



[6705-01-P]

**FARM CREDIT ADMINISTRATION**

**12 CFR Part 614**

**RIN 3052-AD32**

**Advance Notice of Proposed Rulemaking - Young, Beginning, and Small Farmers and Ranchers**

**AGENCY:** Farm Credit Administration

**ACTION:** Advance Notice of Proposed Rulemaking

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**SUMMARY:** The Farm Credit Administration (FCA, Agency, we, our) is requesting comments on ways to collect, evaluate, and report data on how the Farm Credit System (FCS or System) is fulfilling its mission to finance and provide services to young, beginning, and small (YBS) farmers, ranchers, and producers or harvesters of aquatic products (YBS Farmer(s)). Additionally, we are seeking comments on how FCA should define or clarify key terms associated with the collection and reporting of YBS data.

**DATES:** You may send comments on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** We offer a variety of methods for you to submit comments on this advance notice of proposed rulemaking (ANPRM). For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the

Agency's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- Email: Send us an email at [regcomm@fca.gov](mailto:regcomm@fca.gov).
- FCA website: <https://www.fca.gov/>. Click inside the "I want to..." field near the top of the page; select "comment on a pending regulation" from the dropdown menu; and click "Go."
- Federal eRulemaking Portal:  
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our website at <http://www.fca.gov>. Once you are in the website, click inside the "I want to..." field near the top of the page; select "find comment on pending regulation" from the dropdown menu; and click "Go." We will show your comments

as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

**FOR FURTHER INFORMATION CONTACT:**

Salvatore Iannetta, Office of Regulatory Policy, (703) 883-4326, David Grahn, Office of General Counsel, (703) 883-4145, TTY (703) 883-4056, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

**SUPPLEMENTARY INFORMATION:**

I. Objective

The purpose of this ANPRM is to gather public input on how FCA might:

- Improve the accuracy, transparency, and process by which FCA ensures that YBS Farmer data is properly collected and reported by the FCS.
- Clarify the definitions of terms related to the collection, reporting, and identification of YBS Farmer data.
- Ensure the definitions of YBS Farmers and related terms remain relevant and reflective of the evolving agricultural economy.

- Evaluate the effectiveness of each FCS institution's YBS program to achieve its mission of serving YBS Farmers.

## II. Background

The Farm Credit Act of 1971, as amended (Act), requires each System association to prepare a program for furnishing sound and constructive credit and related services to YBS Farmers. Annually, each district bank reports to FCA on the operations and achievements by the associations under the YBS programs. We provide a summary and analysis of the results in our annual report to Congress on the condition of the System. We are reviewing the methods used to collect and report YBS data to ensure that it is accurate, complete, and can be used reliably in conjunction with other related data reported by the System. As part of our review, we are seeking comments on methods and practices that could be used to improve the collection and reporting of YBS Farmer data and the oversight of such.

The Act<sup>1</sup> authorizes the FCS<sup>2</sup> to provide financing and services to farmers and ranchers across the country and Puerto Rico through FCS banks and associations

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<sup>1</sup> See, 12 U.S.C. 2001 *et seq.*

<sup>2</sup> The System is comprised of borrower-owned banks, associations, and service entities that collectively provide financing and other services to support agriculture and agriculture related operations as well as certain related industries that support U.S. agriculture.

(collectively referred to as "Institutions"). The Act also provides FCA, an independent agency in the executive branch of the Government, authority to regulate and examine these Institutions.<sup>3</sup> The System is organized around four banks that each supervise and provide funding to associations within each bank's district. Except for the authority of CoBank, ACB, to finance and provide services to agricultural cooperatives under title III of the Act, agricultural lending and other related services are provided primarily through the associations.<sup>4</sup>

In establishing the FCS as a government sponsored enterprise, Congress provided farmers and ranchers with an option of obtaining financing through borrower-owned cooperatives that give them the ability to participate in the ownership, management, and control of their lender and to ensure that a source of financing dedicated to their needs remains available.<sup>5</sup> One of the specific Congressionally required responsibilities of the System is provided in section 4.19 of the Act (12 U.S.C. 2207), which requires FCS associations to have a program "for furnishing sound and constructive credit and related services to

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<sup>3</sup> See sections 5.7 and 5.9 of the Act (12 U.S.C. 2241 and 2243).

<sup>4</sup> CoBank, pursuant to title III of the Act, also has authority to provide financing to certain rural utilities projects. More detailed information on the structure of the FCS can be found on at <https://www.fca.gov/>.

<sup>5</sup> See section 1.1 of the Act (12 U.S.C. 2001).

young, beginning, and small farmers and ranchers".<sup>6</sup> In addition, this section requires that FCS banks report annually to FCA about the operations and achievements of the associations' lending and service programs for YBS Farmers.<sup>7</sup> FCA's regulations that implement these requirements are located at 12 CFR 614.4165. FCA prepares an annual report on the quantitative and qualitative results achieved by the System and submits this information to Congress when FCA submits its annual report on the condition of the System. FCA has provided guidance and clarification on the System's YBS mission responsibilities through booklet (BL) 040 Revised - Providing Sound and Constructive Credit to Young, Beginning, and Small Farmers, Ranchers, and Producers or Harvesters of Aquatic Products<sup>8</sup> and annual call reporting instructions. BL-040 Revised provides the definition for each category of YBS Farmers. As stated in the booklet, the three categories are separate and distinct, and a loan to one borrower may meet the definition for any or all of the categories, but a loan does not have to meet all three to be considered a loan to a YBS Farmer.

