

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:

AgCountry Farm Credit Services (“AgCountry”) appreciates the opportunity to comment on the Farm Credit Administration’s (“FCA”) Proposed Rule regarding Collateral Evaluation Requirements published in the May 20, 2021 *Federal Register* (the “Proposed Rule”).

First, AgCountry joins and supports the comment from the Farm Credit Council (“FCC”) and incorporates it in every respect into this comment letter. Second, AgCountry’s comment letter reflects our particular concerns and emphasizes some of the operational challenges facing AgCountry and adverse impacts on its member-borrowers should Proposed Rule become final. As will be shown in this comment, the Proposed Regulations fail to provide flexibility for valuation practices based on risk and the type of collateral. It limits efficient and sound appraisal and valuation practices which have proven to be credible, accurate and safe for AgCountry and its member-borrowers. AgCountry respectfully requests that the Proposed Rule be withdrawn.

A. The Proposed Rule’s requirement to appraise or evaluate all collateral

AgCountry employs different valuation practices depending upon the Borrower’s capacity, capital, collateral, character, and the conditions of the loan – the 5 C’s of credit. Within this risk framework, AgCountry determines the type of evaluation and evaluator appropriate for each situation. AgCountry has procedures which satisfy existing FCA regulations, meet its risk tolerance, and provide efficient, reliable credit to its member-borrowers.

Under the Proposed Rule 12 CFR § 614.4245, AgCountry “must obtain appraisals or evaluations of all collateral used to secure an extension of credit.” There are many situations when it is not necessary for AgCountry to obtain an appraisal or evaluation of all collateral attached to an AgCountry lien.

AgCountry lends money to borrowers who potentially qualify for unsecured credit. AgCountry will frequently still secure the debt for control purposes and to safeguard the association’s

assets. In these circumstances, collateral is not evaluated with the same scrutiny compared to collateral evaluated for higher leveraged operations or a borrower facing financial hardship. AgCountry assesses the risk of default based upon the 5 C's of credit to determine how much time and effort is necessary to evaluate the collateral.

For many of member-borrowers loans, AgCountry's obtains a "blanket lien" on the chattel assets owned by our member-borrower. However, the reality of the farm operation is that certain large items, tractors, combines, planters, sprayers, trailers, and tillage equipment constitute the majority of the collateral value. While as a matter of sound business practice, AgCountry evaluate and values identified collateral items securing a loan, we often update the values of the pieces of collateral with significant value, and conservatively discount the values on pieces of collateral with lesser significance. For example, in a situation where borrower pledged all their machinery and equipment, after the initial collateral evaluation, we may update the values of the most valuable pieces of equipment needed to secure the debt while conservatively discounting the remaining pieces. To expend additional time, effort, and cost to document the value of all collateral pledged, including smaller and older implements, does not provide a benefit to AgCountry or its member-borrowers. In fact, the additional valuation will add unnecessary expenses and inefficiency to the lending process.

Blanket liens provide AgCountry with maximum collateralization for its debt and provide flexibility and control for ongoing lending relationships and for more risky lending relationships. Collateral can be exchanged or replaced by the borrower without amending security agreements or UCC filings. As the borrowing relationship evolves, AgCountry can increase or decrease the amount of debt without amending security agreements or UCC filings. Requiring AgCountry to assign a value to each piece of pledged collateral would render blanket liens impossible and impractical. Evaluating every asset is unnecessary for most lending decisions. Further, collateral can change over time. As described in FCC's comment, seeds are planted and become growing crops, which are harvested and placed into inventory, which is then sold and replaced by proceeds. It would be difficult and unnecessary to complete a collateral evaluation for each servicing request made by a borrower throughout the growing season. Similarly, borrower's trade equipment in response to changes in their operation and condition of their equipment. Trades may not meaningfully affect the value of the collateral relative the debt or to a particular credit action. Evaluating all collateral associated with a credit action may be unnecessary to make a good credit decision.

