AG CREDIT

Country Mortgages

AG CREDIT, AGRICULTURAL CREDIT ASSOCIATION
AG CREDIT, PCA AG CREDIT, FLCA
www.agcredit.net

610 W. Lytle Street • Fostoria, OH 44830
Phone: 419-435-7758 • Toll-free: 800-837-3678 • Fax: 419-435-6847

February 11, 2015

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

Re: Proposed Regulatory Capital Rules: Regulatory Capital, Implementation of Tier 1/Tier 2 Framework. Supplementary Comment Letter of Ag Credit ACA

Dear Mr. Mardock:

Ag Credit ACA submits the following comments to the Farm Credit Administration ("FCA") in response to the notice published in the *Federal Register* on September 9, 2014, requesting comments on proposed amendments to the regulations regarding Regulatory Capital and the implementation of the tiered framework similar to Basel III.

Ag Credit supports the System comment letter provided by the Farm Credit Council, the "System Comment Letter". We provide our comments as we wish to stress on behalf of our members that FCA accept the Systems' proposal to require by regulation binding Board of Directors approved resolutions to qualify allocated equities as Common Equity Tier 1 ("CET1") capital, especially nonqualified allocated retained earnings ("NQR"), rather than requiring a vote by and approval of bylaw changes by a System entity's membership and further that the FCA remove the ten-year minimum term for retained earnings.

As stated in the System Comment Letter, Farm Credit System ("FCS") institutions are supposed to operate under a cooperative business structure. Ag Credit has operated as a true Internal Revenue Service Subchapter T cooperative since 1996 and through our patronage program we have returned approximately $209,000,000 to our members since 1992. We distribute our patronage-eligible earnings in cash, nonqualified allocated surplus ("NQAS") and NQR. Historically we allocate our NQAS to our members and, upon approval of our Board of Directors, pay the NQAS to members on a six-year revolvement cycle.

We do not revolve our NQR and have no intention to do so. All of our patronage related advertising and public relations materials refer to only the cash and NQAS distributions. While the NQR is recorded in the respective member's name each year, we give no indication, nor do we intend to give any indication to our members that the NQR is anything other than

permanently invested in Ag Credit. We chose to use the NQR designation rather than the unallocated retained earnings ("URE") option because we are a cooperative. As a cooperative, the NQR allows us to record these funds in the members name rather than simply putting the funds in URE with no such designation. As with URE, the NQR would only be distributed upon the liquidation of Ag Credit.

FCA has proposed that allocated retained earnings, essentially our NQR, must have a 10-year minimum term in order to be treated as CET1. While we understand the importance of "permanence" with respect to CET1, there is no basis in Basel III for a 10-year holding period. Moreover, an allocated equity with an express minimum term of 10 years is no more permanent than an allocated equity that is perpetual on its face, particularly when a separate rule requires FCA consent for distributions that exceed 12-month trailing earnings. The proposed minimum term/revolvement period should be eliminated. Ag Credit's allocated equities are simply retained earnings and should be included in CET1 without an arbitrary and meaningless 10 year qualification.

Requiring System entities to have the members vote on and approve a bylaw change to count NQR as CET1 capital creates unnecessary risk and operating expenses for our association. These costs arise both in hard costs and opportunity costs for our team members and will create unnecessary confusion for our members. As noted above, Ag Credit has been consistent in its message and our borrowers have no expectation of ever receiving the NQR funds assigned to them. In our opinion, there is no benefit to FCA requiring such a vote and cost and risks associated with such a vote are material.

The proposed regulations indicate that our NQR as an allocated equity cannot be considered CET1 capital unless we have our members vote on, and approve, a bylaw change to require the NQR to have a revolvement cycle of ten years or more. While we understand the need for permanence, if for some reason our membership did not approve of the bylaw proposal the proposed regulation would effectively eliminate $98.5 million of our NQR from CET1 capital. The effect of this would be to take our estimated CET1 ratio from 15.78% to 6.68%. Further under current FCA capital regulations, our capital ratios earn a Financial Institutions Rating System ("FIRS") rating of 1. Under the proposed capital regulations, without member approval of the required bylaw changes, we will likely have a considerably weaker FIRS rating. The negative impact to our capital ratios and FIRS rating would occur despite the fact that nothing changed with our capital structure or the permanence of our equity.

The proposed regulations effectively punish Ag Credit and other similarly situated associations for operating as a cooperative, while rewarding those institutions who have not operated in a true cooperative fashion. As a simple example, assume two FCS institutions with identical net worth, however one association has $100 million of NQR and the other holds $100 million of URE. The first association has operated as a true cooperative and paid out its earnings through NQR.

However, the second association has not followed cooperative principals and paid out its patronage through NQR, but rather simply kept its income as URE.

The proposed capital regulations count the $100 million of URE as CET1 capital, while the $100 million of NQR is not counted absent a vote and approval by such association's members. Both associations have the same amount of capital with effectively the same expectation of permanence for the capital. However, association one is at risk absent an affirmative vote by its members. We do not believe this treatment is equitable or in line with the System's cooperative structure.

While the capital values set forth above are only for illustration, the example otherwise reflects the reality facing Ag Credit. FCA allowed for Ag Credit to be over-chartered in its territory. Ag Credit operates as a true cooperative and retains part of our earnings in NQR. However, the other FCS institution in our territory does not operate as a true cooperative and retains its earnings in URE. If the proposed capital regulations are enacted without the changes we request, Ag Credit will be placed at a competitive disadvantage simply because we have elected to follow FCA regulations and principles and operate as a true cooperative.

It is beyond question that FCA could require through regulations, the adoption of board policies and corresponding capital plans which would effectively require the implementation of the proposed regulatory capital requirements. The regulations and corresponding board policies and capital plans would effectively allow all FCS institutions to comply with the proposed regulatory requirements without the necessity, uncertainty and cost of a shareholder vote. We respectfully request that FCA take such an approach on this issue.

We appreciate the opportunity to comment on the proposed regulations and FCA's consideration of our request.

Sincerely,
Ag Credit ACA

By: Brian J. Ricker
Its: President and CEO