



INDEPENDENT COMMUNITY
BANKERS *of* AMERICA

The Nation's Voice for Community Banks®

AGRICULTURE-RURAL AMERICA Committee

TUESDAY | OCTOBER 6, 2020
2:00 p.m. — 4:00 p.m. (Eastern)

ONE MISSION

To create and promote an environment where community banks flourish



2020 ICBA Fall Ag-Rural Committee Meeting

October 6, 2020 Virtual Online Meeting *Table of Contents*

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ICBA Agriculture / Rural America Committee Meeting Agenda

October 6, 2020, 2:00 p.m.– 4:00 p.m.

Link to committee page and call information: <https://www.ICBA.org/FallMeetings-ARAC>

Committee Introductions

- Committee Introductions & Discussion of Local Ag Conditions

Presentations

- Patrick Kerrigan – Update on Farmer Mac
- Bill Cobb, USDA Farm Service Agency – BFR and Other Issues

Farm Bill / Hemp / USDA Lending / Farm Credit / Ag Tech

- Farm Payments
- Farm Credit System Update
- USDA OneRD Final Rule
- Livestock Dealer Trust Issue Update / Discussion
- Hemp Update / Discussion
- De Novo Rural Bank Legislation
- Environmental Report on Lenders Influence

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TAB 1

- Farm Payments
CFAP 2 Details
- Opposition to
USDA's Payment
Program

CORONAVIRUS FOOD ASSISTANCE PROGRAM 2



USDA is providing critical support to our nation's farmers and ranchers through the Coronavirus Food Assistance Program (CFAP 2). CFAP 2 provides vital financial assistance to agricultural producers who continue to face market disruptions and associated costs because of COVID-19.

Overview

The Coronavirus Aid, Relief, and Economic Stability Act (CARES Act) and the Commodity Credit Corporation (CCC) Charter Act authorized the funds for the original CFAP. CCC funds will be used for CFAP 2, with the exception of tobacco, which will use remaining CARES Act funds.

FSA is accepting applications for CFAP 2 from **September 21, 2020, to December 11, 2020.**

Who is Eligible?

Producers (persons or legal entities) of specified agricultural commodities who face continuing market disruptions and significant marketing costs are eligible for CFAP 2 payments.

To be eligible for payments, a person or legal entity must either:

- have an average adjusted gross income of less than \$900,000 for tax years 2016, 2017, and 2018; or
- derive at least 75 percent of their adjusted gross income from farming, ranching or forestry-related activities.

Persons and legal entities also must:

- commercially produce the eligible commodities;
- be in the business of farming at the time of application;
- comply with the provisions of the "Highly Erodible Land and Wetland Conservation" regulations, often called the conservation compliance provisions;
- if a foreign person, provides land, capital, and a substantial amount of active personal labor to the farming operation; and
- not have a controlled substance violation.

Contract growers who do not share in the price risk of production are ineligible.

Eligible Commodities

CFAP 2 payments will be split into three categories of commodities:

1. Price trigger commodities;
2. Flat-rate crops; and
3. Sales commodities.

Price Trigger Commodities

Price trigger commodities suffered a 5-percent-or-greater price decline in a comparison of the average price for the week of January 13-17, 2020, and the average price for the week of July 27-31, 2020.

Price trigger commodities include:

- Barley
- Corn
- Sorghum
- Soybeans
- Sunflowers
- Upland Cotton
- Wheat (all classes)
- Broilers
- Eggs
- Beef Cattle
- Dairy
- Hogs and Pigs
- Lambs and Sheep

Flat-rate Crops

Flat-rate crops are crops that either do not meet the 5-percent price decline trigger or do not have data available to calculate a price change. Flat-rate crops include, but are not limited to:

- | | |
|----------------------------|------------------|
| • Alfalfa | • Khorasan Wheat |
| • Amaranth Grain | • Mustard |
| • Buckwheat | • Oats |
| • Canola | • Peanuts |
| • Extra Long Staple Cotton | • Quinoa |
| • Crambe (Colewort) | • Rapeseed |
| • Einkorn | • Safflower |
| • Emmer | • Sesame |
| • Flax | • Speltz |
| • Guar | • Sugarcane |
| • Hemp | • Sugar Beets |
| • Indigo | • Sweet rice |
| • Industrial Rice | • Teff |
| • Kenaf | • Triticale |
| • Millet | • Wild rice |

Sales Commodities

Sales commodities include:

- Fruits and Vegetables
- Aquaculture grown in a controlled environment;
- Nursery crops and floriculture;
- Other livestock (excluding breeding stock) not included under the price trigger category that were grown for food, fiber, fur, or feathers;
- Tobacco;
- Goat milk;
- Mink (including pelts);
- Mohair;
- Wool; and
- Other commodities.

For a list of all eligible commodities, visit farmers.gov/cfap.



Ineligible Commodities

Hay, except alfalfa, and crops intended for grazing are ineligible for CFAP 2 and will not receive a CFAP 2 payment. Crops with intended uses of green manure and those left standing are also ineligible.

Ineligible commodities for CFAP 2 include, but are not limited to:

- | | |
|---------------------------------|----------------------------|
| • Birdsfoot and Trefoil | • Lespedeza |
| • Clover | • Milkweed |
| • Cover Crop | • Mixed Forage |
| • Fallow | • Pelt (excluding mink) |
| • Forage Sorghum | • Perennial Peanuts |
| • Forage Soybeans | • Pollinators |
| • Gardens (commercial and home) | • Sunn Hemp |
| • Grass | • Seed of ineligible crops |
| • Kochia (prostrata) | • Vetch |

Payments

CCC funds will be used to partially compensate producers for on-going market disruptions and assist with the transition to a more orderly marketing system. CCC Charter Act funds cannot be used to provide assistance for tobacco; however, tobacco will be eligible for CFAP 2 using remaining funds authorized by the CARES Act.

Price Trigger Crops

For barley, corn, sorghum, soybeans, sunflowers, upland cotton, and wheat (all classes), payments will be based on the eligible 2020 acres of the crop, as reported to FSA on form FSA-578, excluding prevented planting and experimental acres.

Payments for price trigger crops will be the greater of:

1. the eligible acres multiplied by a payment rate of \$15 per acre; or
2. the eligible acres multiplied by a nationwide crop marketing percentage, multiplied by a crop-specific payment rate, and then by the producer's weighted 2020 Actual Production History (APH) approved yield. If the APH is not available, 85 percent of the 2019 Agriculture Risk Coverage-County Option (ARC-CO) benchmark yield for that crop will be used.

PAYMENT RATES FOR PRICE TRIGGER CROPS			
COMMODITY	UNIT OF MEASURE	CROP MARKETING PERCENTAGE (%)	PAYMENT RATE (\$/UNIT)
Barley	bushels	63	\$0.54
Corn	bushels	40	\$0.58
Cotton, Upland	pounds	46	\$0.08
Sorghum	bushels	55	\$0.56
Soybeans	bushels	54	\$0.58
Sunflowers	pounds	44	\$0.02
Wheat (All Classes)	bushels	73	\$0.54

Broilers and Eggs

For broilers, payments will be equal to 75 percent of the producer's 2019 broiler production multiplied by the payment rate of \$1.01 per bird (head).

Payments for eggs will be equal to 75 percent of the producer's 2019 egg production multiplied by the CCC payment rate.

PAYMENT RATES FOR PRICE TRIGGER CROPS		
COMMODITY	UNIT OF MEASURE	PAYMENT RATE (\$/UNIT)
Shell Eggs	dozen	0.05
Liquid Eggs	pounds	0.04
Dried Eggs	pounds	0.14
Frozen Eggs	pounds	0.05

Dairy

Dairy (cow's milk) payments will be equal to the sum of the following:

- The producer's total actual milk production from April 1, 2020, to August 31, 2020, multiplied by the payment rate of \$1.20 per hundredweight; and

- The producer's estimated milk production from September 1, 2020, to December 31, 2020, multiplied by a payment rate of \$1.20 per hundredweight. FSA will estimate this production based on the producer's daily average production from April 1 to August 31, 2020, multiplied by the number of days the dairy operation commercially markets milk from September 1, 2020, through December 31, 2020.

Dairy operations applying for CFAP 2 must be in the business of producing and commercially marketing milk at the time of application. Dairy operations that dissolve or have dissolved on or after September 1, 2020, are eligible for a prorated payment for the number of days the dairy operation commercially markets milk from September 1, 2020, through December 31, 2020.

Price-Trigger Livestock

For price-triggered livestock, payments are based on a fixed number of head, which is defined as the lower of:

- the highest maximum owned inventory of eligible livestock, excluding breeding stock, on a date selected by the eligible producer from April 16, 2020, through August 31, 2020; or
- the maximum number of livestock per type established by USDA.

PAYMENT RATES FOR PRICE-TRIGGER LIVESTOCK		
COMMODITY	UNIT OF MEASURE	PAYMENT RATE (\$/UNIT)
Beef Cattle	head	\$55
Hogs and Pigs	head	\$23
Lambs and Sheep	head	\$27

Flat-Rate Crops

For flat-rate crops, payments will be calculated by multiplying the producer's share of reported or determined 2020 planted acres of the crop, excluding prevented planted and experimental acres, by \$15 per acre.

Sales Commodities

For sales commodities, payments will be calculated using a sales-based approach based on five payment gradations associated with the producer's 2019 sales of the commodity.

PAYMENT RATES FOR SALES COMMODITIES	
2019 SALES RANGE	PERCENT PAYMENT FACTOR
Up to \$49,999	10.6
\$50,000-\$99,999	9.9
\$100,000-\$499,999	9.7
\$500,000-\$999,999	9.0
All sales over \$1 million	8.8

Example: A producer's 2019 sales of eligible commodities totaled \$75,000. The payment is calculated as (\$49,999 times 10.6%) plus (\$25,001 times 9.9%) equals a total payment of \$7,775.

New Producers in 2020

Payments cannot be calculated using the methods described above for producers of broilers, eggs, and sales commodities who began farming in 2020 and had no 2019 production or sales.

Payments for such producers will be based on the producer's actual 2020 production or sales as of the date the producer submits an application for payment.

Payment Limitation

CFAP 2 payments are subject to a per person and legal entity payment limitation of \$250,000. This limitation applies to the total amount of CFAP 2 payments for all eligible commodities.

Unlike other FSA programs, special payment limitation rules apply to participants that are corporations, limited liability companies, limited partnerships (corporate entities), trusts, and estates. These legal entities may receive up to \$750,000 based upon the number of members (not to exceed three members) who each contribute at least 400 hours of active personal labor or active personal management.



For a legal entity:

- With one such member, the payment limit for the entity is \$250,000;
- With two such members, the payment limit for the entity is \$500,000 if at least two members contribute at least 400 hours of active personal labor or active personal management, or combination thereof, with respect to the operation of the corporate entity; and
- With three such members, the limit is \$750,000 if at least three members contribute at least 400 hours of active personal labor or active personal management, or combination thereof, with respect to the operation of the corporate entity.

CFAP 2 payment limitation is separate from the CFAP 1 payment limitation.

Where to File the Application

FSA staff at your local USDA Service Center will work with producers to file applications. Applications may be submitted via mail, fax, hand delivery, or via electronic means. Please call your office prior to sending applications electronically.

The CFAP 2 application and associated forms are available online at farmers.gov/cfap.

Who to Call for Help

Additionally, producers interested in one-on-one support with the CFAP 2 application can call our call center at **877-508-8364** to speak directly with a USDA employee ready to offer assistance.

More Information

This fact sheet is for informational purposes only; other restrictions may apply. For more information about the CFAP program, visit farmers.gov/cfap or contact your local FSA office. To find your local FSA office, visit farmers.gov/cfap.

Expansion of the Coronavirus Food Assistance Program Begins Sept. 21



USDA to Provide Additional Direct Assistance to Farmers and Ranchers Impacted by the Coronavirus

Expansion of the Coronavirus Food Assistance Program Begins Sept. 21

(Washington, D.C., September 18, 2020) – President Donald J. Trump and U.S. Secretary of Agriculture Sonny Perdue today announced up to an additional \$14 billion dollars for agricultural producers who continue to face market disruptions and associated costs because of COVID-19. Signup for the Coronavirus Food Assistance Program (CFAP 2) will begin September 21st and run through December 11, 2020.

“America’s agriculture communities are resilient, but still face many challenges due to the COVID-19 pandemic. President Trump is once again demonstrating his commitment to ensure America’s farmers and ranchers remain in business to produce the food, fuel, and fiber America needs to thrive,” said Secretary Perdue. “We listened to feedback received from farmers, ranchers and agricultural organizations about the impact of the pandemic on our nations’ farms and ranches, and we developed a program to better meet the needs of those impacted.”

Background:

The U.S. Department of Agriculture (USDA) will use funds being made available from the Commodity Credit Corporation (CCC) Charter Act and CARES Act to support row crops, livestock, specialty crops, dairy, aquaculture and many additional commodities. USDA has incorporated improvements in CFAP 2 based from stakeholder engagement and public feedback to better meet the needs of impacted farmers and ranchers.

Expansion of the Coronavirus Food Assistance Program Begins Sept. 21

Producers can apply for CFAP 2 at USDA's Farm Service Agency (FSA) county offices. This program provides financial assistance that gives producers the ability to absorb increased marketing costs associated with the COVID-19 pandemic. Producers will be compensated for ongoing market disruptions and assisted with the associated marketing costs.

CFAP 2 payments will be made for three categories of commodities – Price Trigger Commodities, Flat-rate Crops and Sales Commodities.

Price Trigger Commodities

Price trigger commodities are major commodities that meet a minimum 5-percent price decline over a specified period of time. Eligible price trigger crops include barley, corn, sorghum, soybeans, sunflowers, upland cotton, and all classes of wheat. Payments will be based on 2020 planted acres of the crop, excluding prevented planting and experimental acres. Payments for price trigger crops will be the greater of: 1) the eligible acres multiplied by a payment rate of \$15 per acre; or 2) the eligible acres multiplied by a nationwide crop marketing percentage, multiplied by a crop-specific payment rate, and then by the producer's weighted 2020 Actual Production History (APH) approved yield. If the APH is not available, 85 percent of the 2019 Agriculture Risk Coverage-County Option (ARC-CO) benchmark yield for that crop will be used.

