Farm Credit Administration

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November 26, 2008

Federal Deposit Insurance Corporation
comments@FDIC.gov
Robert E. Feldman, Executive Secretary
Attention: Comments/Legal
550 17th Street, NW
Washington, DC 20429

Subject: Minimum Capital Ratios; Capital Adequacy Guidelines; Capital Maintenance; Capital: Treatment of Certain Claims on, or Guaranteed by, the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) – RIN 3064-AD34

Dear Mr. Feldman:

The Farm Credit Administration (FCA or Agency) appreciates the opportunity to comment on the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision's (collectively, the agencies) joint notice of proposed rulemaking[1] to adopt a 10-percent risk weight for claims on, and the portions of claims guaranteed by, Fannie Mae or Freddie Mac.

Background

The FCA is an independent financial regulatory agency in the executive branch of the U.S. Government. Initially created by an Executive order of the President in 1933, the Agency now derives its powers and authorities from the Farm Credit Act of 1971, as amended (Farm Credit Act).[2] The FCA examines and regulates[3] the Farm Credit System (FCS or System), a government-sponsored enterprise (GSE), to ensure compliance with the Farm Credit Act, regulations, and safe and sound banking practices. The FCA also examines and regulates the Federal Agricultural Mortgage Corporation (Farmer Mac), which provides a secondary market for agricultural real

[1] 73 *Fed. Reg.* 63656 (October 27, 2008).
[2] 12 U.S.C. § 2001—2279cc.
[3] 12 C.F.R. Chapter 600 (2008).

estate and rural utilities loans.[4] FCA's mission is to ensure a safe, sound, and dependable source of credit and related services for agriculture and rural America. Under the Farm Credit Act, one of the Agency's key responsibilities is the oversight of System funding activities. The Agency's oversight of funding includes approving consolidated Systemwide debt issuances[5] that fund credit and related services provided to individuals and entities eligible to borrow from System institutions. The System banks issue the Systemwide consolidated debt obligations in the nation's capital markets and are jointly and severally liable for such debt.

The System[6] banks and associations are a nationwide cooperative network of borrower-owned financial institutions whose purpose is to provide a permanent, reliable source of credit and related services to agriculture and aquatic producers, their cooperatives, and related businesses in rural America. The System is also a key source of credit for agricultural processing and marketing activities, rural housing, rural utilities, and foreign and domestic entities that participate in international agricultural trade. Congress also established the System to improve the income and well being of American farmers, ranchers, and rural residents. The System meets its broad public need by preserving liquidity and competition in rural credit markets in both good and bad times. The accomplishment of this public goal significantly benefits rural areas and their residents, including young, beginning, small, family, minority, female, and socially disadvantaged farmers, as well as rural home purchasers. Today, System banks and associations serve all 50 states and the Commonwealth of Puerto Rico.

Farmer Mac also plays a vital and growing role in increasing the liquidity and efficiency of rural credit markets. In the Agricultural Credit Act of 1987,[7] Congress established Farmer Mac to facilitate the securitization of agricultural and rural home mortgages for sale into the secondary market. Congress's creation of Farmer Mac was part of its efforts to resolve the agricultural crisis of the mid-1980s and to provide a more efficient means of financing agricultural and rural housing mortgages. The legislative intent in developing a secondary mortgage market for agricultural loans was to increase the availability of long-term credit to farmers and ranchers at stable interest rates, increase liquidity to agricultural lenders, provide new capital for agricultural investments, and enhance the ability of individuals in rural communities to obtain financing for moderately priced homes. In May 2008, the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) expanded Farmer Mac's program authorities by allowing it to purchase and guarantee securities backed by rural utility loans made by cooperatives. Farmer Mac is

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[4] Farmer Mac is an institution of the System but was created separately from other System institutions and has a separate statutory and regulatory scheme. For discussion purposes in this comment letter, we refer to Farmer Mac separately from the other institutions (primarily banks and their affiliated associations) that make up the System.

[5] 12 U.S.C. §§ 2153(c), (d), and 2252(a)(4).

[6] The System consists of four Farm Credit Banks, which are primarily wholesale lenders to their affiliated FCS associations (agricultural credit associations, production credit associations, and Federal land credit associations); an Agricultural Credit Bank, which makes retail loans to cooperatives and wholesale loans to affiliated FCS associations; service corporations owned by those banks and associations; and the Federal Farm Credit Banks Funding Corporation, the fiscal agent for the banks.

