

August 15, 2022

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

RE: Proposed Rule –12 CFR Parts 614 and 620 – Loan Policies and Operations– RIN 3052–AD54/ Federal Register 87, No. 116 (June 16, 2022)

Dear Deputy Director Agans:

The American Bankers Association¹ (“ABA”) appreciates the opportunity to comment on the Farm Credit Administration’s (“FCA”) Proposed Rule published in the June 16, 2022, Federal Register regarding loan policies and operations to increase direct lender associations’ Young, Beginning, and Small farmer and rancher (“YBS”) activity and reinforce the supervisory responsibilities of the funding banks (the “Proposed Rule”).

The Farm Credit System (“FCS”), created by Congress in 1916 to provide American agriculture with a dependable source of credit, consists of 4 banks and 69 associations, regulated by the FCA. The four banks lend to the associations, which in turn lend to U.S. farmers, ranchers, and other eligible borrowers. The Farm Credit Act requires each FCS bank to direct each association board to have a program for serving YBS farmers and ranchers.

Comments on Objectives

Despite an explicit statutory mandate, FCS institutions have not done nearly enough in recent years to support and encourage YBS farmers and ranchers. From 2016 to 2017, new loan volume and the number of new loans to YBS farmers and ranchers dropped across all categories.^{2 3 [OBJ] 4 [OBJ]} In short, FCA must use whatever means are at its disposal to hold FCS institutions accountable for providing credit and other related services to these particularly vulnerable populations.

ABA supports the objectives of the Proposed Rule, including (1) increasing direct lenders’ YBS loan activity, (2) reinforcing the supervisory responsibilities of the funding banks, (3) requiring each direct lender association to adopt an independent strategic plan for their YBS program, and (4) providing elements for the purpose of evaluating the year-over-year successes and shortfalls of each direct lender association’s YBS program. Given the magnitude of FCS institutions’ charge to extend credit and other services to YBS farmers and ranchers, ABA urges FCA to approach each objective with more than incremental progress in mind. FCS institutions’ accountability to FCA and service to YBS farmers and ranchers should be paramount.

Accordingly, the framework for accountability laid out in the objectives should be fully strengthened and interpreted by FCA to ensure the greatest level of accountability is sought and required.

Comments on Analysis

ABA agrees with FCA that there remain opportunities for further improvement to FCS institutions' performance in providing credit and services to YBS farmers and ranchers. In general, ABA applauds FCA's decision to require associations to report on past performance. This commonsense requirement is long overdue.

Farm Credit Banks Oversight

The oversight and accountability of FCS associations' YBS programs described in the Proposed Rule has been necessary since Congress first enacted the requirement for associations to furnish credit to YBS farmers and ranchers. The proposed rule is a step in the right direction, and includes critical accountability mechanisms to ensure Farm Credit Banks and Agricultural Credit Banks adopt written policies directing: (1) the boards of affiliated direct lender associations to create a YBS strategic plan; (2) each affiliated direct lender association to include in its YBS program provisions ensuring coordination with other System institutions in the territory and other governmental and private sources of credit; (3) each affiliated direct lender association to submit to its funding bank its annual YBS strategic plan; and (4) the bank to provide the FCA a complete and accurate annual report summarizing the YBS program operations and achievements of its affiliated direct lender associations.

The proposal can be further strengthened in two ways. First, the final requirement specifies that the funding bank submit a summary and achievements. Though some may interpret "achievement" as value-neutral, a lay observer would interpret the term as clearly denoting completion and success. Providing credit and other related services to YBS farmers and ranchers is an ongoing process, and success should not be pre-assumed. Only noting the successes of a program would be counterproductive to the task at hand, which is to identify shortfalls and provide remedies. Instead, ABA recommends that the bank be required to *"provide the FCA a complete and accurate annual report summarizing the YBS program operations, achievements and shortfalls of its affiliated direct lender associations."*

More importantly, the proposed rule lacks a requirement that the bank policy direct involvement or representation of YBS programs' most relevant stakeholders, namely YBS farmers and ranchers within each bank's or affiliated direct lender association's districts. YBS farmers and ranchers within institutions' districts necessarily hold specialized knowledge on defining and evaluating the success of a YBS program. YBS farmer and rancher input and approval is essential to the success and smooth administration of any program intended to meet their specific needs. Therefore, ABA recommends that each bank be directed to adopt a written policy requiring the bank and any affiliated direct lender association to form a committee comprised of YBS farmers and ranchers who are domiciled within the institution's district and, in the case of affiliated direct lenders, are customers of the institution. The composition of the committee must include at least one young farmer or rancher, one beginning farmer or rancher, and one small farmer or rancher. The committee members may be elected or appointed, but no

member may serve on the committee for more than 5 years. The committee would be charged with providing approval of the bank's YBS policy, independent of the institution's board, and communicating such approval to the direct lender's bank. In the case of the bank's own YBS committee, the YBS committee would be responsible, independent of the bank's board, for providing its approval or critique to FCA.

