ICBA
Independent Community Bankers of America®

October 22nd, 2018

Ms. Michele Brooks,
Team Lead, Regulations Management Team
Rural Development Innovation Center
United States Department of Agriculture
1400 Independence Ave., STOP 1522, Room 5159
Washington, DC 20250-1522

Re: USDA OneRD Regulation, Request for Comment, Docket ID - RHS-18-CF-0021-0001 / Federal Register Number: 2018-19101

Dear USDA Review Team:

On behalf of the Independent Community Bankers of America, a national trade association representing the nation's nearly 5,700 community banks including those in rural America, I write to share our views on USDA's initiative labeled OneRD. Thank you for the opportunity to provide comments.

As noted in USDA materials announcing the OneRD initiative, USDA's Rural Development Agency (USDA RD) intends to develop a common platform to deliver four guaranteed loan programs**.** Through this undertaking, USDA believes it will be able to simplify, improve and enhance the delivery of the following four programs: Community Program Guaranteed loan program, the Water and Waste Disposal Guaranteed loan program, the Business and Industry Guaranteed loan program, and the Rural Energy for America Program. USDA also believes that a common platform will provide policies and procedures for guaranteed loan making and servicing, lender reporting, and program monitoring.

USDA RD outlines several expected benefits from this effort. These include: (1) Improving quality customer experience by streamlining and consolidating similar guaranteed loan programs; (2) Advancing economic development and access to capital by reducing complexities and redundancies; (3) Improving operational efficiencies and cross-program coordination by enabling staff to learn all RD guaranteed loan programs; (4) Enabling RD to integrate innovation in the delivery of loan guarantees and alignment with industry lending practices; and (5) Creating a platform that paves the way for modern processing and servicing to improve portfolio management.

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ICBA Comments

ICBA applauds USDA RD on this initiative and believes that streamlining these four programs is appropriate and could assist both community banks and their borrowers through a more efficient and user-friendly program. ICBA believes that USDA should indeed pursue efforts to enhance operational efficiencies, reduce costs where appropriate, align agency practices with industry practices and broaden the ability of USDA staff to serve a greater number of lenders and borrowers.

Preference for Rulemaking. While we appreciate the need to implement a reduced regulatory burden and streamlining of these programs through the implementation of a standardized, common platform, we would prefer a new regulation such as this be allowed to proceed through standard proposed rulemaking processes. This would allow stakeholders to review the actual proposed changes and make enlightened recommendations.

Maximize the Number of Regulated Lenders. As a general principal, ICBA urges USDA RD to ensure that changes included in final rule do not disadvantage small lenders vis-à-vis larger lenders. Program or operational efficiencies should not be considered achieved based on larger lenders originating and/or selling (i.e. to the secondary market or to other lenders) a greater volume of RD loans, particularly at the expense of smaller lenders originating and or selling fewer loans.

Changes to these programs should ensure the maximum number of lenders utilizing the programs as this will ensure the maximum number of rural communities are served via these loan programs. Maximizing the number of lenders using the program rather than promoting fewer, large lenders using these programs, will result in a broad base of support for the program from stakeholders in future years.

Move Away from Reliance on Direct Loans. USDA should keep in mind that the agency's direct loan programs often compete with private sector lending and cause demand from commercial banks for these products to diminish greatly in many rural markets. USDA should, as part of this initiative, implement procedures and processes to allow, to the greatest extent possible, for direct loans to be combined with guaranteed loans to ensure a mix of both direct and guaranteed lending as part of loans that would otherwise only be financed directly by USDA. For example, the vast majority of USDA community facility loans are financed by direct loans.

Minimize Regulatory Burden Across Programs. It would also be inappropriate for USDA RD to implement a common platform with more stringent requirements for these four programs based on a more stringent existing requirement in one of the programs currently. Rather, the platform's requirements should be reduced to the least common denominator, or least

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burdensome regulation, for all four programs that may exist in any one of the programs currently, while ensuring loan quality is not jeopardized.

Preferred Lender Program. USDA asks whether they should implement a preferred lender (PL) program. Generally, ICBA would support a preferred lender program if it is designed in a manner that considers all relevant factors and does not rely on the number of loans made by a lender, which is only one factor.