Further, it should be recognized that assets may be taken as collateral for reasons other than their value, such administrative ease, abundance of caution, control and other reasons. In those instances, while that collateral is not necessary for the immediate credit decision, it provides additional security for the loan. As described in FCC's comment, evaluating each piece of collateral would effectively preclude AgCountry from obtaining additional security out of an abundance of caution. Securing collateral out of an abundance of caution or for control is a common practice among lenders. Other lenders in AgCountry's loan service area commonly take blanket liens and collateral out of an abundance of caution or for control. These other lenders are not required to value each piece of collateral securing their loans. Other lenders may make risk-based decisions under their

regulations, and current FCA regulations provides for similar discretion with regard to such evaluations. Retaining the ability to use discretion with regard to blanket liens and taking collateral out of an abundance of caution is critical to AgCountry's credit and lending processes.

B. The Proposed Rule's requirements for independent appraisal or evaluation

Under the current regulation, AgCountry has developed procedures to ensure chattel and certain fixture evaluations are completed by competent, impartial employees who do not have a direct or indirect interest in the loan or subject collateral. To ensure employee competence for chattel and fixture evaluations, AgCountry has developed mandatory chattel and fixture evaluation educational courses for staff to complete periodically. All chattel evaluators must be recommended by their supervisor and approved by a Senior Vice President of Credit. Periodically, AgCountry's internal audit will review compliance with chattel evaluation procedures and spot check evaluations. During reviews, FCA has previously accepted AgCountry's procedures and training for chattel collateral. While appraisers and evaluators should be qualified and independent, the Proposed Rule imposes burdens in that it expands what is considered "independence" far beyond those under existing regulations without any support for why such proposed changes are needed.. A

C. The Proposed Rules requirements to release appraisals or evaluations

AgCountry prepares appraisals and evaluations at particular time and for a particular purpose: to ensure the company makes the best decision on the loan in compliance with regulations, policies, and sound lending practices. Using an appraisal or evaluation for purposes other than its intended purpose may create confusion for unintended users, particularly if an appraisal or evaluation is requested many years after its creation. For example, if AgCountry was not required to value improvements to real property to provide adequate collateral for a loan, the value of those improvements may be properly excluded from an appraisal by the use of a Hypothetical Condition under USPAP guidelines. A later party attempting to use that appraisal will likely want the full value of the appraised property including improvements and may not appreciate that improvements were not included in the appraisal. Because of these issues, and for the reasons discussed in FCC's comment, AgCountry believes that the current regulations provide sufficient guidance for releasing appraisals and evaluations.

D. Age of appraisal or evaluation reports

AgCountry currently makes some credit decisions based upon appraisals or valuations that reflect older values for collateral when collateral value is clearly equal to or greater than the prior appraisal or valuation. This analysis is completed under procedures which have shown to be creditable and reliable. . Under the Proposed Rule, a "lender may use existing collateral appraisals or evaluations reports only if the appraisals or evaluations reflect current market conditions at the time of use." AgCountry would not be able to utilize its procedures under the Proposed Rule even if the appraisal or evaluation reflects a lower value than the current market value of the real estate collateral. For example, if a borrower requested a partial release of real estate encumbered by a mortgage,

AgCountry can now review the loan to value against old, lower numbers and make a credit decision. If the remaining collateral after the release would be adequate under the old valuations to support the debt, AgCountry will process the release with no further action. If the remaining collateral under the old valuation would not be adequate to support the debt, AgCountry may undertake further analysis such as completing a new appraisal or valuation for the real estate or using the BM EMV Review process. Under the Proposed Rule, AgCountry's only option would be to complete a new appraisal or valuation for the collateral. This removes all flexibility and imposes a burden without a commensurate benefit for AgCountry or its member-borrowers.

