to the Act or Regulations.

810.4 Authorization Event

In the event of an Authorization Event under Section 210 hereof, a borrower's required investment in Association stock/participation certificates (and the required conversion of such investment into a different class of equity) shall be determined by reference to the borrowing relationship with Association and the Subsidiaries, as the case may be. Accordingly, upon an Authorization Event, all references to loans outstanding and outstanding loan balances shall include loans held or originated by the Subsidiaries.

820 Rights, Preferences and Limitations of Classes of Stock

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- 820.1** **Class B Common Stock** – Class B Common Stock shall be issued solely to a farmer, a rancher, or a producer or harvester of aquatic products, who is a borrower or about to become a borrower. Class B Common Stock shall have voting rights as approved in Section 450.1. Each holder of Class B Common Stock shall hold at least one share of such stock as long as the holder continues as a borrower with the Association. Within two years after the holder terminates its borrowing relationship with the Association, any outstanding Class B Common Stock shall be converted to non-voting Class C Common Stock.
- 820.3** **Class C Common Stock** – Class C Common Stock may be issued to holders of Class B Common Stock in exchange for such stock within two years after the borrowing relationship is discontinued. Class C Common Stock shall have no voting rights.
- 820.4** **Class D Common Stock** – Class D Common Stock may be issued for allocated surplus distributions (Section 920), dividend payments (Section 930) and patronage distributions (Section 940). Class D Common Stock shall have no voting rights.
- 820.5** **Class E Participation Certificates** – Class E Participation Certificates shall be issued to persons or organizations furnishing farm related services to capitalize their loans and to other persons or organizations who are eligible to borrow or participate in loans but are not eligible to hold voting stock and to the persons or organizations purchasing financially related services. Class E Participation Certificates shall have no voting rights.

820.6

820.6.10. Authorization. The Association is authorized to issue preferred stock (“Preferred Stock”) with an aggregate par value of up to [●] million from time to time in one or more series or as may otherwise be limited by applicable regulations. The par value of each share of Preferred Stock may vary by series. Preferred Stock may be issued for consideration to any person or entity that qualifies as a “qualified institutional buyer” (as such term is defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”), institutional “accredited investor” (as such term is defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act), or other such investor approved by the FCA at the time of issuance thereof. Preferred Stock shall not be issued as patronage distributions. Each series of Preferred Stock shall be subject to any transfer restrictions, minimum purchase amounts, and limitations on eligible purchasers imposed by the FCA at the time of issuance thereof. Preferred Stock may not be converted into any class of stock other than another series of Preferred Stock. Preferred Stock may be in certificate or book-entry form at the Board’s option. In either case, ownership shall be confirmed and transfers registered by the Association or by a registrar or a transfer agent retained by the Association.

820.6.20. Rights of Series. Preferred Stock may be issued from time to time by resolution of the Board in one or more series, each series being so designated as to distinguish the shares thereof from the shares of all other series. Subject to the limitations set forth in these Bylaws, all or any of the series of Preferred Stock and the relative rights and preferences between series may be fixed and determined by the Board in a certificate of designation adopted by the Board. The rights and preferences of each series of Preferred Stock, when established as set forth herein, shall be deemed to be part of this Article VIII.

820.6.30. Dividends. Preferred Stock shall bear either cumulative or non-cumulative dividends payable in arrears, when, as and if declared by the Board out of legally available funds. Preferred Stock shall be entitled to a preference both as to dividends (and other distributions including patronage distributions) and upon liquidation, dissolution and winding up over all of the Association’s common stock, participation certificates, and allocated surplus (collectively, “Junior Stock”).

