Statement on behalf of
AgFirst District Farm Credit Associations
by
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In Response to the FCA Advance Notice of Public Rulemaking on Scope and Eligibility of Financing
At the FCA Public Meeting on June 26, 2003
McLean, VA

We appreciate the opportunity to provide comments on the Farm Credit Administration's Advanced Notice of Proposed Rulemaking (ANPRM) concerning scope and eligibility of financing and the definition of "moderately priced" rural housing that was published in the May 2, 2003 Federal Register.

It's been over 30 years since the regulations implementing the 1971 Farm Credit Act were written. During that time, much has changed in the rural America for which the Farm Credit Act was enacted to benefit. Agriculture has experienced shifts in scale and ownership. Some producers have expanded the scale and /or scope of their operations to remain economically viable. Others have maintained or reduced their operations' scale and scope and have diversified their earnings from non-farm sources. Given these shifts, limitations imposed by the regulations on the extension of credit create a barrier to a substantial and growing proportion of citizens of rural America having access to an adequate and competitively priced source of credit. If not addressed, we believe that this barrier will continue to grow. It is for this reason that we urge the FCA to give favorable consideration to amending the regulations as we propose in this document.

Bona fide farmer definition

We believe the current definition of bona fide farmer, rancher or aquatic producer is adequate as written.

Farmer access for other credit needs

Regulations should permit full access for all farmers' credit needs, to the extent of creditworthiness, regardless of purpose. It is essential that farmers have full access to financing all credit needs, not just those that are related to their operations. Changes in local and industry risk conditions and changing business strategies of other lenders creates the potential for those lenders to withdraw from rural credit markets at times when capital, for sound and constructive purposes, is most needed.

Restrictions for other than full time farmers

All rural citizens who fall within the statutory definition of bona-fide farmer should have full access to a reliable source of adequate and competitively priced credit. We believe there should be no regulatory distinction between full time and other than full time farmers when it comes to determining this access to financing. Existing regulations inhibit the ability of the member owned Farm Credit institutions to be able to fully respond to all the credit needs of rural Americans. Access to consideration for financing should be simple and straight forward. Regulations that restrict the scope of financing add a level of complexity and confusion, in the eyes of prospective users, that potentially restricts that access. The limitations in the existing regulations on the extension of credit effectively removes a source of competitively priced financing, and in turn only partially delivers the access to capital provided for in the Farm Credit Act. Many young, beginning and small farmers depend on non-farm employment to supplement and sustain their operations yet are restricted under the regulations from having full access to credit that larger or more established farmers enjoy. Given our statutory charge to provide an adequate and flexible flow of money into rural areas, regulations should provide the same level of accessibility to credit to less than full time farmers as that provided to larger or more established borrowers.

Definition of moderately priced housing

We encourage changing the definition for "moderately priced" housing. The mechanism provided in existing regulations that allows for that value to be established at the 75th percentile of values using data from a credible, independent and recognized source has practical limitations. First, the establishment of a value based on historical data results in values that lag current market conditions. In some rural areas with limited sale activity, this process may not reflect current market conditions. Secondly, there is no provision in this process to recognize new construction costs which typically exceed costs for existing houses. Consequently, the value established via this mechanism may not represent current market conditions in some areas. As an alternative, we suggest establishing a limit on the amount loaned by adopting the limit established by Fannie Mae.

OTHER ELIGIBILITY AND SCOPE OF FINANCING ISSUES

While not specifically raised in the ANPRM, we would appreciate the FCA's consideration of these additional scope of financing issues.

Farm-Related Service Scope of Financing

Regulations for financing businesses that provide farm related services are more restrictive than the Act. Businesses providing farm related services have evolved to meet the changing character and economic conditions in rural America. These businesses, in addition to providing essential services for on-farm operating needs, may provide other products and services to the general consumer market place which may account for more than 50% of gross revenues or income. While regulations permit financing these businesses, they restrict such financing to only those activities related to the farm-related services. This restriction makes it impractical to lend to these firms. They often use the same buildings, equipment and current assets to serve their customers. It is impractical to segregate or apportion financing to those assets used to provide farm related services. Consequently, these businesses, which are key components of the rural and agricultural infrastructure lack access to full financing from Farm Credit institutions. Removing the 50% of sales (gross or net) threshold from the regulations will ensure full access to financing of these key elements of the rural economy.

Additionally, the limitation as to the purposes for which financing can occur, i.e. necessary capital structures, equipment, and initial working capital as cited in 613.3020 (c) of the regulations is more restrictive than the authority established in the Act which allows associations (PCAs) to make short and intermediate-term loans with no restriction as to purpose [SEC 2.4. (a) (3)]. Broadening the regulations to allow for financing of ongoing operating needs as well as the listed purposes will ensure adequate access to credit.

<u>Rural Home purposes for financing</u>

Regulations limit the purposes of financing and are more restrictive than typical practices in the market place. For example, home equity lines of credit, refinancing of unsecured and other short term loans are customary purposes that are routinely financed, subject to creditworthiness, by other lenders. Farm credit institutions are prohibited from financing these purposes. Consequently, rural residents do not have full access to market typical financing through Farm Credit. To ensure full access, the regulations should be amended to be no more restrictive on purposes of financing than that of Farmer MAC and or Fannie Mae.

We recognize there must be discipline in the extension of credit and that broadening regulatory parameters carries with it an added responsibility to ensure that discipline is adequate to protect the safety and soundness of all who have a stake in the System. Local lending institutions, through their member elected Boards of Directors, have a duty to ensure that their policies and guidelines provide for adequate direction and control of lending activities in such a way as to maintain the financial strength and stability of their institution. The Farm Credit Banks, as lenders to those institutions, have an obligation to establish standards in their financing agreements to assure the financial markets that lending practices meet commercially accepted standards. The FCA has the enforcement authority to require that the lending institutions and their funding banks operate in a safe and sound manner and that those institutions meet the legislatively mandated charge to provide for an adequate and flexible flow of money into rural areas.

We appreciate the opportunity to speak to these scope and eligibility issues as the Agency considers how it might enable the member owned Farm Credit System to be more responsive to the needs of rural America.