FARM CREDIT WEST

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July 16, 2021

Mr. Kevin J. Kramp
Director, Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Re: Proposed Rule – 12 CFR Part 614 – RIN 3052-AC94; *Collateral Evaluation Requirements*; 86 Federal Register 27308-27323

Dear Mr. Kramp:

Farm Credit West, ACA ("FCW") appreciates the opportunity to comment on the Farm Credit Administration's ("FCA") Proposed Rulemaking published in the May 20, 2021 Federal Register ("Proposed Rule") addressing Collateral Evaluation Requirements. FCW coordinated with a Farm Credit System ("System") workgroup assembled by the Farm Credit Council ("FCC") to evaluate the Proposed Rule. FCW fully endorses the conclusions addressed in the FCC's comment letter. Also, FCW has reviewed the comment letter submitted by CoBank and supports its conclusions regarding the Proposed Rule.

As written, the Proposed Rule is overly prescriptive and has provisions which would lead to increased risk in lending practices and significantly greater operating expenses and inefficiencies. These factors would put the System (and ultimately System customers) at a competitive disadvantage as compared to other lenders and would negatively impact our ability to fully serve our mission. The extra costs and risk would have to be passed on to our borrowers through fees, higher interest rates, or lower patronage.

More concerning is that Young, Beginning, and Small farmers and ranchers (which may also include minority, Tribal, and socially disadvantaged farmers and ranchers), would be disproportionately impacted as they often have the smallest amount of borrowings and capacity for absorbing these higher fixed costs. These negative outcomes would result from the Proposed Rule with little demonstrable benefit to customers, while at the same time providing no discernable improvements to the safety and soundness of the System.

We join with the FCC and CoBank in asking for FCA to significantly rework the Proposed Rule and resubmit it for comment or rescind the Proposed Rule and work with the System in addressing updates to the rules.

Primary Observations

A number of challenges are presented by the Proposed Rule. Such challenges not only fail to satisfy the goals and objectives identified by FCA but also present compliance issues for Farm Credit System institutions ("System institution(s)") and their appraisers and chattel evaluators, impose costs and burdens on System customers and borrowers, and invite unnecessary confusion and inconsistency within FCA regulations and with related authorities. Contrary to achieving the stated objectives of the Proposed Rule, the amendments proposed are a significant step backward in modernizing the appraisal rules and creating a level playing field with the System's competitors. Below are the major areas of the Proposed Rule that create concern for FCW.

A) **614.4245 (General)** requires that all property used to secure a loan (collateral), including that taken as an Abundance of Caution (AOC), must be given a market value supported by an appraisal or an evaluation reflecting current market conditions.

This standard creates unnecessary burden and ultimately will create additional expenses for borrowers or increased credit risk. Collateral is routinely taken as a credit control where the value of the collateral is not a determining factor. This would create significant additional work and impose additional costs on borrowers and negatively affect the customer experience. It may also have the unintended consequence of encouraging lenders to not use AOC, even when it may be prudent to do so, negatively impacting the safety and soundness of the System. Taking blanket liens is a typical practice at non-System lenders; it does not seem reasonable to set a higher standard for System Institutions in this regard if there is no compelling reason to do so.

The Proposed Rule also indicates that "failing to assign a market value to all collateral may negatively affect capital treatment, ...as well as create borrower confusion if the property is later assigned the true market value because it has become essential to the credit." We disagree with the notion that this adds value to customers.

FCW would suggest that there are multiple ways to value a piece of collateral, including purchase price, minimum value, or even customer representation of value. Requiring a market valuation of all collateral to prevent the possibility of future "borrower confusion" does not seem to be a compelling enough benefit to justify the additional cost and restrictions placed on System institutions, and FCW is not aware of widespread instances of "borrower confusion" as regards collateral value.

That said, FCW is fully supportive of ways to make the lending relationship more effective and efficient for borrowers in order to continue to fulfil our mission.

B) **614.4245 (General) and 614.4250 (Valuing Real Property)** requires System lenders to develop guidelines for the timely review and updating of appraisals and evaluations to reflect current market condition.

FCW agrees that institutions should have procedures for determining when and whether appraisals and evaluations may be required to be made with regard to certain credits. However, FCW feels that it is appropriate to allow System lenders the flexibility to take a risk-based approach whereby updated appraisals or evaluations will not be needed if the relevant loan is sufficiently "low risk" or is performing.

In many (if not most) instances, it may only be important to determine that the current value is no less than when the transaction was originally put on the books. FCW believes that this would satisfy FCA's general goal of improving knowledge of collateral position while reducing the additional burden.

C) **614.4245(b 2 ii)** requires that any reader of the report must be able to determine the reasonableness of the value conclusion.

Uniform Standards of Professional Appraisal Practice ("USPAP") is very clear that a party receiving a copy of an appraisal report in order to satisfy disclosure requirements does not become an intended user of the appraisal and that appraisal reports need only contain sufficient information to enable the intended user(s) to understand the report.

The Proposed Rule ventures beyond USPAP's requirements and imposes an obligation that the report satisfy any "reader" of the report, including any future, unknown reader. This simply places an impossible burden on an appraiser without any commensurate benefit. There is no way for an appraiser to ascertain the knowledge and sophistication of any "reader" beyond the System institution, as the intended user. Furthermore, it is important to keep in mind who the client is when an appraisal is done. When FCW orders an appraisal on property, it is FCW paying for the appraisal and is the client. The Proposed Rule would expand the scope of who could be considered a "client" to include "any reader". This would put appraisers in an untenable situation both legally and ethically in preparing appraisals that comply with USPAP and meeting the additional requirements that the Proposed Rule would impose.

USPAP standards exist for a purpose, and appraisal reports follow those rules as they provide appropriate protections and notice for intended users and readers of the reports. It does not seem reasonable to require System Institutions to exceed the requirements of USPAP--especially if there is no compelling benefit to doing so.

FCW appreciates the opportunity to comment on the Proposed Rule and to present some of its concerns to the FCA for its consideration. For the reasons stated herein, FCW respectfully requests that FCA withdraw the Proposed Rule. Alternatively, FCW requests an opportunity for System representatives and industry experts to meet with FCA to see if improvements can be made to existing guidance to accomplish the stated objectives of the Proposed Rule and/or to further safety and soundness with regard to appraisals and collateral evaluations in another way.

Sincerely,

Mark D. Littlefield
President/CEO