

Farm Credit East, ACA, PCA, and FLCA – Capitalization Bylaws

ARTICLE VIII-- CAPITALIZATION

800 Capital Stock and Participation Certificates

800.1 Authorization, Classes, Par or Face Value

Subject to any limitations set forth in Section 810 of this Article, the Association is authorized to have outstanding in such amounts as is necessary to conduct its business voting and nonvoting common stock, preferred stock and nonvoting participation certificates of the types and classes described below. Each share of stock or unit of participation certificates shall have par or face value of \$5.00. Fractional shares of stock or participation certificates shall not be issued. All transfers, exchanges, conversions, and retirements of stock and participation certificates shall be at book value not to exceed par value.

800.2 Ownership

The ownership of capital stock and participation certificates shall be as recorded on the books of the Association. Evidence of ownership may be in book entry form or in such other form as is approved by the Association Board or the FCA.

800.3 Transfer

Stock and participation certificates may be transferred to persons or entities eligible to receive and hold such stock or certificates as described in Section 810 of these Bylaws. The Association shall be its own transfer agent in all matters relating to its stock and participation certificates. Transfers of stock or participation certificates shall not be valid unless recorded on the books of the Association.

810 Issue

810.1 Class B Common (Voting) Stock

Class B Common Stock shall be issued in an unlimited amount to bona fide farmers, ranchers, or producers or harvesters of aquatic products, who are, or are about to become, a borrower from the Association, PCA or FLCA.

Class B Common Stock shall be retired at the discretion of the Association Board. If retired, Class B Common Stock shall be retired at its book value, not to exceed par value, and it may be retired in accordance with Sections 830.5 and 830.6 hereof.

Class B Common Stock is not “protected” under the 1987 Act, and such stock has the voting rights described in Section 450 hereof. Voting Members shall be accorded the right to vote in the election of each director. Such votes may not be cumulated by the shareholder for distribution among director candidates at the shareholder's discretion.

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Within two (2) years after the loan of a borrower holding Class B Common Stock is repaid in full, any voting stock held by the borrower shall be converted to Class C Common Stock.

810.2 Class C Common (Nonvoting) Stock

Class C Common Stock may be issued in an unlimited amount for the following purposes: (i) in exchange for Class B Common Stock within two years after the holder's loan has been repaid; (ii) for allocated surplus distributions; (iii) for dividend payments; and (iv) for patronage refunds. In addition, up to 10,000,000 shares of Class C Common Stock may be issued to the ACB or to such other persons or entities as may desire to own stock in this Association as may be permitted under a plan adopted by the Board of this Association and in accordance with applicable regulations.

Class C Common Stock shall be retired at the discretion of the Association Board, and if retired, it shall be retired at its book value, not to exceed par value. Class C Common Stock shall have no voting rights.

810.3 Class D Preferred (Nonvoting) Stock

Up to 50 million shares of Class D Preferred Stock may be issued to investors or others when authorized by a majority of the shares 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.

Class D Preferred Stock shall have no voting rights, and it shall be retired at the discretion of the Association Board in accord with Section 830.4.

Each issue of preferred stock, including Class D Preferred Stock, must be approved by the majority of the shares of each class of equities adversely affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote.

810.4 Class B Participation Certificates (Nonvoting)

Class B Participation Certificates shall be issued to borrowers who are rural residents or to persons or entities furnishing farm-related services to capitalize their loans; and to other persons or entities who are eligible to borrow or participate in loans made by this Association but who are not eligible to hold voting stock. Class B Participation Certificates may be issued in an unlimited amount.

Class B Participation Certificates may be issued to any person or entity who is not a Member but who is eligible to borrow from the Association for the purpose of qualifying such person for technical assistance, financially related services and leasing services offered by this Association.

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Class B Participation Certificates shall have no voting rights, and they shall be retired at the discretion of the Association Board. If retired, such certificates shall be retired at book value not to exceed par value. Participation certificates may be retired under Sections 830.5 and 830.6 hereof.

Class B Participation Certificates may be issued for allocated surplus distributions, dividend payments and patronage distributions.