For broilers and eggs, payments will be based on 75 percent of the producers' 2019 production.

Dairy (cow's milk) payments will be based on actual milk production from April 1 to Aug. 31, 2020. The milk production for Sept. 1, 2020, to Dec. 31, 2020, will be estimated by FSA.

Eligible beef cattle, hogs and pigs, and lambs and sheep payments will be based on the maximum owned inventory of eligible livestock, excluding breeding stock, on a date selected by the producer, between Apr. 16, 2020, and Aug. 31, 2020.

Flat-rate Crops

Crops that either do not meet the 5-percent price decline trigger or do not have data available to calculate a price change will have payments calculated based on eligible 2020 acres multiplied by \$15 per acre. These crops include alfalfa, extra long staple (ELS) cotton, oats, peanuts, rice, hemp, millet, mustard, safflower, sesame, triticale, rapeseed, and several others.

Sales Commodities

Expansion of the Coronavirus Food Assistance Program Begins Sept. 21

Sales commodities include specialty crops; aquaculture; nursery crops and floriculture; other commodities not included in the price trigger and flat-rate categories, including tobacco; goat milk; mink (including pelts); mohair; wool; and other livestock (excluding breeding stock) not included under the price trigger category that were grown for food, fiber, fur, or feathers. Payment calculations will use a sales-based approach, where producers are paid based on five payment gradations associated with their 2019 sales.

Additional commodities are eligible in CFAP 2 that weren't eligible in the first iteration of the program. If your agricultural operation has been impacted by the pandemic since April 2020, we encourage you to apply for CFAP 2. A complete list of eligible commodities, payment rates and calculations can be found on farmers.gov/cfap.

Eligibility

There is a payment limitation of \$250,000 per person or entity for all commodities combined. Applicants who are corporations, limited liability companies, limited partnerships may qualify for additional payment limits when members actively provide personal labor or personal management for the farming operation. In addition, this special payment limitation provision has been expanded to include trusts and estates for both CFAP 1 and 2.

Producers will also have to certify they meet the Adjusted Gross Income limitation of \$900,000 unless at least 75 percent or more of their income is derived from farming, ranching or forestry-related activities. Producers must also be in compliance with Highly Erodible Land and Wetland Conservation provisions.

Applying for Assistance

Producers can apply for assistance beginning Sept. 21, 2020. Applications will be accepted through Dec. 11, 2020.

Additional information and application forms can be found at farmers.gov/cfap.

Documentation to support the producer's application and certification may be requested. All other eligibility forms, such as those related to adjusted gross income and payment information, can be downloaded from farmers.gov/cfap/apply. For existing FSA customers, including those who participated in CFAP 1, many documents are likely already on file. Producers should check with FSA county office to see if any of the forms need to be updated.

Customers seeking one-on-one support with the CFAP 2 application process can call 877-508-8364 to speak directly with a USDA employee ready to offer assistance. This

Expansion of the Coronavirus Food Assistance Program Begins Sept. 21

is a recommended first step before a producer engages with the team at the FSA county office.

All USDA Service Centers are open for business, including some that are open to visitors to conduct business in person by appointment only. All Service Center visitors wishing to conduct business with FSA should call ahead and schedule an appointment. Service Centers that are open for appointments will pre-screen visitors based on health concerns or recent travel. Visitors are also required to wear a face covering during their appointment. Our program delivery staff will be in the office. More information can be found at farmers.gov/coronavirus. ###

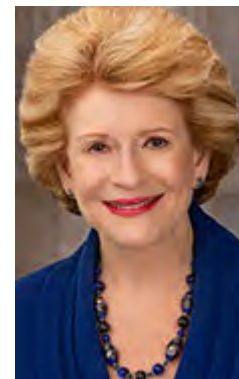
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Stabenow No more freedom for USDA after GAO report confirms MFP criticisms

Senate Agriculture Committee ranking member Debbie Stabenow, D-Mich., said Monday that she would oppose giving more money to the Trump administration's Agriculture Department to make special payments to farmers without more congressional control over it.

Stabenow made the statement after the Government Accountability Office (GAO) confirmed her analysis that the Trump administration's Market Facilitation Program had disproportionately benefited Southern farmers, that payment rates for some crops were much higher than other crops, and that large farms got bigger payments than smaller farms.



Sen. Debbie Stabenow, D-Mich.

At Stabenow's request, GAO, the investigative arm of Congress, on Monday issued a report on the 2019 Market Facilitation Program, which was set up to make payments to farmers whose products were affected by the Chinese government's tariffs that were imposed in reaction to tariffs that President Donald Trump imposed on Chinese products.

GAO found that:

- USDA made \$14.4 billion in MFP payments to about 644,000 farming operations in 2019, but that the payments varied dramatically by region and crop.
- Average payments by state per individual ranged from a high of about \$42,500 in Georgia to less than \$2,000 in Rhode Island.
- Payments for nonspecialty crops accounted for about \$13.5 billion or about 94 percent of total MFP payments for 2019 and average 2019 MFP payments ranged from a high of \$119 per acre in Georgia to a low of \$15 per acre in Maine, Utah, Montana, Wyoming, and Alaska.
- Farming operations that produced specialty crops accounted for about \$274 million or about 2% of total MFP payments for 2019 and dairy and hogs operations accounted for about \$566 million or about 4 percent of total MFP payments for 2019.
- USDA's Farm Service Agency (FSA) distributed about half of the specialty crops payments to farming operations in California and about half of the dairy and hogs payments to farming operations in Iowa, Minnesota, California, Wisconsin, and Illinois.
- FSA paid the 25 farming operations that received the highest MFP payments for 2019 about \$37 million.
- The average MFP payment per farming operation for 2019 was \$22,312 but varied by county, ranging from \$44 to \$295,299.
- FSA distributed approximately \$519 million in additional MFP payments for 2019 compared with 2018 because of increased payment limits. Farming operations in Texas received approximately

22% of all additional payments. Farming operations in five states — Texas, Illinois, Iowa, Missouri, and Minnesota — received almost half of all additional payments.

The Trump administration had complete discretion in developing the formulas because the money came from the Commodity Credit Corporation, a line of credit that USDA has at the Treasury Department. Total spending under the CCC is limited to \$30 billion per year unless Congress provides more money.

In a telephone press conference, Stabenow said she also has concerns about payments made under the Coronavirus Food Assistance Program.

When she raised concerns about the MFP and CFAP programs, USDA “didn’t listen,” Stabenow said. Now the Republicans have made plans to provide USDA another \$20 billion in coronavirus aid, but Stabenow said she is reluctant to provide the aid without congressional proposed controls.

Stabenow said she also wants assurances that there will be enough money in the CCC for regular farm programs in the coming fiscal year.

Stabenow noted that the Trump administration says the Midwest got the most in total payments, but Stabenow said that is logical because there are more farmers in the Midwest.

But Stabenow added, “per farmer, per acre the South hit the jackpot.” She said she was particularly bothered by the fact that farmers in Georgia, the home state of Agriculture Secretary Sonny Perdue, got the highest payments.

Stabenow said that if she had been secretary she would have been concerned about the perception it created, and that when she chaired the Agriculture committee she tried to be fair to all crops.

Asked if Perdue had benefited his own state, Stabenow said, “He certainly put together a program that favored the crops in his state.”

“We are here to say our farmers need help, the administration needs to stop playing favorites and operate programs that are fair to all farmers,” Stabenow said.

Sen. Sherrod Brown, D-Ohio, who is the ranking member on the Senate Agriculture Commodities, Risk Management, and Trade Subcommittee and joined Stabenow on the call, noted that the Trump administration’s “chaotic trade policy has contributed to the downturn in prices” and made the MFP program necessary.

Trump “has betrayed Midwestern farmers just as he betrayed Midwestern auto workers,” Brown said.



Sen. Sherrod Brown, D-Ohio

Senate Minority Whip Dick Durbin, D-Ill., said, “Today’s report confirms that the secretary of Agriculture, a former Georgia governor, used USDA’s trade-aid program to favor, per acre, cotton growing Southern states over soybean growing states like Illinois.”

“Illinois farmers experienced far more financial damage from this president’s erratic trade approach with China, but ended up with the short end of the stick. The Trump administration must explain itself.”



Sen. Dick Durbin, D-Ill.

Don Gregory, a Michigan cherry and apple farmer, and Gary Wertish, president of the Minnesota Farmers Union, both said Midwestern farmers had not been treated well in the MFP.

“We have to be focused on those farms that need the most help,” Stabenow said. “We have a tremendous hunger crisis in the country, we need to be paying attention to families who are in desperate need of food.”

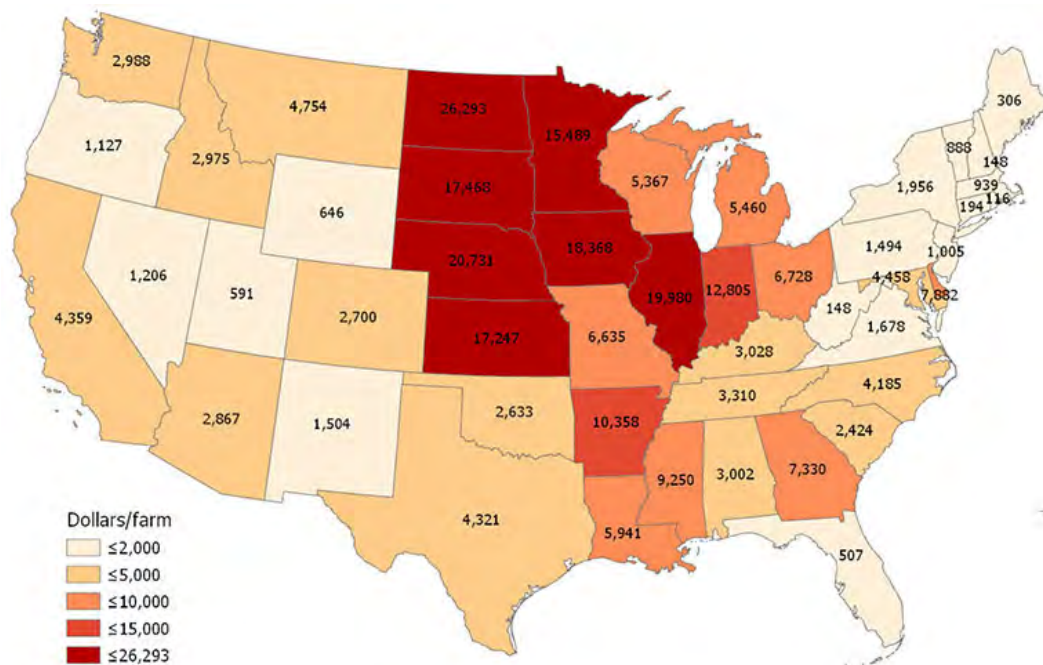
Stabenow noted that GAO’s investigation is continuing, but said she did not know what else it would investigate.

Thomas Cook, a GAO official, said in an email to *The Hagstrom Report*, “GAO will evaluate the strengths and limitations of USDA’s methodologies for estimating trade-related damages and how those methodologies affected the damage estimates for the Market Facilitation Program (MFP) in 2018 and 2019.”

“GAO also is looking at USDA’s distribution of MFP payments, by type of producer, commodity, and state and county, along with how those payments compared to what they would have been under the 2018 farm bill’s payment caps.

“Furthermore, GAO will assess the extent to which USDA verified producers’ compliance with income and other eligibility requirements for MFP in 2018 and 2019.”

GAO noted in the report that it had provided a draft to USDA for comment and that USDA provided technical comments, which were incorporated into the report.



This map provided by the Agriculture Department shows the total Market Facilitation Program 2 payments per farm, including livestock, specialty and non-specialty crops divided by the total number of farms from the 2017 agricultural census. (USDA)

Asked to react to the report, a spokesman for Agriculture Secretary Sonny Perdue provided a series of maps illustrating the payments ([see link below](#)) and said: “China and other nations have not played by the rules for a long time, and President Trump is the first president to stand up to them and send a clear message that the United States will no longer tolerate unfair trade practices”

“USDA acted quickly to assist America’s farmers and ranchers – of all sizes and for all market outlets – to ensure they continue to produce enough food, fuel, and fiber to feed ourselves and the world. While the Democrats in Congress have been launching false attacks about USDA’s MFP program for months, they have yet to offer concrete ideas on how to make the program stronger.

“MFP was crafted to assist farmers from unfair and illegal trade damages from China and other countries – it was not designed to be a general farm bill program. It was also designed to make sure farmers who are most impacted receive the most aid. For example, cotton and sorghum

received higher MFP payments because they had significantly higher trade damages per unit of production compared to other MFP commodities.

“Large farmers account for 10% of all farms, but those farmers operate 52% of total farmland and generate 79% of the total value of production. As a result, trade impacts on these farmers was relatively greater, which means they received higher payments.

“MFP payments are made based on trade damage, not based on region or farm size. More than 650,000 farmers across the United States have received payments under the 2019 MFP program. To date, the Midwest region has received more than 68% of the funds, the top 5 recipient states are Iowa, Illinois, Minnesota, Texas, and Kansas and farms with less than 100 acres received an average of \$59.68 per acre while farms with more than 2,500 acres received an average \$48.64 per acre.”

- [U.S. Government Accountability Office – USDA Market Facilitation Program: Information on Payments for 2019](#)
- [– Fast Facts](#)
- [– Highlights](#)
- [Senate Agriculture Committee – Summary of GAO Report on USDA Market Facilitation Program](#)
- [USDA – Market Facilitation Program Payment Maps](#)
- [The New York Times – Independent Watchdog Report Finds Inequity in Farm Aid Payments](#)



Stabenow questions more CCC funding

TAB 2

- Farm Credit System
- ECORA Update



For Immediate Release

NR 20-17 (09-10-20)

Contact: Mike Stokke or Emily Yaghmour,
703-883-4056
Email: info-line@fca.gov

FCA board receives quarterly report on conditions in agriculture and the Farm Credit System

McLEAN, Va., Sept. 10, 2020 —At its monthly meeting today, the Farm Credit Administration board received a [quarterly report \(PDF\)](#) on economic issues affecting agriculture, together with an update on the financial condition and performance of the Farm Credit System (System) as of June 30, 2020.

