

uniform description of a small farm. The agency adopted the most conservative of these thresholds, \$250,000 in annual gross agricultural sales.

Several commenters recommended that FCA exclude loans that are \$5,000 or less from any YBS reporting. The agency's current definitions for YBS farmers and ranchers include all loans, even those that fall under a *de minimis* loan amount, such as \$5,000. We do not believe a *de minimis* exclusion would provide an accurate and complete picture of the System's YBS lending.

One commenter recommended making "small" the umbrella category for "young" and "beginning" farmers and ranchers. This commenter also recommended creating a category for "small" loans to farmers and ranchers who are not "young" or "beginning." Section 4.19 of the Act requires that the System have programs for "young," "beginning," and "small" farmers and ranchers. The agency has interpreted this statutory provision as requiring System policies, programs, and reporting to be based on these three distinct YBS categories. The agency believes that changing these categories by making any one of them the umbrella for other categories, as suggested by the commenter, would be inconsistent with Congressional intent. Moreover, the agency's current "small" category already captures small farmers and ranchers who are not "young" and "beginning." Therefore, to rearrange the categories, as suggested by the commenter, would be unnecessarily burdensome and not more useful.

One commenter noted the inconsistency between the FCA and the USDA definitions for certain categories of YBS borrowers. The agency has considered a variety of data, including USDA benchmarks, in developing what it believes to be YBS definitions most appropriate for the System's mission.

A few commenters noted that a borrower should have a "material stake" in the agricultural operation before he or she can be counted in one of the YBS categories. The current definitions for young and beginning farmers and ranchers apply to individuals who benefit from System loans. Loans to sole proprietors and partners qualify for reporting purposes if a young or beginning borrower is obligated on the loan. Loans to a closely held legal entity qualify for reporting purposes if a young or beginning borrower has an ownership interest in the entity. The current definitions do not require that a young or beginning borrower have a material stake in the agricultural operation. We believe a material stake requirement is inconsistent with the purpose of YBS

lending, which is to provide credit and services to those borrowers who are just getting started in agriculture and often have a low equity position, thereby precluding their ability to have a "material stake" in an agricultural operation.

Finally, one commenter noted that System institutions do not consistently apply YBS definitions. The agency's 1998 guidance for YBS reporting provided a phase-in period for the new definitions, which required compliance by January 2001. During this transition period, System institutions may have adopted different implementation dates for their reporting changes. The agency annually reviews and provides instructions to each System direct lender association for its YBS reporting to ensure that it is both accurate and complete. In addition, FCA examiners evaluate and test the direct lender associations' internal controls to verify whether the designation of YBS farmers and ranchers is correct, the accuracy of the direct lender associations' databases, and the quality of reporting to association boards and FCA.

In summary, the agency believes the current YBS definitions reflect the changes in agriculture occurring over the years and provide the most accurate picture of the System's service to YBS farmers and ranchers. The definitions for YBS categories are not included in the proposed rule, but continue to remain in agency guidance set forth in an agency booklet (1998 BL-040).

H. Other Authorities To Enhance YBS Lending

A significant number of commenters offered suggestions on ways to improve credit and services to YBS farmers and ranchers in lieu of issuing a revised YBS regulation. These suggestions included:

1. Reviving the national charter issue to eliminate territorial restrictions and thereby improve competition, availability, and access to credit to YBS farmers and ranchers;
2. Removing the existing scope of lending restrictions limiting lending to less than full-time farmers so that part-time farmers have more access to credit;
3. Removing restrictions on rural home loan lending;
4. Authorizing System institutions to make investments in rural America;
5. Expanding the System's lending authority to include lending to businesses located in rural areas; and
6. Enhancing the System's lending to other financing institutions. One commenter opposed any initiatives that would expand the System's lending authorities.

The proposed rule focuses only on System YBS policies and programs. The agency's regulatory performance plan (which is available on the agency's Web site) includes many of the topics raised by the commenters. As the regulatory performance plan indicates, many of these topics may be addressed in separate agency rulemakings.

IV. Regulatory Approach

As discussed above, the agency received contrasting comments on whether further guidance is necessary to strengthen the System's mission to provide sound and constructive credit and services to YBS farmers and ranchers. After reviewing the comment letters and public testimony, the agency is proposing a regulation that balances the needs for additional direction while allowing System direct lender associations the flexibility to design YBS programs unique to the needs of their territories and within their risk-bearing capacities.

The proposed rule outlines the minimum components that must be a part of each direct lender association's YBS program. Thus, it is responsive to the GAO report recommendation for a regulation that "outlines specific activities and standards that constitute an acceptable program to implement the YBS statutory requirement."

GAO also recommended publicly disclosing the results of the examinations for YBS compliance for individual System associations. The Federal financial regulatory agencies, including the FCA, have a longstanding policy of keeping examination results confidential to everyone other than the board of directors of the affected institution.¹⁸ The purposes of this policy are to protect financial institutions by withholding reports that contain candid evaluations of their stability and to promote cooperation and communication between the institution and examiners.

We believe the proposed rule meets the intent of the GAO recommendation for improved public disclosure of the System's YBS performance results. The agency will assign a rating for each direct lender association's overall YBS program. The rating will identify the association's YBS program performance as either "Pass" or "Fail." The FCA Board will publicly disclose the results

¹⁸ An exemption under the Freedom of Information Act permits the agency to withhold from the public any agency record "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." See 5 U.S.C. 552(b)(8).