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September 23, 2022

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 Part 609 — RIN 3052-AD53; *Cyber Risk Management*; 87 Federal Register 45281-45284

Dear Ms. Agans:

Farm Credit of the Virginias, ACA (the “Association”) appreciates the opportunity to submit comments on the Farm Credit Administration’s (“FCA”) Proposed Rule regarding Cyber Risk Management (“Proposed Rule”) that was published in the *Federal Register* on July 28, 2022.

The Association has reviewed and discussed the Proposed Rule with its management and certain employees. The Association also participated in meetings and discussions with other associations, district banks, and Farm Credit Council (“FCC”). During these discussions, the Association reviewed the Prepublication Copy of the Proposed Rule, the Proposed Rule, existing regulations and relevant FCA-published materials.

This comment letter reflects the Association’s general comments on the Proposed Rule. The Association also supports the FCC’s specific comments and request for clarification on particular provisions of the Proposed Rule, as outlined in the FCC’s regulatory comments filed September 19, 2022.

### **General Comments**

The Association generally support FCA’s efforts to introduce a principles-based approach to Cyber Risk Management as referenced during FCA’s Board meeting in June. Unfortunately, the Proposed Rule goes further than intended and becomes prescriptive in nature by setting specific expectations on how to accomplish such principles (i.e. every identified vulnerability to be remediated, a detailed vendor management process, and specifying the exact contents (i.e. metrics) and frequency of board reporting). It is recommended the Proposed Rule instead refer system institutions to leverage modern frameworks based on industry standards, customized for that entity’s risk environment which would provide flexibility and ensure the Proposed Rule holds up over time.

In addition, the Proposed Rule introduces language throughout such as but not limited to “appropriate” (Section 609.905), “effective” (Section 609.905), “comprehensive” (Section 609.930(a)), “consistent with the size and complexity of the institution” (Section 609.930), “material” (Section 609.930(c)(6)(iii)), “be consistent with industry standards to ensure the institution’s safety and soundness and compliance with law and regulation” (Section 609.930(b)), “incident” (Section 609.930(c)(i)) but fails to truly define or appropriately elaborate upon such language. The Association acknowledges the difficulty of providing clarification without additional prescriptive language. This lack of clarifying language, could create



inconsistencies within interpretation amongst institutions and examiners, which further undermines the goal of the Proposed Rule. It is requested that language be elaborated upon to remove confusion.

In regards to Section 609.930(c)(5)(i) which requires an institution to “require its vendors, by contract, to implement appropriate measures designed to meet the objectives of the institution’s cyber risk program”; the Association mirrors the concern of FCC as stated in the comments “Whenever an institution negotiates a vendor contract, it is a matter of risk assessment and business judgement. Some large vendors, because of their size and bargaining position, refuse to negotiate their standard terms and conditions...Not allowing this flexibility would hamstring institutions’ ability to use their business judgment to balance risk while negotiating contracts for critical services.” It is requested that a more workable approach be implemented which would require institutions to “consider” cyber risk as part of their vendor management programs.

The Association appreciates the opportunity to comment on the Proposed Rule and present some general concerns. In agreement with the comment letter from the Farm Credit Council and the reasons stated herein, Farm Credit of the Virginias, ACA supports the additional suggestions to FCA for its consideration and respectfully requests that FCA amend the Proposed Rule as discussed herein.

Respectfully submitted,

Brad Cornelius  
Chief Executive Officer  
Farm Credit of the Virginias, ACA