The U.S. economy is recovering after its steep contraction in the spring. The nation's unemployment rate continued to improve in August but remained elevated at 8.4%. Consumer spending is slowly coming back, helped by stimulus payments and the reopening of local economies.

Grain markets in 2020 have been shaped by large supplies and low prices. Poor weather in parts of the Midwest and stronger than expected export demand have lifted corn and soybean markets recently. Crop returns could fall sharply next year if government assistance is significantly lower than it has been in recent years.

For the protein sector, the supply-chain disruptions from earlier in the year have waned, but large inventories and uncertain demand prospects continue to pressure prices. Despite stronger pork exports, the hog sector has been the most severely affected, with margins expected to be negative for the remainder of 2020. Weather is also a concern, especially for cattle producers. Pasture and range conditions have noticeably deteriorated because of intensifying drought, particularly in the West and Great Plains.

For the past several years, government payments have played an important role in the farm economy, accounting for a growing share of farm income. For 2020, roughly two-thirds of government payments have been from ad hoc and supplemental programs. While substantial ad hoc government payments are helping many producers in 2020, there is no guarantee they will receive the same level of support next year.

As of June 30, 2020, the System was safe and financially sound. Portfolio credit measures were mixed, but there are indications of a slight increase in portfolio stress. System earnings were strong and continued to support additional capital growth. System institutions remain well positioned to support the farm economy and rural America.

Closed session

During the closed session, the FCA board received a quarterly report from the Office of Examination.

Notational votes

Since the Aug. 13 FCA board meeting, the following notational votes have occurred. Notational votes are actions taken by the FCA board between board meetings.

On Aug. 17, the FCA board reissued policy statement 62, "[Equal Employment Opportunity and Diversity](#)." Other than minor technical edits, the statement is unchanged from the version that was issued last year. The agency reissues the statement annually to demonstrate its commitment to EEO and diversity principles.

On Aug. 17, the board approved a request by Compeer Financial, ACA, to purchase bonds issued by a health care center in rural Kentucky. The approval of the request is subject to conditions.

On Aug. 23, the FCA board approved the 2020 leave payout and restoration program to allow employees with projected use-or-lose annual leave at the end of this year to receive a payout for up to 80 hours of annual leave or their projected use-or-lose balance, whichever is less. Any remaining use-or-lose leave may be carried over into 2021. Many federal agencies are implementing similar programs to help better meet the needs of their employees and to manage the resource demands of the agencies.

On Aug. 26, the board approved a request by AgriBank, FCB, to redeem an amount not to exceed \$25,777,710 in Class F stock held by current members of ProPartners Financial, so long as the Class F stock is replaced with an amount equal to or greater than the amount being redeemed.

On Sept. 1, the FCA board approved a final rule allowing each Farm Credit System bank to disclose the financial information of its affiliated associations either in a footnote or a supplement to its Annual Report to Shareholders. The rule will be effective 30 days after publication in the Federal Register during which either body of Congress is in session.

On Sept. 3, the board approved the agency's fiscal year 2021 revised budget and its fiscal year 2022 proposed budget.

On Sept. 9, the FCA board approved the Fall 2020 Abstract of the Unified Agenda of Federal Regulatory and Deregulatory Actions and the Fall 2020 Regulatory Projects Plan.

###

The Farm Credit Administration is the safety and soundness regulator of the Farm Credit System. The System consists of two government-sponsored enterprises — a nationwide network of cooperative banks and associations established in 1916, and a secondary market entity known as the Federal Agricultural Mortgage Corporation (Farmer Mac), which was established in 1988. The System's borrower-owned banks and associations provide credit to farmers, ranchers, residents of rural communities, agricultural and rural utility cooperatives, and other eligible and creditworthy borrowers. Farmer Mac provides a secondary market for agricultural real estate loans, rural housing mortgage loans, and certain rural utility loans. FCA news releases are available on the web at www.fca.gov.



FCA Board Meeting September 2020

Quarterly Report on FCS Condition September 10, 2020

Dennis A. Shields
Hal Johnson

From YG 9/3/2020_4:31 p.m.





Topics for Open Session

- ▶ Economic Conditions Affecting the Farm Credit System
 - Economic indicators during COVID-19
 - Commodities and trade
 - Agriculture sector income
- ▶ FCS Condition and Performance
 - System growth and loan portfolio
 - Earnings and capital
 - Financial Institution Rating System (FIRS)





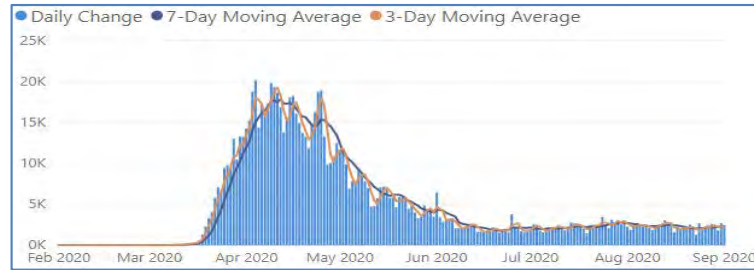
Economic Conditions Affecting the Farm Credit System

Dennis A. Shields
Chief Economist
Office of Data Analytics and Economics

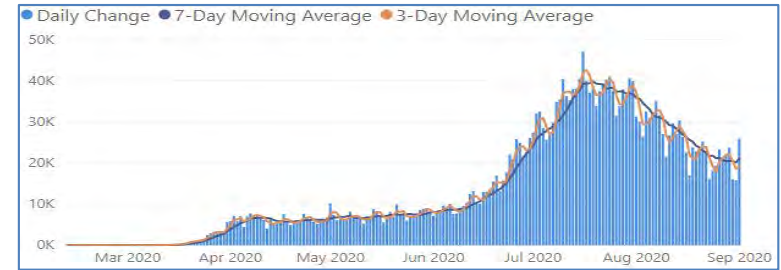


Trend in COVID-19 cases varies by U.S. region

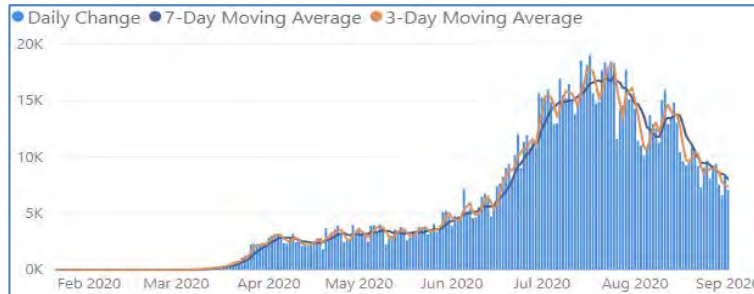
Northeast



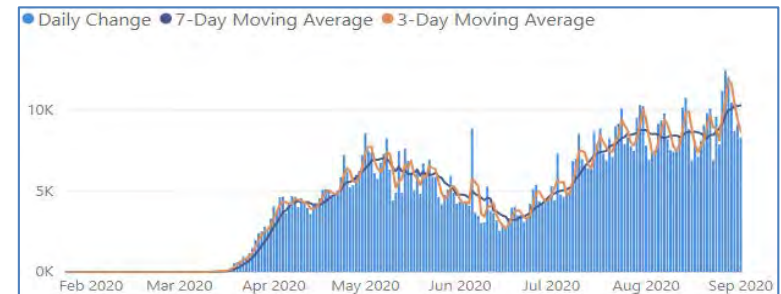
South



West



Midwest

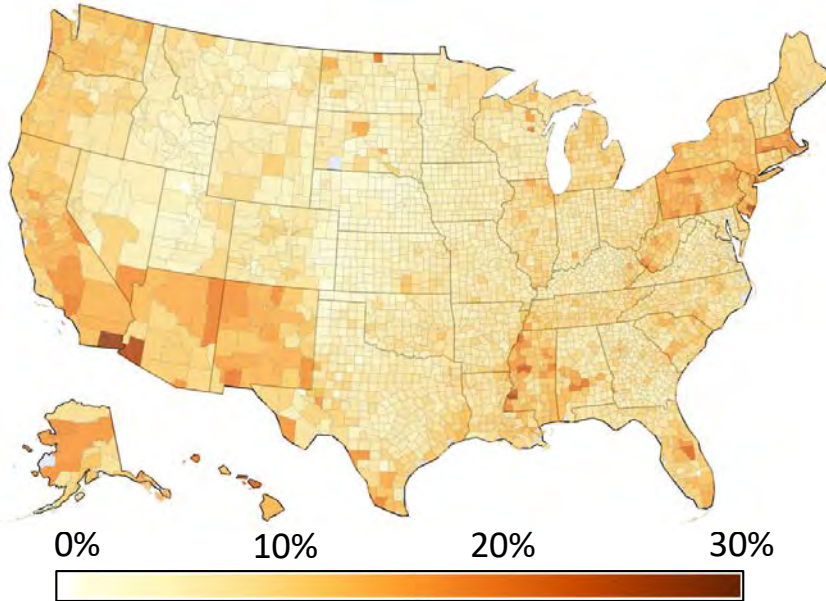


Source: Data from Johns Hopkins University Center for System Science and Engineering (as of 9/2/20).



Unemployment remains elevated in many areas of the United States

Unemployment rate by county in July 2020



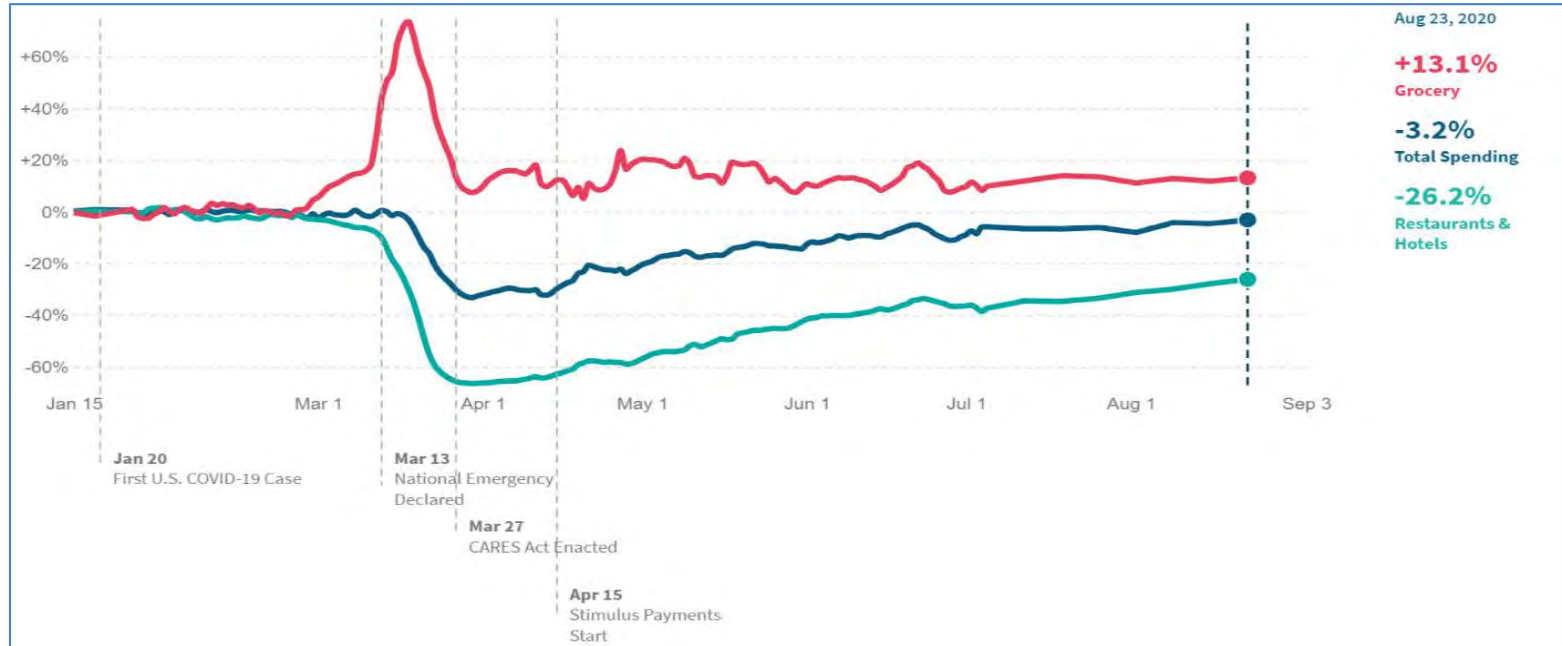
	July 2019	July 2020
Employed	157.3 mil.	143.5 mil.
Unemployed	6.0 mil.	16.3 mil.
Unemployment rate	3.7%	10.2%

Source: FCA using data from U.S. Bureau of Labor Statistics, <https://www.bls.gov/news.release/empsit.a.htm>.



Consumer spending has recovered some

Change in average consumer credit and debit card spending since January



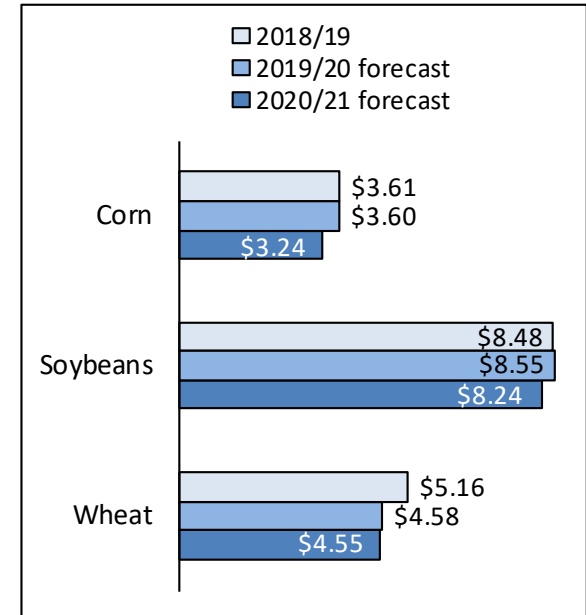
Source: www.tracktherecovery.org.



Expectations for large corn and soybean crops are tempered by poor weather in parts of the Midwest

- ▶ Farm prices for 2020 crops are forecast lower, but drought and exports have lifted markets recently.
- ▶ Price Loss Coverage payments supplement market returns when corn price < \$3.70 per bu. and soybean price < \$8.40 per bu.
- ▶ Wheat prices remain weak as large global stocks continue to overhang the market.

