AGFIRST
FARM CREDIT BANK

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August 12, 2022

Autumn R. Agans, Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

RE: Notice of Proposed Rulemaking – 12 CFR Parts 614 and 620 – RIN 3052-AD54; *Loan Policies and Operations*; 87 Federal Register 36261-36266

Dear Ms. Agans:

AgFirst Farm Credit Bank ("AgFirst" or "Bank") appreciates the opportunity to submit comments to the Farm Credit Administration ("FCA") in response to the notice published in the Federal Register on June 16, 2022. This notice requested comments on proposed amendments to the regulations on Young, Beginning, and Small Farmers ("YBS") Loan Policies and Operations (the "Proposed Rule"). AgFirst, each AgFirst District institution, and each institution in the Farm Credit System ("FCS institutions") has a vested interest to ensure the needs of young, beginning, and small farmers are supported through YBS programs. Farm Credit institutions' individual YBS programs, especially within the AgFirst district, are currently very strong and successful and designed to meet the unique needs of each individual market. Farm Credit's ever-increasing number of loans and ever-increasing volume of loans to YBS producers is a tangible and measurable evidence of that success.

AgFirst appreciated the March 24, 2022, session in Ft. Collins, Colorado to solicit reactions to the agency's then-discussion draft related to Farm Credit's YBS lending. AgFirst generally agreed with the overwhelming concern raised by attendees who questioned why a new YBS rule is necessary and the lack of specificity regarding the proposed YBS program requirements. Following that session, Chairman Smith communicated to Farm Credit institutions on April 1, 2022, highlighting "two major takeaways" from the session in Ft. Collins, including:

- "Each Farm Credit institution has a unique, customized approach to YBS, depending upon its region of the country, its size, staffing, type, and diversity of enterprises, etc.

- “All System institutions — particularly the smaller ones — are concerned about the additional burden that a YBS rule may place on human capital resources.”

AgFirst fully agrees with Chairman Smith’s comments, which leads to the concerns with the Proposed Rule as it seemingly goes in the opposite direction. It is true that each association in the AgFirst district has a unique customized approach due to our variety of locations from the northeast to the southern tip of the United States. Each location has certain characteristics that each association molds its YBS program to fit to further the goal of offering consistent and reliable credit to young, beginning, and small farmers. AgFirst would respectfully suggest that the Proposed Rule could lead to unintended consequences that negatively affect the current engagement levels and creative solutions unique to each market.

While we applaud FCA’s dedication to further supporting YBS lending, we are concerned that Proposed Rule swings the pendulum too far and is administratively burdensome, vague, and inappropriately and erroneously places FCS banks in a position to determine what is best for their district association YBS programs. The preamble to the Proposed Rule states a goal of the rule is to “reinforce the supervisory responsibilities of the funding banks,” which is an outdated statement as the role of supervisory bank has changed dramatically since the Farm Credit Act of 1971. At that time, FCS banks had direct lending authority and direct involvement in the lending activities of its district associations. Such is not the case now. District associations enjoy much more independence with direct lending authority, face-to-face interactions with borrowers, and they manage their own lending programs within the operating parameters established in their General Financing Agreements with AgFirst, their funding bank. The Proposed Rule positions the FCS banks in an invasive role in association YBS programs.

The discussion draft to the Proposed Rule states that direct lender association YBS strategic plans will be evaluated as part of a FIRS-like rating system to measure year over year internal progress. FCA states the purpose of using the rating system is to enable the agency to compare the success of the direct lender association’s extension of credit and services to the YBS borrowing population among its peers both within and outside its bank district. The rating system will play a crucial role for Farm Credit institutions since it will be the rubric FCA will follow, yet the rating system is not included in the Proposed Rule itself. For FCS institutions to ensure they are meeting the goals FCA expects, FCA should release the rating system it plans to use to evaluate YBS programs. If FCS institutions will be regulated using this rating system, the Administrative Procedures Act (“APA”) requires the agency to allow public comment. *See* 5 U.S.C. § 553(b).

