July 22, 2008

Gary K. Van Meter
Deputy Director, Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Dear Mr. Van Meter

I am writing to oppose the FCA's "Rural Community Investments" proposal. This proposal is misguided and I urge you to discard it immediately. At its core, the FCA proposal allows FCS lenders to make currently illegal loans if they are relabeled as investments. The FCA is making a dubious claim to suggest FCS lenders have broad-based authority under the Farm Credit Act to make almost any type of "investment" if approved by FCA. The common sense implication of this is that FCA is saying the Act's statutory constraints have no real limits because the FCA will deem illegal loans to be "investments" if the paper work is in order. This makes actions by the regulator paramount and actions by the Congress of little to no importance.

This proposal is not based on any action by Congress to pass expanded powers for the FCS. In fact, Congress rejected efforts by the System to gain expanded powers during the debate on the 2008 Farm Bill. Now the FCA has waited until the Farm Bill was complete to introduce yet another expansion proposal and one even broader than what Congress rejected. This is a direct affront to Congress's decision not to expand FCS powers. The proposal has no statutory basis and FCA's claims it has broad authority for this proposal is untrue and self-serving.

It is troubling that FCA would, through this proposal, encourage FCS to shift its financing activities AWAY from farmers and ranchers. FCA claims the purposes would be for "mission related" investments. Yet, FCS lenders already advertise otherwise through the pilot programs now in existence that such financing would include non-agricultural purposes: light manufacturing, non-agricultural businesses, multi-family housing (by contrast, the Act limits FCS housing finance to single-family residential mortgages in towns under 2,500), road graders, manufacturing facilities, restaurants, commercial buildings, manufacturers of military equipment and for many other purposes. These are not "mission-related" investments and it is duplicitous for FCA and the FCS to suggest they are. Furthermore, simply stating these financial arrangements would not be loans does not mean they wouldn't be. Many of these so-called "investments" would be non-publicly traded, privately negotiated credit deals between FCS lenders and commercial businesses that would replace loans made by commercial banks.

FCA can point to no congressional history that suggests Congress envisioned FCA interpreting its basic, boiler-plate investment authority to be a tool to develop massive new non-agricultural financing programs. FCA's investment authority was clearly intended to allow FCS lenders to manage day to day financial transactions to ensure they have the necessary liquidity to continue making loans to farmers and ranchers. FCA's effort to transform their basic investment authorities into a vast new financing domain is unreasonable and totally lacking in merit.

The FCS, as a GSE, should not allow FCS lenders to take the hard earned capital of farmers and invest these funds into venture capital firms and high risk ventures. I am very troubled with allowing FCS lenders – GSE institutions – to engage in the mixing of banking and commerce. Our nation has a long history of prohibiting the mixing of banking and commerce due to its many conflicts. Furthermore, when Congress authorized equity investments through RBICs, it was very limited authority – Congress did not authorize 150% of surplus as proposed by FCA.

It is quite ill-considered that FCA uses the broadest possible definition of "rural" for these illegal FCS investments. FCA states in the proposal's explanation that investments would be made in areas with a 50,000 population limit. But this is far beyond what Congress has authorized in

various other sections of the Farm Credit Act. Unbelievably, FCA has no actual population limit in the text of the regulation and would allow the figure the agency itself references to grow based not on public policy decisions but on future Census determinations.

FCA's categorization of rural also defeats the proposal's stated intent, to bring capital to struggling rural communities in lightly populated areas. That FCA later contradicts itself to suggest FCS lenders need to extend credit in more densely populated areas to be successful. This proves that FCS would simply cherry pick the best credits that are already being made by commercial banks. There is abundant credit available in cities of under 50,000 people. There would be very little if any new net economic gain from FCA's proposal. There would only be a crowding out of commercial banks to a GSE that has government tax and funding advantages.

I also take issue with the misleading rhetoric FCA uses to justify its decisions and to suggest FCS institutions are not privileged. For example, bankers pay for their deposit insurance fund while FCS lenders have implicit (proven explicit) government guarantees against failure. Banks can and do fail and are not bailed out by the deposit insurance fund, only their depositors are protected, up to the deposit insurance levels. Regarding taxes, many banks are not Sub S banks and pay much higher corporate taxes than FCS. Further, Sub S banks have many constraints including a limited number of stockholders (100) and many other restrictions. FCS institutions can grow retained earnings tax free and have many federal, state, and local tax exemptions. Yet, FCA has not suggested it will impose these constraints faced by banks upon FCS lenders.

We have lost loans to FCA secured by main street commercial real estate owned by non agricultural related entities or individuals. The loans were priced materially below competitive bank rates. If you want to become a commercial bank, then lobby Congress to become one. FCA's proposal is unfair and detrimental to rural America and will displace many community banks. FCA should be embarrassed for bowing to the FCS's demands in such a disingenuous and inappropriate manner. This proposal needs to be given the death sentence.

Sincerely,