820.6.40. Redemption. Preferred Stock is redeemable as specified in the terms of the particular series of Preferred Stock. The terms of a series of Preferred Stock may allow redemptions of the shares of such series, in part or whole: (a) upon a specified maturity date; (b) at the option of the Association, on or after the expiration of a specified “no-call” feature (or at any time if there is no such feature); or (c) at the discretion of the Association, on or after a “Regulatory Event” as specified in the terms of the Preferred Stock, or any combination of the foregoing. Any redemption at the option of the Association shall be at the sole discretion of the Board and subject to any required approval of the FCA or any other governmental or regulatory body applicable to the Association. Each redemption of Preferred Stock shall be at par value, not to exceed book value, plus accrued and unpaid dividends to the redemption date for cumulative Preferred Stock, and at par value, not to exceed book value, plus (to the extent provided in the terms of the Preferred Stock) declared and unpaid dividends for prior dividend periods and accrued and unpaid dividends (whether or not declared) for the then current dividend period to the redemption date for non-cumulative Preferred Stock. Any redemption of Preferred Stock is subject to Regulations and shall not occur unless the Association is in compliance with the minimum capital adequacy standards in the Regulations (including subpart H of part 615 and part 628). Redemption of Preferred Stock may require prior approval by the FCA.

- 820.7** **Fractional shares of Stock** – No fractional shares of stock or cash in lieu of fractional shares will be issued or paid.
- 820.8** **Stockholder** – The term “stockholder” may mean a holder of stock or a holder of participation certificates.
- 820.9** **Prohibition to cumulate votes** – In no election of directors or any other matter will Voting Stockholders be permitted to cumulate votes.

830 Ownership

Ownership of stock or participation certificates may be by book entry or in definitive certificate form as determined by the Board in accordance with the Regulations. All matters related to the ownership and transfer of Preferred Stock shall be as set forth in Section 820.6.

840 Transferability

840.1 **Stock and Participation Certificates** – Class B, C, and D Common Stock and Class E Participation Certificates shall be transferable to any holder to which such respective classes may be issued in accordance with Section 820, provided that until the Association meets the minimum permanent capital standard enacted by the FCA pursuant to the Regulations or otherwise, all equities required to be purchased pursuant to Section 810 as a condition of obtaining a loan shall be purchased from the Association, and not from other Stockholders.

840.2 **Stock transfer agent** – The Association shall be its own transfer agent in all matters relating to its capital stock.

850 Conversions

850.1 **Stock into any other class of stock** – Each class of stock may be converted into any other class of stock for which the holder is eligible as enumerated in Section 820.

850.2 **Class B Common Stock** – Class B Common Stock shall be converted into Class C Common Stock within two years after the holder ceases to be a borrower.

860 Retirements

860.1 **Ordinary course of business retirement** – Subject to Section 4.9A of the Act, and these Bylaws, the Board is authorized to retire all or any portion of any class of stock and participation certificate as it may, in its sole discretion, determine as unnecessary to meet the capital requirements of the Association and such retirement shall not be on a date certain or on the happening of an event such as repayment of a loan or pursuant to an automatic retirement or revolvment plan. All common stock and participation certificates shall be retired at par or face value not to exceed book value; provided that, the Association shall not retire stock if the action would result in failure of the Association to meet minimum capital adequacy requirements established under the Regulations, including those established in part 615 (subpart H) and part 628; and provided further, that it shall retain one share of voting stock for each Voting Stockholder continuing to do business with the Association in accordance with these Bylaws. Retirements of Preferred Stock shall be as provided in Section 820.6.40.

860.2 **Mandatory reinvestment from retirement proceeds** – If at the time of any stock retirement any Stockholder's investment is below the amount established by the minimum capital requirement, or if retirement should cause the Stockholder's investment to fall below the minimum capital requirement, the Association is authorized to use part of the retirement proceeds to increase the Stockholder's investment to such minimum requirement.

870 Lien

Except with regard to stock or participation certificates held by other System institutions, the Association shall have set-off rights and first lien on all stock and participation certificates (other than Preferred Stock), surplus accounts and distributions thereof, and other equities in the Association owned by any borrower as additional collateral for any indebtedness of the borrower to the Association and Subsidiaries. When the debt of a borrower is in default, the Association may order retirement of any stock or participation certificates held by the borrower and the proceeds thereof applied against the indebtedness to the Association and the Subsidiaries, as the case may be.

