general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the agency in a notice-and-comment proceeding.

The FCA believes that these amendments fit the category of rules appropriate for direct final rulemaking. These changes merely clarify that holders of subordinated debt, which is subordinate to general creditors by definition and by the terms of the subordinated debt instruments, are entitled to payment in a liquidation only after general creditors are paid. For these reasons, the FCA does not anticipate that there will be significant adverse comment on this rulemaking. Nonetheless, in keeping with the recommended procedures, the FCA is providing a 30-day period from publication during which members of the public may comment on the rule. If significant adverse comment is received during the comment period, we will publish a notice of withdrawal of the relevant provisions of this rule that will also indicate how further rulemaking will proceed. If no significant adverse comment is received, the FCA will publish a notice of the effective date under section 5.17(c)(1) of the Act.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 627

Agriculture, Banks, Banking, Claims, Rural areas.

■ For the reasons stated in the preamble, we amend part 627 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 627—TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

■ 1. The authority citation for part 627 continues to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7, 2277a–10).

Subpart B—Receivers and Receiverships

■ 2. Amend § 627.2745 by adding a new paragraph (i) to read as follows:

§ 627.2745 Priority of claims—associations.

* * * * *

(i) All claims that, by their terms, are subordinated in whole or in part to the claims of general creditors, other than distributions covered under § 627.2755(b). Such claims shall receive the priority specified in the written instruments that evidence the claims and, to the extent that the written documents provide different priorities for different categories of such claims, each category shall be considered a class of claims for purposes of § 627.2755(a).

■ 3. Amend § 627.2750 by adding a new paragraph (j) to read as follows:

§ 627.2750 Priority of claims—banks.

* * * * *

(j) All claims that, by their terms, are subordinated in whole or in part to the claims of general creditors, other than distributions covered under § 627.2755(b). Such claims shall receive the priority specified in the written instruments that evidence the claims and, to the extent that the written documents provide different priorities for different categories of such claims, each category shall be considered a class of claims for purposes of § 627.2755(a).

■ 4. Amend § 627.2752 by adding a new paragraph (h) to read as follows:

§ 627.2752 Priority of claims—other Farm Credit institutions.

* * * * *

(h) All claims that, by their terms, are subordinated in whole or in part to the claims of general creditors, other than distributions covered under § 627.2755(b). Such claims shall receive the priority specified in the written instruments that evidence the claims and, to the extent that the written documents provide different priorities for different categories of such claims, each category shall be considered a class of claims for purposes of § 627.2755(a).

Dated: September 20, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E7–18965 Filed 9–25–07; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 627

RIN 3052–AC16

Title IV Conservators, Receivers, and Voluntary Liquidations; Priority of Claims—Joint and Several Liability

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we), issues this final rule amending the priority of claims regulations to provide priority of claims rights to Farm Credit System (System, FCS, Farm Credit) banks if they make payments under a reallocation agreement to holders of consolidated and System-wide obligations on behalf of a defaulting System bank. The final rule also clarifies that payments to a class of claims will be on a pro rata basis.

DATES: *Effective Date:* This regulation 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.**

FOR FURTHER INFORMATION CONTACT:

Christopher D. Wilson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or

Rebecca S. Orlich, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

Our objectives in this final rule are to:

• Provide System banks that make payments under a reallocation agreement to holders of consolidated and System-wide obligations of a defaulting bank the same priority of claims rights they would have for payments made under statutory joint and several calls by the FCA; and

• Clarify that claims in the same class will receive payments on a pro rata basis if there are insufficient assets in a receivership to pay the entire class in full.