### III. Potential Areas for Improvement

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<sup>6</sup> See, section 4.19(a) of the Act (12 U.S.C. 2207(a)).

<sup>7</sup> See, section 4.19(b) of the Act (12 U.S.C. 2207(b)).

<sup>8</sup> BL-040 can be found at: FCA website-Bookletters

Reconciling YBS data can be challenging. The current reporting practices count the number of transactions and volume of commitments for System Institutions that involve YBS Farmers. This approach identifies the overall System dollars committed to YBS Farmers based on technology/data/standards primarily developed in the 1990s. The goal is to improve upon this approach and provide more granularity for reporting and tracking. For example, a farmer can meet the requirements for both a young and beginning farmer. Under the current approach and direction for reporting, this farmer's data would be separately counted and reported in both the young and beginning categories. This situation can be compounded because more than one Institution may be participating in the financing of an individual YBS Farmer, which allows each participation interest to be counted and leads to further duplication when the Institutions' numbers are consolidated.

Due to the unique nature of this data, some banks' and associations' collection and reporting processes require considerable manual review and adjustment after retrieval from the core accounting systems. This situation creates difficulty in aligning YBS Farmer data with other data sources and reports generated from the Institutions' core

accounting systems. Finally, after recent analysis of the YBS collection and reporting practices of several banks and associations, more guidance is needed to ensure more uniform and efficient collection and reporting of YBS Farmer data.

The definitions for the YBS categories have virtually remained the same since 1998, and other agricultural data sources have similar, but not equivalent, definitions. For example, since 1998, a farmer falls within the "small" category if the farmer "normally generates less than \$250,000 in annual gross sales of agricultural or aquatic products". Several agricultural and economic cycles have occurred since 1998, and we are considering whether the \$250,000 gross sales amount continues to be appropriate or should be revised or indexed to reflect the changes, including the economic conditions presently affecting agricultural producers. In addition to these challenges, several recent mergers of FCS associations have resulted in unexpected variability in the YBS data reported to FCA from the banks.

Based on the forgoing, FCA is considering whether changes to our YBS regulations are appropriate or needed.

#### IV. Request for Comments

We request and encourage any interested person(s) to submit comments on the following questions and ask that you support your comments with relevant data or examples. We remind commenters that comments, and data submitted in support of a comment, will be available to the public through our website.

We have organized our questions into the following categories: reporting of YBS Farmer data and definitions of key terms associated with YBS Farmer data.

A. Reporting of YBS Farmer Data

As described above, FCA requires each FCS bank to obtain reports on the activities for YBS Farmer programs from the associations under its supervision. These annual reports summarize the operations and achievements of the YBS Farmer programs in each district. The banks then provide loan information for YBS Farmers to FCA, and we include a summary and analysis of the information in our annual report to Congress.

The reporting period for gross new YBS lending is the calendar year. Outstanding YBS loans include all loans designated as YBS currently on the books as of December 31<sup>st</sup> in the reporting year. Because the YBS mission is focused on each borrower group separately, data are reported separately for each of the three YBS borrower categories.

Since some loans fit within more than one category, adding the loans across categories cannot be done to accurately measure of the System's YBS lending involvement. As such, we are seeking comment on the following questions to determine if the current reporting structure is sufficient to determine and report the FCS's activities that support Section 4.19 of the Act:

1. Should loans continue to be reported in all the existing categories in which they fit? Alternatively, should loans be reported in seven mutually exclusive categories: young; beginning; small; young and small; young and beginning; beginning and small; and young, beginning, and small?
2. When reporting YBS Farmer program performance, which would be more useful, a focus on the dollar volume of loans, the number of loans, the number of YBS Farmers that received credit and services, a combination of these, or all?
3. Under FCA's regulations, the term "services," as used in section 4.19(a) of the Act, includes leases and related services made by System banks and direct lender associations under titles I or II authorities. As such, how appropriate is it for lease activity to be reported for YBS purposes? Should leases and

services be reported together with or separately from loans?

The preamble to FCA's Final Rule on YBS Farmers (12 CFR 614.4165)<sup>9</sup> stated the objective for the rule is to ensure that the System provides sound and constructive credit and services to YBS farmers and ranchers through: clear, meaningful, and results-oriented guidelines for System YBS policies and programs; and enhanced reporting and disclosure to the public on the System's performance and compliance with its statutory YBS mission. To evaluate this objective further, we are seeking comment to determine if there is additional information we should collect to better measure the System's performance in fulfilling its YBS mission.

