

## INFORMATIONAL MEMORANDUM



November 29, 2021

To: Chair, Board of Directors  
Chief Executive Officer  
Each Farm Credit System Bank and Association

From: Kevin J. Kramp, Director  
Office of Regulatory Policy

Subject: Guidelines for submitting an application to form a service corporation

This informational memorandum sets forth the basic information that the Farm Credit Administration requires to evaluate requests by Farm Credit System banks and associations to form service corporations under sections 4.25 through 4.28A of the Farm Credit Act of 1971, as amended.

FCA regulation [§ 611.1135](#) identifies the minimum information that your institution must submit when requesting to form a service corporation.<sup>1</sup> It also explains the general process used to charter service corporations. We issue this informational memorandum to help ensure your request contains the preliminary information we need to begin analyzing your charter application.<sup>2</sup>

We have attached three documents — one discussing the application process, another listing information that should accompany your application, and an appendix that outlines the contents for capital and financial planning purposes.

- Attachment 1: Instructions for submitting an application to form a service corporation
- Attachment 2: An application checklist identifying those documents normally considered essential for us to charter a service corporation
- Appendix: A list of the minimum items your institution should include in the capital adequacy plan and the three-year financial plan for the proposed service corporation

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<sup>1</sup> FCA regulation § 611.1137 requires institutions applying to form a service corporation under Title VIII of the Farm Credit Act to also follow the requirements of § 611.1135. Title VIII service corporations include those acting as agricultural mortgage marketing facilities.

<sup>2</sup> As FCA regulation § 611.1135(c)(7) indicates, we may request additional supporting documentation.

Your request must include the information listed in § 611.1135(c). We also encourage you to include all the information identified in attachment 2.

Please keep in mind that submitting all the information requested under this informational memorandum does not guarantee approval.<sup>3</sup> Also, we may place additional conditions, including minimum capital requirements, on the service corporation if approval is granted.<sup>4</sup>

If your application, including the articles of incorporation, is approved, we will issue a charter creating the service corporation as a Farm Credit System institution and a federally chartered instrumentality of the United States.

If you have any questions regarding this informational memorandum, please email them to [ORPMailbox@fca.gov](mailto:ORPMailbox@fca.gov), or contact Autumn R. Agans, Deputy Director, Office of Regulatory Policy, at (703) 883-4082.

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<sup>3</sup> Section 4.25 of the Farm Credit Act provides that we may “for good cause” deny an application to charter a service corporation.

<sup>4</sup> See FCA regulations §§ 611.1135(a) and (d), 615.5201, and 628.2.

## Attachment 1 – Application Instructions

### A. Where to send your application to form a service corporation

Send your application to the following:

Farm Credit Administration  
Attn: Secretary to the Board  
1501 Farm Credit Drive  
McLean, VA 22102-5090  
Secretary\_to\_the\_Board@fca.gov

Please provide at least four hard copies and one electronic copy. The submission should be organized according to the checklist tabs in attachment 2. For each hard copy provided, please provide a binder with dividers separating the content by tab numbers.

FCA will send you a notice by mail and email to acknowledge we have received the electronic and hard copies.

### B. Point of contact

If more than one institution will be forming the service corporation, please identify the lead institution to which all charter application communications should be directed. We distribute some written communications to all the parties involved in forming the service corporation. However, the designated lead institution is responsible for ensuring that all FCA communications regarding the charter application are shared with the other institutions forming the service corporation.

### C. Applicable regulations

FCA regulations at [part 611, subpart I](#), address service corporations, and § 611.1136(a) explains that each service corporation is subject to applicable regulations governing the institutions forming the service corporation. Service corporations are statutorily prohibited from extending credit or providing insurance,<sup>5</sup> so FCA regulations covering these activities do not normally apply to service corporations.

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<sup>5</sup> See 12 U.S.C. 2211.

#### **D. Scope of activities performed by a service corporation**

A service corporation may only be formed to perform functions and services for, or on behalf of, the organizing Farm Credit bank(s) and association(s). The following limitations apply:

- 1) You cannot form a service corporation to extend credit or provide insurance services.
- 2) You cannot form a service corporation to perform functions or offer services that your institution cannot already perform or offer.<sup>6</sup>
- 3) You cannot form a service corporation to provide services to customers who do not already qualify for services from your institution.

