

**Statement by  
Kenneth Auer, President, The Farm Credit Council  
Before Farm Credit Administration  
Public Meeting on Scope and Eligibility  
June 26, 2003  
McLean, Virginia**

Chairman Reyna and Board Members Flory and Pellett, thank you for holding this hearing and for considering changes in Farm Credit Administration regulations that would improve the ability of Farm Credit System institutions to meet their mission. We strongly support your efforts and believe they will be beneficial for farmers, ranchers and rural America.

Mr. Schenk already has provided you with some necessary background regarding the changing structure in agriculture, highlighting how important off-farm income has become to the majority of agricultural producers in this country. Whether it is the result of choice or necessity, the fact remains that the majority of farm households in rural America derive the majority of their income from doing things in addition to farming. Given this set of facts, the real issue behind this hearing is how must FCA's regulations be revised so the Farm Credit System can fully meet its mission of helping to improve the income and well-being of all types of agricultural producers.

With the limited time I have I want to focus on providing responses to the four questions raised in your request for testimony.

Should the current definition of bona fide farmer, rancher or aquatic producer be changed? The Farm Credit Act makes numerous references regarding eligibility. In the opening sections of the Act it states that the System is to be designed to serve "all types of agricultural producers having a basis for credit." The language of the act makes reference to serving bona fide farmers and ranchers and also requires that System direct lending institutions have specific programs in place to serve young, beginning and small farmers. It is our view that in light of these varying references, the Agency has done a good job of developing a regulatory definition of what is a bona fide farmer and rancher that is flexible enough to permit the System to serve the current marketplace. What is critical, however, is that the Agency's examination staff recognize the intended flexibility in this regulation and allow System boards of directors and staff to establish and operate under policies that are just as flexible and consistent with this regulation.

Having a flexible approach is critical because it allows for adjustments as the marketplace changes. For instance, as advances in biotechnology and genetic engineering alter what agricultural production involves, it is critical that interpretations advance to keep up. An agricultural producer of the future will likely use their property for many renewable products – those that are biobased – involving any product suitable for food or nonfood use that is derived in whole or in part from renewable agricultural and forestry materials; and those that are not biobased, such as wind energy – where an agricultural land base serves as the resource necessary for the production. The regulatory definition and interpretations should be flexible enough to allow Farm Credit to be active in all of these situations.

The second question asks whether there should be limits on the System meeting the other credit needs of farmers. The simple answer to this is “no,” there should be no limits. Looking at the plain language of the Farm Credit Act, it neither establishes directly nor suggests that FCA should establish, a limit on the System meeting the other credit needs of eligible individuals. I would argue that the language of the Act actually sends the opposite message. Congress specifically directed that the System be “designed to accomplish the objective of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate and constructive credit.” The Farm Credit Act further states that one underlying purpose of the Act is “to provide for an adequate and flexible flow of money into rural areas.” The question you should be asking yourselves is whether it is consistent with this directive for the System’s ability to meet the full credit needs of an applicant to be limited. Congress clearly authorized the System to meet the other credit needs of farmers, and we see no reason for the Agency to impose a restriction on this authority.

The data that has been presented already makes absolutely clear the importance of off-farm income to the economic viability of a significant portion of today’s farmers – especially for the groups that are singled out by Congress for special attention by the System – young, beginning and small farmers. Much of that off-farm income is being derived from farm-related and non-farm businesses owned and operated by farmers that are providing employment not only for the farmer but for members of their family and others in the community. When the System brings capital into rural America and supports these types of employment generating enterprises, it is directly contributing to that flow of money into rural areas that Congress highlighted in the language of the Act.

Of course there are the practical considerations as well. If a farmer has their assets pledged as collateral for a loan from the System and they want additional credit, it is much easier for that individual to work with the System to address those additional needs. From a risk standpoint, it also is preferable that the institution has a complete picture of a borrower’s obligations and what additional claims there might be on the individual’s resources.

