

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052-AC07

Loan Policies and Operations; Young, Beginning, and Small Farmers and Ranchers

AGENCY: Farm Credit Administration (FCA).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Farm Credit Administration (FCA or agency) is considering whether regulatory changes are needed to enhance the Farm Credit System's (System) service to young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products (YBS farmers and ranchers) and the agency's measurement and reporting of the System's YBS activities and performance.

DATES: You may send us comments by December 23, 2002.

ADDRESSES: Send us your comments by electronic mail to or through the Pending Regulations section of our Web site, www.fca.gov. You may also send written comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, or by facsimile transmission to (703) 734-5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Samuel R. Coleman, CFA, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434; or, Wendy R. Laguarda, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-2020.

SUPPLEMENTARY INFORMATION:

I. Objectives

To ensure that the System accommodates the current and evolving needs of YBS farmers and ranchers for credit and closely related services, we seek comments in this ANPRM on ways to:

1. Develop clear, meaningful, and results-oriented guidelines for System YBS policies and programs;
2. Effectively measure the System's YBS performance to ensure that the System is fulfilling its YBS statutory mission; and
3. Provide adequate reporting and disclosure to the public on the System's compliance with its statutory YBS mission.

II. Background

The FCA's mission is to promote a safe and sound, competitive System to finance agriculture and rural America as authorized by Congress. The System has a special public purpose concerning YBS farmers and ranchers. Since 1980, Congress has required the System to prepare programs for furnishing sound and constructive credit and related services to YBS farmers and ranchers. Specifically, section 4.19(a) of the Farm Credit Act of 1971, as amended (Act) states:

Under policies of the district Farm Credit Bank board, each Federal land bank association and production credit association¹ shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit.

Even before the issuance of the Act and its 1980 amendments, the System had been serving all categories of YBS farmers and ranchers. The agency believes the System's continued success at serving all three categories, "young," "beginning," and "small" farmers and ranchers is crucial to a future generation of farmers and ranchers and a strong agricultural economy.

A. FCA's Focus on YBS Lending

In 1998, the FCA Board adopted a policy statement that called for a

¹ Thr requirements of this section of the Act also apply to Federal land credit associations as defined in 12 CFR 619.9155 and agricultural credit associations as defined in 12 CFR 619.9015

renewed commitment by the System to YBS lending, provided guiding principles for enhanced service to YBS farmers and ranchers, and revised definitions for "young," "beginning," and "small" farmers and ranchers.² To implement the policy statement, the FCA also issued a booklet to the System that provided the revised YBS definitions and reporting procedures that were fully phased in by January 1, 2001.³ FCA also requires the System to respond each year to a comprehensive questionnaire about the management and credit components of its YBS and outreach programs.

Since 1999, YBS lending programs have been a "focus area" of agency examinations where, among other factors, the agency has looked at the System's YBS board policies and procedures; YBS credit enhancement programs and underwriting standards; YBS coordination with Federal, state, System or other credit sources; demographic studies; marketing, advertising, and other outreach programs; and the quality of YBS reporting to System boards and FCA.

In addition to this examination focus area, the FCA Board and staff have advocated greater attention on the System's mission to serve YBS farmers and ranchers. For example, the agency recently recognized several System associations for their successful YBS programs.⁴

B. Report by the General Accounting Office

On March 8, 2002, the General Accounting Office (GAO) issued a report on the FCA's oversight of the System's mission to serve YBS farmers and ranchers.⁵ The GAO, after conducting

² FCA-PS-75, Farm Credit System Service to Young, Beginning, and Small Farmers and Ranchers, effective December 10, 1998, available on the FCA Web site, www.fca.gov (under Legal Info., FCA Handbook).

³ FCA BL-040, Policy and Reporting Changes for Young, Beginning, and Small Farmers and Ranchers Programs, issued December 11, 1998, available on the FCA Web site, www.fca.gov (under Legal Info., FCA Handbook).

⁴ See remarks by the Honorable Michael M. Reyna before the 19th Annual Farm Credit Council meeting, January 22, 2002, available on the FCA Web site, www.fca.gov (under About FCA, FCA Board, Testimony, Statements, and Speeches).

