



**FCS FINANCIAL**

Growing Relationships. Creating Opportunities.™

A FARM CREDIT COOPERATIVE

June 20, 2014

Mr. Barry F. Mardock  
Deputy Director  
Office of Regulatory Policy  
Farm Credit Administration  
1501 Farm Credit Drive  
McLean, Virginia 22102-5090

Re: Proposed Rule – RIN 3052-AC44  
Standards of Conduct and Referral of Known or Suspected Criminal Violations; Standards of  
Conduct

Dear Mr. Mardock:

We appreciate the opportunity to provide feedback on the Farm Credit Administration's ("FCA") proposed rule on standards of conduct ("SOC"). Our comments are intended to supplement the Systemwide comments submitted to FCA by the Farm Credit Council.

FCS Financial ("FCSF") is chartered to serve farmers, ranchers, agricultural businesses, and rural residents in 102 of Missouri's 114 counties. We have approximately 15,000 stockholders and 15 members of the Board of Directors. We hope this brief information about FCSF provides FCA with some perspective on our comments.

FCSF strongly supports ethical behavior by all our employees and also believes that we have a culture of integrity. We fully comply with the current SOC regulations and believe they have been adequate in allowing us to address situations in a prompt, efficient manner. From time to time, employers may encounter instances when an employee takes an action that he or she knows does not meet the requirements of FCA's regulations or FCSF's SOC policies and procedures. We believe that many of the proposed changes will not assist System institutions in efficiently addressing those situations and share the following comments on select items.

Proposed Rule section 612.2140(b) would require our directors to report material financial interests with other directors (both of FCSF and other System institutions) and employees, agents, or borrowers of FCSF. Our directors may have limited knowledge of the directors for other System institutions. They do not have access to our customers' financial information or make loan decisions. They do not have access to a list of our agents. It is not possible for them to know all of our borrowers or agents. They may know only a limited number of our employees. To meet the terms of this subsection, a director would have to ask every person he or she does business with whether they are a director of a System institution or an employee, a borrower, or an agent of FCSF. This disclosure requirement will impose an unnecessary burden on our directors and will adversely affect their ability to effectively carry out the business transactions they need to carry on their farming operations. If this subsection is not deleted, it should be amended to require a director to report material financial interests only if he or she knows or has reason to know that the other person is a System director or an employee, borrower, or agent of the association.

Proposed Rule section 612.2140(c) requires that if a director is involved in any relationship, transaction, or activity that is required to be reported, he or she must "promptly" provide a written report to the association's SOC official for a determination of whether the relationship, transaction, or activity is, in fact, a conflict of interest. It is not certain whether "promptly" means that the written report must be provided before the transaction is entered into or that it can be provided after the transaction is completed. This subsection reinforces the need for subsection (b), discussed above, to be amended so that the director is only reporting material financial interests that he or she has reason to know are with a System director or an employee, borrower, or agent of the association. As stated above, our directors do not approve loans to our customers so it is difficult to imagine a situation where a director would have a conflict of interest with a customer. If this subsection is not deleted, it should be amended to identify a specific time period within which the director must make the required written report.

Proposed Rule section 612.2145(b)(4)(iii)(D) provides that a director may enter into certain lending transactions with another FCSF director or employees, agents, or borrowers of FCSF only if the SOC official determines, **before** the director enters into the transaction, and documents that the potential for conflict is insignificant. This requirement requires that the SOC official become involved with a director's lending decisions and imposes an unreasonable restriction on parties with whom a director may want lend money. If this subsection is not deleted, it should be amended to provide that in emergency situations, the determination of the SOC official can occur after the closing of the lending transaction.

Proposed Rule section 612.2165 requires that the board of directors adopt a Code of Ethics that must be signed by directors and employees. The definition of "Code of Ethics" in Proposed Rule 612.2130 is problematic in that it must "ensure the ethical conduct of those who sign it." We do not believe that any document an employee or director signs will "ensure" the ethical conduct of the signer. The definition should be amended to include a reasonable definition. Currently, FCSF has a Code of Ethics for the directors, the senior leadership team, certain members in our Financial Services department, and the internal auditors. They acknowledge compliance with the Code of Ethics by signing an acknowledgment form. The signature on that form should continue to be sufficient. It is problematic for the SOC official to try and track down several hundred Code of Ethics forms from the directors and all employees. This section should be amended to delete the separate form signature requirement. This section should also be amended to allow the association to determine who is required to certify as being in compliance with the Code of Ethics.

Many provisions in the Proposed Rule put an unreasonable burden on the SOC official to go beyond reviewing the information that a director or employee reports by requiring that each transaction be reviewed and approved on a case-by-case basis. No other financial regulator has imposed such an investigatory duty on the staff of its regulated institutions. Proposed Rule section 612.2165(f) provides that regardless of approval by the SOC official, FCA can find a particular financial interest or transaction, relationship, or activity constitutes a conflict of interest or the appearance of a conflict of interest. Allowing second-guessing by FCA staff will not make the job of the SOC official any easier.

Proposed Rule 612.2165(b)(2)(i) requires that the SOC official review for compliance with the standards of conduct regulations all loans before the supervisory bank's approval under section 614.4470. FCSF has followed this regulatory approval process for decades without any issues having been identified. By imposing this additional review requirement, FCA is imposing an unnecessary step in the process of having a director's loan application approved.

Proposed Rule section 612.2180(b) requires that agents certify to FCSF that they will adhere to the agent's professional or industry ethics standards or to our Code of Ethics provisions applicable to agents. Proposed Rule section 612.2180(d) imposes on agents the same acquired property restrictions that apply to FCSF employees. In the ordinary course of our business, FCSF enters into contractual relationships with many individuals and entities that provide technology, training, marketing, title insurance, appraisal,

accounting, auditing, and other services to help us better serve our customers. These provisions of the proposed rule may adversely affect our ability to enter into contracts because we would have to negotiate the SOC terms into contracts with agents. This puts us at an economic disadvantage because the lending institutions are not required to so deal with their agents.

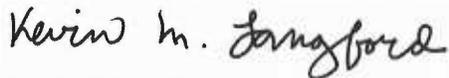
Proposed Rule section 612.2130 defines "agent" as any person who represents a System institution in contacts with third parties or provides professional services to a System institution. This definition is too broad in that it could include vendors with whom FCSF contracts. The use of a vendor for a specific service may be very brief in time. The vendors with whom we do business have no authority to serve as a representative of FCSF. The definition should be amended to exclude vendors. The definition should also exclude those professional service providers with whom FCSF has done business with for decades and will be confused by these new requirements that do not provide value to our relationship with them.

Proposed Rule section 612.2135(b) requires that directors and employees observe the "letter and intent" of the all applicable local, state, and Federal law and regulations. It is fairly easy to comply with the "letter" of the law. It is extremely difficult to comply with the "intent" of the law as that is a subjective matter. We suggest that this section be amended to remove any references to the requirement to comply with the "intent" of the law.

This subsection also requires that we comply with the "instructions" and "guidance" of FCA. These terms are not defined anywhere in the Farm Credit Act of 1971, as amended, or in FCA's regulations. We are concerned with the possible scope of those terms and believe the interests of FCSF is best served if any regulatory items are issued by FCA following the requirements of the Administrative Procedures Act.

Again, we appreciate having the opportunity to share our comments on the Proposed Rule. We believe that several changes need to be made to that rule so that System institutions can comply with the final version. We have not seen any instances that the current version of the regulation has not been effective in the standards of conduct area and we believe that System institutions are best served by a final rule that will closely follow current rules.

Sincerely,



Kevin M. Langford  
General Counsel