AG
TEXAS
FARM CREDIT SERVICES

October 17, 2022

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

Re: Response to Notice of Intent & Request for Comment – *Statement on Regulatory Burden*, Farm Credit Administration, Agency; 12 CFR Chapter VI RIN 3052–AD55; 87 Federal Register 43227-43228

Dear Ms. Agans:

AgTexas Farm Credit Services appreciates the opportunity to comment on the Farm Credit Administration's ("FCA") Statement on Regulatory Burden that was published in the *Federal Register* on July 20, 2022 (87 FR 43227).

We fully support the comments made by the Farm Credit Council ("FCC") on behalf of Farm Credit System institutions ("System") in response to the Statement on Regulatory Burden. In addition to supporting the position of the FCC regarding the Statement on Regulatory Burden, AgTexas Farm Credit Services submits the following comments for your consideration:

Regulation	Description	Comments
12 CFR 611.326	Floor Nominations for Open Farm Credit Bank and Association Director Positions	The requirement that associations must permit voting stockholders to make floor nominations for director positions circumvents the nominating committee's process and creates inefficiencies in the development of the association's election materials. The same requirement is not imposed on banks. Banks are only required to allow floor nominations if they are permitted by a bank's election policies and procedures.
12 CFR 615.5 and 615.5206	Permanent Capital Ration Computations and Contents of the Annual Report to Shareholders	The requirement to include permanent capital ratio in the annual report is administratively burdensome and costly, is not relied upon by FCA or other key stakeholders and does not provide valuable information on the System institution. Furthermore, FCA should modify its regulatory capital ratio calculations to be consistent with other financial institution regulations.

12 CFR 620.4	Preparing and Providing the Annual Report	This regulation requires that System institutions provide, within 90 calendar days of the end of its fiscal year, an annual report substantively identical to the copy of the report sent to FCA under subparagraph (a)(1) of this regulation. The regulator requires System institutions to mail a hard copy of the annual report to its shareholders. However, mailing a hard copy is a financial and administrative burden. Providing print communications to all shareholders provides a substantial logistical and financial burden on System institutions and is not in alignment with shareholders' preferred method of communication, which is electronic in most circumstances.
12 CFR 620.20	Preparing and Distributing the Information Statement	The regulation requires that System institutions post their AMIS on their website "[i]n addition to the mailed AMIS." The requirement that electronic publication and notification is to be used as an additional, not alternative, method of communication is burdensome and expensive. Providing print communications to all stockholders provides a substantial logistical and financial burden on System institutions and often does not align with the communication method preferred by many stockholders, which is electronic.
EM-31.7	IT Service Provider	System institutions who rely upon their funding banks to provide IT and other vendor-management services should not be held to the same level of due diligence, vendor management, and audit requirements as the funding banks or other System institutions who are in direct privity with the vendor or other third-party service provider. The cost of duplicating or otherwise attempting to recreate the due diligence performed by the funding bank is disproportionate to the risk associated with such relationships if the funding bank has satisfied all the requirements and practices associated with the engagement or retention and many System institutions are not in a position to receive or otherwise require information from the vendor or third-party service provider in such circumstances. When the funding bank directly engages with vendors or other third-party service providers for the benefit of, and/or otherwise makes certain services available to, associations, such services are more appropriately characterized as a captive from the perspective of associations, and such associations are unable to complete or otherwise satisfy due diligence, vendor management, and/or audit requirements as they otherwise would. As long as funding banks have completed vendor management and due diligence requirements appropriate for the relationship at hand, associations should not have to duplicate or otherwise complete such requirements, as well.

IM (03-14-11)	Accounting and Disclosure of Troubled Debt Restructures, as Required by GAAP	Generally Accepted Accounting Principles ("GAAP") requirements have changed, resulting in the elimination of "Troubled Debt Restructurings" ("TDRs"). As a result, the maintenance of current requirements for TDRs is operationally burdensome and immaterial to the financial statements and credit quality of System institutions. Retaining the legacy reporting requirements for TDRs will require System institutions to maintain two operational and reporting processes for TDRs and modifications under the updated reporting requirements. The legacy process is highly manual and subjective, requiring extensive documentation. The revised GAAP allow for systematic solutions and automated processes for reporting in a more efficient manner. Further, many System institutions plan to repurpose existing fields in loan accounting systems and databases/data warehouses to achieve the new reporting requirements. If FCA retains the legacy reporting requirements for TDRs, then the repurposing of data fields will not be possible and it will, therefore, be more costly to implement an automated and well-controlled solution for modification disclosures under the required GAAP implementation deadline of Q1 2023.
	FCA-Published Guidance	FCA-published guidance is appreciated and can help provide context or examples with regard to the Act or FCA regulations. However, published guidance must relate to, and be limited by, the Act and FCA regulation and cannot serve as the basis for an MRA. *See, e.g.*, 12 CFR 262, Appendix A; *see also* Fed. Register Vol. 86, No. 66 (Apr. 8, 2021); Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018). Responding to and addressing MRAs impose unnecessary, and not legally supportable, costs and burdens on System institutions contrary to the protections afforded by the Administrative Procedures Act and related authority and result in inconsistent and subjective results and threaten the trust and relationships between System institutions and the regulator and internal relationships and compliance.
12 CFR 262 and Published Guidance	FCA- Published Guidance	The regulator should limit the issuance of MRA's to only matters for which it is legally permitted to make such issuances (e.g., violations of the Farm Credit Act, FCA regulation). Other matters may be subject to recommendations appropriately issued by the regulator but may not be made subject of an enforcement action.
Policy Statement, FCA-PS-59, Regulatory Philosophy, Eff. Date July 8, 2011	Policy Statement	FCA has issued a significant amount of guidance and proposed a number of proposed rules within a relatively compressed amount of time, which impose administrative and other costs on System institutions and threaten the ability to operate efficiently and in the best interest of the cooperative. Each time new guidance is issued and/or a new rule is implemented, System institutions must update, modify, or replace internal guidance

and/or systems, in whole or in part, without experiencing a commensurate benefit or furtherance of safety and soundness.

Thank you again for the opportunity to comment on the Statement on Regulatory Burden. We hope that, as well as those submitted by the FCC and other System institutions, will assist the FCA.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kayla Robinson

Chief Operating Officer