

resulted in lower-cost funding for their agricultural loans.

The FCS has regained its financial strength over the past decade. As a result, FCBs and the ACB are once again in a strong financial position to fulfill their statutory mission of increasing the availability of affordable and dependable credit for agriculture and other rural credit needs by assisting both FCS associations and non-System lenders, including OFIs. The FCA has consistently promoted various efforts to improve cooperation among System and non-System lenders so agriculture and rural America will always have adequate credit. In this context, we propose regulatory amendments that will provide OFIs with greater access to the funding and discount services of Farm Credit banks within the confines of the Act.

B. The Act and OFIs

Currently, section 1.7(b)(1) of the Act authorizes Farm Credit banks to offer funding, discounting, and other similar financial services to OFIs so they can make short- and intermediate-term loans to eligible agricultural and aquatic producers, farm-related business, and rural homeowners. Section 1.7(b)(1)(B) of the Act allows national banks, State banks, trust companies, agricultural credit corporations, incorporated livestock loan companies, certain agricultural credit cooperatives, and corporations that lend to aquatic producers and harvesters to become OFIs. Section 1.7(b)(4) requires the FCA to enact regulations that assure that loans, discounts, and other similar financial assistance from Farm Credit banks are available on a reasonable basis to any OFI that:

1. Is significantly involved in lending for agricultural or aquatic purposes;
2. Demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;
3. Has limited access to national or regional capital markets; and
4. Does not use its relationship with its Farm Credit bank to extend credit to persons and for purposes that are not authorized by title II of the Act.

C. FCA's Rulemaking Efforts

This proposed rule is designed to help restore the vitality of the OFI program by making it easier for OFIs to obtain funding from Farm Credit banks. Between 1996 and 1998, the FCA conducted a rulemaking that overhauled the OFI regulations by removing numerous regulatory requirements that were not required by law, or did not

promote safety and soundness.⁶ The express purpose of our earlier rulemaking was to "substantially expand access to System funding so OFIs can provide more short- and intermediate-term credit to parties who are eligible to borrow under sections 2.4(a) and (b) of the Act."⁷

After the earlier rulemaking concluded, Farm Credit banks and OFIs brought to our attention other problems that impeded OFI access to System funding. In response to these concerns, the FCA started this rulemaking in April 2000. The ANPRM sought input on the following issues:

1. The appropriate risk weighting of Farm Credit bank loans to OFIs;
2. Removing regulatory restrictions on funding OFIs located in the chartered territory of another Farm Credit bank;
3. Public disclosure of the identities of OFIs; and
4. Other ways to improve the ability of Farm Credit banks to fund OFIs.

The FCA received 37 comment letters in response to the ANPRM. Of this total, comments were received from six Farm Credit banks and associations, 18 commercial banks, and four non-bank entities. Nine (9) banking trade associations also submitted comments on behalf of their members. Most commenters favored: (1) Lowering the risk weighting on most System bank loans to OFIs; (2) removing territorial restrictions on FCS bank loans to OFIs; and (3) disclosing the identity of OFIs. The commenters also offered us helpful suggestions for improving the funding and discounting relationship between OFIs and their System funding banks. We will discuss these comments in greater detail below when we explain how the proposed rule addresses specific issues.

The responses to the ANPRM indicated that we needed more public input, not only on OFIs, but also on other approaches that would enable the FCS to provide funding to non-System lenders that finance agriculture and other specified needs in rural America. The FCA gained additional information and advice about these issues in the summer of 2001, when staff conducted telephone and field interviews with all Farm Credit banks, an FCS association, and three OFIs in Wisconsin, and Oklahoma. These field interviews were supplemented by telephone interviews with other lenders. In all interviews, the staff asked the questions that we originally raised in the ANPRM and sought additional information about the

hurdles that existing and potential OFIs faced in their relationships with FCS funding banks.

The FCA Board also decided to solicit additional guidance from interested parties by convening a public meeting in Des Moines, Iowa, on August 3, 2001. Fifteen (15) representatives from Farm Credit banks and associations, trade associations, commercial banks, OFIs, investment bankers, and farm groups presented testimony at or as follow-up to the public meeting. In addition to discussing the OFI program, commenters at the public meeting also asked the FCA to explore other arrangements where non-System lenders that do not qualify as OFIs could obtain credit services from both Farm Credit banks and associations. The comments that we received from the ANPRM, field and telephone interviews, and the public meeting, helped us develop the rule that we propose today.

D. Regulatory Issues

As we explained earlier, the purpose of this rule is to make it easier for OFIs to obtain funding from Farm Credit banks for their short- and intermediate-term loans to agricultural and aquatic producers, farm-related business, and rural homeowners. Improving OFI access to the funding and discount services of Farm Credit banks could make affordable credit more available to farmers, ranchers, and other eligible borrowers. Farm Credit banks fulfill their missions as a Government-sponsored enterprise by enhancing the liquidity of OFIs, thereby lowering the cost of funding agriculture.

Commenters identified several regulatory issues pertaining to the OFI program. The FCA proposes to address some of the issues by amending the OFI regulations. In other cases, the FCA will explain how the commenters' concerns are addressed by the existing regulations, which means that a regulatory amendment is unnecessary.

1. Assured Access

Section 1.7(b)(4)(B)(i) of the Act requires FCA regulations to assure that the funding and discount services of Farm Credit banks are available on a reasonable basis to any OFI that is significantly involved in lending for agricultural and aquatic purposes. Currently, § 614.4540(b)(1)⁸ states that Farm Credit banks must "fund, discount, or provide other similar financial assistance to any creditworthy OFI that * * * maintains at least 15 percent of its loan volume at a seasonal peak in loans and leases to farmers,

⁶ See 61 FR 24907 (May 17, 1996); 62 FR 38223 (July 17, 1997); 63 FR 36541 (July 7, 1998).

⁷ See 63 FR 36541 (July 7, 1998).

⁸ See 46 FR 51886 (October 22, 1981).