II. Background

A. Joint and Several Liability Under the Act

System associations obtain funding by means of direct loans from their affiliated Farm Credit banks. The banks in turn obtain their funding primarily by

issuing System-wide obligations to investors through the Federal Farm Credit Banks Funding Corporation (Funding Corporation).[1] The banks' authority to issue System-wide obligations is provided in section 4.2(d) of the Farm Credit Act of 1971, as amended (Act).[2] Currently, all of the System's joint funding is through System-wide obligations.[3]

Investors in consolidated and System-wide obligations have three levels of repayment sources. The first level is a bank's own primary liability under section 4.4(a)(2)(A) of the Act[4] for its portion of any consolidated or System-wide obligation. The second level is payments made by the Farm Credit System Insurance Corporation (FCSIC) under section 4.4(d) of the Act if a bank is unable to pay its portion of liability on consolidated or System-wide obligations. The third level is joint and several calls made by FCA on nondefaulting banks under section 4.4(a)(2) of the Act in proportion to each bank's proportionate share of the aggregate available collateral[5] held by all nondefaulting banks, or in proportion to each bank's remaining assets if the aggregate available collateral does not fully satisfy the insured obligations of the defaulting bank. The Act provides subrogation rights to both the banks and the FCSIC for payments of insured obligations made on behalf of a defaulting bank under sections 4.4(a)(2)(E)[6] and 5.61(c)(1),[7] respectively.

B. Proposed Rule

We proposed an amendment to the priority of claims rule in response to a petition by System banks to provide the same subrogation rights to banks for making joint and several payments on insured obligations under a reallocation agreement that the banks would receive if they made payments under section 4.4(a)(2) of the Act. In recent years, the banks have discussed the benefits and feasibility of using a methodology for paying joint and several calls based on the proportion of total System-wide debt on which each nondefaulting bank is primarily liable. The banks have explored the possibility of entering into a reallocation agreement among themselves to pay a defaulting bank's maturing insured obligations as the Farm Credit Insurance Fund is nearing exhaustion but before statutory joint and several calls are triggered. The banks have informed us that, while they have generally agreed on the outlines of an agreement for payment based on individual banks' outstanding System-wide debt, a key to an agreement is that payments made would be entitled to the same payment rights as if the banks had made the payments under a statutory joint and several call. Such an agreement would be subject to Agency approval.

The proposed revision to the priority of claims rule as well as the amendment to clarify the related payment of claims regulation on pro rata payments were published in the **Federal Register** on March 12, 2007.[8] The proposals had a 60-day comment period that ended on May 11, 2007. The proposals are described in Part III below.

C. Comments on Proposed Rule

We received three comments: One from the Farm Credit Council (FCC) on behalf of all System institutions, and two others from System banks. All of the commenters fully supported the revision to the priority of claims rule as proposed and did not suggest any changes. Furthermore, the FCC letter stated that it offered no objections to our proposal to clarify that payments to a class of claims would be on a pro rata basis if there are insufficient funds to pay the class in full.

One commenter also asked us to consider a rulemaking to add subordinated debt to the list of claims priority categories in part 627. At present, the liquidation priority of subordinated debt is not expressly addressed in our regulations. We agree that it is appropriate to specify the liquidation priority of claims of subordinated debtholders and are issuing a direct final rule on that subject concurrent with this final rule.

III. Description of Final Rule

Section 627.2750—Priority of Claims—Banks

Section 627.2750 sets forth the priority of claims for banks in liquidation. Existing paragraph (h) provides for payment of claims of holders of consolidated and System-wide obligations and of other System banks arising from their payments made under statutory joint and several calls. In the proposed rule, we proposed to revise this paragraph to include all claims of other System banks arising from their payments of consolidated and System-wide obligations under a reallocation agreement that is in writing and approved by the Agency. We adopt this provision as final.

Section 627.2755—Payment of Claims

Existing § 627.2755 contains several priority of claims provisions that apply to some or all types of System institutions that may be placed in receivership by the FCA under part 627 of our regulations.[9] In the proposed rule, we proposed to amend paragraph (a) by removing language limiting the pro rata distribution requirement to association receiverships. This will clarify that, in all System institution receiverships, if there are insufficient funds to pay a class of claims in full, payments to such class must be on a pro rata basis. We adopt this provision as final.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 627

Agriculture, Banks, Banking, Claims, Rural areas.

■ For the reasons stated in the preamble, we are amending part 627 of chapter VI,

[1] The Funding Corporation is the fiscal agent of the System established under section 4.9 of the Farm Credit Act of 1971, as amended (12 U.S.C. 2160).

[2] 12 U.S.C. 2153(d).

[3] 12 U.S.C. 2153(c).