880 Distribution Upon Liquidation

880.1 **Distribution of remaining assets to Stockholders** – In the event of liquidation or dissolution of the Association, any assets of the Association remaining after payment or retirement of all liabilities shall be distributed to the holders of stock and participation certificates in the following order of priority:

880.11 **Holders of Preferred Stock** – First, ratably to the holders of Preferred Stock, in proportion to the number of shares of such Preferred Stock then issued and outstanding and consistent with the terms of such Preferred Stock until an amount equal to the liquidation preference provided for in the terms of such Preferred Stock established pursuant to this Article VIII of all such shares has been

distributed to such holders (except that, if the shares of Preferred Stock of different series have different priorities upon liquidation as contemplated by Section 820.6, distribution shall be first made to the more senior series in accordance with their ranking up to the amount equal to their respective liquidation preferences before distributions are made to the more subordinated series).

- 880.12** **Holders of Classes B, C and D Common Stock and Class E Participation Certificates** – To the holders of Classes B, C, and D Common Stock and Class E Participation Certificates, pro rata in proportion to the number of shares or units of each such class of stock then issued and outstanding, until an amount equal to the aggregate book value not to exceed par or face value of all such shares or units has been distributed to such holders.
- 880.13** **Holders of qualified allocated surplus** – To the holders of allocated surplus evidenced by qualified written notices of allocation, pro rata on the basis of the oldest allocations first, until an amount equal to the total account has been distributed to the holders.
- 880.14** **Holders of nonqualified allocated surplus** – To the holders of allocated surplus evidenced by nonqualified written notices of allocation, pro rata on the basis of the oldest allocations first, until an amount equal to the total account has been distributed to the holders.
- 880.15** **Remaining assets after distribution** – Any remaining assets of the Association after such distribution shall be distributed to present and former Patrons (including patrons of any predecessor System institution) in the proportion to which the aggregate patronage of each such party bears to the total patronage of all such parties insofar as practical unless otherwise provided by law.

890 Amendments Respecting Capitalization

Any amendment to Articles VIII and IX hereof, or to the capitalization bylaws of any Subsidiaries, other than those strictly of a technical nature not affecting substantive rights, shall not become effective unless approved by the Voting Stockholders voting, in person or by proxy, at a duly authorized Stockholders' meeting. Any issuance of preferred stock by the Association or any Subsidiary must be approved by a majority vote of the shares voting of each class of equities of the Association adversely affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote.

ARTICLE IX – EARNINGS, SURPLUS, ALLOCATED SURPLUS, DIVIDENT AND PATRONAGE DISTRIBUTIONS

900 Application of Earnings or Losses

- 900.1** **Application of earnings** – At the end of each fiscal year, the Association shall apply its earnings for such fiscal year as follows and in the order listed:
- 900.11** **Operating expenses** – To cover operating expenses, including provision for loss expense on assets as provided by law and in accordance with generally accepted accounting principles;
- 900.12** **Impairment of capital stock and participation certificates** – To restore the amount of any impairment of capital stock and participation certificates in the reverse order of impairment;
- 900.13** **Allocated surplus** – To restore the amount of any impairment of the allocated surplus account in the reverse order of impairment;
- 900.14** **Unallocated surplus account** – To create and maintain an unallocated surplus account as provided in Section 910 of these Bylaws; and to an allocated surplus account if the Association chooses to establish such an account; and
- 900.15** **Dividends and patronage refunds** – To pay dividends and patronage distributions as provided in these Bylaws, subject to FCA Regulations.
- 900.2** **Application of losses** – In the event of a net loss for any fiscal year, after applying earnings for such fiscal year as provided in 900.1 above, such loss shall be absorbed by:
- 900.21** **Unallocated surplus** – Charges to the unallocated surplus account;
- 900.22** **Allocated surplus account** – The impairment of the allocated surplus account in the manner determined by the Board;
- 900.23** **Classes B, C and D Common Stock and Class E Participation Certificates** – Concurrent impairment of Classes, B, C and D Common Stock and Class E Participation Certificates.
- 900.24** **Preferred Stock** – The impairment of each share of Preferred Stock in accordance with the terms of the Preferred Stock.