U.S. season-average farm price (\$/bu.)



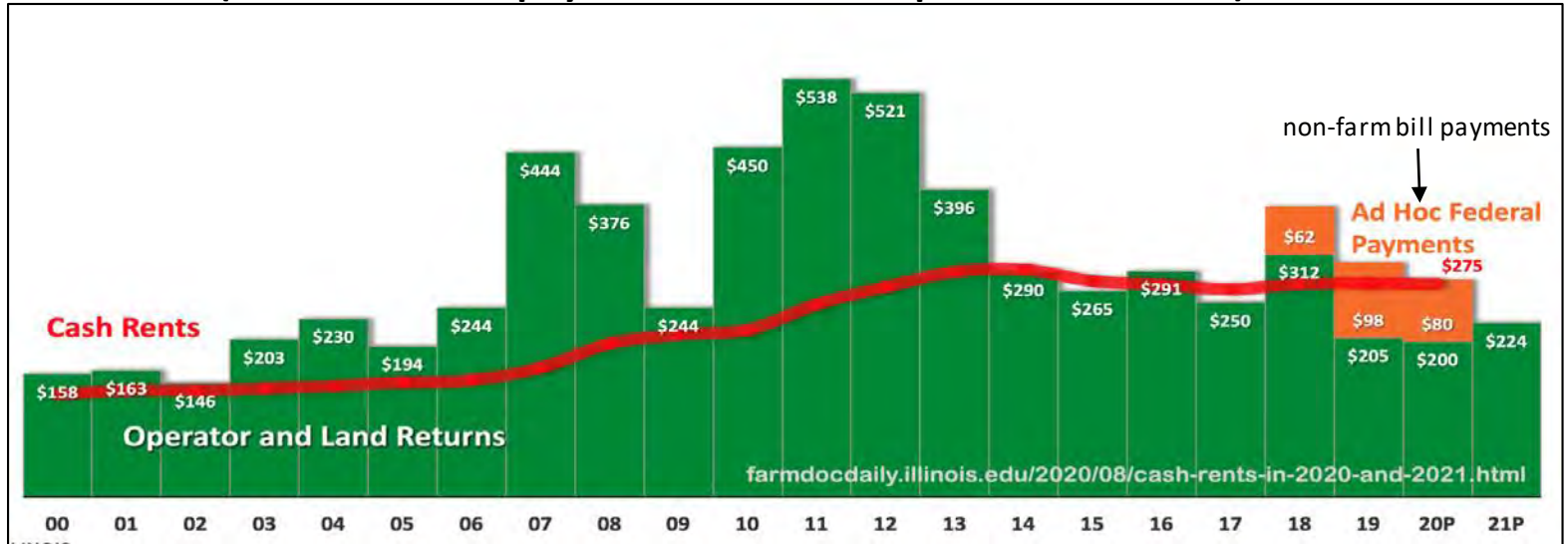
Source: FAPRI using August data.





Crop returns could fall sharply in 2021 without ad hoc federal assistance

Central Illinois **operator and land returns (bars)** and **cash rents (line)**
(assumes ad hoc payments for 2020 crop but not for 2021)



Source: farmdocdaily.illinois.edu/2020/08/cash-rents-in-2020-and-2021.html.

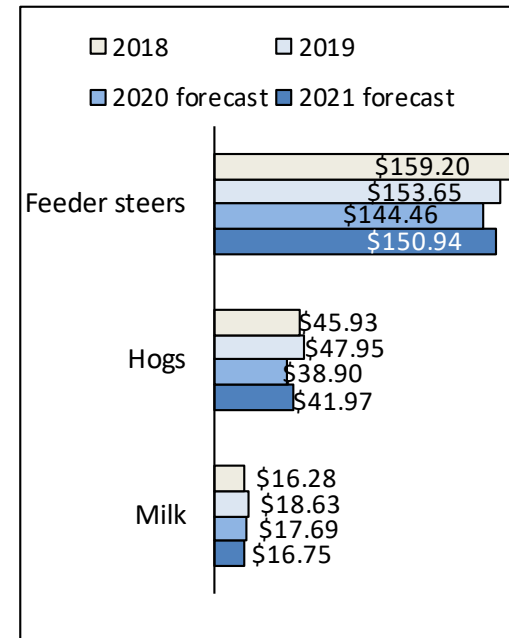
Note: High-productivity farmland.



Livestock sector faces weather and price challenges following COVID-related disruptions

- ▶ For cow-calf producers, drought is pushing cows off marginal pastures; 4th quarter calf prices are expected below a year ago.
- ▶ Hog producers are expected to be unprofitable for rest of 2020 as the industry works through backlog of hogs.
- ▶ Dairy margins have been positive this summer with strong cheese demand lifting milk prices.

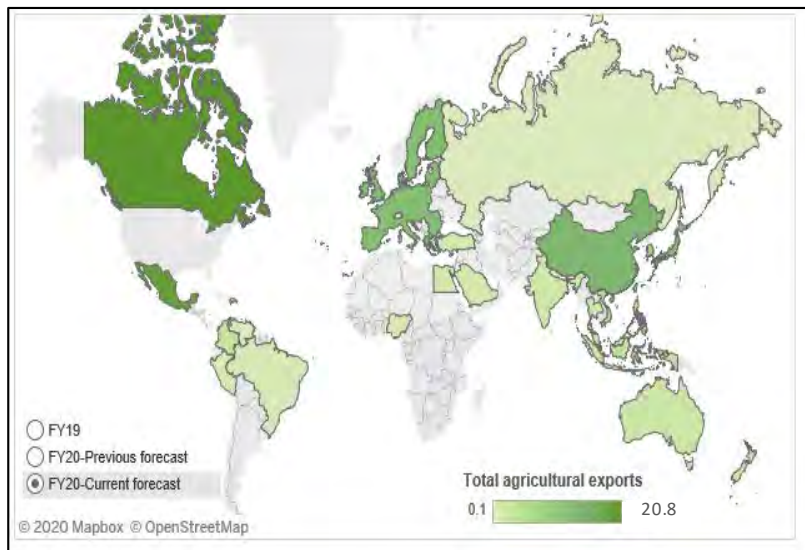
Annual prices (\$/cwt.)



Source: FAPRI using August data.



U.S. ag exports to rise in 2021 as shipments to China advance



Fiscal year U.S. agricultural exports
(\$ bil.)

	2019	2020 forecast	2021 forecast
Canada	\$21.0	\$20.8	\$21.0
Mexico	\$19.0	\$19.0	\$19.3
China	\$10.1	\$14.0	\$18.5
Europe	\$13.2	\$11.7	\$11.9
Japan	\$12.1	\$11.6	\$11.8
World	\$135.5	\$135.0	\$140.5

Source: USDA/ERS.

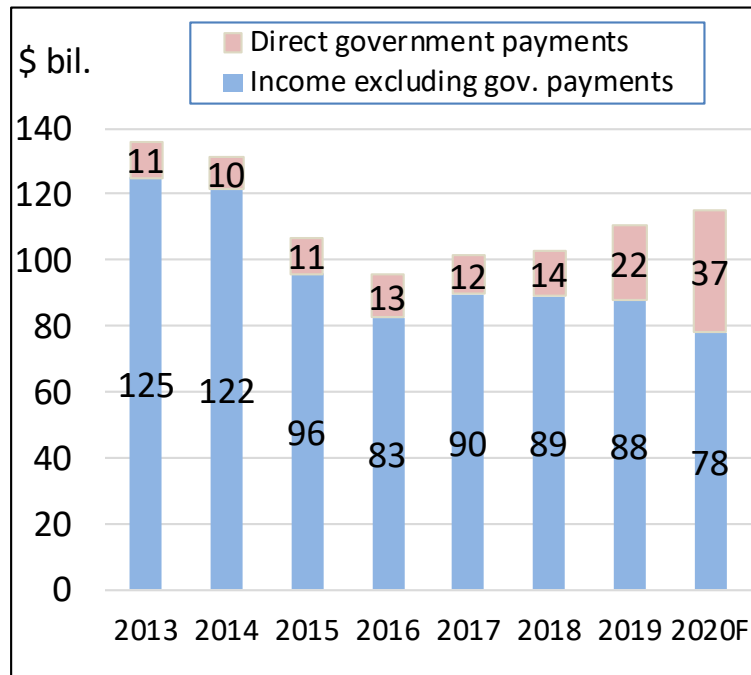
Note: Forecasts as of August 26, 2020.



Government payments continue to strengthen farm income

- ▶ Cash receipts in 2020 are forecast to decline 3.3% to \$358.3 billion.
- ▶ Cash expenses are down 1.3%, driven by lower interest expense.
- ▶ Net cash farm income is forecast to increase 4.5% to \$115.2 billion, which is above the historical inflation-adjusted average.
- ▶ Government payments account for a growing share of farm income.

Net cash farm income



Source: USDA/ERS, September 2, 2020.



Government support has been broadened to include many “non-program” commodities

- ▶ Farm program commodities: corn, soybeans, wheat, rice, cotton, peanuts, lentils, chickpeas, etc.; separate programs for milk and sugar.
- ▶ Recent ad hoc programs have expanded assistance to more commodities:
 - 2018 Market Facilitation Program (MFP)
 - ✓ 4 non-program commodities
 - 2019 MFP
 - ✓ 13 non-program commodities
 - 2020 Coronavirus Food Assistance Program (CFAP)
 - ✓ More than 125 non-program commodities
- ▶ With ad hoc payments, risk is reduced but only after-the-fact.
- ▶ Next farm bill will likely consider breadth and depth of farm support.





Concluding comments

- ▶ U.S. economic recovery is uneven as consumers and businesses adapt to challenges of COVID-19 impacts and attempt to find normalcy.
- ▶ Off-farm income prospects could be most affected in areas with largest changes in employment.
- ▶ Commodity prices and returns continue to pressure producers.
 - Major crop supplies remain plentiful; weather issues this summer have created both production losses (in some areas) but also marketing opportunities with price rallies.
 - Protein sector supplies are also plentiful; drivers include export demand and a rebound in foodservice demand.
 - For specialty crops, availability of farm workers remains a major concern.
- ▶ Substantial ad hoc government payments are helping many producers in 2020; there is no guarantee of a repeat next year.





Farm Credit System Condition and Performance

as of
June 30, 2020

Hal Johnson
Sr. Financial Analyst
Office of Examination

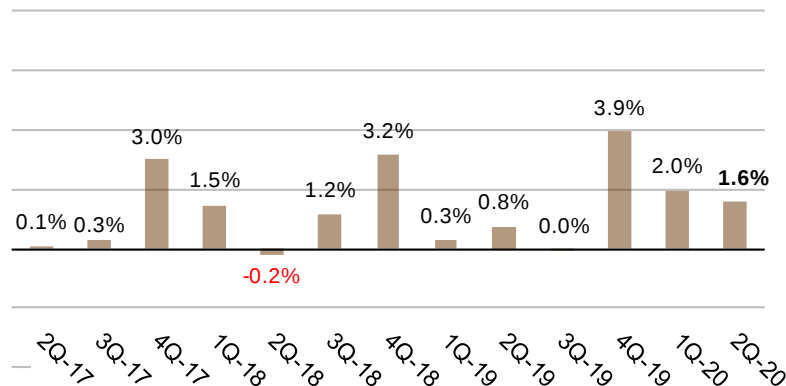


Real estate mortgage lending drives portfolio growth in the 1st half of the year



Total Assets 6/30/20	\$384.7 billion	-0.7% Qtr +5.3% YTD	Gross Loans 6/30/20	\$297.2 billion	+1.6% Qtr +3.6% YTD
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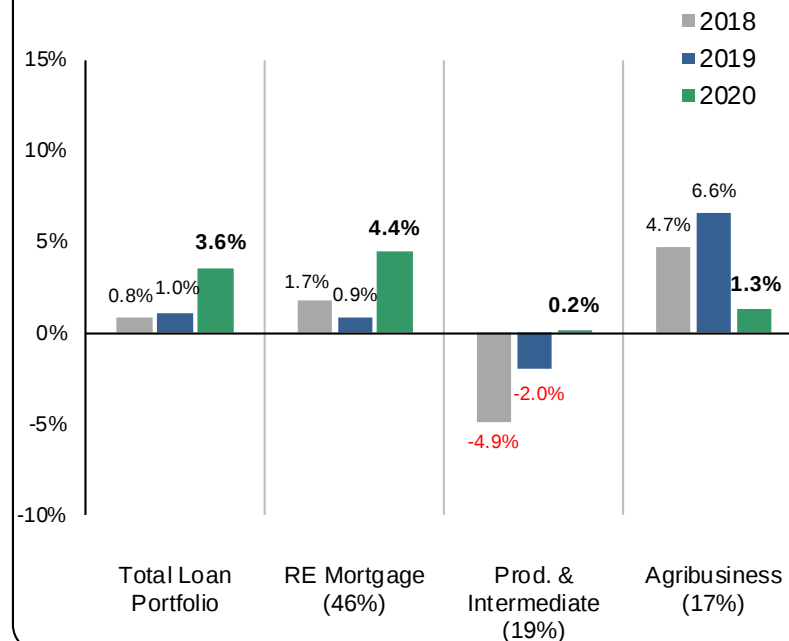
Quarterly System Asset Growth



Source: FCS Information Statements

Loan Growth by Loan Type

% change year-to-date through June





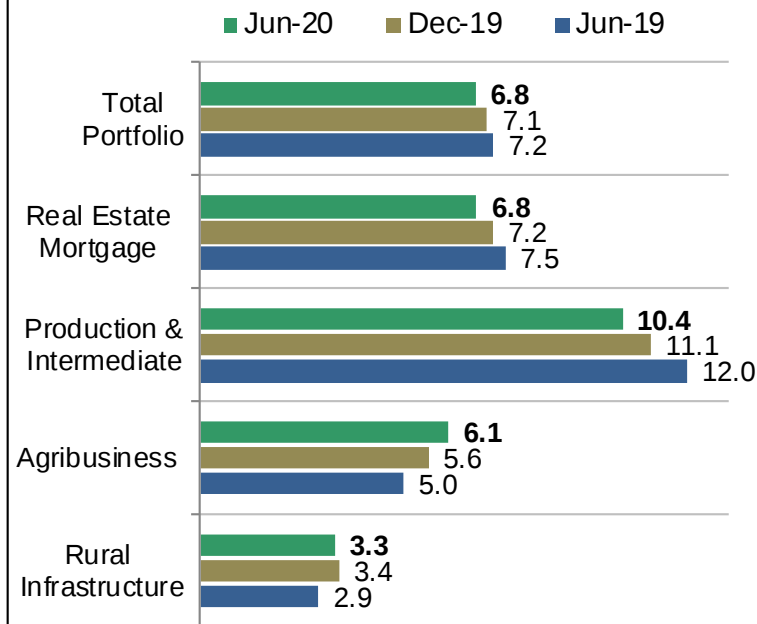
Credit risk indicators mixed; market uncertainty remains high for producers