There is also great concern with disclosure of the YBS rating system, as it may result in a regulatory regime that has substantial, real-world effects on regulated institutions. Public disclosure of an institution’s YBS rating could be misconstrued by the public and potentially harm an institution’s reputation and customer relationships. Unlike other Farm Credit System ratings, such as the Farm Credit Administration FIRS rating with set and measurable tolerances (and the results of which are not public), the YBS rating system would be more subjective, based on the observations and individual opinions of those producing the rating, and therefore less reliable. This could create potential confusion when reviewing results with investors, rating agencies, auditors, and the general market.

Absent some advance notice of *how* the agency intends to develop, implement, and possibly disclose this rating system, Farm Credit System institutions ("FCS institutions") cannot fully and meaningfully comment on the FCA's proposed rule. Therefore, AgFirst respectfully requests FCA to **withdraw** the Proposed Rule.

While the comments, above, outline AgFirst's general concerns, a more specific analysis of the particular sections directly affecting the banks' activities follows. AgFirst would also like to indicate its support of the Farm Credit Council's comments on the Proposed Rule which address several important additional concerns not addressed in this letter. Additionally, comment letters from individual associations will contain comments, supported by AgFirst, regarding the aspects of the Proposed Rule that more directly affect associations.

<u>Section by Section Analysis</u>

§ 614.4165(b) Farm Credit banks oversight

AgFirst, along with our district associations, believes that the associations are best positioned to determine their own YBS program needs for their agricultural communities. FCS banks are not local to the vast majority of their associations; therefore, they do not know the needs of each association community. As the source of funding for the association, FCS banks are not direct lenders, do not have direct interaction or visibility with borrowers, and do not have the "boots on the ground" experience. FCS banks should therefore not be expected to provide guidance or strategic review of YBS programs in their districts. Similarly, FCS banks are not able to accurately evaluate and determine "best practices" for association YBS programs. If this were to become a requirement, it would require the banks to invest in costly new resources to study each associations' marketplace and YBS demographics, with questionable added value. This is not only burdensome to the banks, but also the associations who would also likely have to extend resources to accommodate the needs of banks to determine "best practices."

Furthermore, regarding the previously stated goal of reinforcement of the supervisory responsibilities of the funding banks, it is important to remember the Act was written at a time when the System's structure and relationship between the funding banks and associations was much different from today. The System's structure has evolved since that time, from a parental role for banks with direct lending authority and direct involvement in the lending activities of their affiliated associations to the current state of banks with no direct lending authority and strong independent associations that manage their own lending programs within the operating parameters established in their General Financing Agreements. FCA recognized this evolution when promulgating the existing YBS regulations by recognizing that the associations were in the best position to determine the most effective means to serve YBS in their respective territories. The FCA specifically acknowledged that direct lender associations should be provided "maximum flexibility" to develop YBS programs with minimal involvement by the banks. The following is an excerpt from FCA's preamble to the existing regulations: *"Since 1980, when section 4.19 was first included in the Act, the relationship between the funding banks and their affiliated associations has significantly changed, with the associations operating much more independently from their funding banks. Although the rule retains the statutory directive for associations to establish their YBS programs under the policies of their funding banks, in recognition of the autonomy with which associations now operate, we have kept the bank policies to a minimum, as discussed earlier. Moreover, we agree that Congress intended YBS programs to be developed by the System lenders who have the most knowledge of their territories. We have, therefore, developed this section to allow each direct lender association maximum flexibility in creating a YBS program that takes into consideration the economy and demographics of its territory, as well as its risk-bearing capacity. In so doing, the YBS rule is consistent with congressional intent to allow each association to design a YBS program that best fits the needs of its lending territory."*

Finally, the Proposed Rule states that funding banks can use the knowledge acquired during their oversight to encourage associations to enhance their YBS programs through best practice sharing. Associations have taken steps to collaborate amongst themselves to find ways to share initiatives to benefit YBS farmers and ranchers. YBS programs are not confidential. The results are published and accessible, and Associations may openly discuss best practices and ideas with each other at any time. Additionally, AgFirst hosts regular annual conferences and meetings where our district associations can review information on YBS programs in an idea-sharing professional environment. It is important to note that sharing of best practices is only valuable when an association is able to adapt and adopt those best practices for their unique territories. Given varying demographics of each association's YBS borrowers, as well as individual association resources, it is highly questionable whether every association can adapt and adopt the same best practices and when to do so may be impractical (if not impossible) and/or not beneficial to YBS borrowers.

