Alan Marsh, Director
Madison, Alabama

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

Dear Mr. Mardock:

I am writing to offer my comments on proposed amendments to the regulations on Standards of Conduct ("SOC") and Referral of Known or Suspected Criminal Violations ("Proposed Regulations"). As a member of the AgFirst Farm Credit Bank Board of Directors and the First South Farm Credit, ACA Board of Directors, I whole-heartedly support the principle that System institutions' directors must maintain high standards of honesty, integrity, impartiality and ethical conduct. However, I am concerned that many of the Proposed Regulations are too broad, administratively burdensome, and will have a chilling effect on the recruitment and service of directors. My comments below focus on the impact of the Proposed Regulations on System directors. However, I also support the comments submitted by AgFirst and the Farm Credit Council regarding other important concerns not addressed in this letter.

As you know, most of the System institutions' directors are System borrowers and business leaders in their agricultural and/or rural communities. As a result of the cooperative structure, System institutions' directors may have business relationships with others that transact business with System institutions. I, like other System institutions' directors, am strongly committed to a culture of high ethical conduct and the avoidance of conflicts of interest. Accordingly, I support the Proposed Regulations' requirements that System institutions' directors annually certify to adhere to the System institution's standards of conduct policy and Code of Ethics and annual training requirements on standards of conduct. However, other provisions of the Proposed Regulations, as set forth below, impose undue burdens on these ordinary course business relationships.

Reporting

The Proposed Regulations (§612.2140(b)(1)) would require each director to report all "material" financial interests with other directors, employees, agents or borrowers of the applicable institution. Each System institution must develop policies and procedures for what constitutes "material" financial interest, and may develop policies and procedures for a "de minimis" value that would not be considered material for reporting requirements. While I appreciate the Agency's attempt to provide flexibility by allowing institutions to establish exceptions for ongoing and ordinary course of business, this flexibility is essentially negated by §612.2165(e), which allows the Farm Credit Administration examiners to arbitrarily overturn such exceptions, which creates uncertainty for directors and their institutions.

The Proposed Regulations (§612.2140(b)(2)) also requires each System institution director to disclose the name(s) of any relative/member of the family or other person residing in the director's household and any entity controlled by the director if the director knows or has reason to know that such individual or entity transacts business with the supervised or supervisory institution. Unfortunately, the definition of "family" includes the ambiguous term "equivalent" relationships". Also, the definition of "controlled entity" or "entity controlled by" includes an ownership threshold of 5%. This threshold is substantially lower than what reasonably represents "control" of any entity and would be unduly burdensome for director reporting.

Prohibited Conduct

I support the general idea set forth in the Proposed Regulations (§612.2145(a)(7)) which prohibits a director from entering into a lending or borrowing relationship with those who have a financial relationship with the System institution. However, the prohibition is not limited to only situations where a director cannot knowingly become financially obligated with or on behalf of such parties. This would seem to mean that any such transaction which does not receive prior approval by the Standards of Conduct Official (SOCO) would violate the regulation even if the director had no reason to know that the counterparty on the related transaction does business with the System or only finds out such relationship after the transaction was consummated. The Proposed Regulations should make clear that prior SOCO approval is only required for transactions (a) involving parties that the director knows or has reason to know are borrowers or otherwise transact business with the related System institution and (b) are in excess of the de minimis and materiality standards set by the System institution board. Without such a limitation, directors will be subjected to burdensome reporting and approval requirements which may unreasonably delay ordinary course business operations. I would also note that such potential reporting burdens and undue delay are likely to make board service less palatable to many qualified director candidates.

Conclusion

Thank you for the opportunity to comment on the Proposed Regulations. It is imperative that System institutions' directors adhere to high standards of conduct and avoid conflicts of interest. However, portions of the Proposed Regulations are too broad or unclear and impose undue administrative burdens which may potentially limit the pool of qualified candidates with diverse farm, agricultural and specialized business experience willing to run for open seats on System institutions' boards. I respectfully request that the FCA consider my comments, as well as other System institutions' directors, to revise the Proposed Regulations to reduce unnecessary administrative burdens and clarify responsibilities so that we may advance the mission of the Farm Credit System to provide financing to our rural and agricultural communities.

Sincerely,

Alan Marsh, Director