810.5 Other Classes and Issues

This Association may issue such number of shares of such other classes of capital stock as may be provided for in an amendment to these Bylaws adopted by the Board of Directors and approved by Members in accordance with this Article and Article XV hereof.

810.6 Stock or Participation Certificates as Condition of Borrowing

As a condition prerequisite to borrowing from this Association, PCA or FLCA, each and every borrower who is eligible to hold Class B Common Stock or Class B Participation Certificates shall, at the time the loan is made, acquire such Class B Common Stock or Class B Participation Certificates in an amount not less than \$1,000 or two percent (2%) of the borrower's loan commitment amount, whichever is less, or in such higher amount as the Association Board may from time to time determine pursuant to the Association Capitalization Plan, or regulatory or other requirements. At its option, however, the Association may, subject to statutory and regulatory requirements, require a borrower whose loan is closed for resale into the secondary market within one hundred eighty (180) days of closing to satisfy the purchase requirements of this section through the purchase of one share of Class B Common Stock or one Class B Participation Certificate. Each borrower's current Class B Common Stock and Class B Participation Certificate holdings shall be counted when determining the amount of stock or participation certificates to be purchased under this section.

820 Conversion

820.1 Each class of stock and participation certificates may be converted into any other class of stock or participation certificates (but not into Class D Preferred Stock) for which the holder is eligible as described in Section 810 above.

820.2 Class B Common Stock shall be converted into Class C Common Stock within two (2) years after the holder ceases to be a borrower. Such stock may be converted back into Class B Common Stock if the owner becomes a borrower again.

825 Association Capitalization Plan

The Association Board shall adopt and maintain an Association Capitalization Plan, which complies with Section 4.3A of the Act and the Regulations pertaining thereto, and which enables the Association to meet the capital adequacy standards established thereunder. Such Capitalization Plan shall be in accord with these Bylaws and shall not require the approval of Members.

830 Retirement

830.1 Each class of stock and participation certificates shall be retired as provided in Section 810 under procedures approved by the Association Board. Where stock is retired at the discretion of the Association Board, the Board shall authorize such retirement by resolution at a duly called meeting after considering the requirements of Association's Capitalization Plan, minimum capital adequacy requirements under Section 4.3A of the Act and applicable regulations, and the Association's own financial goals. No equities shall be retired, except as provided in Sections 830.5 and 830.6 hereof, unless after the retirement the Association will continue to meet minimum regulatory permanent capital requirements.

830.2 The Association Board shall retire any class of stock or participation certificates at book value, not to exceed par value.

830.3 Except as provided in Section 830.6 hereof, stock or participation certificates may be retired and the value thereof paid to the holder in cash or applied to his indebtedness.

830.4 Class D Preferred Stock shall be retired only according to the terms of the stockholder resolution authorizing the stock issue.

830.5 When the debt of the holder is in default, the Association Board may, at its sole option, authorize the retirement of any stock or participation certificates held by that borrower and the proceeds thereof applied against the indebtedness to the Association, PCA or FLCA. Any such retirement and application of stock or participation certificates shall be after similar retirement and application of surplus account allocations and equity reserve, if any, owned by the borrower.

830.6 If the Association forgives and writes off any principal outstanding on a loan under a loan restructuring in accordance with applicable regulations, the Association shall cancel the same dollar amount of stock held by the borrower up to the total amount of stock held by the borrower in respect to that loan; except that the borrower shall be permitted to retain one share of stock to maintain his membership and voting privileges.

830.7 The ACB may at any time require the Association to retire and cancel stock held by the ACB if, in the ACB's judgment, the Association has the resources available therefore.

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830.8 The Association Board may authorize, by its resolution, the Chief Executive Officer to retire stock or participation certificates immediately upon the full repayment of a loan, when a loan is in default or in accordance with Board Policy, provided that the requirements of these Bylaws, the Association's Capitalization Plan, minimum capital adequacy requirements under Section 4.3A of the Act and applicable regulations, and the Association's own financial goals are fully met.

840 Impairment

840.1 Any losses which result in any impairment of the Association's capital stock or participation certificates shall be borne: first equally by each share of common stock and participation certificates outstanding; and second by each share of preferred stock outstanding as of the date such losses are determined.