Nonperforming Assets (6/30/20)	\$2.487 billion	YTD chg. + \$140M or +6.0%
		12 month chg. - \$43M or -1.7%
Delinquencies ⁽¹⁾ (6/30/20)	0.37%	Q4 '19 0.32%
		Q2 '19 0.36%

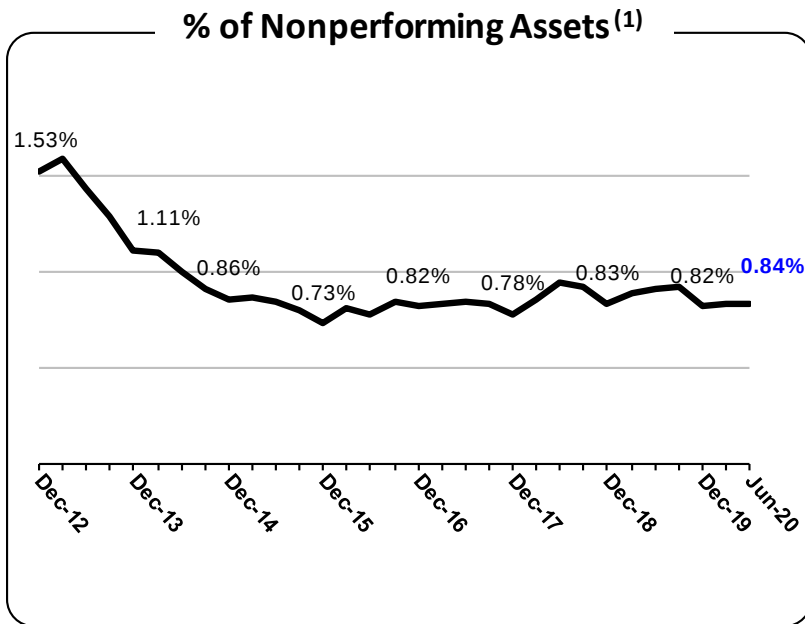
(1) accruing loans 30 days or more past due as a % of accruing loans

% of Loans Classified less than Acceptable





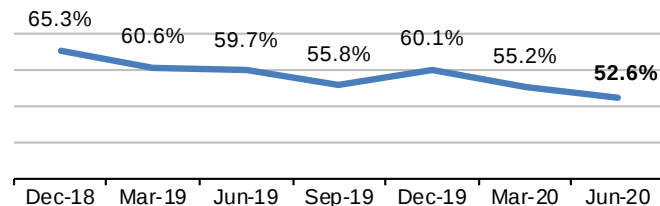
Nonperforming assets edge higher; indications of increasing portfolio stress



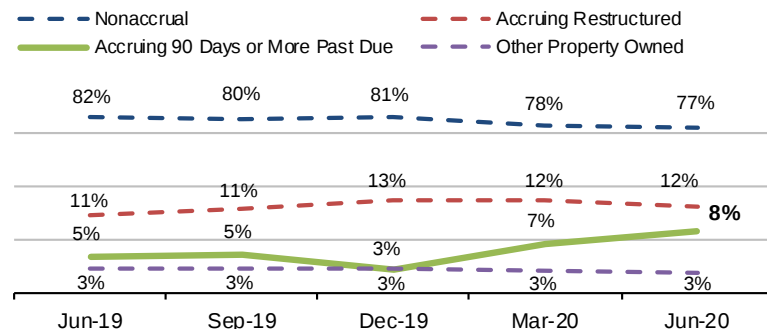
(1) calculated as a percentage of gross loans outstanding and other property owned (OPO)

Source: FCS Information Statements

Nonaccrual Loans that are Current as to Principal and Interest



Nonperforming Assets by Performance Category



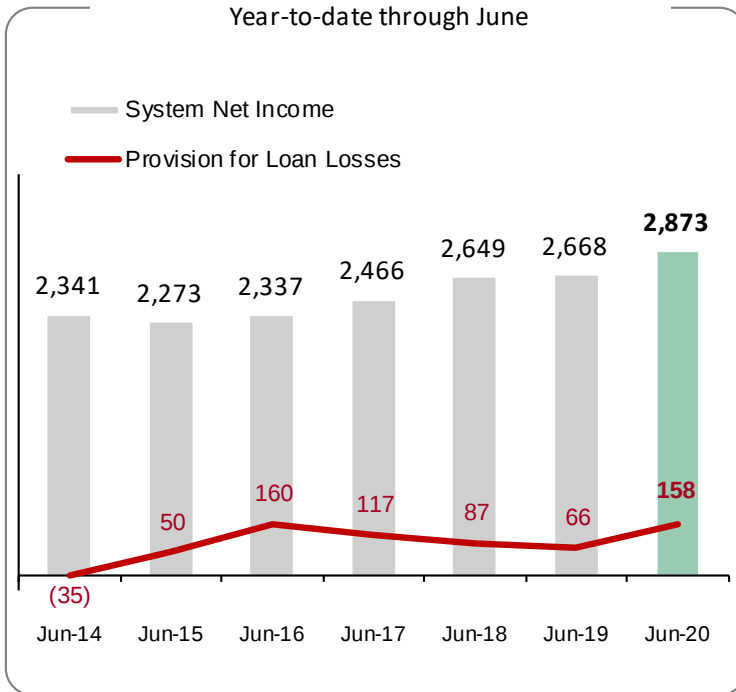


Strong earnings growth year-over-year; loan provisions rise



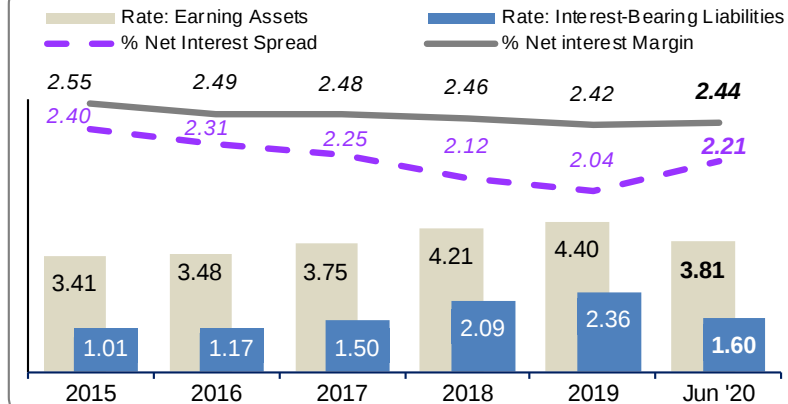
System Earnings (\$M)

Year-to-date through June



Source: FCS Information Statements

Net Interest Spread | Net Interest Margin



Rate | Volume Impact on Net Interest Income

YTD through June	Increase (decrease) due to:		
	Volume	Rate	Total
Interest Income	467	(1,167)	(700)
Interest Expense	263	(1,303)	(1,040)
Net Interest Income	204	136	340



System is financially sound and well-capitalized

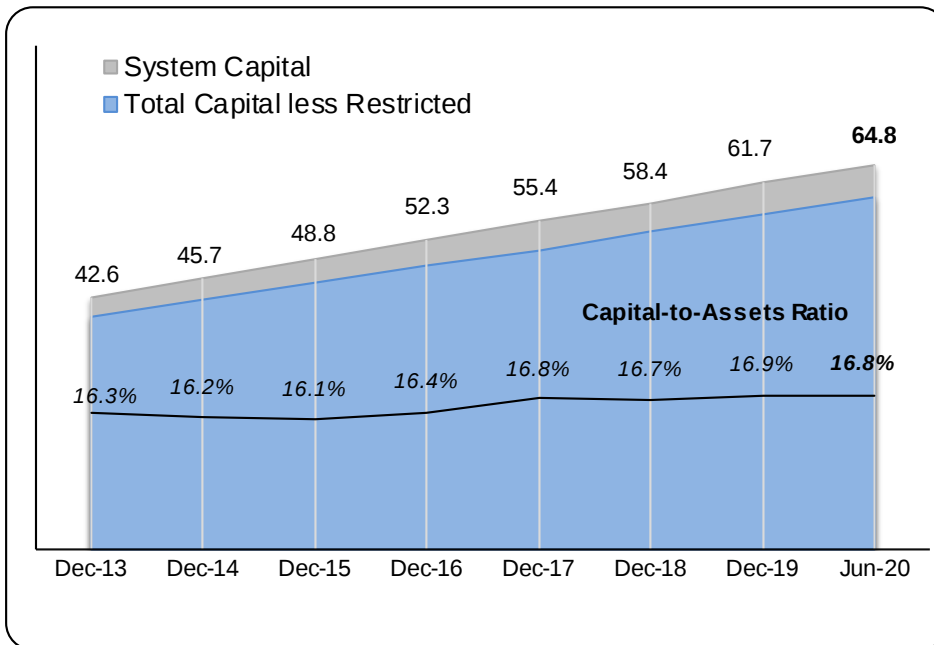
Capital and Liquidity

(as of June 30, 2020)

- ▶ Total Regulatory Capital:
Banks | 15.0% to 18.0%
Associations | 12.4% to 37.5%
- ▶ Days of available liquidity for the 4 funding banks ranged from 180 to 223 days
- ▶ Capital and the allowance for loan losses as a % of loans outstanding ranged from 18.4% to 23.3% at a district level

Source: FCS Information Statements

Total System Capital (\$B)



Note: Restricted capital represents capital associated with the Insurance Fund.



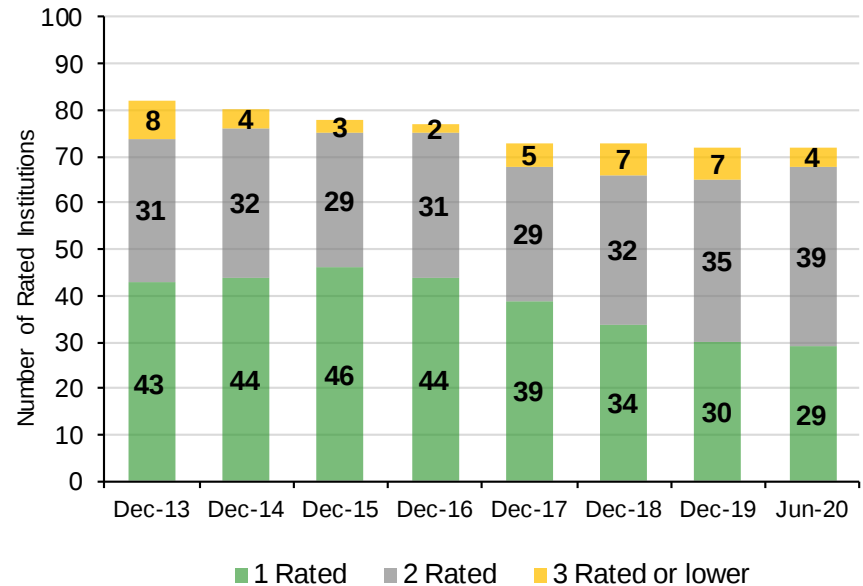
System FIRS ratings

FIRS Ratings

(based on 6/30/20 financial reporting)

- ▶ Composite FIRS ratings remained steady in the 2nd quarter
- ▶ Almost 95% of System Banks and Associations have a Composite FIRS rating of 1 or 2
- ▶ Institutions rated 3 or lower account for about 1.0% of System assets

Composite FIRS Ratings Farm Credit System Banks and Associations



Source: FCA's FIRS ratings database



Summary and final points



- ▶ The U.S. economy is recovering as local economies reopen, but significant uncertainty persists.
- ▶ For agricultural producers, market volatility and price concerns remain high for key crop and livestock sectors.
- ▶ The Farm Credit System remains fundamentally safe and sound.
- ▶ Although portfolio credit quality is expected to deteriorate, System institutions are strongly capitalized with significant risk-bearing capacity.
- ▶ System institutions are well-positioned to support agricultural producers and rural America.



For Immediate Release

NR 20-13 (08-13-20)

Contact: Mike Stokke or Emily Yaghmour,
703-883-4056
Email: info-line@fca.gov

FCA board receives 2019 annual report on the Farm Credit System's young, beginning, and small farmer lending

McLEAN, Va., Aug. 13, 2020 — At its monthly meeting today, the Farm Credit Administration board received FCA's 2019 Annual Report on the Farm Credit System's Young, Beginning, and Small (YBS) Farmer Mission Performance.

FCA defines young farmers as those who are 35 years old or younger, beginning farmers as those who have been farming for 10 years or less, and small farmers as those with gross annual sales of less than \$250,000.

Outstanding loans

Both the dollar volume of the System's total loans outstanding and the dollar volume of YBS loans outstanding increased in 2019. Total System loan dollar volume outstanding increased by 6.3%, and loan dollar volume outstanding to young farmers increased by 3.3%, to beginning farmers by 3.9%, and to small farmers by 4.6%.

However, the total number of loans outstanding both for the System as a whole and for YBS borrowers remained relatively flat in 2019. The number of total System loans outstanding increased by 0.5%. The number of loans outstanding to young farmers increased by 1.0%, to beginning farmers by 1.8%, and to small farmers by 0.6%.

New loans

From Dec. 31, 2018, to Dec. 31, 2019, the System's overall new loan dollar volume increased by 5.4%. New loan dollar volume to young farmers increased by 7.3%, to beginning farmers by 8.0%, and to small farmers by 15.9%.

