CoBank

6340 South Fiddlers Green Circle
Greenwood Village, CO 80111
800-542-8072
www.cobank.com

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Autumn R. Agans
Deputy Director, Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 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:

CoBank, ACB (CoBank) appreciates the opportunity to comment on the Farm Credit Administration's (FCA) Notice of Proposed Rulemaking regarding Loan Policies and Operations ("YBS Proposed Rule" or "Proposed Rule") published in the *Federal Register* on June 16, 2022.

Like all Farm Credit System (System) institutions, CoBank embraces our mission to serve agriculture and in particular to support the financial needs of Young, Beginning and Small (YBS) farmers and ranchers who represent the future of agriculture. CoBank, as a wholesale lender to System associations, sees the benefits offered through our affiliated associations to YBS farmers and ranchers and participates directly in those activities where our authorities allow.

CoBank and other System lenders participated in a workgroup assembled by the Farm Credit Council (Council) to evaluate this proposed rulemaking. The Council developed a comprehensive comment letter addressing the input from the workgroup. We fully endorse those comments. Many other System institutions will likely provide comment letters which reflect their individual thoughts and support the thoughts of the workgroup.

Like other participants in the workgroup, we believe the goals of this Proposed Rule are laudable. However, as proposed, the rule creates regulatory burden, especially for smaller System institutions, and does very little to improve service to YBS farmers and ranchers. The cost of implementing burdensome administrative processes may actually lessen resources available to serve YBS farmers and ranchers. Furthermore, requiring funding banks to approve associations' YBS strategic plans could result in cookie cutter programs which are less effective and do not fully meet the needs of local communities.

Consequently, we support the position communicated in the Council's letter that the Proposed Rule should be withdrawn.

We believe the System is open to coordinating with the FCA to develop processes which would enhance service and provide needed resources to YBS farmers and ranchers— like codifying and streamlining the investment authorities to implement programs such as FarmStart. FCA, working together with System institutions and the Farm Services Agency, could identify other ways to expand investments, grants, and guarantee programs which would actually benefit YBS farmers and ranchers without adding layers of review and administrative burden.

CoBank YBS Activities

CoBank and its affiliated associations have long been supportive of Young, Beginning and Small programs as part of our legislative mandate, but more importantly as a critical component of a healthy agricultural industry. YBS ranchers and farmers are the future of production agriculture and will be the customer/members supporting and representing CoBank's cooperative customers.

As an Agricultural Credit Bank, CoBank does not have direct YBS lending authorities, but we dedicate significant time and resources supporting YBS activities through our affiliated associations. CoBank supports these association programs through coordinated efforts and financial contributions to the activities of the affiliated associations. Our commitment to the future of agriculture is exhibited in the following examples during and through yearend 2021:

- CoBank continues to actively participate in the FarmStart program in partnership with Farm Credit East. Since its inception, the program has made more than 340 investments totaling nearly $16 million.
- Co-op Start, while not technically a YBS program, helps emerging and small cooperatives through innovative financing, business mentorships and training. Since its inception, Co-op Start has provided approximately $3 million in loans, leases and grants to 26 start-up companies and four cooperative development centers.
- CoBank partnered with American AgCredit to support GoFarm Hawai'i with a five-year grant totaling $2 million, a robust farmer development program serving YBS farmers in the Hawaiian Islands, training beginning farmers at the University of Hawaii College of Tropical Agriculture and Human Resources.
- CoBank and Farm Credit Services of America made a $200,000 grant to South Dakota State University to support micro-farming opportunities for Native Americans on the Pine Ridge Reservation. The program was expanded to support the creation of handicapped accessible gardens where disabled participants will grow food for themselves, their families and neighbors.

- CoBank initially contributed $140,000 to support the Thurgood Marshall College Fund, which provides scholarships for students studying agriculture or ag-related programs at Historically Black Colleges and Universities or Predominantly Black Institutions. The bank provided an additional $100,000 in 2021 and made the scholarship an ongoing part of its citizenship program.
- CoBank also fulfills/participates in many non-lending activities, while not YBS-specific, provide widespread support to agricultural producers, including:
    - Academic Scholarships
    - Industry Scholarships
    - Vocational Programs
    - Financial Support of Agricultural Leadership Programs
    - Financial Support of Agricultural Youth and Adult Education Programs
    - Sponsorship of Industry & Commodity Events
    - Community support through Sharing Success and other Corporate Social Responsibility Programs

CoBank also participates in a district workgroup to collaborate on YBS issues and questions, share best practices used by various associations, and identify areas of potential support that CoBank can provide. While CoBank approves association YBS programs pursuant to the current FCA Regulation 614.4165, it does not dictate specific activities or actions associations should take because those associations and their boards have greater comprehension on implementing successful YBS programs in their respective territories and local communities. The YBS programs in the CoBank District are successful because they rely on coordination and collaboration, not oversight and supervision. We strongly believe that adding supervisory bank approval of the associations' YBS strategic plans provides little incremental value and could decrease the effectiveness of association programs.