4. What additional elements or measurements would be useful in determining the FCS's compliance with and mission performance under section 4.19 of the Act and FCA regulations at 12 CFR 614.4165?
5. What are ways Institutions could pool resources to ensure all eligible YBS Farmers are being served?
6. In what ways could Institutions use investment authorities to assist YBS Farmers, and should such

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<sup>9</sup> 69 FR 16470, March 30, 2004

investments be reported separately from YBS Farmer loan data?

B. Definitions of Key Terms associated with YBS Farmer data

FCA defines Young, Beginning, and Small farmers in Bookletter 040–Revised “Providing Sound and Constructive Credit to Young, Beginning, and Small Farmers, Ranchers, and Producers or Harvesters of Aquatic Products”. These definitions have virtually remained the same since 1998. Additionally, the categories remain separate and distinct. However, a loan to one borrower may meet the definition for any or all categories, but a loan does not have to meet all three to be considered a loan to a YBS Farmer.

The following are the current definitions used for YBS farmers:

Young farmer: A farmer, rancher, or producer or harvester of aquatic products who is age 35 or younger as of the loan transaction date.

Beginning farmer: A farmer, rancher, or producer or harvester of aquatic products who has 10 years or less farming, ranching, or aquatic experience as of the loan transaction date.

Small farmer: 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.

We are seeking comments on the following questions:

Young farmer:

7. Given the trends in the average age of farmers, ranchers, and aquatic operators and the transfer of operations from one generation to the next, does the current age limit remain appropriate? If not, what would be a more meaningful age threshold for a "young" farmer and why?
8. Should the young farmer designation change for a borrower's outstanding loans once they age beyond the threshold?
9. What additional clarification is needed on who qualifies as a young farmer? For example, should the following criteria apply to the determination of whether a person is a young farmer and to what extent:
  - a. Ownership in the agricultural or aquatic operation.
  - b. Ownership of agriculture land only.
  - c. Financial control in the agricultural or aquatic operation.
  - d. Exposure to production risk in the agricultural or aquatic operation.

Beginning farmer:

10. Is the 10-year threshold still appropriate, and if not, what would be an appropriate threshold and why?
11. Should the beginning farmer designation change for a borrower's outstanding loans once the years of experience exceed the threshold?
12. What additional clarification is needed on who qualifies as a beginning farmer? For example, should the following criteria apply to the determination of whether a person is a beginning farmer and to what extent:
  - a. Ownership in the agricultural or aquatic operation.
  - b. Ownership of agriculture land only.
  - c. Financial control in the agricultural or aquatic operation.
  - d. Exposure to production risk in the agricultural or aquatic operation.

Small farmer:

13. What criteria should FCA consider in determining whether to maintain or change the \$250,000 threshold? For example, should we consider thresholds adopted by other government agencies for their definition of "small" farmers?
14. Would it be appropriate to index or benchmark the economic measure used at specified points in the

future to ensure the threshold is current and a reasonable measure? If so, what would be an appropriate interval and benchmark?

15. Should the terminology "normally generates" be more clearly defined for reporting purposes? Would a multi-year median or olympic average<sup>10</sup> be a more meaningful measure?
16. Should the measurement for farm or aquatic income reflect a more stable metric compared to the current measure of annual gross sales of agricultural or aquatic products?
17. Should a borrower be considered a small farmer if:
  - a. They have not yet generated agricultural or aquatic income?
  - b. They only own agricultural land and no agricultural income is produced?
18. Should there be a time period established over which no agricultural or aquatic income is generated that would disqualify the classification of "small farmer" from continuing?
19. Should the small farmer designation change for a borrower's outstanding loans if they grow beyond the threshold?

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<sup>10</sup> Olympic average refers to an average of numbers after removing the highest number and the lowest number.

20. Should the small farmer measure account for such items as amount of acreage farmed as well as the production value generated?

Other Reporting definitions: Material Ownership and Closely Held Entity—Determining whether an entity is a young or beginning farmer.

21. What family connections among individuals who own/operate an entity should be considered to determine whether the entity meets the age or years of experience thresholds?

22. With respect to farming, ranching, and aquatic operations performed through legal entities:

a. What young or beginning farmer ownership thresholds should be used to determine that an operation/entity is a young or beginning farmer?<sup>11</sup>

b. How should the percentage of ownership in the entity by individuals that meet the requirements for a young or beginning farmer affect the threshold?

c. If a single person's ownership share is not sufficient to meet the threshold, should more than

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<sup>11</sup>As a reference, section 506(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) sets the minimum beneficial interest level for crop insurance purposes at 5 percent.

one person be allowed to jointly meet the threshold?

d. What, if any, overall income threshold should be considered for an entity to be classified as a young or beginning farmer?

23. In determining whether an entity is a young or beginning farmer, over what minimum time period should the Agency provide for an association to make the determination, or should the determination be made at a specific point, for example, at the time the loan is applied for or closed?

In addition to the questions listed above, we are interested in receiving comments on other aspects of the collection and reporting of YBS Farmer data. If providing such information, please designate responses as "Additional Comments".

Dated: February 12, 2019

Dale L. Aultman,  
Secretary,  
Farm Credit Administration Board.

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