E. The Proposed Rules on valuing real property

AgCountry has an in-house team of Certified Real Estate Appraisers and Qualified Evaluators to value real estate mortgaged or to be mortgaged to AgCountry. When determining the scope of work required for the appraisal or valuation, AgCountry's appraisers choose among the three types of approach to value: sales comparison, cost, and income. The vast majority of AgCountry's real collateral is unimproved real estate. Using a sales comparison approach to the value the land with an analysis and indication of potential net rental income is sufficient for the purpose of the requested appraisal to make a credit decision regarding the adequacy of the collateral, which is consistent with USPAP guidelines. The reliability and credibility of our appraisal reports for their intended purpose will not be increased by requiring all three approaches.

Proposed Rule 12 CFR § 614.4265, states "[t]he appraisal or evaluation must include a general discussion of the other approaches considered but not relied upon to reach the final market value. In situations *where one or more of the three approaches must be excluded from consideration due to a lack of data*, the appraisal must include an explanation justifying the exclusion." (emphasis added). The emphasized portion of the regulation implies that all three approaches to value must be included unless there is a lack of data. USPAP does not require that all three approaches to value be developed, only state or explain the reasons for exclusions. Requiring all approaches to value will place an additional burden onto AgCountry to comply with this implied requirement.

Similarly, AgCountry may exclude the value of certain real estate improvements (by the use of a Hypothetical Condition under USPAP guidance) where there is sufficient value in the bare land portion of the real estate. These improvements are still collateral for AgCountry loans and are not excluded under the mortgage. Under Proposed Rules 12 CFR § 614.4245 all collateral is to be appraised or evaluated. If AgCountry Appraisers are required to include the value of improvements, even if not necessary to provide collateral for a loan, there will be unnecessary delays and costs for AgCountry and our member-borrower as inspections will then be required to verify the quality and condition of improvements but a desk valuation would be considered sufficient to meet credit standards and to meet the needs of AgCountry's borrowers.

Finally, AgCountry appraisers and evaluators, when determining the scope of work required for the appraisal or valuation, may choose to forgo an inspection of the real estate in order to expedite

the loan process and to save the borrower both time and money as there may be sufficient market value in only the land portion of the real estate collateral in order to meet the member-borrower's needs and loan requirements; while maintaining credit quality of AgCountry's loan security. However, the Proposed Rule 12 CFR § 614.4245(b) requires the appraisal to include "a list of readily observable conditions that may pose a present environmental hazard." This requirement would effectively mandate in person inspections of all real estate collateral. Similarly, Proposed Rule 12 CFR § 614.4250(c) requires internal controls for "verifying the condition of pledged collateral is as listed in the appraisal or evaluation report." This rule may require in person inspection of all collateral, which would remove the flexibility for appraisal and valuation methods which have been shown to provide creditable and reliable values and that are considered useful and efficient for AgCountry and its member-borrowers.

Conclusion

AgCountry fully supports FCC's comment submitted to FCA. There are many issues discussed at length in FCC's comment which were not addressed here. These include new classifications of collateral inconsistent with UCC Article 9, inconsistencies between FSA collateral evaluation requirements and the Proposed Rule, the Proposed Rule's treatment of automated valuation models, internal controls, and many others. Those issues are important to AgCountry as well. The purpose of this comment was not to exhaustively repeat the concerns raised FCC, but to supplement that comment with specific examples of how the Proposed Rule would adversely affect AgCountry and its member-borrowers.

In conclusion, while AgCountry understands the desire to modernize FCA's Collateral Evaluation regulations, the Proposed Rule as written removes flexibility required for AgCountry to deliver sound, risk-based credit decisions and limits certain efficient and sound appraisal and evaluation practices which have proven to be credible, accurate and safe for AgCountry and its member-borrowers. Compliance with the Proposed Rule will increase costs for our member-borrowers and will likely result in delays in obtaining loans, with no corresponding benefit. For the reasons stated in FCC's comment and stated herein, AgCountry respectfully requests that FCA withdraw the Proposed Rule.

Sincerely,



Marcus L. Knisely
Chief Executive Officer