

subject. Commenters included the Farm Credit Council (Council), System institutions, the American Bankers Association (ABA), the Independent Community Bankers of America (ICBA), and other associations or trade groups involved in agriculture such as the Sustainable Agriculture Coalition and the National Corn Growers Association. Second, the FCA held a public meeting on November 13, 2002, in Kansas City, Missouri, to hear about ways to enhance the System's service to YBS farmers and ranchers. The agency heard from 24 different speakers at this public meeting, including small farmers, agricultural lenders, farm advocates, representatives of the academic community, and government officials.

III. Responses to Comments Received

The comment letters and testimony reflect a multitude of opinions on the issue of whether the agency should provide more guidance to the System on YBS policies and programs. Generally speaking, the comments can be divided into two categories—those that oppose the issuance of a revised YBS regulation and those that support additional regulatory requirements.

A. Comments Advocating No Additional YBS Regulatory Requirements

Many commenters advocated that a revised regulation governing YBS lending is unnecessary because the System is already successfully fulfilling its YBS mission—a mission, they point out, that is only part of the System's overall purpose to serve all of American agriculture. These commenters noted that a revised regulation would not be based in law; would be unduly burdensome and costly; would not result in more YBS lending; and would be inconsistent with the agency's limited oversight of the YBS mission as set forth in section 4.19 of the Act.

We do not agree with the assertion by some commenters that a revised regulation would be inconsistent with section 4.19 of the Act. The agency has clear statutory authority to promulgate regulations to implement section 4.19 of the Act. The agency's general rulemaking authority under section 5.17(a)(9) of the Act authorizes FCA to “prescribe rules and regulations necessary or appropriate” for carrying out the Act. In fact, since 1980, when Congress first added section 4.19 to the Act, the agency has had regulatory and policy guidance on the System's YBS mission to supplement the Act's general YBS requirements for System banks and direct lender associations. We continue to believe a YBS regulation and other supplemental guidance is necessary and

appropriate for the System's achievement of its YBS mission and for the agency's effective oversight of the System in carrying out this mission. Moreover, a significant number of requirements in this proposed rule are similar to current agency YBS policy guidance and reporting requirements. Therefore, we do not believe the proposed rule creates significant additional burdens or costs for the System in fulfilling its YBS mission. Finally, we believe that this proposed rule will help the System achieve even greater results in fulfilling its YBS mission.

Many of these same commenters noted that each System direct lender association understands the needs of the YBS farmers and ranchers in its territory. Such commenters advocated, therefore, that it is more appropriate for each direct lender association, rather than the agency, to develop its own YBS policies and programs. For this reason, many of these commenters opposed a YBS regulation that would include specific YBS targets or other quantitative guidelines, as well as special credit treatment for loans to YBS borrowers. Some commenters claimed that such YBS targets or other quantitative guidelines would limit an association's ability to develop its own unique YBS programs. In addition, other commenters noted that, because the risk-bearing capacity of each direct lender association is different, one uniform approach for YBS lending would not be reasonable.

The proposed rule does not prescribe a “one size fits all” YBS program for all System associations. Instead, the agency gives each direct lender association the flexibility to design its own program tailored to the needs of the YBS farmers and ranchers in its territory. However, the proposed rule provides more results-oriented direction for System direct lender associations by setting forth minimum components that must be included in their YBS programs. Such minimum components will help ensure that System associations are making every effort possible to achieve their YBS mission. The proposed rule also promotes more transparency in YBS reporting, ensuring that the public is well informed of the System's commitment to, and efforts in, fulfilling its YBS mission.

Finally, the commenters noted that the agency can use its enforcement powers rather than its regulatory authority to ensure the System serves eligible YBS farmers and ranchers. Promulgating a proposed rule, which requires notice and comment procedures, will enhance the agency's

ability to use its enforcement tools to ensure that the System is fulfilling its YBS mission.

B. Comments Advocating Additional YBS Regulatory Requirements

In contrast to the foregoing comments, a significant number of commenters noted a need for more regulatory direction on YBS credit and services. These commenters suggest the System is not fulfilling its public purpose as a Government-sponsored enterprise (GSE) because it is not adequately providing credit and services to YBS farmers and ranchers. Many of these commenters noted that serving the needs of YBS farmers and ranchers is crucial for the future of American agriculture.

The agency believes the System's YBS mission is important, not only to the System in its public purpose role as a GSE, but also in its mission as a provider of sound, constructive, and dependable credit and services to all of American agriculture. In the agency's effort to ensure that the System remains focused on its important YBS mission, the proposed rule provides enhanced requirements for YBS policies and programs.

Many of these same commenters also noted that section 4.19 of the Act, which requires the System to submit YBS reports to the agency, is clear evidence that the agency has the authority to oversee and regulate the System's YBS mission. Many of these commenters recommended, therefore, that the agency issue a detailed rule to improve the System's YBS service, data collection, and disclosure. These commenters suggested that the agency adopt a “hard target” system that would require strict performance and reporting guidelines and impose penalties when such guidelines were not met.

We agree with these commenters that section 4.19 of the Act, as well as the agency's general rulemaking authority in section 5.17(a)(9), gives FCA the authority to oversee and regulate the System's YBS mission. The proposed rule sets forth minimum components for effective YBS policies and programs. Included in these components are requirements for direct lender associations to establish quantitative targets and qualitative goals within their risk-bearing capacities. The proposed rule also requires such targets and goals to be incorporated into an association's operational and strategic business plan. Incorporating these components into regulatory requirements will enhance the agency's ability to enforce each direct lender association's establishment of YBS targets and goals. The proposed rule also creates increased transparency