In terms of the number of loans made as a qualifying factor for preferred lender status and other alternatives, we offer these suggestions:

1) The amount of loans made for PL status should include guaranteed loans made across a variety of platforms including the four RD programs but also including guaranteed Farm Service Agency (FSA) farm loans; SBA guaranteed loans; Farmer Mac and other secondary market experience. The RD programs may have only limited demand at this time, particularly due to USDA's past reliance on promoting its direct loans and limited demand in rural markets due to various economic factors. However, involvement in a variety of guaranteed loan programs across both USDA and SBA platforms are evidence that lenders have qualifying experience in making a variety of guaranteed loans in a variety of market conditions. The amount of loan making to qualify for PL status should not be so high that it eliminates the vast majority of community banks from consideration.

2) USDA should establish a training program for PL lenders. This would allow lenders who receive certification under such training to qualify for PL status regardless of the number of loans made. Ongoing training can also be made available to lenders for continuing education of the four RD programs.

3) Consideration should be given to the quality of lenders' overall portfolio or their ratings post examination by federal or state regulators. For example, consideration of PL status could also be made based on a commercial bank's CAMEL ratings. The component ratings reflect an institution's capital adequacy, asset quality, management capabilities, earnings sufficiency, liquidity position, and sensitivity to market risk. FCS institutions have a FIRS rating. Only FCS institutions that achieve a FIRS rating of #1 should qualify as preferred lenders.

4) Qualification for PL status could be allowed under a combination of these factors. Training and education, possibly in combination with general small business lending experience should be enough for lenders to be considered PLP lenders.

ICBA would oppose a PL status if it is based solely on the number of loans made by individual RD programs without also looking at other possible qualifying factors such as the options listed above.

Oppose Eligibility for Unregulated Lenders. USDA states it is considering a common platform of requirements for non-regulated lenders aimed at ensuring maximum participation. ICBA opposes granting such flexibility to unregulated participation for many reasons. USDA's efforts to maximize participation should be focused on increasing the number of regulated community banks in the guaranteed RD programs.

Regulated entities, such as commercial banks, offer far less risk to the quality of USDA's RD loan portfolios than is the case with unregulated lenders. Bank regulatory agencies conduct bank examinations to ensure public confidence in the banking system. On-site examinations help ensure the stability of banking institutions by identifying undue risks and weak risk management practices. These protections do not exist for unregulated lenders.

Bank examinations also play a key role in the supervisory process by helping banking regulators identify the cause and severity of problems at individual banks and emerging risks in the financial-services industry. The accurate identification of existing and emerging risks helps the banking regulators develop effective corrective measures for individual institutions and broader supervisory strategies for the industry. Again, these protections do not exist with unregulated lenders.

With unregulated lenders, fraud and other abuse are much more likely since they are not subject to the same level of scrutiny as regulated entities. We view this as potential harmful for USDA programs.

ICBA has additional concerns with USDA's consideration of allowing unregulated lenders to have broad access to its RD loan programs:

- Unregulated lenders, due to their lack of regulation, have much lower operating costs than commercial banks, which face high compliance costs. This gives unregulated lenders an ability to undercut commercial banks on loan pricing while simultaneously adding significant risks to USDA's RD loan portfolio.

- Due to their unregulated nature, it will be much harder to track the activities of these lenders to assure they are focused on meeting the purposes for which Congress has authorized the RD program.

- It is possible or even likely that large lenders and other large financial institutions may establish separate unregulated entities that would use these lower cost-structures or subsidiaries to underprice highly regulated private sector lenders. If these unregulated entities also utilized various tax credits or exemptions, their pricing advantages would be strongly magnified.

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- Conceivably, almost any rural and non-rural business could seek to be an unregulated provider of guaranteed RD loans. This would pose substantial risks to USDA and represent unfair competition for highly regulated commercial banks.

Tax Structures. USDA asks what trends and programs that offer tax advantages could be used to enhance USDA RD guaranteed loans. This is an issue that should be clarified as a proposed rule so that the details can be further examined and commented on. ICBA urges USDA to ensure the use of tax benefits apply to all lenders equally so that some lenders are not discriminated against.