[4] 12 U.S.C. 2155(a)(2)(A).

[5] A bank's ''available collateral'' is defined in section 4.4(a)(2)(C) as ''the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral * * * exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.''

[6] Section 4.4(a)(2)(E) provides: ''Any System bank that, pursuant to a call by the [FCA], makes a payment of principal or interest to the holder of any consolidated or System-wide obligations issued on behalf of another System bank shall be subrogated to the rights of the holder against such other bank to the extent of such payment.''

[7] Section 5.61(c) provides: ''On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the [FCSIC] shall be subrogated to all rights of the owner against the bank to the extent of the payment. * * * Subrogation * * * shall include the right on the part of the [FCSIC] to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.''

[8] *See* 72 FR 10939. See the preamble of this proposal for more in-depth discussion of the banks' joint and several liability under the Act.

[9] We note that part 627 of FCA's regulations does not apply to the Federal Agricultural Mortgage Corporation, also known as Farmer Mac. Regulations applicable to Farmer Mac are in parts 650–655 of FCA's regulations.

title 12 of the Code of Federal Regulations to read as follows:

PART 627—TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

■ 1. The authority citation for part 627 continues to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7, 2277a–10).

Subpart B—Receivers and Receiverships

■ 2. Revise § 627.2750(h) to read as follows:

§ 627.2750 Priority of claims—banks.

* * * * *

(h) All claims of holders of consolidated and System-wide bonds and all claims of the other Farm Credit banks arising from their payments on consolidated and System-wide bonds pursuant to 12 U.S.C. 2155 or pursuant to an agreement among the banks to reallocate the payments, provided the agreement is in writing and approved by the Farm Credit Administration.

* * * * *

§ 627.2755 [Amended]

■ 3. Amend § 627.2755(a) by removing the words ''described in § 627.2745'' in the last sentence.

Dated: September 20, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E7–18968 Filed 9–25–07; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM367 Special Conditions No. 25–363–SC]

Special Conditions: Boeing Model 787–8 Airplane; Tire Debris Penetration of Fuel Tank Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 787–8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These novel or unusual design features include wing fuel tanks constructed of carbon fiber composite materials. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing standards. Additional special conditions will be issued for other novel or unusual design features of the Boeing Model 787–8 airplanes.

DATES: *Effective Date:* October 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mike Dostert, FAA, Propulsion/Mechanical Systems, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2132; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787–8 passenger airplane. The Boeing Model 787–8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

Type Certification Basis

Under provisions of Title 14 Code of Federal Regulations (CFR) 21.17, Boeing must show that Boeing Model 787–8 airplanes (hereafter referred to as ''the 787'') meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–117, except §§ 25.809(a) and 25.812, which will remain at Amendment 25–115. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the 787 because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the 787 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. The FAA must also issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The 787 will incorporate a number of novel or unusual design features. Because of rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions for the 787 contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

The 787 will use carbon fiber composite materials for most of the wing fuel tank structure. The ability of aluminum wing skins, as has been conventionally used, to resist penetration or rupture when impacted by tire debris is understood from extensive experience. The ability of carbon fiber composite material to resist these hazards has not been established. There are no current airworthiness standards specifically addressing this hazard for all the exposed wing surfaces.

The FAA issues these special conditions to maintain the level of safety envisioned in the existing airworthiness standards by establishing a standard for resistance to potential tire debris impacts to the 787 contiguous wing surfaces.

Discussion

Historically, accidents have resulted from uncontrolled fires caused by fuel leaks following penetration or rupture of the lower wing by fragments of tires or from uncontained engine failure.

In one incident, in Honolulu, Hawaii, a tire on a Boeing Model 747 burst and tire debris penetrated a fuel tank access cover, causing a substantial fuel leak. Takeoff was aborted and passengers were evacuated down the emergency chutes into pools of fuel which fortunately had not ignited. This accident highlighted deficiencies in the then-existing title 14 CFR part 25 regulations pertaining to fuel retention following impact to fuel tanks by tire fragments.

After a subsequent Boeing Model 737 accident in Manchester, England, in which a fuel tank access panel was penetrated by engine debris, the FAA