910 Surplus Account

The Association shall create and maintain an unallocated surplus account and may maintain an allocated surplus account. The minimum aggregate amount of these two accounts shall be prescribed by the Board. At the end of any fiscal year that the surplus accounts otherwise would be less than the minimum amount prescribed by the capital adequacy requirements prescribed by the FCA and the Board, the Association shall apply earnings for the year to the unallocated surplus account in such amounts as may be necessary to meet these requirements. Except as provided in Section 900, the unallocated surplus account may not be reduced below the minimum aggregate amount prescribed by the Board.

920 Allocated Surplus Account

920.1 Create and maintain an allocated surplus account – The Board may create and maintain an allocated surplus account consisting of earnings held therein and allocated to borrowers on a patronage basis pursuant to Section 940. Allocated surplus may be issued as either “qualified written notices of allocation” or “non-qualified written notices of allocation,” or both, as those terms are defined under Section 1388 of the Code as follows:

- (a) All allocations in the form of qualified written notices of allocation shall be issued in annual series and shall be identified by the year of issuance. Each such series shall be retired fully or on a pro rata basis, only at the discretion of the Board, in order of issuance by year as funds are available.
- (b) All allocations in the form of non-qualified written notices of allocation shall be issued in annual series and identified by the year of issuance. Each annual series may be subdivided between two or more classes. Each such series, or class thereof, shall be retired at the sole discretion of the Board.

Only those persons to which allocated surplus may be issued may own such allocated surplus. In the event of a net loss for any fiscal year, such allocated surplus account shall be subject to impairment as provided Section 900.2.

The Association shall not retire allocated surplus if the action would result in failure of the Association to meet minimum capital adequacy requirements established under the Regulations, including those established in part 615 (subpart H) and part 628.

920.2 First lien on all surplus account allocations – The Association and its Subsidiaries, as applicable, shall have a first lien on all surplus account allocations owned by any borrower, and all distributions thereof, as additional collateral for the borrower’s indebtedness to the Association and any Subsidiary.

920.3 Default or in process of final liquidation – When the debt of a borrower is in default or is in the process of final liquidation by payment or otherwise, the Association may order any and all surplus account allocations owned by such borrower to be applied on the indebtedness. Any such retirement and application of surplus account allocations to indebtedness may be before or after similar retirement and application of other stock or participation certificates owned by the borrower.

920.4 Stock and participation certificates – Whenever all of the stock and participation certificates of the Association owned by a borrower are retired or otherwise disposed of and the Association meets the requirement of Section 910, any surplus account allocations owned by such borrower may also be retired upon request of the owner and approval of the Board, and the proceeds paid to the owner. Alternatively, if the Association directs, such surplus account applications may be applied against any of the borrower’s indebtedness to the Association and any Subsidiary.

920.5 Minimum aggregate amount of surplus account – Provided the minimum aggregate amount of the surplus account prescribed by the FCA is maintained, allocated surplus may be distributed in Class D Common Stock, cash, any form of property or property right, or any combination thereof, at the time and in the manner determined by the Board in its compete discretion. The cash proceeds may be applied against the indebtedness of the borrower to the Association. In no event shall such distributions reduce the surplus account below the minimum capital amount prescribed by the capital adequacy requirements of the FCA. Distributions of less than the full amount of all allocations issued as of the same date shall be on a pro rata basis.

920.6 Tax classification – All qualified notices of allocation shall satisfy the definition of a “qualified written notice of allocation” as defined in Section 1388 of the Code. All nonqualified notices of allocation shall satisfy the definition of a “nonqualified written notice of allocation” as also defined in Section 1388 of the Code.