840.2 Impaired stock and participation certificates shall be restored in the reverse of the sequence described in Section 840.1 until each share of stock and unit of participation certificates has a book value equal to the par or face value.

850 Lien

Except with regard to stock and participation certificates held by other Farm Credit System institutions, the Association, PCA and FLCA, as applicable, shall have a first lien on all stock and participation certificates in this Association owned by any borrower as additional collateral for any indebtedness of the borrower to the Association, PCA and FLCA.

860 Application of Earnings and Losses

860.1 At the end of each fiscal year, the Association shall apply its earnings (including patronage distributions from the ACB) for such fiscal year as follows:

- (1) To cover operating expense, including additions to loan valuation reserves;
- (2) To restore the amount of any impairment of capital stock and participation certificates as prescribed in Section 840.2 hereof in the reverse order of such impairment;
- (3) To restore the amount of any impairment of allocated surplus in the reverse order of impairment;
- (4) To restore the amount of any impairment of paid-in surplus;
- (5) To create and maintain an unallocated surplus account as provided in Section 870 hereof;
- (6) To pay dividends on capital stock of the Association if authorized pursuant to Section 890 hereof;

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(7) To pay patronage distributions, including additions to allocated surplus accounts, if authorized pursuant to Section 895 hereof.

860.2 In the event of a net loss for any fiscal year, after applying earnings for such fiscal year as provided in 860.1 (1) above, such loss shall be absorbed by: first, charges to the unallocated surplus account; second, impairment of paid-in surplus; third, impairment of the allocated surplus account to the extent such allocated surplus is evidenced by nonqualified written notices of allocation, in the reverse order of year of issuance and pro-rata by year of issuance; fourth, impairment of the allocated surplus account to the extent such allocated surplus is evidenced by qualified written notices of allocation, in the reverse order of year of issuance and pro-rata by year of issuance; and fifth, impairment of capital stock and participation certificates as prescribed in Section 840.1 hereof.

865 Loan Origination and Other Fees

The Association may charge such fees for making, servicing and collecting loans, including loan origination fees, and for providing financially related services to members as may from time to time be authorized by the Association Board.

870 Surplus Accounts

The Association shall create and maintain an unallocated surplus account and may maintain an allocated surplus account. Each year the Board shall apply to the unallocated surplus account an amount of net earnings determined necessary to meet the Association’s reasonable needs and consistent with safety and soundness principles, subject to minimum capital adequacy requirements established by the Act and Regulations.

875 Paid-In Surplus

This Association is authorized to receive paid-in surplus from the ACB in accordance with Regulations.

880 Allocated Surplus Account

880.1 The Association may create and maintain an allocated surplus account consisting of earnings held therein and allocated to borrowers on a patronage basis pursuant to Section 895 of these Bylaws. 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 Internal Revenue Code (“Code”) Section 1388:

- 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 years as funds are available.

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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 in the discretion of the Board.

In the event of a net loss for any fiscal year, such allocated surplus account shall be subject to impairment in the order specified in Section 860 hereof and on the basis of the latest allocations first.

880.2 The Association, PCA and FLCA, as applicable, shall have a first lien on all surplus account allocations owned by any borrower, and all distributions thereof, as additional collateral for his indebtedness to the Association, PCA and FLCA.

880.3 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.

880.4 Whenever all of the capital stock and participation certificates of the Association owned by a member are retired or otherwise disposed of, any surplus account allocations owned by such member may also be retired upon request of the owner and approval of the Association, and the proceeds paid to the owner. Alternatively, if the Association directs, such surplus account allocations may be applied against any of the Member's indebtedness to the Association, PCA or FLCA.

880.5 Allocated surplus may be distributed, oldest allocations first, or otherwise as approved by the Association Board, in Class C Common Stock of the Association and also in cash. The cash proceeds may be applied against the indebtedness of the borrower to the Association, PCA or FLCA. In no event shall such distributions reduce the surplus account below the minimum amount. Distributions of less than the full amount of all allocations issued as part of the same series shall be on a pro rata basis. Any part of a distribution in Class C Common Stock to one owner that is less than \$5.00 may be held by the Association and accumulated with subsequent partial distributions to the owner until the partial distributions equal one whole share of Class C Common Stock.

