December 22, 2014

Mr. Barry F. Mardock
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Re: Regulatory Capital Rules: Regulatory Capital, Implementation of Tier 1/Tier 2 Framework

Dear Ladies and Gentlemen:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the proposed rule, *Regulatory Capital Rules: Regulatory Capital, Implementation of Tier 1/Tier 2 Framework* (Proposal). ICBA supports the Farm Credit Administration (FCA) initiative to improve the regulatory capital requirements of its member institutions to provide comparability of both the components of regulatory capital that are in place to absorb future credit losses and the actual levels of regulatory capital present in each tier of regulatory capital to properly assess the capital strength of these institutions.

ICBA continues to have many concerns about key components of the Basel III regulatory capital framework as it is applied to community banks beginning in 2015, especially on the punitive risk weight treatment applied to certain high-quality community bank assets. However, ICBA believes that FCA member institutions should not be subject to regulatory capital requirements that are less strenuous than those applied to the nation's community banks.

The Farm Credit System (FCS; System) already failed in the 1980s and had to be bailed out by the American taxpayers and Congress to prevent a System-wide default. The FCS

[1] The Independent Community Bankers of America®, the nation's voice for more than 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

ICBA members operate 24,000 locations nationwide, employ 300,000 Americans and hold $1.3 trillion in assets, $1 trillion in deposits, and $800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

is a government-sponsored enterprise (GSE) that has the implicit backing of the U.S. Government and therefore American taxpayers. The 1980s bailout revealed that this "implicit" government and taxpayer backing is actually an "explicit" government and taxpayer backing which carries with it a significant subsidy due to the low funding costs FCS can achieve as a GSE. The FCS exists today due to this bailout.

In addition, the FCA and FCS last year secretly sought a free line of credit in the amount of $10 billion from the U.S. Treasury. If this line of credit were to be utilized by the FCS in a subsequent crisis, it is likely that the American taxpayer would once again be on the hook for a partial or total federal bailout of the System. Further, it should be noted that the FCS pays an effective tax rate of only 4.5 percent and pays no taxes on retained earnings. Therefore, at a bare minimum, FCS institutions should be subject to Basel III capital requirements and ICBA thus supports the implementation of Basel III on the FCS.

The Proposal

The FCA has issued the proposal to make large changes to the regulatory capital requirements that apply to FCA system banks, system associations, Farm Credit Leasing Services Corporation, and other institutions chartered by the FCA. The new capital requirements are designed to bring transparency to capital levels and more easily compare to the Basel III capital framework that was implemented for the nation's largest banks in 2014 and will apply to community banks starting in 2015.

The changes being proposed will modernize the capital requirements of FCA member institutions, which operate as GSEs. New minimum levels of regulatory capital for common equity tier 1 capital at 4.5%, tier 1 capital at 6%, and total capital of 8% would be introduced along with a capital conservation buffer of 2.5% made up of common equity tier 1 capital. A tier 1 leverage ratio of 5% would also be incorporated with a requirement that 1.5% of the measure be met with unallocated retained earnings or equivalents.

Current FCA capital requirements are based on three risk-based minimum requirements that incorporate core surplus, total surplus, and permanent capital. A 3.5% core surplus ratio presently exists that includes unallocated retained earnings, certain allocated surplus, and noncumulative perpetual preferred stock. Of the 3.5% minimum, 1.5% must include unallocated retained earnings and noncumulative perpetual preferred stock. Additionally, a 7% permanent capital ratio presently exists that includes current earnings, unallocated and allocated earnings, stock, surplus less the allowance for loan losses, and certain other debt and equity instruments. Finally, a 7% total surplus ratio presently exists that is similar to permanent capital excluding stock held by members as a condition of obtaining a loan and certain other instruments routinely and frequently retired by institutions.

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ICBA's Comments

ICBA supports the proposed regulatory capital requirements for FCA regulated institutions in order to bring higher capital to the system as a whole and to establish a more transparent capital framework that can be uniformly adopted and broadly applied. These standards should be applied to all entities in which FCS has ownership involvement. All banks regulated by the Federal Deposit Insurance Corporation are currently required to apply the Basel III capital framework or are scheduled to start implementation in 2015. Placing FCA system institutions in the same capital framework as these banks will ultimately improve transparency in the levels of capital being held as both systems will be under similar capital compliance requirements. Additionally, the quality of capital will be highlighted as FCA regulated institutions will face stipulations on the types of capital that qualify as common equity tier 1 capital and tier 1 capital.

While ICBA supports more stringent capital requirements for these institutions, the proposal fails to address the implicit government guarantee that backs the debt and equity issued by the FCS and whether the minimum capital requirements established in Basel III are high enough for a system that operates as a GSE. One of the key aspects of the Basel III capital framework is the development of high quality capital at appropriate levels to be able to withstand severe economic shocks that could lead to a bank failure.

However, these capital requirements have been drafted with the understanding that an individual regulated financial institution could still fail. When applying this framework to the FCS, the same metrics do not apply simply because the system carries an implicit government guarantee. Therefore, applying Basel III capital requirements to FCS institutions should only be considered as a first step for FCA. With the FCA's push for properly structured minimum regulatory capital levels that effectively assess the type and amount of risks taken by the institution, the need for government backing should disappear, putting the FCS on better footing with the nation's community banks. With adequate capital in place, the FCS should no longer need its GSE status nor should the FCS need its line of credit with the U.S. Treasury.

Implementation of Basel III capital levels for the FCS provides a logical path for the U.S. Treasury to cease providing the Farm Credit System Insurance Corporation with taxpayer-backed liquidity in the form of a $10 billion renewable line of credit. Besides providing this financing without statutory authority, the line of credit and other subsidies provide a unique funding advantage that puts the nation's community banks at a significant disadvantage when trying to compete with a government-backed entity. This oversight by the U.S. Treasury and the FCS puts taxpayers at risk for future bailouts while privately-funded and well-capitalized community banks suffer with higher funding costs and absence of a government backstop. Providing Basel III regulatory capital minimums for the FCS should allow the FCS to provide its own backstop against future losses and rely on the capital markets to provide liquidity.

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ICBA appreciates the opportunity to comment on this proposal. If you have any questions or would like additional information, please do not hesitate to contact us at james.kendrick@icba.org, mark.scanlan@icba.org or (202) 659-8111.

Sincerely,

/s/

James Kendrick
Vice President, Accounting & Capital Policy

/s/

Mark Scanlan
Senior Vice President, Agriculture & Rural Policy