Direct Lender Association YBS Strategic Plan

In accordance with the above recommendation on necessary stakeholder involvement, ABA recommends that provision (1) require the board of each direct lender association to develop a YBS strategic plan in collaboration with, and subject to the approval of, the previously proposed YBS committee. ABA further recommends that provision (3), which designates the essential elements of the YBS strategic plan, not only assess the direct lender association's effectiveness in administering the YBS program, but specifically identify areas to improve upon. A simple assessment, while instructive in a limited sense, does not suffice. A true commitment to improving YBS programs and serving YBS farmers and ranchers requires continuing reflection on areas of improvement so that subsequent action can be taken to improve the YBS program and better serve YBS farmers and ranchers.

Direct Lender Associations' YBS Programs

ABA supports the Proposed Rule's introduction of minimum components for all direct lender association YBS programs; these minimum components are long-awaited. Both qualitative and quantitative factors play important roles in ensuring the effectiveness of a direct lender association's YBS program.

With respect to qualitative factors, ABA agrees with FCA's breakdown of the necessary components. ABA requests that the corporate governance requirements also direct each association to include in its YBS program mission statement an explicit recognition of the importance of YBS farmers for American agriculture, and a commitment to ensure support on the association level. The stipulated internal controls should also clarify the extent to which staff must take stakeholder input into account, beyond the independent YBS committee proposed above. With respect to credit and related services, ABA strongly supports a requirement on YBS programs to offer customized loan underwriting standards, loan guarantee programs, fee waivers, or other credit enhancements for YBS farmers and ranchers. For too long, YBS farmers and ranchers have been held to underwriting standards that have discouraged them from using FCS lending, including higher interest rates or requirement that loans be cosigned. FCS institutions should be obligated to offer rates that are equal to those provided to more established farmers. ABA also supports minimum standards for marketing, outreach, and education for each YBS program, noting that the proposed activities should occur year-round; YBS farmer and rancher marketing, outreach, education, and general communication must occur with regularity and frequency to engender appropriate YBS farmer and rancher participation.

The Proposed Rule's minimum quantitative goals must be bolstered with additional requirements. The annual quantitative goals for an association's YBS program should not be simply "based on an understanding of reasonably reliable demographic data for the lending



territory." Sources of demographic data should come from recognized government sources, preferably federal sources such as the U.S. Census or the U.S. Department of Agriculture's (USDA) Census of Agriculture. Associations must use verified, publicly available data, not a simple "understanding of reasonably reliable demographic data." Furthermore, ABA finds the current required quantitative goals inadequate. Associations must use more than simply one of the goals; if only one is required, then it should be either: "(B) percentage goals representative of the demographics for YBS farmers and ranchers in the territory;" or "(C) Percentage goals for loans made to new borrowers qualifying as YBS farmers and ranchers in the territory." The quantitative goals outlined in subsections (A) and (D) are arbitrary and unmoored from the proportion of YBS farmers and ranchers in the territory, in contrast to the goals in subsections (B) and (C). Permitting an association to use the goals contained in either (A) or (D) alone will not accurately reflect whether the association is meeting the needs of YBS farmers and ranchers in the territory. Finally, the review and approval of the association's quantitative goals should not be left solely to the association's board but should be determined in conjunction with the association's YBS committee.

Conclusion

ABA greatly appreciates this opportunity to provide comment on the Proposed Rule and to offer concerns and recommendations to FCA for its consideration. ABA respectfully requests that FCA reformulate the Proposed Rule to address our concerns and recommendations. Our recommendations will bolster the stated aims and objectives of the Proposed Rule, and ultimately improve service to the YBS farmers and ranchers that Farm Credit is intended to assist. If you have any questions about our comments, please contact Ed Eifmann at eelfmann@aba.com.