The number of loans made during the year also increased in 2019 for both total System lending and for all YBS categories. The number of total System loans made during the year increased by 4.8%. The number of loans to young farmers increased by 5.9%, to beginning farmers by 8.1%, and to small farmers by 7.8%.

System institutions are required by law and FCA regulation to maintain programs to provide sound and constructive credit and related services to YBS farmers and ranchers. They must report annually to FCA on their YBS lending activity.

For more information about the System's YBS farmer lending in 2019, see the related [fact sheet \(PDF\)](#). Also, see the [PowerPoint presentation \(PDF\)](#) used at the FCA board meeting.

Final rule on investment eligibility

In other business, the board approved a final rule to amend FCA regulation 615.5140(b)(2), which took effect on Jan. 1, 2019. The final rule will permit associations to now purchase loan portions in the secondary market that are fully and unconditionally guaranteed by USDA. These USDA-guaranteed loan portions will serve as risk management investments in addition to those investments already authorized by this FCA regulation.

The final rule will enhance the ability of associations to manage risks, and it should help increase liquidity in rural credit markets, which is consistent with the System's mission.

Final rule on amortization

The FCA board also approved a final rule that will repeal regulatory provisions that impose amortization limits on loans made by production credit associations (PCAs). For any loan that amortizes over a period that is longer than its term to maturity, the final rule will require all System associations to establish an appropriate loan amortization schedule consistent with their underwriting standards. These standards should consider the type and purpose of the loan, the expected useful life of the asset being financed, and the repayment capacity of the borrower.

The final rule is unchanged from the proposed rule, which was published on Jan. 23. The agency removed the PCA limits because it views loan amortization as a credit underwriting issue, not a legal authority issue.

Effective dates for final rules

Both final rules will take effect 30 days after publication in the Federal Register during which either body of Congress is in session. Notice of the effective date for each rule will be published in the Federal Register.

Notational votes

Since the July 16 FCA board meeting, the following notational votes have occurred. Notational votes are actions taken by the FCA board between board meetings.

On July 26, the FCA board approved the transfer of procurement functions from the Office of Agency Services to the Office of the Chief Financial Officer.

On July 29, the FCA board approved a request by Compeer Financial, ACA, to renew the streamlined approval process that allows the association to invest in certain healthcare-related bonds. The bonds must involve facilities in rural areas that have met the USDA's definition of an "essential community facility." The approval is subject to conditions, including a total limit of \$200 million in bonds.

On Aug. 4, the board approved the request by MidAtlantic Farm Credit, ACA, to distribute \$8.25 million in allocated equities to its member-borrowers.

###



2019 Results:

FCA's Annual Report on the Farm Credit System's Young, Beginning, and Small Farmer Mission Performance

**FCA Board Meeting
August 13, 2020
Salvatore Iannetta, Senior Policy Analyst**



YBS Definitions



Definitions for FCA Reporting:

- *Young Farmer*: 35 years of age or younger.
- *Beginning Farmer*: 10 years or less of farming experience.
- *Small Farmer*: gross annual farm sales of \$250,000 or less.

Important Data Clarifications:

- YBS data is reported separately for each category.
- Borrowers may qualify under more than one category.
 - Adding Y, B, and S data together does not produce an accurate measure of YBS lending.
- Dollar volumes include advances and commitments.

YBS Results



YBS Loans Outstanding

As of December 31, 2019

	Number of loans	Percentage of total number	Dollar volume of loans in millions	Percentage of total volume
Young farmers / ranchers	177,590	19.4%	\$31,043	11.1%
Beginning farmers / ranchers	272,654	29.8%	\$48,645	17.4%
Small farmers / ranchers	459,894	50.3%	\$51,869	18.5%

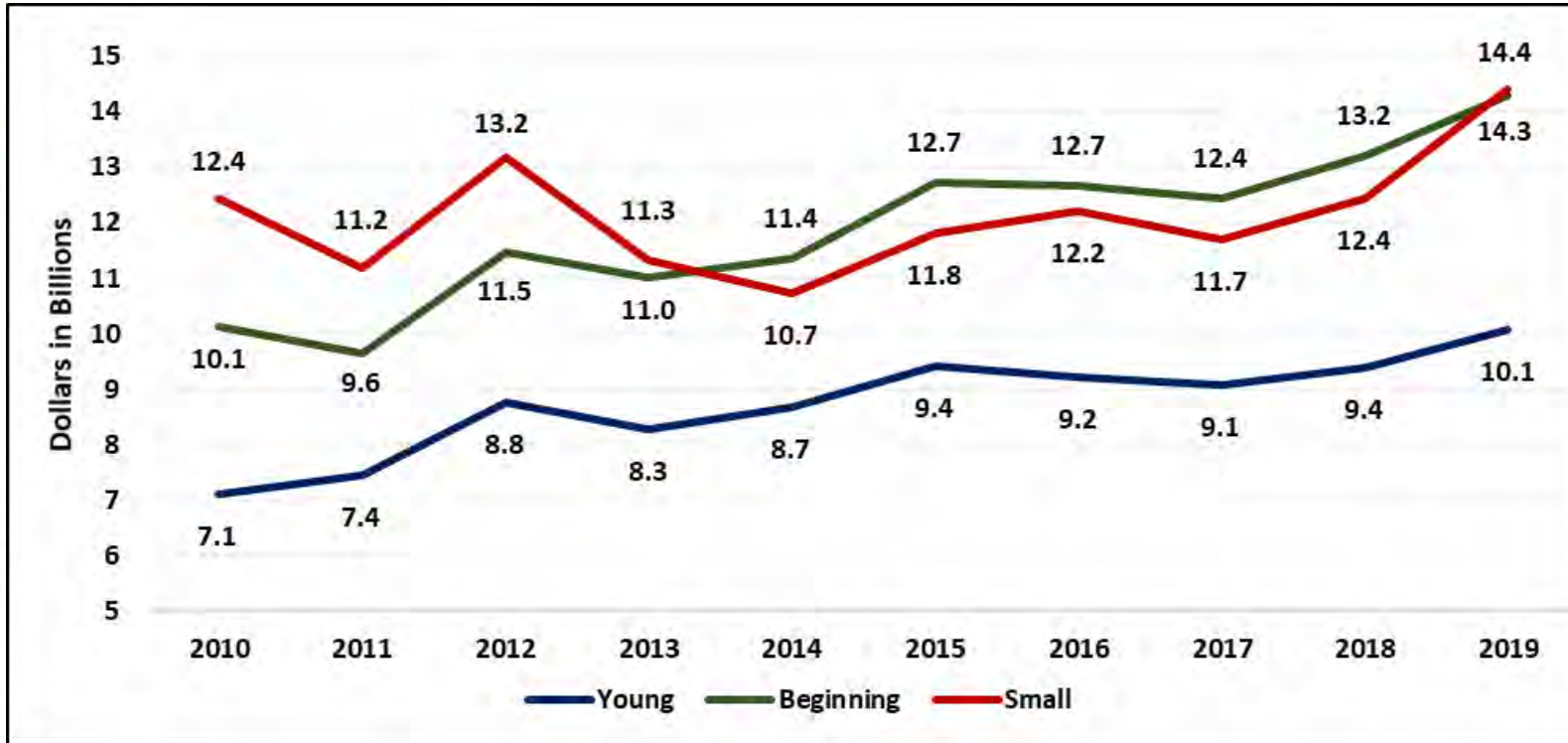
YBS Loans Made During 2019

As of December 31, 2019

	Number of loans	Percentage of total number	Dollar volume of loans in millions	Percentage of total volume
Young farmers / ranchers	49,104	18.2%	\$10,085	11.1%
Beginning farmers / ranchers	67,088	24.9%	\$14,283	15.7%
Small farmers / ranchers	123,494	45.7%	\$14,421	15.9%

Source: Annual Young, Beginning, and Small Farmer Reports submitted by each System lender through the District Banks

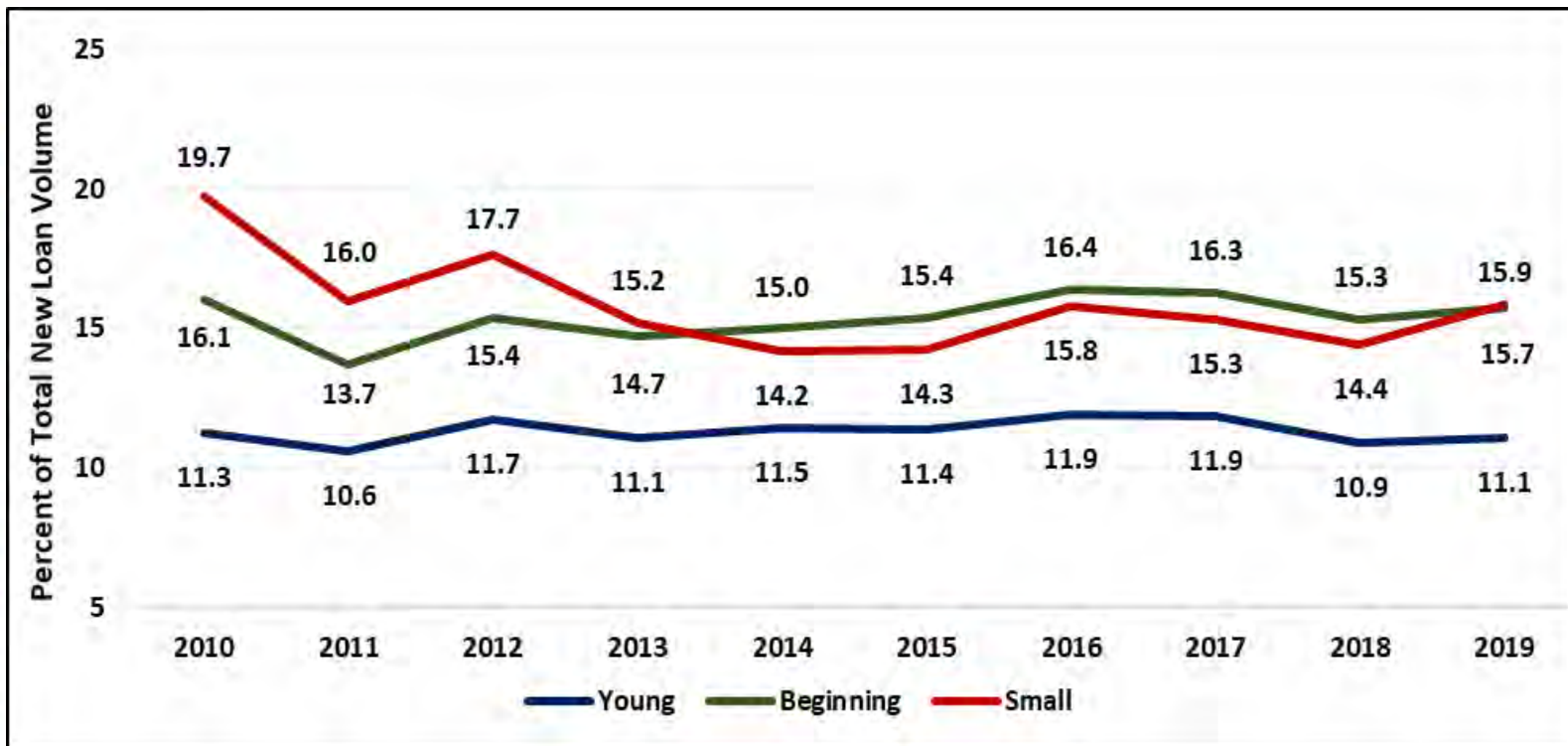
New YBS Loan Volume



Source: Annual Young, Beginning, and Small Farmer Reports submitted by each System lender through the District Banks



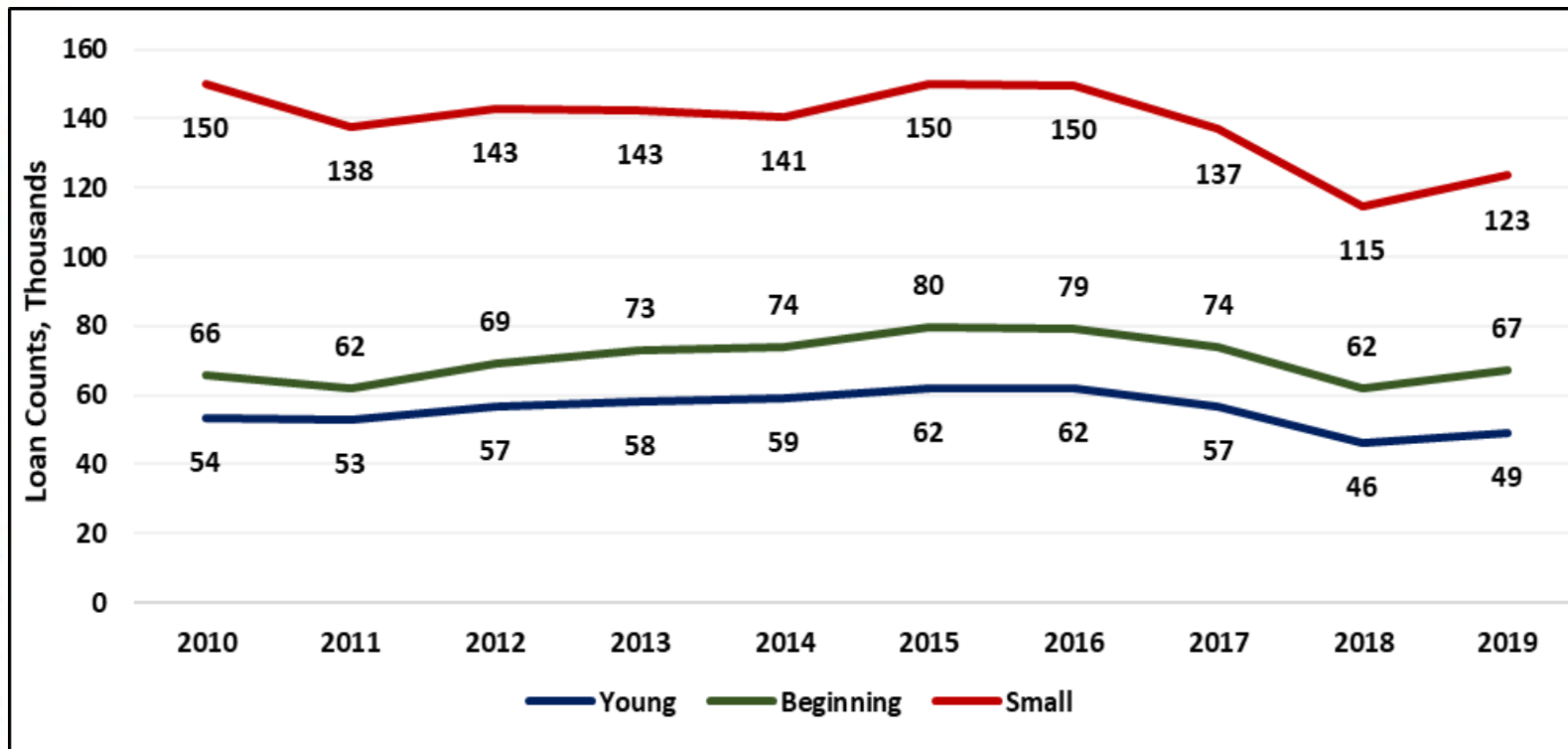
YBS Share of Total New Loan Volume



Source: Annual Young, Beginning, and Small Farmer Reports submitted by each System lender through the District Banks