920.7 Record of holders – A record of the holders of allocated surplus shall be kept and maintained by the Association. Allocations of “qualified” amounts will be maintained separately from allocations of “nonqualified” amounts. Such surplus accounts shall be transferable only to the Association or to an eligible Stockholder of the Association in the manner established by the Board, and no transfer thereof shall be binding upon the Association unless so transferred on the books of the Association.

920.8 **Other.** No distribution or redemption of allocated surplus will be declared, paid or set aside for payment, unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been declared and paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term (non-perpetual) Preferred Stock that are required to be redeemed prior to that date.

930 Dividends

930.1 **Declaration of dividends** – In accordance with the Act, and Regulations, non-cumulative dividends may be paid on the common stock and participation certificates of the Association, as the Board may determine by resolution. A dividend may be declared only if at the time of the declaration thereof no class of stock shall be impaired. Dividends may not be paid if the action would result in failure of the Association to meet minimum capital adequacy requirements established by the FCA (including subpart H of part 615 and part 628).. Such dividends may be paid on all classes of stock and participation certificates on a per share basis provided, however, that such dividends shall not exceed eight percent (8%) per share per annum. No dividend shall be paid on common stock and participation certificates in any year with respect to which the Association is obligated to pay patronage as provided under Section 940. Any dividend on preferred stock, if authorized, shall be in addition to amounts otherwise payable to patrons under Section 940. Such dividends are in addition to amounts otherwise payable to Patrons which are derived from business done with or for Patrons during the fiscal year. No dividends on any class of common stock or participation certificates will be declared, paid or set aside for payment unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been declared and paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term (non-perpetual) Preferred Stock required to be redeemed prior to that date.

930.2 **Paid on effective date of declaration** – Dividends may be paid to holders of record on the effective date of declaration.

930.3 **Paid in cash and/or Class D Stock** – Dividends on capital stock and participation certificates may be paid in cash, Class D stock, or partly in cash and partly in such stock. If any part of the dividend to be paid in stock is less than \$5.00, that part may be distributed in cash or held by the Association and cumulated with subsequent dividends until such retained dividends equal \$5.00, so that the dividends may be distributed as one whole share of stock.

930.4 **If a borrower's loan is in default**, any part of the dividend distribution to that borrower may, at the discretion of the Association, be applied against the borrower's indebtedness to the Association and any Subsidiary.

930.5 Dividends on Preferred Stock shall be as set forth in Section 820.6.30.

930.6 Notwithstanding other provisions of this Section, dividends may not be declared unless the Association, after recording the dividend, will meet minimum capital adequacy requirements under Regulations (including subpart H of part 615 and part 628).

940 Patronage Refunds

940.1 **Distribution of patronage.** Subject to the provisions of the Act, Regulations and these Bylaws, prior to the beginning of any fiscal year or other period, the Association's Board may, by adoption of a resolution (the "Patronage Resolution"), obligate the Association to distribute, as a patronage dividend, its available "Patronage-Sourced Net Earnings" for such fiscal year or other period or for that and subsequent fiscal years. Patronage-Sourced Net Earnings shall mean the net earnings of the Association and its Subsidiaries from loans and other transactions identified as patronage business ("Patronage Business" or "Patronage Transactions") in the Patronage Resolution. Stockholders and other parties with or for whom the Association conducts Patronage Business ("Patrons") shall have the right to share in the patronage dividend on the basis of the quantity or value of their respective Patronage Business. Any outstanding Patronage Resolution that is not rescinded prior to the beginning of the period to which it relates shall become irrevocable and constitute a binding legal obligation of the Association with respect to such period. Each transaction qualifying as Patronage Business shall include as part of its terms, whether the same has been expressly referred to in said transaction or not, the provisions of this Article IX of the Bylaws.

For the period commencing on the effective date of these Bylaws, the Association shall be obligated to distribute its Patronage-Sourced Net Earnings on a patronage basis in accordance with a resolution adopted at the first Board meeting on said effective date.