⁵ Farm Credit Administration: Oversight of Special Mission to Serve Young, Beginning, and Small Farmers Needs to be Improved (GAO-02-

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its review that began in July 2001, recommended that the agency strengthen its oversight role of the System's YBS lending, promote YBS compliance, and highlight the System's efforts to provide service to YBS by:

1. Promulgating a regulation that outlines specific activities and standards that constitute an acceptable program to implement the YBS statutory requirement;

2. Ensuring that examiners follow the guidance and complete the appropriate examination procedures related to YBS, and adequately document the work performed and conclusions drawn during examinations; and

3. Publicly disclosing the results of the examinations for YBS compliance for individual System associations.

In its response to Congress, the FCA noted its commitment to address the issues raised in the GAO report. Seeking public input through an ANPRM is a valuable step in ensuring that the System designs comprehensive YBS policies and programs that have a realistic and reasonable likelihood of success.

III. Questions

1. What type of guidelines should FCA implement for YBS policies and programs? In your comments to this question, please consider whether:

a. FCA should make regulatory or policy changes to enhance YBS policies and programs;

b. Guidelines should require YBS programs to include both quantitative (such as YBS loan volume and portfolio percentage goals) and qualitative (such as YBS marketing and outreach strategies, special credit and related services programs, and joint YBS efforts) performance goals;

c. Guidelines should be different for each YBS category—that is, different guidelines for “young,” “beginning,” and “small” farmers and ranchers;

d. FCA should require YBS programs to include special credit treatment for YBS loans (including guarantors, concessionary underwriting standards, loan fees, interest rates, and differential loan covenants);

e. In addition to its recent recognition of successful YBS programs, FCA should provide incentives, regulatory or otherwise, to the System to promote YBS programs;

f. The System currently offers appropriate related services, such as farm business consulting, record keeping, insurance, and tax planning and preparation services to YBS farmers and ranchers;

g. Certain types of marketing and outreach activities most help promote YBS programs;

h. Certain types of System partnerships, alliances, or other joint efforts most help promote YBS programs; and

i. The System should more effectively use Other Financing Institutions (OFIs), the Federal Agricultural Mortgage Corporation (Farmer Mac), loan participations, loan guarantees, specialized risk pools under § 614.4165(c) of our regulations, and Federal, state, or private programs to promote YBS programs within each System association's risk-bearing capacity.

2. How should FCA measure the System's YBS performance? In your comments to this question, please consider whether:

a. FCA should establish a formal rating system for YBS performance similar to the agency's current Financial Institution Rating System (FIRS). If so, what rating components should we include in such a system and should we weigh each component equally?;

b. The data currently available to assess YBS market penetration in System territories adequately and accurately measures the number of YBS farmers and ranchers in the territory. If not, what meaningful alternative data is available?;

c. The data collected by the agency should focus on the “borrowers” or “loans” when measuring each category of YBS farmers and ranchers;

d. FCA should require System associations to conduct demographic studies and develop strategies to address inconsistencies between the YBS market in their lending area and their penetration of that market; and

e. FCA should take into account the demographics of a System association's territory in rating YBS performance.

3. How should FCA report and publicly disclose the System's YBS performance? In your comments to this question, please consider whether:

a. The data that FCA currently collects from the System accurately portrays the System's YBS performance. If not, what additional or alternative data should the agency collect from the System? For example, should FCA require the System to report the number and amount of YBS loans made by OFIs, made through loan participations, made through risk pools created under § 614.4165(c) of our regulations, or made through alliances, joint ventures, or other joint efforts with System or non-System entities?;

b. FCA should require the System to report the number and volume of YBS

loans sold to Farmer Mac, other secondary market entities, or non-System lenders;

c. FCA should require the System to report the number and type of related services that YBS farmers and ranchers are using, as well the success or lack of success of individual related services programs (currently, the agency only requires the reporting of the types of related services offered);

d. FCA should require the System to report the types of, and costs associated with, YBS educational programs, technical assistance programs, marketing and outreach activities, and coordinated programs in which YBS farmers and ranchers have participated, as well the success or lack of success of individual programs (currently, the agency only requires the reporting of the types of programs offered);

e. FCA should require the System to separately report loan performance information on each category of YBS farmer and rancher loans;

f. FCA should make available to the public the YBS reports of each System bank and association and the agency's examination results of YBS performance; and

g. FCA should require the System to include YBS performance reports and the agency's examination results of YBS performance in quarterly or annual reports to shareholders or would other disclosure methods be more effective.

The agency welcomes any other comments you may have for us to consider in developing guidelines for System YBS policies and programs. We thank you for your comments.

The FCA may also conduct public meetings at some future date to solicit information from the public on ways to enhance the System's service to YBS farmers and ranchers. If such meetings are planned, the agency will provide public notice through the **Federal Register**, as well as provide other methods for public announcement and invitation.

Dated: September 17, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

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