890 Dividends

890.1 Subject to the Act and Regulations thereunder, the Association's Capitalization Plan, and provided further that at the time of the declaration thereof no class of stock or participation certificates shall be impaired, dividends may be declared and paid on all classes of common stock and participation certificates, or on one or more classes of preferred stock, as the Association Board, in its discretion, may from time to time determine by resolution. Dividends may be paid in any class of stock or participation certificates (but not in Class D Preferred Stock), or in cash or the equivalent, or in any combination thereof as the Board may from time to time determine. Dividends paid on common stock and participation certificates shall be noncumulative. In no event shall annual dividends on any class of common or preferred stock or participation certificates exceed 8% of par value or face value.

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890.2 No dividend may be paid on common stock and participation certificates during any fiscal year with respect to which the Association has obligated itself to distribute earnings on a patronage basis under Section 895 hereof.

890.3 Any dividend declared on common stock and participation certificates shall be paid equally on a per share basis to all record holders of common stock and participation certificates as of the effective date of declaration, without regard to the length of time such shares have been held by the Member. Any class of common stock or participation certificates that result from the conversion of allocated surplus may be subordinated to other classes of common stock and participation certificates in the payment of dividends.

890.4 All or any part of the dividends on common stock and participation certificates paid to a borrower may, at the discretion of the Association, be applied to the borrower's indebtedness to the Association, PCA or FLCA.

890.5 Any part of such dividends to one owner payable in stock that is less than \$5.00 may be distributed in cash or the equivalent.

890.6 Dividends paid on Class D Preferred Stock shall be paid in accordance with and subject to the resolution of stockholders authorizing the issue of such Class D Preferred Stock.

895 Patronage Distributions

895.1 Subject to the Act and Regulations thereunder, the Association Capitalization Plan, and provided further that at the time of the declaration thereof no class of stock or participation certificates shall be impaired, patronage distributions may be declared from net earnings at the end of the fiscal year and paid to such persons and in such amounts as the Association Board may from time to time determine by resolution.

895.2 Subject to the provisions of the Act and Regulations, 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 its available Patronage-Sourced Net Earnings to Patrons. Such distributions shall constitute patronage dividends, within the meaning of Code Section 1388, and shall be allocated on the basis of the quantity or value of patronage business done with the Association and its Subsidiaries. Patrons shall include Members and such other customers, borrowers and financial institutions with which the Association, PCA and/or FLCA conduct business during the fiscal year and as identified by the Board in the Patronage Resolution. Patronage-Sourced Net Earnings shall mean the consolidated net earnings of the Association, PCA and FLCA for the fiscal year attributable to patronage business done with or for Patrons. All transactions done with or for Patrons shall be deemed patronage business unless otherwise provided in the Patronage Resolution. Any outstanding Patronage Resolution that is not rescinded prior to the beginning of a fiscal year shall become irrevocable and constitute a binding legal obligation of the Association with respect to such fiscal year. Each patronage transaction 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 VIII of the Bylaws.

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895.3 All patronage distributions shall be allocated among Patrons in the proportion that the amount of interest earned on each Patron's patronage transaction bears to the total interest earned on all patronage transactions for the period, or such other proportionate patronage basis as may be approved by the Board consistent with the requirements of Subchapter T of the Internal Revenue Code. The Board may establish, on a fair and equitable basis, separate patronage pools for patronage transactions of the same type or with similar characteristics. Any such pools shall be charged a fair and equitable allocation of expenses. Earnings from transactions that do not constitute patronage transactions, including transactions with Members conducted on a non-patronage basis, will be segregated and accounted for separately consistent with the requirements of Subchapter T. The Board retains discretion not to pay patronage with respect to one or more of such earning pools provided all Patrons are treated fairly and equitably.

895.4 The Patronage-Sourced Net Earnings available for patronage distribution shall be determined after making provision for the requirements of Section 860, including the setting aside of a portion of the net earnings in the unallocated surplus account as determined necessary to meet the Association's reasonable needs. When amounts in the unallocated surplus account are no longer reasonably required, such amounts shall be allocated on a patronage basis to the extent practicable.