- 940.2** **Proportionate distribution.** All patronage distributions shall be paid to Patrons in proportion to the amount or value of Patronage Business done by the Association, and its Subsidiaries with or for each Patron, as determined by the Board on an equitable and nondiscriminatory basis, and within the payment period prescribed by 26 U.S.C. 1382(d). A Patron who pays interest or otherwise contributes to the Association's consolidated net income, as applicable, during the distribution period for which the patronage distribution is made shall be entitled to receive a pro-rata share of the patronage distribution regardless of whether the Patron continues to be a stockholder or borrower of the Association, or its Subsidiaries on the date the declaration of the patronage distribution is made. The Board may establish, on a fair and equitable basis, separate patronage pools or allocation units for Patronage Business transactions of the same type or with similar characteristics. The Board shall determine the amounts and forms of patronage distributions from each pool on a fair and equitable basis.
- 940.3** **Restrictions on distributions** – The available Patronage Sourced Net Earnings for patronage distribution shall be determined after (i) making provision for the requirements of Section 900.1, including the setting aside of a portion of the net earnings in the unallocated surplus account, as deemed prudent for sound capital accumulation; and (ii) making provision for payment of the Association's federal income or related taxes for the fiscal year; provided, that, these amounts shall first come from net earnings, if any, attributable to sources other than patronage transactions with or for Patrons and any non-patronage-sourced net earnings not so applied shall be set aside in the unallocated surplus account. The Board in its resolution may establish a minimum level of available earnings and if the available earnings fall below this level no patronage distribution will be made. Earnings from transactions that do not constitute Patronage Business will be set aside and applied to unallocated surplus. No patronage distributions will be declared, paid or set aside for payment, unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been declared and paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term (non-perpetual) Preferred Stock that are required to be redeemed prior to that date.
- 940.4** **Payment of distributions** – Patronage refunds may be in cash, Class D Common Stock, allocations of earnings retained in an allocated surplus account, any form of property or property right, or any combination thereof; provided that the cash portion of any patronage distribution which includes a "qualified written notice of allocation" shall not be less than the amount required to qualify such distribution as a deduction for Federal income tax purposes. Any portion of a patronage distribution made in the form of Class D Common Stock which is not a multiple of \$5.00 may be distributed in cash or held by the Association for the borrower and included in subsequent distributions. Distributions in the form of Class D Common Stock and allocated surplus may be in qualified or nonqualified form, as those terms are defined in Section 1388 of the Code.
- In the event that the total patronage distribution to a Patron is less than the minimum amount or amounts as determined annually by the Board, prior to the end of the taxable year, such distribution may be retained by the Association, paid entirely in cash or applied to the Patron's indebtedness.
- 940.5** **Application to debt** – Any part of the patronage allocated to a borrower, except any portion required to be allocated in cash, may, in the sole discretion of the Association, be applied to such borrower's indebtedness to the Association and its Subsidiaries. If the debt of a borrower is in default, any part of the patronage distribution to that borrower may, at the discretion of the Association, be applied against the borrower's indebtedness to the Association and its Subsidiaries.
- 940.6** **Patron's consent to take patronage distribution into income** – Each person who hereafter applies for and receives voting stock in this Association and each Voting Stockholder on the effective date of this Bylaw who continues as a Voting Stockholder after such date, and each person who thereafter applies for and is issued stock or participation certificates of this Association shall, by such act of stockownership alone, consent that the amount of any distributions with respect to the Stockholder's patronage occurring after the date these Bylaws were adopted, which are made in or evidenced by "qualified written notices of allocation" as defined in Section 1388 of the Code, including patronage allocations of surplus account and patronage refunds paid in Class D Common stock of the Association, and which are received by the Stockholder's from the Association, will be taken into account (as income) by the Stockholder at their stated dollar amounts in the manner provided in Section 1385(a) of the Code in the taxable year in which such written notices of allocation are received by the member. The foregoing consent shall not apply to any written notice of allocation expressly designated as "nonqualified." Such Stockholders also consent by such act alone, to take into account (as income) in the same manner, the amount of any distributions with respect to patronage if the Stockholders receives written notice that such amount has been applied on the Stockholder's indebtedness to the Association or its Subsidiaries.

