



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:

Compeer Financial, ACA (“Compeer”) appreciates the opportunity to comment on Farm Credit Administration’s (“FCA”) Proposed Rulemaking published in the May 20, 2021 Federal Register addressing collateral evaluation requirements (“Proposed Rule”).

Compeer supports the letter being submitted on behalf of the Farm Credit System (“System”) by the Farm Credit Council (“System letter”) and offers this letter as a supplement to the System letter.

The Proposed Rule presents System institutions with a number of challenges which will not only halt progress and eliminate efficiencies, but will place the System at a competitive disadvantage. Compeer views the Proposed Rule as a step backwards for our business and our clients. Placing new burdensome requirements on the appraisal and evaluation process will create inefficiencies and increase costs without any appreciable benefits. The Proposed Rule also creates a high probability that, unlike non-System lenders, new technologies and advances in appraisal and evaluation practices will not be accessible to the System and may make System lending less competitive. Unfortunately, the objectives stated in the Preamble of the Proposed Rule, while admirable, do not align with the text and comments of the Proposed Rule.

For the reasons stated in the System letter and in this letter, we respectfully request the Proposed Rule be withdrawn.

### **Evaluation of All Collateral**

The Proposed Rule in §614.4245(a) provides that: “System lenders must obtain appraisals or evaluations of all collateral used to secure an extension of credit (including leasing activities) or the purchased interest in credit extended by another lender. System lenders must maintain appraisals or evaluations reflecting current market conditions. At a minimum, every item of collateral must be appraised or evaluated both at the time a lien is obtained and when the System lender expects to liquidate its lienhold interest.” Compeer’s interpretation is that this would require every piece of collateral, whether real property or chattel, be assigned a value when taken as collateral and when released as



collateral. Meaning, if a blanket lien on all chattel is taken, each and every piece of chattel falling under that blanket lien must be assigned a value twice.

If every item of collateral requires a value at both of these points in time, this compromises the leeway appraisers and evaluators currently have under the FCA regulations while also creating additional work. This in turn increases costs which are ultimately passed on to System clients. FCA has failed to identify any compelling reason for creating this new burden that is unique to the System. Indeed, the Proposed Rule seems to elevate the importance of collateral above the other credit underwriting considerations, which is especially challenging given FCA's existing expectation that credit decisions be based on a borrower's projected ability to repay a loan. As a cash-flow lender, real estate and chattel collateral are certainly important, but they are a secondary source of repayment to consider when making a credit decision.

The Proposed Rule fails to consider a risk-based approach of taking collateral. By requiring System institutions to value every piece of collateral, regardless of the risk, System institutions will be forced to choose between increasing their costs to clients to account for the time and resources it takes to value each piece of collateral or making unsecured loans. Both of these options are not only counter to safety and soundness in making credit decisions, but severely hamper the ability of System institutions to serve all of rural America.

### **Uniform Standards of Professional Appraisal Practice ("USPAP")**

Proposed Rule §614.4245(b)(1) clarifies that appraisals must follow the format requirements of USPAP. However, the Proposed Rule places additional burdens on System institutions that are not currently required by USPAP.

For example, USPAP sets forth requirements for what information must be in an appraisal. USPAP is clear on who an intended user of an appraisal is and what information should be provided to that intended user. The Proposed Rule takes this several steps further by imposing a "reasonable reader" requirement. By broadening the scope to any reader of an appraisal report, the Proposed Rule muddies the waters which in turn impacts several areas already negatively affected by the Proposed Rule. Who is a "reasonable reader"? Is it a credit underwriter? A sophisticated client? An unsophisticated client? An FCA examiner? Conflicts between USPAP and FCA Regulations put System institutions and appraisers in a precarious position trying to comply with both.

Compeer encourages FCA to review USPAP and the accompanying Advisory Opinions. USPAP updates its text and guidance on a regular cadence to account for advances in technologies and changes in the appraisal landscape. By incorporating USPAP into the FCA Regulations, FCA would have the benefit of updated and timely guidance for the System without the burden of continuously updating FCA Regulations. Furthermore, by aligning System collateral evaluation requirements with USPAP, FCA would bring the



System in line with other non-System lenders in the marketplace which would increase the System's competitive advantage.

### **Automated Valuation Models**

Compeer commends FCA for including a definition and proposed guidance for the use of an Automated Valuation Model ("AVM"). Unfortunately, the definition and proposed guidance do not take into account the broad spectrum of technology available to assist in the evaluation of collateral. USPAP is subject to updates that address technological changes in the appraisal industry. We suggest FCA tie AVM guidance to USPAP in lieu of creating supplemental standards that may or may not address future technological changes.

In the Proposed Rule, the term "AVM" is defined as "a computer program that estimates a property's market value based on market, economic, and demographic factors using a quantitative method, system, or approach applying statistical, economic, financial, or mathematical theories, techniques, and assumptions."