#### **E. What to include in an application to form a service corporation (attachment 2)**

Any request to form a service corporation must include a statement of need for the corporation and proposed articles of incorporation.<sup>7</sup> The articles of incorporation must specify the objectives in forming the service corporation, the powers that will be exercised by the service corporation, and the territory it will serve. FCA regulation § 611.1135 further explains the general process and the minimum information you must submit when requesting to form a service corporation.

This informational memorandum provides a checklist (attachment 2) for you to use in compiling your application. The checklist addresses statutory and regulatory requirements, as well as additional information we normally request when reviewing a service corporation charter application.

In the space provided on the checklist, indicate the tab and page number where we can find the information in your application. Use "N/A" for any inapplicable items and explain why the item is not applicable. Please note that we may request additional supporting documents or other related documents after we review your application.

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<sup>6</sup> Section 4.25 of the Farm Credit Act explains that a service corporation does not have "any greater authority with respect to functions and services than the organizing bank or banks." Section 4.28A of the Farm Credit Act explains that the term "bank" includes both Farm Credit banks and associations. We have further explained that when a Farm Credit bank and association work together to form a service corporation, that service corporation's authority is limited to the lessor authority of either the bank or association. This is to prevent "acquisition" of additional authorities through formation of a service corporation.

<sup>7</sup> See 12 U.S.C. 2211.

**Attachment 2: Transmittal and Checklist**

TRANSMITTAL COVER

**Point of contact** — Name and organization:

Telephone number:

Email:

**Organizing institution(s)** (List all, including contact information for each, or indicate where to find an attached list.):

**Non-System equity holder(s)** (If none, enter "none." Otherwise, list all, including contact information for each, or indicate where to find an attached list.):

**Proposed name of the service corporation:**<sup>8</sup>

**Proposed service corporation business address** (city/county/state):

**Proposed effective date of formation:**

**Why the service corporation is needed:**

**Functions or services the proposed service corporation would perform:**

**Territory that the proposed service corporation would serve** (If not listed here, indicate where to find an attached list.):

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<sup>8</sup> FCA Board Policy Statement 78, [Official Names of Farm Credit System Institutions](#), provides guidelines that FCA will use in reviewing the proposed name of the service corporation.

Page # or "N/A"	TAB	ITEM	DESCRIPTION
	1	<b>Cover letter</b>	Include a cover letter with your formal application for a service corporation as required by <a href="#">12 CFR 611.1135(c)(2)</a> .
	2	<b>Overview of request</b>	Provide a general overview of the request, including a summary of material areas. Examples of material areas include the basis of the request, objectives and goals, and anticipated benefits.
	3	<b>Statement of need and justification</b>	Include a statement of need and justification as required in section 4.15 of the Farm Credit Act and 12 CFR 611.1135(c)(2).
	4	<b>Certified board resolution(s)</b>	<p>Include certified resolution(s) from the board(s) of the organizing institution(s). See 12 CFR 611.1135(c)(1).</p> <p>Note: "Organizing institutions" are those System institutions that will initially own the service corporation. If additional FCS institutions or non-System equity holders later own a part of the service corporation, a resolution from those respective boards may also be required.</p>
	5	<b>Certification statements</b>	<p>Include a statement certifying that the information provided with the initial application is accurate and true. See <a href="#">12 CFR 620.3(c)</a>. The statement must be signed by the CEO(s) of the organizing institution(s) and any non-System equity holders.</p> <p>Note: You will have to provide an updated certification after FCA staff reviews and comments and any required revisions to the proposed financial disclosures have been made.</p>