Consent under this paragraph shall be continuing in effect, provided that it shall cease to be effective with respect to patronage of a distributee occurring after the distributee has ceased to hold stock or participation certificates of the Association.

The Association may obtain the written consent of each Patron that the amount of any distributions with respect to the Patron's patronage, which are made in or evidenced by qualified written notices of allocation (as defined in Section 1388 of the Code), including patronage allocations of surplus accounts, patronage refunds paid in Class D Common Stock or distributions with respect to patronage that has been applied to the Patron's indebtedness to the Association or its Subsidiaries, and for which the Patron has received written notice, will be taken into account (as income) by the Patron at the stated dollar amount in the manner provided in Section 1385(a) of the Code in the taxable year in which such written notices of allocation are received by the Patron. The foregoing consent shall not apply to any written notice of allocation expressly designated as "nonqualified." Such written consent may include a consent to take into account as income in the same manner the amount of any distributions with respect to patronage provided he or she receives written notice that such amount has been applied on his or her indebtedness to the Association or its Subsidiaries. The form of consent shall be prescribed by the Board and may be included as part of the loan application or other appropriate form signed by borrowers. Consent may also be obtained by use of a qualified check in the manner provided for in Section 1388 of the Code. Consent obtained under the paragraph (other than consent by qualified check) may be revoked in writing, provided that such revocation shall become effective only with respect to patronage occurring on or after the first day of the first fiscal year of the Association beginning after the revocation is filed with the Association.

940.7 **Capital adequacy standards** – Notwithstanding other provisions of this section, the Association may not obligate itself to distribute earnings on a patronage basis if the permanent capital of the Association would be reduced to the extent that the Association would not meet its capital adequacy standards as determined from time to time in accordance with the Regulations (including subpart H of part 615 and part 628).

940.8 **Discretionary retirement** – If, at any time, the Board in its sole discretion shall determine that the financial condition of the Association shall not be impaired thereby, the patronage allocated to the accounts of Patrons may be retired in full or in part. No legal or equitable right to payment or redemption shall exist unless and until the Board shall have determined that funds are available and until the holder of allocated patronage shall have responded to a call for payment duly issued by the Board. Any such retirement of allocated patronage shall be made in such order of priority as shall be determined by the Board in its sole discretion.

Notwithstanding any other provision of these bylaws, the Board, in its sole discretion, shall have the power to retire the patronage allocated to any Patron in such events as death or bankruptcy, or to settle a dispute, on such terms and conditions as may be deemed appropriate by the Board, or in any instance in which the interests of the Association and its Stockholders are deemed to be furthered thereby; and funds are determined by the Board to be available for such purpose.

940.9 **Subsidiaries** – In the event of an Authorization Event under Section 210 hereof, where the Association arranges for the provision of credit and/or related services to its Patrons through the Subsidiaries, and such Patrons avail themselves of the arrangements made and maintained by the Association by borrowing or acquiring related services from the Subsidiaries, all net earnings or loss attributable to such provision of credit and/or related services shall be treated as net earnings or loss of the Association from business done with Patrons and all business done with the Subsidiaries shall be treated as business done with the Association.

950 Other Distributions on a Patronage Basis

In the Board's discretion, the Association may make other distributions on a patronage basis in cash, stock, allocations of surplus, any form of property or property right, or any combination thereof, from funds legally available therefore, when, as and if declared by the Board. Such distributions will be made to such Stockholders and other Patrons, and on such proportionate patronage basis from one or more patronage pools, as determined by the Board in the resolution declaring the distribution. Any such distribution shall be in addition to amounts otherwise payable to Patrons under Section 940 and, accordingly, shall be treated as coming from net earnings and surplus attributable to transactions that are not classified as patronage business under Section 940.

960 Limitations on Lending

The total amount of all loan participations that the Association may have outstanding to a single credit risk eligible as a similar entity under FCA Reg. § 613.3300 shall not exceed twenty-five (25) percent of the Association's total capital.