[7] Pub. L. 100-233 (January 6, 1988).

authorized to use these new authorities, along with existing authorities, to provide liquidity to agricultural mortgage lenders and other rural utilities cooperative lenders. Farmer Mac issues debt on its own behalf and is a Securities and Exchange Commission-registered entity.

Agriculture faced a significant crisis in the 1980s, and the Federal government provided the System with the necessary financial support to ensure the continued flow of funds to agriculture and rural areas. Over the last 20 years, the System banks and associations rebuilt their capital levels and financial strength. Today, the System remains financially sound and is able to effectively serve American agricultural producers and their cooperatives during these turbulent financial times.

The Agency's Comment

The preamble to your proposal states that the basis for the risk-weighting change is the senior preferred stock purchase agreement (agreement) the U.S. Department of the Treasury entered into with Fannie Mae and Freddie Mac. You further state that the agreement effectively provides protection to the holders of senior debt, subordinated debt, and mortgage-backed securities issued and guaranteed by these entities.

Although we understand the rationale for the proposal, we believe that the risk weight should not be lowered for Fannie Mae's and Freddie Mac's claims and obligations. Rather, all GSEs should continue to be risk weighted at 20 percent in the capital requirements for the institutions you regulate.[8] A consistent risk weight is appropriate given that each of the GSEs is chartered by Congress to accomplish a specific public purpose. Because of each GSE's specific public purpose, all GSEs enjoy the same fundamental governmental support and should be treated equally. We believe that the agreement could be viewed as an expression of this fundamental government support just as was the financial assistance the System received in the 1980s. As a result, distinguishing between implicit and explicit government backing is insufficient in our opinion to support a reduction of the regulatory capital risk weight of GSEs for the institutions you regulate. We note that the U.S. Government has supported all GSEs during stressful periods to enable them to continue to fulfill their public mission.

We believe the rule proposed by the agencies likely will create an incentive for commercial bank investors to purchase Fannie Mae and Freddie Mac debt rather than the obligations of other GSEs. Although the proposal would free up regulatory capital across the banking system, the potential benefit to Fannie Mae and Freddie Mac may be relatively insignificant considering the size and amount of debt outstanding of these entities. However, commercial banks, among other financial institutions, also invest in System and Farmer Mac debt. As a result, it is possible that the proposal will have an adverse impact on the System and Farmer Mac given their 20-percent risk weighting. Therefore, the proposal is highly likely to increase the cost of funds for the System and

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[8] Given the substantial inter-agency efforts to develop an appropriate regulatory capital framework under Basel II, we suggest that the capital treatment of all GSEs be more comprehensively evaluated under that effort.

Farmer Mac, which would unfairly disadvantage System institutions and their owners—America's farmers and ranchers.

The purpose of the Emergency Economic Stabilization Act of 2008 is to restore liquidity and stability to the U.S. financial system and to ensure the economic well-being of all Americans. We believe your proposal, as drafted, could have an unintended adverse affect on an important sector of the economy—American agriculture. Therefore, we strongly encourage the agencies to recognize the important missions of all GSEs under their congressional mandates and the long-standing support by the Federal government by continuing to treat all GSE debt the same for regulatory capital purposes.

Recommendation

Congress has provided the System and Farmer Mac with a clear congressional mission and public purpose that is vital to America's economy, similar to the vital role that Fannie Mae and Freddie Mac have in the housing sector. We believe the mission of the System is as important today as when the System entities were created by Congress decades ago. Therefore, we believe it is not appropriate to make distinctions among the GSEs based on temporary agreements implemented during an extraordinarily stressful financial period in America's history. We believe such distinctions could result in serious unintended consequences to other GSEs in the debt market. To avoid these unintended consequences, we request that the risk weight for all GSEs, including the System and Farmer Mac, remain at 20 percent. However, if the risk weight is lowered for the housing GSEs, we ask that you also lower the risk weight for claims on, and the portions of claims guaranteed by, all other GSEs to avoid unintended consequences and maintain a level playing field for the issuance of debt by all GSEs.[9]

We would welcome an opportunity to further discuss our observations with you and assist you in analyzing the potential impact this proposed rule may have on the System and Farmer Mac. Thank you again for the opportunity to comment on this proposal.

Sincerely,

Leland A. Strom
Chairman and Chief Executive Officer

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[9] We note that the proposed revisions to the capital rules of the Federal Reserve (for both member banks and bank holding companies) and the Federal Deposit Insurance Corporation identify GSEs, including the Farm Credit System, by name. To avoid any potential confusion about the treatment of Farmer Mac securities as GSE securities, we also recommend that you specifically list Farmer Mac.