FARM CREDIT WEST®
Committed. Experienced. Trusted.

Chris N. Brumfield
Executive Vice President & General Counsel

Administrative Office
3755 Atherton Road
Rocklin, California 95765
(916) 780-1166
chris.brumfield@farmcreditwest.com

FarmCreditWest.com

January 22, 2022

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 628 – RIN 3052-AD42; *Risk Weighting of High Volatility Commercial Real Estate (HVCRE) Exposures*; 86 Federal Register 47601-47607

Dear Mr. Kramp:

Farm Credit West, ACA ("FCW") appreciates the opportunity to comment on the Farm Credit Administration's ("FCA") Proposed Rule regarding Risk Weighting of High Volatility Commercial Real Estate (HVCRE) Exposures that was published in the August 26, 2021 *Federal Register* (the "Proposed Rule").

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, recommendations, and requests addressed in the FCC's comment letter. This letter reflects FCW's specific comments and requests for clarification on provisions of the Proposed Rule.

General Comments

We generally support FCA's attempt to ensure the rules for System institutions are similar to those adopted by the Federal banking regulatory agencies ("FBRAs") with the guiding principle that "the same loan to the same borrower - whether it is made by a commercial bank or a System institution- carries the same risk and should be assigned the same risk-weight."[1] However, in this case, the burden for identifying such loans on an ongoing basis greatly exceeds the benefit of identifying any potential adverse impact that such loans could have on the safety and soundness of a System institution.

FCW believes there are less burdensome ways to manage risk from HVCRE exposures with fewer potential unintended consequences. In fact, System institutions are already required to have practices in place to identify and protect against the buildup of risk concentrations in their portfolios. Some of these practices include Hold Limits, Underwriting Standards, Probability of Default Ratings / Loss Given Default Ratings, Risk Parameters, Concentration Limits, etc. These portfolio management practices are tailored to each institution's territory and risk profile. HVCRE risk management should be considered during the development of the overall portfolio risk management program when it poses meaningful risk for an institution.

[1] Risk Weighting of High Volatility Commercial Real Estate (HVCRE) Exposures, 86 Fed. Reg. 47,602 (August 26, 2021).

Notwithstanding our general exception to the basis for this rulemaking, we ask for clarification or flexibility in other areas as discussed in the following sections.

Structures on Farm Properties

We respectfully request clarification on FCA's Agricultural Land exclusion from the proposed HVCRE definition; specifically, the intent of carving out "loans for farm property construction" from the Agricultural Land exclusion. FCA's discussion of the rule states "Loans made for farm property construction [*for which the Agricultural Land exemption is not applicable*] would include loans made to finance the onsite construction of industrial, commercial, residential, or **farm buildings**."[2] This statement appears to imply that credit facilities for the construction of poultry barns, dairy parlors, cattle feeding facilities, greenhouses, wineries, sawmills, and many other income-producing bona fide agricultural purposes would not qualify for the exemption and would be considered HVCRE, which contradicts the general premise of the proposed Agricultural Land exclusion. Due to the lower risk typically associated with these types of on-farm facilities we request FCA add the phrase "not related to on-going farming operations" after the term "farm buildings."

Capital Contributions

Certain commercial real property projects are eligible for an exclusion from the scope of HVCRE if the credit facility meets specific criteria, including a specific loan to value limit based on loan category, and 15% of borrower contributed capital to the project. FCA's definition of contributed capital in the proposed rulemaking includes "unencumbered readily marketable assets" and "contributed real property and improvements." We request clarification on FCA's expectation on frequency and extent of documentation on whether an asset is "readily marketable."

Additionally, we note that it is common for System institutions to cross collateralize other real estate collateral to new or existing credit facilities. To qualify for the 15% capital contribution, the proposed rulemaking requires that the real estate collateral is "directly related" to the project. It is common that for agricultural borrowers, the other real estate pledged may not be "directly related" to the project but is agricultural land integral to the overall operation and does not have the same risk profile as unrelated commercial development real estate projects. We respectfully request FCA to permit cross-collateralized real property or improvements to qualify as part of the capital contribution to the project. It is common for related parties (i.e., parents, siblings, etc.) to contribute collateral to support a loan to a young, beginning or small farmer to allow that borrower to obtain financing.

Additional Proposed Exclusions

Although we appreciate the proposed exclusions to the scope of the HVCRE proposed rulemaking, we suggest FCA consider additional exclusions that are most impactful to FCW's service area:

Source of Repayment: We request that an explicit exclusion be listed in the regulation for credit facilities for which repayment would be from the ongoing business of the borrower.

---

[2] Risk Weighting of High Volatility Commercial Real Estate (HVCRE) Exposures, 86 Fed. Reg. 47,604 (August 26, 2021).

Pooled Collateral: Since other real estate pledged may be agricultural land not having the same risk profile as unrelated commercial development real estate projects, and also because it is common for related parties to contribute collateral to support a loan to a young, beginning or small farmer that allows that borrower to obtain financing, we also request FCA to permit cross-collateralized real property or improvements to qualify as part of the capital contribution to the project. Further, if the preponderance of collateral pledged does not meet the HVCRE definition we request that no identification or additional capitalization would be required. This arises in cases when a loan is collateralized by both HVCRE and non-HVCRE property, but the non- HVCRE property provides the majority of collateral support.

De Minimus: Finally, we suggest FCA consider an exclusion based on a *de minimus* level of financing as determined by each institution as a percentage of risk funds to allow System institutions to support smaller lending requests that may fall under this proposed rulemaking.

Conclusion

FCW appreciates the opportunity to comment on the Proposed Rule and to present these requests for clarification and additional suggestions to FCA for its consideration. For at least the reasons stated herein and the reasons set forth in FCC's comment letter, FCW respectfully requests that FCA amend the Proposed Rule as discussed herein.

Respectfully,

Chris N. Brumfield

Chris N. Brumfield
Executive Vice President & General Counsel