895.5 Patronage distributions may be made partially in cash or the equivalent, and in stock or participation certificates of the Association (except not in Class D Preferred Stock), in allocations of earnings retained in an allocated surplus account, or in any one or more of such forms of distribution, except that, if the patronage distribution to a borrower for a fiscal year includes a "qualified written notice of allocation," at least twenty percent (20%) of such patronage distribution shall always be in cash. Cash distributions may not exceed twenty percent (20%) of the patronage distribution if such distribution would cause the Association's permanent capital at the end of the fiscal year for which the distribution is paid to be less than the regulatory minimum amount. Any part of a patronage distribution in Class C Common Stock to one borrower that is not a multiple of \$5.00 may be distributed in cash or the equivalent, or held by the Association for the borrower and included in a subsequent distribution.

895.6 Any part of the patronage distribution to a borrower, except the portion required to be paid in cash to qualify the distribution as a deduction for Federal income tax purposes, may, at the discretion of the Association, be applied on the borrower's indebtedness to the Association, PCA and/or FLCA.

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895.7 Each holder of stock or participation certificates as of the effective date of these bylaws, and each person who thereafter applies for and is issued stock or participation certificates, shall, by such act alone, consent that the amount of any distributions with respect to his patronage occurring after such date which are made in written notices of allocation (as defined in 26 U.S.C. 1388) that are not designated as “nonqualified”, including patronage allocations of surplus and patronage distributions paid in stock, and which are received by him from the Association, will be taken into account (as income) by him at their stated dollar amounts in the manner provided in 26 U.S.C.1385(a) in the taxable year in which such written notice of allocation is received by him. Further, such holder consents to take into account as income in the same manner the amount of any distributions with respect to patronage if he receives written notice that such amount has been applied on his indebtedness to the Association, PCA or FLCA.

895.8 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 qualified written notices of allocation (as defined in 26 U.S.C. 1388), including patronage allocations of surplus, patronage distributions paid in Class C Common Stock or distributions with respect to patronage that has been applied to the Member's indebtedness to the Association, PCA or FLCA and for which the Member has received written notice, will be taken into account (as income) by the Member at their stated dollar amounts in the manner provided for in 26 U.S.C. 1385(a) in the taxable year in which such written notices of allocation are received by him. This consent 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 26 U.S.C. 1388. Consent under this section shall be continuing in effect, provided that consent (other than consent by qualified check) may be revoked in writing, which 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.

895.9 Where the Association arranges for the provision of credit and/or related services to its Members through PCA and/or FLCA, and such Members avail themselves of the arrangements made and maintained by the Association by borrowing or acquiring related services from PCA and/or FLCA, 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 its Members and all business done with Association, PCA and FLCA shall be treated as business done with the Association.

896 Distribution on Liquidation

In the event of a liquidation or dissolution of the Association, any assets of the Association remaining after payment or retirement of all liabilities shall be distributed in the following order of priority:

First, to the holders of common stock and participation certificates pro rata in proportion to the number of shares or units then issued and outstanding until an amount equal to the aggregate par value of such shares has been distributed to the holders:

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Second, to any holders of Class D Preferred Stock until an amount equal to the aggregate par value of such shares has been distributed to the holders;

Third, to the holders of allocated surplus evidenced by qualified written notices of allocation until the total amount of such allocated surplus has been distributed;

Fourth, to the holders of allocated surplus evidenced by nonqualified written notices of allocation until the total amount of such allocated surplus has been distributed;

Fifth, any remaining assets of the Association after such distributions shall be distributed to past and present Members on a patronage basis to the extent practicable.

All distributions to holders of stock and participation certificates under this section shall be made in proportion to the number of shares or units of such class held by such holders. All distributions to holders of allocated surplus shall be made in the order of the year of issuance and pro-rata by year of issuance.

897 Amendment to Capitalization Bylaws

Any amendment to Article VIII or to the Capitalization Bylaws of PCA or FLCA, other than those of a strictly technical nature not affecting substantive rights, shall not become effective unless approved by the Voting Members at a duly authorized meeting of Members.