



July 19, 2021

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

RE: Proposed Rule – Collateral Evaluation Requirements – RIN 3052-AC94 / FR Vol. 86, No. 96 (May 20, 2021)

Dear Mr. Kramp,

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

Northwest FCS participated in a Farm Credit System workgroup assembled by the Farm Credit Council (“FCC”) and for the reasons set forth within the FCC comment letter, support the FCC’s recommendation to respectfully request that the Proposed Rule be withdrawn.

In many instances the Proposed Rule is more prescriptive, burdensome, and inconsistent as compared to other laws and regulations. The Proposed Rule places the Farm Credit System (“System”) at a competitive disadvantage, either through cost or process inefficiencies, and inadvertently increases the associated lending risk. All of which may obstruct the ability for System institutions to satisfy the mission of Farm Credit.

The following sections highlight specific areas of concern with the Proposed Rule:

Adverse impacts for borrowers:

Although the objectives of the Proposed Rule are well intended, the requirements set forth present challenges for System institutions to comply and operationalize. These stringent requirements will inevitably increase costs to borrowers and time required to service their requests. This is especially true for smaller lending relationships and has the potential to stifle lending activity to specific market segments (*e.g.*, YBS and diverse agricultural producers) during a time when the System is looking for ways to expand lending to these areas.

Limited ability to apply a risk-based credit analysis:

The Proposed Rule fails to acknowledge the interrelationship between collateral and the other four factors of credit when making a lending decision. The prescriptive requirements of the Proposed Rule place unnecessary burden on institutions to perform analysis on chattel collateral. Furthermore, requiring institutions to assign values to all collateral, even when taken on a blanket lien basis, will likely undermine the objectives of the Proposed Rule. Increased costs and difficulty of compliance will lead to an increase in the number of unsecured loans resulting in elevated lending risk to the Farm Credit System. The Proposed Rule limits the flexibility

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institutions are currently delegated, allowing them to apply an underwriting framework reliant upon all five factors of credit that is commensurate with both the institution's risk tolerance and the transaction level risk.

Abundance of caution (chattel assets):

Requiring a current market value for individual collateral items negatively impacts safety and soundness. It contradicts regulations stating that loans with collateral taken as an abundance of caution must be made on the strength of the other credit factors, and collateral is not to be considered in the analysis. Furthermore, requiring individual chattel assets to have a current market value limits the ability of the Farm Credit System to utilize blanket liens for control purposes. In the lending process, collateral may be taken for the purpose of controlling the assets and application of funds of those assets.

Chattel asset value conclusions:

Requiring chattel asset valuations to be stated at the current market value is inconsistent with the industry and the broader regulated lending market. While fair market value is applicable in most cases, it is often impractical to value each individual piece of collateral for businesses with lengthy collateral lists. Additionally, requiring current market value of each individual piece of collateral on business relationships places the Farm Credit System at a competitive disadvantage compared to commercial bank expectations. Northwest FCS recommends the Proposed Rule be revised to allow for the flexibility for System institutions to value chattel assets at the "lesser of cost or market."

Terminology:

The Proposed Rule creates new classifications of collateral that are not found in Article 9 and are internally inconsistent with the terms institutions must use to comply with other federal, state, and professional standards required to properly identify and secure interests in collateral. The creation of the term "Business Chattel" will cause confusion and ambiguity to both staff and borrowers alike. A seemingly minor terminology change will have a material impact on System institutions. Loan documents as well as internal policies, procedures, instructions, and forms will all need to be updated which requires significant time and effort from attorneys and other subject matter experts.

De minimis levels:

Northwest FCS strongly recommends the FCA revise the Proposed Rule to increase the de minimis threshold levels for real estate transactions that require an appraisal, consistent with other banking regulations. In line with the FCC comment letter, this change would provide meaningful relief from existing appraisal requirements without posing a threat to the safety and soundness of Farm Credit System institutions. Other banking regulations have raised the di minimis level on consumer lending to \$400,000, while the Proposed Rule leaves the Farm Credit consumer di minimis level at \$250,000. Furthermore, other banking regulations have raised commercial lending di minimis levels to \$500,000. While we appreciate expanding the business loan exemption to include agriculture cash rental properties, there are other commercial properties such as agribusiness, processing, or



marketing properties that are financed by the Farm Credit System. Failure to raise di minimis levels equal to other banking regulations places the Farm Credit System and borrowers at a disadvantage.

Evaluator independence:

The requirement within the Proposed Rule for a secondary review to occur when an evaluation is completed by an individual involved in the credit decision, either before credit approval or soon after loan closing, results in increased costs, operational inefficiencies, and competitive disadvantages for System institutions without evidence that this control is necessary. Each institution is currently required to maintain written standards documenting regulatory requirements for appraiser and evaluator independence and qualifications. The FCC notes that “the Interagency Appraisal and Evaluation Guidelines recognize that some separation between the lending and collateral functions may not always be possible due to an institution’s size. In such circumstances, the lending institution should be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process and ensure that those who are involved in the appraisal process are not involved in the lending approval process.”

Automated Valuation Models:

As identified in the FCC comment letter, the proposed definition for Automated Valuation Models (AVMs), is incomplete, lacks necessary specificity, and is inconsistent with Uniform Standards of Professional Appraisal Practice (USPAP). The Proposed Rule also fails to recognize the difference between appraiser-assisted valuation tools (e.g., Maven) and true AVMs. Additionally, the Proposed Rule requirements conflict with the FCA’s existing regulations concerning model governance requirements to support use of models, which may include true AVMs.

Age of appraisals or evaluation reports:

Existing FCA regulations provide System institutions the autonomy to determine the frequency of appraisal or collateral evaluation reports based on a multitude of factors including local market conditions, loan terms and conditions, and other traditional underwriting considerations. The Proposed Rule limits such discretion and fails to acknowledge the interrelationship between collateral and the other four factors of credit as stated above.

Thank you for allowing Northwest FCS the opportunity to comment on this Proposed Rule and for the FCA’s willingness to seek comment from the institutions on the appropriateness of the requirements imposed on the Farm Credit System. Please contact Paul Nelson at (509) 340-5706 or by email at Paul.Nelson@northwestfcs.com if you wish to discuss our comments.

Respectfully submitted,

John Phelan

Executive Vice President - Chief Risk and Credit Officer