

annual report to shareholders, on each component of its YBS program. As many commenters recommended, the proposed rule also requires both System banks and direct lender associations to include YBS performance results in their annual reports to shareholders. The proposed rule also requires System banks to include, in their annual reports to investors, consolidated, quantitative YBS performance results for their affiliated direct lender associations.

Finally, some commenters expressed concern over disclosing individual examination reports on YBS performance. We believe it is not necessary to disclose confidential examination report information. We believe the additional transparency provided by the enhanced reporting and disclosure requirements in the proposed rule will give the public a sound understanding of the System's YBS performance results and will therefore preclude the need for disclosing FCA examination reports on System YBS performance.

F. YBS Data Collection Issues

In response to whether the agency should count the number of YBS borrowers or loans, many commenters expressed a preference for counting loans while others expressed a preference for counting borrowers. Many other commenters said the issue of consistency in data collection was a key issue rather than whether the agency counts YBS loans or borrowers. Other commenters stated the System should not be allowed to inflate its YBS numbers by allowing the same loan to be counted separately in each applicable YBS category.

In 1998, the agency announced it would collect YBS data from the System based on the number of loans that benefit "young," "beginning," or "small" farmers and ranchers rather than the number of borrowers. This change was consistent with the new definitions the agency developed in 1998, which captured more complete information on loans to partners and family members and thus made it more difficult to track borrowers. The agency believes, along with many of the commenters, that the key issue in YBS data collection is consistency. We believe the reasons for changing our data collection procedures from borrowers to loans in 1998 are still valid, making it unnecessary to change our approach once again.

In 1998, the agency also changed how the System should categorize loans to YBS borrowers. The agency previously required reporting a YBS borrower in one of four mutually exclusive

categories: Young borrowers; beginning borrowers; small borrowers; and borrowers that met at least two of the definitions. The agency now requires System banks and direct lender associations to report a loan in each applicable YBS category. If a loan is made to a borrower who is young, beginning, and small, it is reported in each category. This practice is consistent with other GSE mission-related reporting, such as Fannie Mae and Freddie Mac reports on their annual housing goals.¹¹

In the agency's annual Performance and Accountability Report, the information on the System's YBS lending explicitly states that YBS categories are not mutually exclusive and therefore each category cannot be added together for a total number of System YBS loans. We believe that this method of categorizing and counting the System's YBS loans provides the most accurate and complete picture of how the System institutions are fulfilling their YBS mission. We also believe that this method is consistent with the intent of Congress to report on the System's service to each category of YBS farmers and ranchers.

G. Definitions

Many of the commenters expressed concerns about the current agency definitions for "young," "beginning," and "small" farmers and ranchers. Several commenters recommended tightening the parameters on YBS definitions. These commenters suggested that FCA reduce the "beginning" farmer definition from the current 10 years to 5 years.

Current agency definitions for "young," "beginning," and "small" farmers and ranchers are set forth in 1998 FCA guidance.¹² The guidance defines "young" as a farmer, rancher, or producer or harvester of aquatic products who is age 35 or younger as of the loan transaction date. The current guidance is a change from the previous definition of "less than 35 years old." The current definition remains similar to the United States Department of Agriculture's *National Agricultural Statistics Service Census of Agriculture* (USDA Census of Agriculture), which defines a "young" farmer as being less than 35 years old.

The current guidance defines "beginning" as a farmer, rancher, or producer or harvester of aquatic products who has 10 years or less

farming or ranching experience as of the loan transaction date. Before 1998, the definition of beginning had been a "farmer, rancher and producer or harvester of aquatic products means one who is in the process of establishing an agricultural operation and who has not assumed the full control and risk of such an operation for longer than 5 years." The current definition of "10 years or less" is consistent with section 343 of the Consolidated Farm and Rural Development Act, as amended, which defines, in part, a "qualified beginning farmer or rancher" as an applicant "who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years."¹³

Several commenters also recommended that FCA reduce the small farmer definition from \$250,000 in gross annual sales to something less, such as \$100,000 in gross annual sales. The guidance defines "small" as a farmer, rancher, or producer or harvester of aquatic products who normally generates less than \$250,000 in annual gross sales of agricultural or aquatic products. Before 1998, the definition of small was one who has "sustained gross sales from agricultural or aquatic production and a net worth as prescribed by the FCA." The agency's current definition of "small" is significantly more conservative than the definitions used by other Federal financial regulatory agencies for Community Reinvestment Act¹⁴ reporting of small farmer loans. The Small Business Administration considers most agricultural production enterprises as "small" if their annual receipts do not exceed \$750,000.¹⁵ Commercial banks and savings associations use thresholds of \$1,000,000 for annual sales and a loan size of less than \$500,000 for small loans.¹⁶ The National Commission on Small Farms¹⁷ (Commission) recommended that the United States Department of Agriculture (USDA) focus its programs on farm operations that generate less than \$250,000 in annual gross agricultural sales. The Commission believed such a level of income represents small farm operators and, after expenses, is equivalent to the net disposable income that the average non-farm family receives. As these various definitions indicate, there is no

¹³ 7 U.S.C. 1991.

¹⁴ See, for example, 12 CFR 25.42(h)(1)(iv).

¹⁵ See section 3(a)(1) of the Small Business Act, Pub. L. 85-536, as amended.

¹⁶ Depository lenders report on loans to small farm operators as part of their compliance with the Community Reinvestment Act.

¹⁷ USDA, A Report to the USDA National Commission on Small Farms, January 1998.

¹¹ The annual housing goals are established and supervised by the Department of Housing and Urban Development, Fannie Mae's and Freddie Mac's mission regulator.

¹² See *supra* note 4.