	<b>6</b>	<b>Articles of incorporation</b>	<p>Include articles of incorporation that identify the following:</p> <ul style="list-style-type: none"> <li>• The territory of the service corporation (If applicable, address the requirements of <a href="#">12 CFR 618.8030(d)</a> for out-of-territory service.)</li> <li>• Provision for amending the articles of incorporation, as required by 12 CFR 611.1135(e)</li> <li>• The objectives in forming the service corporation, as required by section 4.25 of the Farm Credit Act</li> </ul> <p>Articles of incorporation must address all specific corporate requirements at 12 CFR 611.1135(c) instead of referencing provisions of proposed bylaws.</p>
	<b>6a</b>	<b>Name of corporation, location of principal office</b>	<p>Include the name of the corporation and the location of the principal office. See 12 CFR 611.1135(c)(3)(i) and (ii).</p> <p>Affirmatively state that the proposed name for the service corporation complies with FCA Board Policy Statement 78, <a href="#">Official Names of Farm Credit System Institutions</a>.</p>
	<b>6b</b>	<b>General purposes and powers</b>	<p>Describe the general purposes that the service corporation would serve and the powers the corporation would hold. See 12 CFR 611.1135(c)(3)(iii) and (iv).</p>
	<b>6c</b>	<b>Stockholders</b>	<p>Include procedures under which other Farm Credit banks and associations, or non-System persons and entities, may become stockholders. See 12 CFR 611.1135(b) and 611.1135(c)(3)(v).</p>
	<b>6d</b>	<b>Bylaws</b>	<p>Describe the process by which bylaws are adopted and amended. See 12 CFR 611.1135(c)(3)(vi).</p>
	<b>6e</b>	<b>Stock issuance and voting rights</b>	<p>Include information required under 12 CFR 611.1135(c)(3)(vii).</p>
	<b>6f</b>	<b>Notice and quorum requirement</b>	<p>Provide a notice and quorum requirement for a meeting of shareholders and the vote required for shareholder action on various matters. See 12 CFR 611.1135(c)(3)(viii).</p>

	<b>6g</b>	<b>Merger, voluntary liquidation, and dissolution of the corporation</b>	Include procedures and shareholder voting requirements for a merger, voluntary liquidation, dissolution of the corporation, or the distribution of corporate assets. See requirements at 12 CFR 611.1135(c)(3)(ix).
	<b>6h</b>	<b>Distribution of corporate earnings</b>	Provide standards and procedures for the application and distribution of corporate earnings. See 12 CFR 611.1135(c)(3)(x).
	<b>6i</b>	<b>Duration of the service corporation</b>	Describe the duration of the service corporation. See 12 CFR 611.1135(c)(3)(xi).
	<b>7</b>	<b>Proposed bylaws</b>	Include proposed bylaws that address general matters of corporate procedures. See 12 CFR 611.1135(c)(4).  Bylaws should address capitalization provisions at <a href="#">12 CFR 615.5220(b)</a> .
	<b>8</b>	<b>Agreements</b>	Include any agreements between the service corporation and the organizing institution(s), any non-System equity holders, and anticipated clients relating to the principal operations of the corporation. See 12 CFR 611.1135(c)(6).  Examples of agreements: <ul style="list-style-type: none"> <li>• General financing agreement — If applicable, summarize how the corporation would obtain funding from its district funding bank.</li> <li>• Service Level Agreement — Summarize the key products and services that the service corporation would provide to its customers/owners.</li> </ul> Note: Service corporations may only serve the same kinds of customers that the organizing institutions serve.
	<b>9</b>	<b>Ownership</b>	List all System institutions that will become owners of the service corporation and their percentage of ownership.  List any anticipated non-System institutions that will become owners of the service corporation and their percentage of ownership. Also, indicate what, if any, control non-System institutions will have as a result of the creation of the service corporation. <sup>9</sup>

<sup>9</sup> FCA regulation § 611.1135(b)(1)(ii) limits total non-System ownership of voting stock in service corporations to no more than 20%.