USPAP Advisory Opinion 18 defines an AVM as "a computer software program that analyzes data using an automated process. For example, AVMs may use regression, adaptive estimation, neural network, expert reasoning, and artificial intelligence programs." USPAP AO-18 goes on to clarify that an AVM is a tool that can be used by an appraiser in the development of an appraisal or by an evaluator in developing an evaluation. USPAP AO-37 clarifies the scope of computer-assisted valuation tools related to appraisers and evaluators and their responsibilities.

AO-18 clearly defines the differences between the use of an AVM as a tool within an appraisal and an AVM used as a stand-alone product. AO-18 states "An AVM's output is not, in itself, an appraisal, and communication of an AVM's output is not, in itself, an appraisal report. When an AVM is used in an appraisal or appraisal review assignment, information furnished about an AVM in the appraiser's report must satisfy the reporting requirements applicable to the type of report provided (e.g., in the case of a real property appraisal, an Appraisal Report or Restricted Appraisal Report)."

By potentially curtailing the use of model assisted valuations, the Proposed Rule takes away efficiencies and cost savings that will ultimately negatively impact System clients. This is just one example of a current technology utilized by the System that may be limited by the Proposed Rule. There is a high probability that the limitations of the Proposed Rule will hamper the System's ability to take advantage of to-be-developed tools that will increase the accuracy and efficiency of real estate and chattel evaluation. Additionally, multiple lenders outside the System, that use fee appraisal services, have vetted and now accept reports that use a model valuation process to produce a Restricted Appraisal Report.

Additionally, the Proposed Rule imposes requirements on a System institution to keep additional data in a client file supporting the value in an appraisal and, as mentioned



earlier, to provide information in the appraisal to aid a reasonable reader in determining how an appraiser reached a value. By imposing these additional requirements, the Proposed Rule negates the efficiencies of using model assisted valuation tools by requiring an appraiser to then include information generated by the automated tool within the client file. Moreover, the fact that non-System competitors are allowed to use these types of tools, but the System would not be able to, negatively impacts the competitive advantage of tools available now and potentially available in the future.

## **Competitive Disadvantage**

As set forth previously in this letter and in the System letter, the Proposed Rule puts the System at a competitive disadvantage with non-System lenders in the marketplace. The Proposed Rule does not go far enough to align the FCA Regulations with regulations and rules that guide System competitors. Contrary to achieving the stated objectives, the Proposed Rule is a significant step backward in modernizing the appraisal and evaluation rules and creating a level playing field with non-System lenders.

For example, System institutions are currently able to purchase interests in non-System originated loans which allows for portfolio diversity. Proposed Rule §614.4250 imposes additional requirements for System institutions which are difficult, if not impossible, to comply with when purchasing an interest in a non-System originated loan. The Proposed Rule states in part:

...(b) Standards. Each System lender must adopt and maintain written standards for appraisals and evaluations that implement regulatory requirements... At a minimum, the standards must address:

...

- (3) The qualifications of individuals selected to perform an appraisal or evaluation;
- (4) Development and maintenance of a list of approved fee appraisers and fee evaluators, including the criteria to follow when selecting and engaging a fee appraiser or fee evaluator;
- (5) Providing fee appraisers and fee evaluators with a copy of the collateral appraisal and evaluation regulations contained in this subpart and instructing the fee appraiser or fee evaluator to apply the regulatory requirements in formation of the contracted appraisal or evaluation;

(c) Internal Controls. Each System lender must have written internal control policies and procedures for managing its collateral appraisal and evaluation activities.... at a minimum, include the following elements:

...

- (2) Verifying the condition of pledged collateral is as listed in the appraisal or evaluation report;
- (3) Safeguarding the independence of appraisers and evaluators in activities conducted under this subpart; ...



By imposing these additional requirements, System institutions will need to be more actively involved in the appraisal or evaluation ordering process of the originating non-System lender. While possible in some circumstances, most likely the appraisal or evaluation will have already been ordered or the non-System lender will not allow System institution involvement because the non-System lender has complied with the appraisal and evaluation regulations applicable to them.

Yet another example is that the Proposed Rule does not adjust the *de minimis* levels for evaluation of real estate in non-business loan transactions currently set at \$250,000.00. The current *de minimis* amount has been in place since the 1990s. Other non-System lenders have enjoyed the benefit of their regulators raising the *de minimis* amount.

## **Conclusion**

In order to provide rural America with the financing and services they need, Compeer and other System institutions need the flexibility to grow with our clients and with the changing technological landscape. By adopting the Proposed Rule, System institutions would be prohibited from changing with the times and meeting the needs of our clients in an efficient and cost-conscious manner.

Thank you for the opportunity to provide comment on FCA's Proposed Rule. For the reasons stated in the System letter and in this letter, we respectfully request that the Proposed Rule be withdrawn. If you have questions, feel free to contact the undersigned at [mike.morris@compeer.com](mailto:mike.morris@compeer.com).

Sincerely,

A handwritten signature in black ink that reads "Michael K. Morris". The signature is fluid and cursive, with the first and last names being more prominent.

Michael K. Morris, ARA, MAI  
VP Appraisal