It is our view that those who suggest that limits be placed on the System meeting the other credit needs of its members have the burden of proof here. They must justify how such limits would serve the interests of farmers and ranchers and explain why that access should be denied since denying it would be inconsistent with the specific language of the Farm Credit Act.

Your third question had multiple parts. It asked whether eligible farmers who derive the majority of their income from off-farm sources should only have limited access to the System for their other credit needs and whether we support retaining the regulatory distinction between full-time and part-time farmers. I’ll address the second part first. If we could find anywhere in the language of the Farm Credit Act that reference is made to the term “part-time farmer,” we might consider supporting retention of it in your regulations. The plain fact of the matter is that the Farm Credit Act does not use this term or make this distinction.

I have to assume from the way this question was phrased in your announcement that the agency considers someone to be a part-time farmer if they make the majority of their income from off-farm sources. According to USDA, in 2001 there were 2,092, 722 farm operator households in the United States. Of that total, only about 147, 000 made the

majority of their income from farming. That is about 7% of the total. I don't think Congress ever intended that FCA should limit by regulation the System to fully serving only 7% of the nation's farmers.

Adding to the confusion over this regulation is the fact that the Farm Credit Act specifically highlights an obligation of the System to serve small farmers. Again, using USDA data, virtually 100% of small family farms get the majority of their income from off-farm sources. How is it consistent with the specific direction by Congress that the System fully serves small farmers for FCA to have a regulation in place preventing the System from doing so? The same holds true for young and beginning farmers as well.

In August of last year the Council petitioned FCA to eliminate Sec. 613.3005 from your regulations and thereby eliminate this distinction between full and part-time farmers. That petition provides a detailed explanation justifying this request, and I would ask that it be made a part of this hearing record. We strongly urge that you move in this direction.

As to the first part of this question, regarding other financing needs -- my response here is exactly the same as it was before --- Congress did not direct that farmers be limited in obtaining credit from the System for other needs and we see no reason for FCA to arbitrarily adopt such a limit. We suggest that it be left to the boards of directors of System institutions to establish their lending policies. They have the responsibility to provide guidance to their staff knowing their ability to analyze the risk associated with various credits and their institution's capital position. Agriculture, the structure of farming, and the other financing needs of operators are too diverse for one policy to be set in McLean that will make sense nation-wide. A rigid policy addressing this results in the Agency limiting the System's ability to fulfill its mission.

The final question dealt with the definition of moderately priced rural housing. We believe that the existing regulatory definition is appropriate and provides the flexibility for local data to be developed to reflect market differentials. We would suggest that in applying this regulation institutions be permitted to segment the market for new and existing housing. In rural areas where the value of some of the existing housing stock may be extremely low, taking the suggested approach could open up to more individuals access to the System for home financing. Doing so would result in more competition and greater capital being available to resolve a shortage of housing stock. This requires no change in the underlying regulatory language.

We hope that as you consider these matters you follow the lead of your sister agency the Federal Housing Finance Board in their approach to providing regulatory flexibility. In 1999, Congress authorized the expansion of commercial bank access to GSE funding through the Home Loan Banks by authorizing that several new types of loans could be used as collateral for advances. One group of loans was small farm loans. The finance board didn't look to find the most restrictive way of approaching this. They assumed Congress was serious about making credit available. So the Finance Board decided that for their purposes any farm loan that falls within the legal lending limit of a community bank with less than \$500 million in assets would be deemed automatically to be a loan to a small farm. The measure of who is a small farmer relates to the size of the loan not the size of the farming operation. They imposed no requirement that institutions collect data about the gross sales of applicants. They gave no consideration to what other Federal agencies used for defining small farms and no concern about the

absurdity of their approach. They just declared that as long as it was within the bank's legal lending limit, a multimillion-dollar farm loan would be deemed as a loan to a small farmer – and as you might suspect, the commercial banking groups strongly endorsed this flexible approach.

What we are asking does not require you to be nearly as creative. We are just asking that you permit the System to operate consistent with the plain language of the Farm Credit Act. I hope this testimony has been helpful to you in your deliberations. I would be happy to answer any questions you might have.