The Role of Wholesale Banks in YBS programs

The stated goal in the preamble to the Proposed Rule to *"reinforce the supervisory responsibilities of the funding banks"* is misleading. 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 funding banks, with direct lending authority at the bank level and direct involvement in the lending activities of its affiliated associations, to its current state of debtor/creditor relationships, with strong independent associations that manage their own lending programs within the operating parameters established in their General Financing Agreements with their funding bank.

This evolution was recognized by the FCA when promulgating the existing YBS regulations in 2003/04 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 supervisory banks. The following is an excerpt from FCA's 2004 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."*

Nothing has transpired since the promulgation of the existing regulations to suggest that increasing the banks' supervisory role over its affiliated associations' YBS programs would add value or increase YBS activities. To add back the supervisory bank's review and approval of its associations' YBS strategic plans ignores the evolution of the System and creates administrative burdens and additional costs with no perceivable benefit to YBS farmers and ranchers. Also, the Proposed Rule from FCA does not recognize or acknowledge the extensive growth and focus each association has made over the last two decades to assist YBS producers. 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. This has been addressed by a district YBS workgroup that CoBank coordinates with our affiliated associations to promote the sharing of ideas and best practices in serving YBS farmers and ranchers. This process has worked effectively. The Proposed Rule suggests solving a problem that simply does not exist.

Consequently, we ask that as FCA did in 2004, the requirement for funding banks to supervise association YBS programs be deleted from the Proposed Rule. This burdensome process accomplishes nothing and adds administrative costs which will ultimately be passed on to our customers. All associations embrace their responsibilities to serve the YBS marketplace as supported by numerous examinations throughout the past decade.

Association YBS Strategic Plans

We do not see the benefit of a separate YBS strategic plan for our affiliated associations. The most effective programs embed YBS into many areas of operations, including lending, marketing, outreach, community involvement and investing. While it is appropriate to expect YBS goals in association strategic business plans, requiring a separate YBS plan would be duplicative and resource intensive.

YBS Rating System

We are deeply concerned with the proposal to implement a YBS rating system without first seeking input from the System. This has the potential to be a substantive rule by the FCA and the rating system should appropriately be subject to notice and comment. FCA states that a "rating system" is a key component of the FCA's proposal, yet no information relating to this "rating system" is included in the text of the Proposed Rule itself.

We are further concerned with FCA's statements that some sort of public disclosure would provide the public a sound understanding of the associations' YBS performance. Public disclosure of an institution's YBS rating could easily be misconstrued by the public and maliciously manipulated by System critics to potentially harm an institution's reputation and customer relationships.

Absent some advance notice of *how* the agency intends to develop, implement, and possibly disclose this rating system, we cannot fully and meaningfully comment on the Proposed Rule. Merely providing content that would be evaluated as part of a rating system, without actually describing the rating system or its operation, deprives regulated institutions of an opportunity for meaningful response. FCA could address this uncertainty and concern by publishing the YBS rating system components and plans for implementation for public comment. We are highly concerned that there may be some unintended consequences that should be fully evaluated and vetted.

Conclusion

We appreciate the opportunity to comment on the Proposed Rule and to present some of our concerns to FCA for its consideration. Again, we fully endorse the comments in the Council's comment letter which focuses on broad concerns expressed by all participants in the System's YBS workgroup. For the reasons stated herein and those expressed by the Council, we request that FCA withdraw the Proposed Rule, as we respectfully disagree that the Proposed Rule would enhance Farm Credit's ability to serve its YBS customers and fulfill its mission.

We also welcome dialog with the FCA on ways to streamline approvals, evaluate authorities or provide incentives which will meaningfully provide opportunities to YBS farmers and ranchers and ensure a successful transition to the next generation in agriculture. That is clearly a mutually beneficial goal shared by FCA and all System institutions.

Sincerely,

Tom Halverson

Tom Halverson
President and Chief Executive Officer