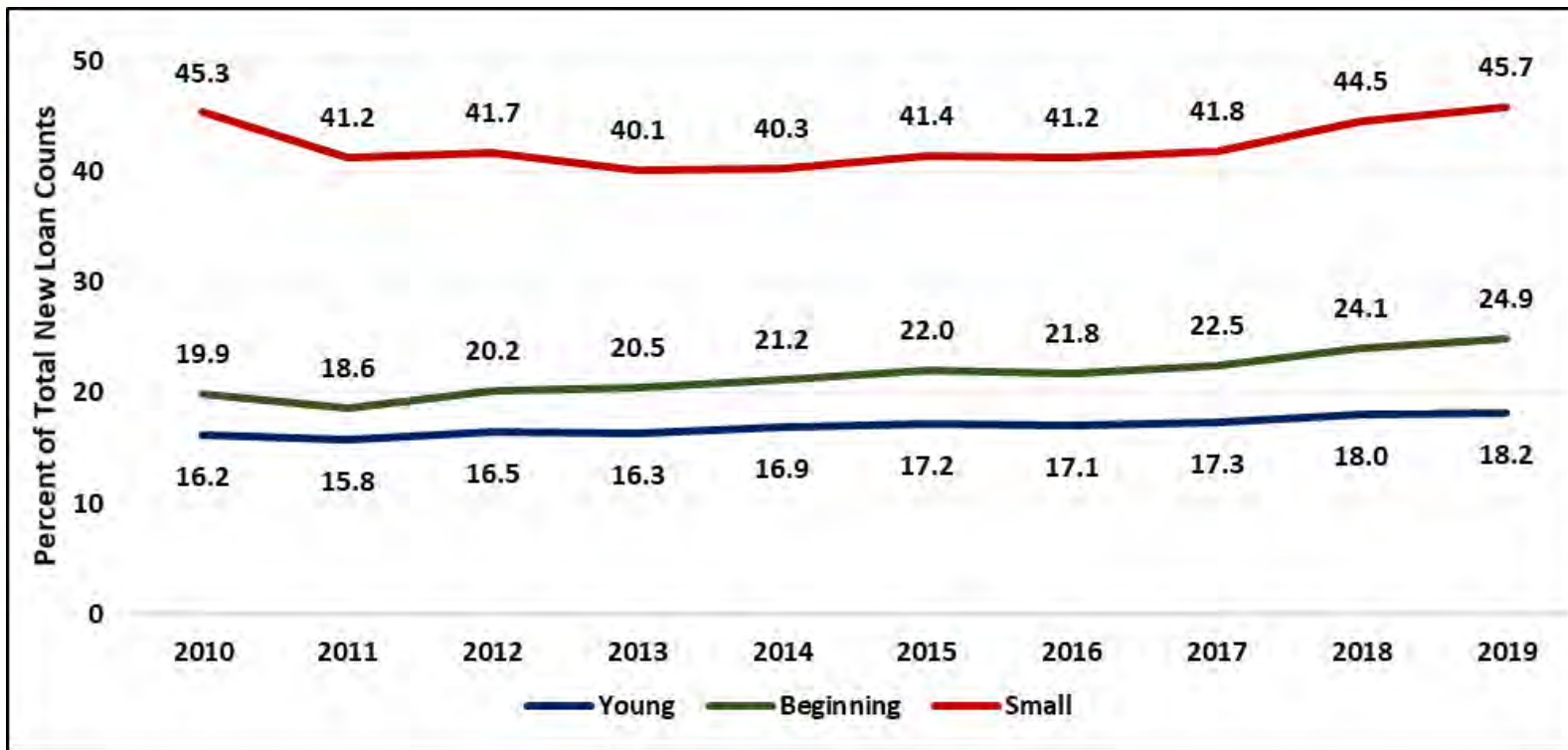
New YBS Loan Counts



Source: Annual Young, Beginning, and Small Farmer Reports submitted by each System lender through the District Banks



YBS Share of Total New Loan Counts



Source: Annual Young, Beginning, and Small Farmer Reports submitted by each System lender through the District Banks



YBS Initiatives Update



- Improved the Agency's ability to track FCS service to YBS producers and identifying best practices used to serve YBS producers.
- Working to modernize and reduce burden for FCS reporting of YBS lending data.
- Engaged with FCS data workgroups and attended FCS YBS focused events.
- Working with other Government Agencies for the benefit of YBS producers.

Investment Eligibility Final Rule

David Lewandrowski – ORP
Richard Katz – OGC



Farm Credit Administration



Final Rule

- The final rule amends § 615.5140(b)(2) and (b)(3) to allow Farm Credit System associations to purchase in the secondary market, the portions of loans that non-FCS institutions originate and that the USDA fully and unconditionally guarantees or insures as to both principal and interest.



Final Rule

- Objectives of the Final Rule:
 - ✓ Augment the liquidity of rural credit markets;
 - ✓ Reduce the capital burden on community banks and other non-System lenders who choose to sell their USDA guaranteed portions of loans, so they may extend additional credit in rural areas; and
 - ✓ Enhance the ability of associations to manage risk.





NEWS

For Immediate Release

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ICBA Supports Bill Offering Tax Relief for Rural Lending

Legislation promotes access to credit amid era of weak commodities prices

Washington, D.C. (March 27, 2019)—The Independent Community Bankers of America® (ICBA) today expressed support for legislation to support farmers, ranchers and rural homeowners. Authored by Rep. Steve Watkins (R-Kan.) and co-sponsored by Rep. Roger Marshall (R-Kan.), the Enhancing Credit Opportunities in Rural America Act (H.R. 1872) would allow community banks to lower loan rates and more efficiently serve borrowers by exempting interest income on farm real estate and rural mortgage loans from taxation.

“ICBA strongly supports the Enhancing Credit Opportunities in Rural America Act, which will allow community banks to offer lower rates to rural borrowers and homeowners in communities across the nation,” ICBA President and CEO Rebeca Romero Rainey said. “Community banks, which make 80 percent of all agricultural loans across the banking industry, should play on the same level playing field as other providers of credit in rural America that already enjoy these same advantages.”

Under ECORA, interest earned on loans secured by agricultural real estate would not be taxable. The bill would provide similar relief to interest on loans secured by rural single-family homes that are the principal residence of the borrower in towns with a population of less than 2,500. Together, these provisions will offer community bankers greater flexibility to work with farmers who may have trouble servicing their debt while giving lenders a strong incentive to remain in the rural farming and housing markets.

The legislation would implement a recommendation in ICBA’s [Community Focus 2020](#) policy platform, a multifaceted agenda designed to promote greater access to financial services and economic opportunity throughout local communities.

About ICBA

The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 52,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 760,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at www.icba.org.

###

Sustaining Credit & Promoting Prosperity in Rural America

Overview

The purpose of the ECORA Act (the Act) is to support American farmers and ranchers and residents of rural communities by creating a new, targeted tax incentive for agricultural real estate and rural residential lending. The Act would promote greater access to credit and reduce borrowing costs for qualified borrowers as they adapt to an environment of weak commodities prices.

What the Act Would Do

The Act would benefit rural borrowers of agricultural real estate and rural home mortgage loans through lower interest rates and greater access to credit. Specifically, when community banks provide loans to farmers and ranchers secured by agricultural real estate, the interest earned from such loans would be exempt from taxes. Likewise, this exemption would apply to single family home mortgage loans in rural communities with a population of 2,500 residents or less.

Need for Action

Agricultural production and the prosperity of farmers and ranchers is critical to the economy of many agricultural states. Approximately one in every five jobs in many farm states, for example, is directly connected to agriculture. However, low commodities prices pose a serious threat to agriculture and the thousands of jobs connected to the sector. Furthermore, rural America has unique challenges not faced by urban residents due to less dense populations, outmigration, challenges in job creation, and housing markets that are less uniform than in larger cities.

Net farm income (NFI) peaked in 2013 at approximately \$124 billion and has declined precipitously since then. For 2018, NFI was recently projected to be only \$66.3 billion, a 12 percent decline from 2017 and a 46 percent decline from the 2013 peak. The 2018 net farm income forecast is substantially below the 10-year average of \$86.9 billion. In fact, the change in state-level NFI (Avg. 2016-2017 vs. Avg. 2011-2013) in many states declined by 49-76 percent!¹

Just as important as addressing agriculture's short-term needs, the ECORA Act will help ensure a stable long-term economy for thousands of remote and rural areas of our country. ECORA will allow rural community banks to assist farm and ranch borrowers who may have trouble servicing existing debt by lowering their interest rates and qualifying for loans they might otherwise be unable to obtain.

The Act will also help community banks sustain the rural housing market. Rural mortgage lending is a challenge for lenders because rural properties are often mixed use, consisting of large or multiple parcels of land and varying ownership structures which could include multiple family members. Community banks have long been a major source of credit for these borrowers due to their firsthand knowledge of the local market and economy. Community banks hold these loans in portfolio as the unique characteristics of the properties and borrower qualifications make selling these loans into the secondary market impractical. Recent regulatory relief legislation will help make it easier for community banks to make and retain these loans in portfolio and be compliant with the CFPB's QM/ability-to-repay, escrow, and appraisal rules. With ECORA, home owners will be able to receive lower interest rates on mortgages, allowing many to refinance existing mortgages and many others to finance their first home and build their dreams for the future.

¹ Agriculture Economic Insights, "*Where the Farm Economy Slowdown Has Hit the Hardest*", posted Jan 14, 2019 at: <https://ageconomists.com/2019/01/14/where-the-farm-economy-slow-down-has-hit-hardest/>

H.R.1872 - ECORA Act of 2019

116th Congress (2019-2020)

Cosponsor	Date Cosponsored
Rep. Marshall, Roger W. [R-KS-1]*	03/26/2019
Rep. Miller, Carol D. [R-WV-3]	04/08/2019
Rep. Banks, Jim [R-IN-3]	04/12/2019
Rep. Rigglesman, Denver [R-VA-5]	04/30/2019
Rep. Reschenthaler, Guy [R-PA-14]	05/01/2019
Rep. Comer, James [R-KY-1]	05/22/2019
Rep. King, Steve [R-IA-4]	05/23/2019
Rep. Moolenaar, John R. [R-MI-4]	06/03/2019
Rep. Estes, Ron [R-KS-4]	06/05/2019
Rep. Palazzo, Steven M. [R-MS-4]	06/25/2019
Rep. Van Drew, Jefferson [D-NJ-2]	07/09/2019
Rep. Abraham, Ralph Lee [R-LA-5]	07/09/2019
Rep. Brooks, Mo [R-AL-5]	11/18/2019
Rep. Smith, Jason [R-MO-8]	12/04/2019
Rep. Bacon, Don [R-NE-2]	01/15/2020
Rep. Armstrong, Kelly [R-ND-At Large]	03/09/2020
Rep. Wittman, Robert J. [R-VA-1]	03/10/2020

Cosponsors: S.1641 — 116th Congress (2019-2020)

[All Information](#) (Except Text)

Sponsor: [Sen. Roberts, Pat \[R-KS\]](#)

Cosponsor	Date Cosponsored
Sen. Moran, Jerry [R-KS]*	05/23/2019
Sen. Hoeven, John [R-ND]*	05/23/2019
Sen. Cramer, Kevin [R-ND]*	05/23/2019
Sen. Paul, Rand [R-KY]	06/12/2019
Sen. Rounds, Mike [R-SD]	07/18/2019

BE HEARD.

ICBA GRASSROOTS



Tell Congress to Help Community Banks Serve Rural America

Agricultural production and the prosperity of farmers are crucial to rural economies where thousands of jobs are connected to the sector, and Community Banks are a critical partner.

Legislation has been introduced in both the House and Senate that will **allow community banks to help farmers** remain viable in a sometimes-challenging environment. It exempts interest on loans--secured by agricultural real estate--from taxable income, giving **lenders more flexibility** to work with farmers, ranchers and rural homeowners and providing lenders with a strong incentive to continue to make these loans. The bill helps level the competitive environment for community banks by providing similar tax benefits already enjoyed by other lenders in rural communities.

Please review the letter and talking points and **ask your members of Congress** to support rural America and the community banks who serve them by cosponsoring the *Enhancing Credit Opportunities in Rural America Act* (the ECORA Act, H.R. 1872 and S. 1641). Thank you for your support.

If the members of Congress pulled do not match your home address, you will need to update your address in the system, which you can do [here](#).

Act now!

 Sign up with Facebook

Or Register Below

First Name

First Name

Last Name

Last Name

Address

Street Address, City, and State

Email

Email

Submit

TAB 3

- Hemp Program
Updates



Risk Management Agency

Actual Production History Hemp

Fact Sheet
February 2020

Crop Insured

Hemp is insurable if:

- You have a share in the crop;
- You have at least one year of history producing the crop;
- It is a type listed in the actuarial documents;
- Premium rates are provided by the actuarial documents;
- It is grown under a processor contract executed by the applicable acreage reporting date;
- It is grown under an official certification or license issued by the applicable governing authority that permits production of the hemp;
- It is planted for harvest as hemp in accordance with the requirements of the processor contract and production management practices of the processor; and
- It is planted to an adapted variety and not a variety prohibited by the applicable governing authority. Refer to the Hemp Crop Provisions.

