



March 23, 2009

### Fact Sheet on Director Elections Proposed Rule

On March 12, 2009, the Farm Credit Administration (FCA) Board approved a proposed rule that would strengthen stockholders' involvement in the management, ownership, and control of their Farm Credit System (System) institutions by providing options to increase stockholder participation in the director election process.

The System was established as a farmer-owned cooperative system that provides credit to farmers, ranchers, producers and harvesters of aquatic products, and rural homeowners. The cooperative structure of the System relies on the participation of its voting stockholders, who control their institutions by electing a majority of the institutions' directors. Creating stockholder interest and involvement is indispensable to an institution's operation as a cooperative. It is from this pool of interested, active, and informed stockholders that an institution draws its next generation of directors.

Also, providing stockholders the opportunity to voice their concerns through various forums, such as the annual stockholders' meeting, gives the board of directors the feedback it needs to measure how well it is serving the needs and interests of all stockholders.

#### Objectives of the Proposed Rule

- Improve the director election process in certain areas, such as strengthening the independence of the nominating committee, regulating floor nominations, enhancing impartiality and disclosure in director elections, and clarifying election procedures.
- Update our regulations to incorporate interpretations made through several recent bookletters and responses to questions raised by System institutions and FCA examiners.
- Consolidate director election and voting rules into Part 611 of FCA regulations and retain reporting and disclosure rules in Part 620 of FCA regulations.

#### Significant Provisions of the Proposed Rule

- Recognize the rights of associations as stockholders of the banks for the purpose of bank director elections, provided the banks adopt policies allowing this treatment. If permitted by the bank's policy and procedures, affiliated associations, in their role as the bank's stockholders, would be able to use their resources, property, and facilities to support a director candidate in bank director elections. The bank's policy would need to consider the various sizes of stockholder associations in the district and establish reasonable standards

that the stockholder associations must follow to use their resources, property, and facilities for this purpose.

- Allow banks and associations to hold stockholder meetings online, in addition to holding them in person, and establish minimum requirements for online meetings. Require institutions to encourage stockholder attendance at the annual meeting, whether in person or online.
- Eliminate the practice of counting mail ballots to meet quorum requirements after January 1, 2011. Voting stockholders' registered attendance at online meetings, in-person attendance, and attendance through proxy would be counted towards meeting an institution's quorum requirement.
- Allow a person elected to the nominating committee to resign his or her position and run as a director candidate as long as he or she did not attend any meeting of the nominating committee. Similarly, clarify that a person is not eligible to serve as a director if he or she was elected to the nominating committee and attended a meeting called by the committee.
- Require banks and associations to establish procedures for voting on nominating committee candidates on an individual basis, but also allow the institutions to provide stockholders the option of voting on the list of nominating committee candidates.
- Limit the nominating committee's responsibilities to those defined by regulation and require the nominating committee to maintain records of its meetings, including attendance.
- Provide that borrowers with out-of-territory loans who hold voting stock be eligible to serve as directors or as nominating committee members unless the association's bylaws prohibit them from doing so, and require the association to inform such borrowers of their eligibility at the time their loans are made.
- Require the institutions to develop policies and procedures for making and accepting floor nominations, and provide that the policy require no more than a second to any nomination from the floor.

The rule will be published in the *Federal Register* for a 60-day public comment period.