Adoption of "best practices" as determined by the funding bank may have the unintended consequence of compelling all the ACAs in the District to have very similar YBS programs rather than encouraging creativity and individuality in meeting local YBS customer needs. A uniform approval process and rating system may encourage "homogenization" of strategic plans in the system that may be less effective at meeting the unique needs of YBS in each local market. Accordingly, if the FCA moves forward with this rule, we respectfully request eliminating supervisory bank responsibilities from the rule.

Proposed § 614.4165(b)(1)(iii) – any other information deemed necessary

The proposed requirement for *"*any other information deemed necessary by the bank*"* is vague, arbitrary, and therefore burdensome to both AgFirst and associations as we navigate what may be necessary. It is unclear if the information should be applied the same for each district association or if the information may change from association to association. Either way, this requirement has the potential to be confusing for associations, and burdensome for AgFirst and other FCS banks. Banks would have to make incredible investments to craft what "other information deemed necessary" means for itself and its associations. Potentially writing individual policies for each association or constantly changing policies to match individual association needs is a time-consuming and inefficient process. Moreover, each of the four funding banks may be inconsistent in what information they require. Banks could be criticized for not going far enough in their collection of "any information deemed necessary by the bank" related to each association's YBS program. Additionally, as inevitable personnel changes happen from time to time, differing opinions relative to the requirement make this difficult for both banks and associations to create a steady process.

Proposed § 614.4165(b)(1)(iv) - Reporting

Continuing with the current data reporting requirements to provide a "complete and accurate" report of YBS activity needs no change. If the goal is for the banks to provide subjective criteria that can be subject to FCA critique, this objective becomes impractical and nearly impossible as the banks lack the necessary insight and opportunity within each Association market. Therefore, the banks are not able to subjectively opine on the achievements of affiliated direct lender associations. Requiring the Banks to provide oversight and interpretation of effort and results risks dampening the creativity being employed in delivering YBS results today, and Associations would manage their YBS efforts towards Bank oversight versus market needs.

Proposed § 614.4165(b)(3) – Internal Controls

§ 614.4165(b)(3) calls for "internal controls that establish clear lines of responsibility for approving, reviewing, and monitoring of affiliated direct lender association YBS strategic plans, programs, and reporting. As noted above, AgFirst does not think it prudent to put FCS banks in the position of approving, reviewing and monitoring associations' YBS strategic plans, programs, and reporting.

Conclusion

Outreach to young, beginning, and small farmers is a vitally important part of Farm Credit. All FCS institutions recognize this and each institution is determined to foster that outreach. The Proposed Rule imposes significant burdens that do not advance our goal of ensuring successful YBS Programs and reporting, and are thus contradicting the mandates of the Farm Credit System Reform Act of 1996.

The Act directly states that unnecessary regulations be eliminated and the proposed changes place Farm Credit banks in an improper supervisory position. Considering the System's devotion to safe, sound, and reliable credit to young, beginning, and small farmers, the proposed changes are largely unnecessary and inconsistent with current, successful operations for both ACAs and Farm Credit banks. We reiterate that ACAs are best suited to determine the needs of their community, and they should have free reign to design YBS programs to fit those needs without interference from their funding bank. The Proposed Rule will especially burden smaller Associations. Furthermore, the Proposed Rule provides no direct benefit to YBS borrowers. Instead, the Proposed Rule potentially hinders centralized YBS programming by requiring banks to direct each affiliated direct lender associations to coordinate with each other.

We respectfully ask that the FCA consider AgFirst's and other District comments to withdraw the Proposed Rule to reduce unnecessary administrative burdens and clarify responsibilities so that we are not hindered in the advancement of the mission of the Farm Credit System to provide financing to our rural and agricultural communities. Again, we thank you very sincerely for the opportunity to constructively comment on the Proposed Rule.

Respectfully submitted,

AgFirst Farm Credit Bank

Michael T. "Bo" Stone	Leon T. Amerson
Chairman of the Board Directors	Chief Executive Officer & President