	<b>10</b>	<b>Management</b>	<p>Include an organizational chart for the proposed service corporation.</p> <p>Provide a list of the board of directors, together with biographical information and System institution affiliation. Specify whether the directors will be compensated and the amount of compensation. Indicate whether any of the directors will serve as a financial expert or provide specialized experience related to the services provided by the service corporation.</p> <p>Identify officer positions that have been filled and the persons selected for these positions. Provide professional biographical information on the persons named to fill these positions. Identify any officer positions that remain vacant and estimate the date by which they are expected to be filled.</p>
	<b>11</b>	<b>Operations</b>	<p>Identify policies that are to be in effect when the service corporation begins operating. If the service corporation is to provide "related services" as defined in <a href="#">12 CFR 618.8000(b)</a>, submit policies addressing conflicts of interest and liabilities that may occur as a result of offering the services. See <a href="#">12 CFR 618.8020 (b)(3)</a>.</p> <p>Explain any plan for a financial statement audit or internal control review of the service corporation.</p> <p>Explain plans for evaluating internal controls over financial reporting at the service corporation.</p>
	<b>12</b>	<b>Capital and operating funds</b>	<p>Describe sources of capital and operating funds and include the following:</p> <ul style="list-style-type: none"> <li>• Capital adequacy plan with goals</li> <li>• Financial plan for 3 years</li> <li>• Strategic Business Plan</li> </ul> <p>See 12 CFR 611.1135(c)(5).</p> <p>Where applicable, you may substitute the feasibility analyses of 12 CFR 618.8025 for the documents listed above. See the appendix for further details.</p>

	<b>13</b>	<b>Strategic planning</b>	<p>Cite your purpose for forming the service corporation; include the following:</p> <ul style="list-style-type: none"> <li>• Strategy for service(s) to be provided</li> <li>• Vision statement</li> <li>• Mission statement</li> <li>• Critical success factors for the short- and long-term</li> </ul> <p>See 12 CFR 611.1135(c)(3)(iii).</p>
	<b>14</b>	<b>Financial reporting</b>	<p>Outline the financial reporting requirements that the service corporation will follow. Service corporations are required to prepare their financial reports using generally accepted accounting principles (GAAP).</p>
	<b>14a</b>	<b>Annual reporting</b>	<p>Explain the process for preparing annual audited financial statements for the service corporation. Service corporations, as System institutions, must have annual financial statement audits as required by the Farm Credit Act.<sup>10</sup></p>
	<b>14b</b>	<b>Internal controls</b>	<p>Explain how the service corporation will audit/review its service organization internal controls and report on the effectiveness of these internal controls to its customers/owners.</p> <p>If a service corporation's owners plan to use their own internal control framework, explain how the service corporation will obtain a separate service organization control report<sup>11</sup> to provide an independent assessment of its controls.</p>
	<b>15</b>	<b>Tax status</b>	<p>Indicate the subchapter of IRS code under which the potential service corporation will be organized (i.e., subchapter C or S corporation(s) or another section).</p> <p>Provide any existing tax filing opinions that may have been obtained.</p>

<sup>10</sup> Section 5.19(b) of the Farm Credit Act requires all Farm Credit System institutions to "make and publish an annual report of condition as prescribed by the Farm Credit Administration." It also requires the report to be "prepared in accordance with generally accepted accounting principles (GAAP) and audited by an independent public accountant."

<sup>11</sup> The separate internal controls report focuses on the services provided by the service corporation. We expect a service auditor to attest to the internal controls at your service corporation and issue a related report, using the American Institute of Certified Public Accountants' Statement on Standards for Attestation Engagements (SSAE) for Service Organizations (SSAE 18).

	<b>16</b>	<b>Any additional information</b>	<p>Provide any further information that may be relevant.</p> <p>For example, if the service corporation is to provide "related services" as defined in 12 CFR 618.8000, provide the date on which the authorized institution verified the feasibility analysis for each related service. See 12 CFR 618.8025.</p>
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## **APPENDIX**

### ***Capital Adequacy Plan***

1. Objectives
2. Principles and assumptions
3. Capitalization and stock classes
4. Capital requirements and targeted regulatory capital ratios
5. Projected sources and uses of capital
6. Other capital factors
  - a) Liquidity
  - b) Asset Liability Management
  - c) Management
  - d) Operating procedures
  - e) Reserves
  - f) Procedures for amending the capital plan

### ***Three-Year Financial Plan***

1. Pro forma Financial Statements
  - a) Statement of Condition
  - b) Statement of Operations
  - c) Statement of Changes in Capital
  - d) Statement of Cash Flow
2. Bank district information
3. Detailed budget or Operational plan
4. Capital expenditures budget
5. Financing Agreements, if any
6. Assumptions used to prepare financial statements (If assumptions are not fully supported, provide historical cost.)
7. Management's overall conclusion on the proposed accounting for the service corporation and the presentation of the pro forma financial information in accordance with the proposed accounting