On line Application and Software Solutions. USDA asks for recommended software solutions to enhance online application processes. USDA could consider using a program similar to Farmer Mac's online application process. Another alternative would be the Mortgagebot program, which in 2014 was used by over 1,400 banks and credit unions to provide over $150 billion in loans. Moody Analytics and Wolters Kluwer also uses software solutions for lenders (i.e. Equity Manager; ComplianceOne) that USDA could analyze. Some bankers have suggested USDA review the Finastra program. Bankers also state that cloud-based software solutions have been effective in maintaining the integrity of online systems.

USDA could also consider having a "chat" feature that pops up online when the USDA website is visited. Many companies utilize this approach to assist website visitors.

Regarding software solutions, these will be impacted by the network management of the system versus the actual solution. Ease of uploading, network support, and bandwidth are critical. The actual software can be secondary compared to these factors.

Eliminate Tangible Balance Sheet Equity Requirement. USDA asks if it should eliminate the "Tangible Balance Sheet Equity' requirement. ICBA endorses elimination of this requirement. We have heard from various lenders that this requirement adds no value and is inconsistent with standard industry practices. USDA should consider using standard balance sheet analysis like Equity Manager utilizes.

Preliminary Engineering Reports. We believe USDA should not require preliminary engineering reports, at least on smaller loans (i.e. under $1 million in size). These reports add little value and add to loan costs and processing time.

Environmental Assessments. We recommend USDA minimize requirements for environmental assessments (EA) and eliminate any duplicative processes in obtaining these assessments. Small loans should have very minimal environmental requirements. Also, projects that do not require construction should not need an extensive environmental report or perhaps any assessment at all.

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Secondary Market – USDA could consider using a program like the Federal Home Loan Bank of Topeka's MPF program. USDA could also consider raising the guarantee percentage to 80% for all loan sizes, rather than the 80%-70%-60% distinctions currently used in some of the programs.

Streamline Approval Processes in Addition to Regulations. ICBA recommends that USDA streamline decision making for approval of RD guaranteed loans. We urge USDA to allow county/district or state offices to approve all loans that are smaller in size. This structure could include:

- Allow county offices to approve all loans under $3 million within five days of submitting a complete loan package.
- Allow loans of $3 to $5 million to be approved either by the county or state offices within a 15-day timeframe.
- Allow loans of $5 million to $10 million to be approved by the state office within 30 days of loan package submission.

Additional suggestions for USDA to consider would include:

- USDA should standardize the loan process across all states to ensure requirements do not vary from office to office.
- USDA should establish proper procedures to ensure ongoing communication and status updates between USDA offices, lenders and borrowers.
- USDA should implement a plan to expeditiously reduce fees for these programs to make them more affordable for rural Americans. One alternative to accomplishing this would be to raise fees on the largest RD loans while lowering fees on the smaller sized loans.
- USDA should review SBA loan processes to see what additional efficiencies can be gained if their processes are utilized within USDA RD programs.
- USDA should provide a short application form for small loans under $1-$2 million in size. For the overall single platform, USDA could consider simplifying the application processes and standardize application requirements for its four loan guarantee programs by having one "Master application" (similar to scholarship applications at colleges or universities) and then have the user indicate which program they are interested in and the application software process would then direct them to the specific needs of their program.

Conclusion

ICBA appreciates the opportunity to comment and welcomes USDA's effort to streamline the guaranteed RD programs. We urge USDA to issue a proposed rule to allow stakeholders to analyze details of what the final rule could look like. USDA's final rule should be designed to maximize community bank participation and should adopt the recommendations above. ICBA would support a preferred lender status if a broad range of lender activities would be considered for qualification, as outlined in our letter. ICBA strongly opposes allowing nonregulated lenders easy access to utilizing guaranteed RD loans for the reasons stated.

ICBA appreciates USDA's efforts and looks forward to working with the agency on the OneRD regulation and RD programs going forward.

Sincerely,

/ Signed /

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