Causes of Loss

- Adverse weather conditions, including natural perils such as drought and excess precipitation;
- Earthquake;
- Failure of the irrigation water supply, if caused by an insured peril during the insurance period;
- Fire;
- Insects and plant disease, except for insufficient or improper application of pest or disease control measures;
- Wildlife; or
- Volcanic eruption.

Additionally, we will not insure against:

- Levels of tetrahydrocannabinol (THC) in excess of 0.3 percent on a dry weight basis, in accordance with the Agriculture Improvement Act of 2018 and applicable Federal regulations;
- Failure to follow requirements contained in the processor contract;
- Any harvested production infected by mold, yeast, fungus, or other microbial organisms after harvest; or



- Any damage or loss of production due to the inability to market the hemp for any reason other than actual physical damage to the hemp from an insurable cause of loss.

Insurance Period

Coverage begins at the later of when we accept your application or the date when the crop is planted in the field, and ends with the earliest occurrence of one of the following:

- Total destruction of the crop;
- Harvest of the unit;
- Final adjustment of loss;
- Abandonment of the crop; or
- October 31.

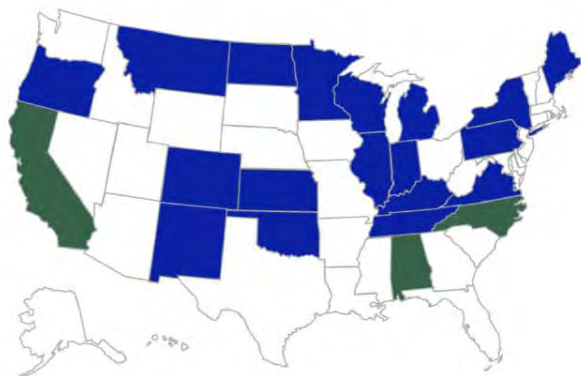
See Crop Provisions for additional information.

Important Dates

Sales Closing (2020)	March 15
(2021 and later)	February 28 or March 15
Acreage Report Due	August 15
Cancellation	February 28 or March 15

ACTUAL PRODUCTION HISTORY HEMP - FEBRUARY 2020

Sales Closing Dates*



■ 2/28 ■ 3/15

**Program may not be available in all counties. Sales closing date for all counties where program is available will be 3/15 for initial crop year of 2020.*

Acreage Reporting Requirements

You must file a report of hemp acreage with your crop insurance agent by the acreage reporting date. Consult your crop insurance agent for more information and specific reporting requirements.

Duties in the Event of Damage or Loss

If a damage or loss occurs you must:

- Provide to our loss adjuster a copy of your certification form or official license for the current crop year for the applicable insured county prior to the completion of any claim;
- Protect the crop from further damage by providing sufficient care;
- Notify your crop insurance agent within 72 hours of your initial discovery of damage, but not later than 15 days after the end of the insurance period;
- Leave representative samples for each field of the damaged unit; and
- If insured acreage of the insured type is damaged during the insurance period by an insured cause of loss, and you intend to harvest the acreage before the final THC level is determined by the applicable governing authority, you must provide us notice so we may inspect the damaged acreage to determine appraised production to count.

Coverage Levels and Premium Subsidies

The premium subsidy percentages and available coverage levels, if electing basic units, are shown below. Your share of the premium will be 100 percent minus the subsidy amount.

	Percent					
Coverage Level	50	55	60	65	70	75
Premium Subsidy	67	64	64	59	59	55
Your Premium Share	33	36	36	41	41	45

You may only select one coverage level for each insured type in the county insured under this policy. You must select the coverage level, by type, on your application by the sales closing date.

If you do not select a coverage level for all insurable types specified in the actuarial documents, and you plant one or more additional insurable types, the lowest coverage level you select on your application for any insurable type will apply to each additional insurable type you plant.

The Catastrophic Risk Protection Endorsement (CAT) limits coverage to 50 percent of your average yield and 55 percent of the price election. The cost for CAT coverage is an administrative fee of \$655, per crop, per county.

Insurance Units

Basic, Optional, and Enterprise units are available in select hemp counties. Premium discounts apply for basic and enterprise units. Additional subsidy is available for enterprise units.

Coverage Options

You may buy crop insurance coverage under one of the insurance plans offered: Catastrophic Risk Protection or Actual Production History.

Where to Buy Crop Insurance

All multi-peril crop insurance, including CAT policies, are available from private insurance agents. A list of crop insurance agents is available at all USDA service centers and on the RMA web site at www.rma.usda.gov/Information-Tools/Agent-Locator-Page.



Preston L. Kennedy, *Chairman*
Noah W. Wilcox, *Chairman-Elect*
Robert M. Fisher, *Vice Chairman*
Kathryn Underwood, *Treasurer*
Alice P. Frazier, *Secretary*
Timothy K. Zimmerman, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

January 29, 2020

Via Electronic Submission: www.regulations.gov

Bill Richmond
Chief
U.S. Domestic Hemp Production Program
Specialty Crops Program, AMS
U.S. Department of Agriculture
1400 Independence Avenue SW, Stop 0237
Washington, DC 20250-0237

RE: Interim Final Rule / Establishment of a Domestic Hemp Production Program / Federal Register / Vol. 84, No. 211 / Doc. No. AMS–SC–19–0042 / 10-31-2019 / page 58522

Dear Mr. Richmond:

On behalf of the nation's community banks, with over 52,000 locations, the Independent Community Bankers of America (ICBA) writes to share our views regarding the USDA's Agricultural Marketing Service's (AMS) Interim Final Rule (IFR) titled "*Establishment of a Domestic Hemp Production Program*" as required by the 2018 farm bill.

ICBA believes the production of hemp could introduce a significant new market for our nation's farmers and ranchers and we appreciate USDA's careful drafting and review of these implementing regulations and the invitation to provide comments. ICBA's comments follow.

ICBA'S General Views on USDA's Hemp Regulation

No SARs Reports. From a general standpoint, ICBA appreciates that federal regulators have announced they would not require suspicious activity reports (SARs) from banks that finance hemp producers. This is appropriate since hemp is no longer a Schedule 1 controlled substance and thus no longer illegal.

Crop Insurance. ICBA also appreciates that USDA's Risk Management Agency (RMA) will offer a crop insurance product to help offset the risk to producers and their lenders of growing this new commodity. However, we believe the crop insurance program for hemp should cover those cases where a producer's crop may exceed allowable levels of THC and thus potentially be required by USDA to be destroyed.

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A hemp crop would be expected to exceed allowable levels due to adverse weather preventing a crop's normal maturity or preventing a farmer from harvesting the crop in a timely manner. The inability to mitigate against such weather related or other unforeseen risks could substantially reduce hemp production plans by producers and their lenders. As the IFR states, "*producers whose cannabis crop is not hemp will likely lose most of the economic value of their investment*" (italics added) (pg 58524 *Federal Register*).

Ongoing Recommendations. ICBA appreciates USDA's invitation to offer comments to this IFR as this new program gets underway. However, since production of hemp will be a new endeavor for many producers and their lenders, we believe USDA should seek comments on an annual basis regarding the operation of the hemp program so that proper adjustments can be made as producers gain experience growing, harvesting, and transporting this crop. This would help ensure that the procedures outlined in the IFR will not be overly prescriptive to a degree that could diminish enthusiasm and markets for hemp production.

Testing & Sampling. The IFR requires a sampling deadline of 15 days prior to harvest. We suggest that harvest within 15 days of sampling only be a target for producers who may need to delay harvest due to unforeseen weather events or unavailability of official personnel to sample fields. Producers may need an additional month or more if adverse weather conditions persist.

Acceptable Test Results / THC Levels. The IFR states the acceptable hemp THC level is the application of the 'measurement of uncertainty' to the THC level producing a distribution or range that includes 0.3% or less THC. The testing results presented in the IFR seem problematic as some plants with a higher THC level above 0.3% would be considered hemp while other hemp plants with a lower THC level could be considered marijuana and thus not acceptable.

A buffer above 0.3% is necessary, regardless of the 'measurement of uncertainty' factor, particularly in the first few years of production as producers learn how to grow hemp that meets the federal guidelines and requirements. Producers should be able to retest if the THC level indicated is too high and an automatic buffer above the 0.3% level should be allowed if the producer made a good faith effort to meet the 0.3% level. At least initially, this buffer above 0.3% should be high enough to accommodate most producers seeking to produce hemp in accordance with this regulation.

Several commenters have questioned whether a 0.3% THC level is an appropriate mark to distinguish hemp from marijuana. It may be appropriate for USDA to study and report to Congress whether this level is scientifically defensible or whether it should be adjusted higher. Such a report recommending an appropriate THC level, which may require a legislative change, would be appropriate since USDA will submit annual reports to Congress on the hemp program.

Destroying Crops. We urge USDA to allow producers to not destroy their crops if it tests higher than USDA's permitted THC levels if the crop is not intended for human consumption purposes

and producers made a good faith effort to meet the 0.3% THC level and any buffer that USDA may allow.

Laboratory Approval Program (LAP). To respond to the question of whether a LAP should be established it would seem logical as producers may need to have labs as geographically close to their operations as possible, particularly when time is limited and demand for lab services may be high. We question whether the labs should have to be registered with the Drug Enforcement Agency (DEA) since hemp is no longer considered a controlled substance.

Producer Licenses. The IFR would provide producers a valid license for three years. We suggest this period be lengthened to five years to reduce paperwork requirements both on producers and USDA offices, which may face staffing shortages in future years. Alternatively, producers could be allowed to renew their licenses online indicating what if any changes have occurred since their previous license application.

Safe Harbor Clause. ICBA urges USDA's regulations to provide a "safe harbor" clause in terms of legal and regulatory liabilities for unforeseen occurrences related to the production of hemp. For example, lenders and other industry participants should not face any legal liabilities for financing hemp production or derived products that police or other state or federal officials state have tested with an unacceptable THC level even though initial testing showed the THC levels was satisfactory. Lenders should not be held legally liable for unforeseen or unexpected issues that may arise in the production, processing, marketing or distribution of hemp or hemp related products simply because they provide financial services to the hemp industry.

Conclusion

ICBA appreciates the AMS's issuance of an interim final rule with the opportunity for public comment. The introduction of a hemp program ushers in the potential for an exciting new era in production agriculture. However, as USDA's IFR states, "The future of the hemp industry in the United States (U.S.) is anything but certain (page 58539, *Federal Register*)." Therefore, we urge USDA to accommodate producers, their lenders and other industry participants to the greatest extent possible to help ensure that the production of hemp can truly ramp up and establish adequate marketing opportunities to secure a prosperous industry.

Thank you for considering our views. Should you desire to discuss the contents of this letter please feel free to contact our staff at: Mark.scanlan@icba.org.

Sincerely,

/ S /

Mark Scanlan
Sr. V.P., Agriculture and Rural Finance

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TAB 4

- Farmer Mac
Update by Patrick
Kerrigan

TAB 5

- Climate Change & Conservation Initiatives

www.agri-pulse.com/articles/14407-ag-lenders-need-to-take-conservation-into-account-edf-says



Ag lenders need to take conservation into account, report says

Steve Davies (/authors/2-steve-davies)

September 2, 2020

Agricultural lenders should design their loan programs to encourage farmers' adoption of farming practices resilient to the impacts of climate change, the Environmental Defense Fund says in a new report.

But lenders first need more data so they can understand the “financial benefits of and barriers to resilient agricultural practices” such as cover crops and no-till farming, the [report \(https://www.edf.org/ecosystems/how-agricultural-lenders-can-boost-climate-resilience\)](https://www.edf.org/ecosystems/how-agricultural-lenders-can-boost-climate-resilience) says. They cannot let their “unfamiliarity with conservation practices discourage farmers or increase barriers to lending.”

“We have lots of great anecdotes and we're beginning to see more use of bigger datasets, like USDA datasets, to understand” the dollars-and-cents impacts of resilient farming methods, said Maggie Monast, EDF's director of economic incentives, agricultural sustainability.

“But there's still a big gap between the information lenders need to make decisions and what's out there,” she

said. EDF is recommending that lenders familiarize themselves with current conservation information and “collaborate with organizations like ours” to identify information gaps, she told reporters.

“Historically, lenders have placed the heaviest weight on farmers’ financial strength and repayment ability,” Idaho farmer and EDF adviser Dick Wittman wrote in the report’s foreword. “Little consideration has been given in credit scoring models to farmers’ conservation strategies or exposure to climate risk. That needs to change.”

EDF, generally regarded as one of the most effective environmental organizations in the country, works with industry, including agriculture companies and associations, and government on a host of environmental issues, including climate change. The report, it said, “is based on extensive research and interviews with a variety of food and agricultural lenders, including Farm Credit and commercial lenders, as well as multiple other relevant experts.”

In addition to gathering more information about potentially profitable conservation strategies, the report said ag lenders “should assess their exposure to climate risks and adopt and implement strategies to monitor and manage those risks.” The ag lending sector has lagged behind the financial sector in doing so, the report said. “A 2019 survey of 20 banks and seven other financial institutions found that 55% of mainstream financial institutions are currently taking a strategic approach to climate risk, and 95% aim to implement a strategic approach in the future,” the report said. “Despite this trend, most U.S. agricultural lending institutions have not yet integrated climate risk into their risk management frameworks.”

The report also found that “while crop insurance is an important shock absorber for participating farmers and their lenders, it is not sufficient to protect farmers, lenders or the broader agricultural economy from climate risk.”

National Crop Insurance Services, which represents the interests of private crop insurance companies, said it had not yet read the report but pointed to its website’s “Just the Facts” page, which addresses (<https://cropinsuranceinamerica.org/is-crop-insurance-impairing-farmers-ability-to-use-new-conservation-tools-like-cover-crops/>) conservation practices in general.

“The crop insurance industry supports continued agronomic research to determine how farmers can best incorporate cover crops and other Best Management Practices in their operations and to determine what impact those practices may have on the insured crop,” NCIS said. “Farmers interested in exploring how cover crops can fit into their operations are encouraged to discuss all available options with their agronomic advisers and their crop insurance agent to verify their plan follows good farming practices and meets crop insurance requirements.”

Ed Elfmann, the American Bankers Association’s senior vice president for agriculture and rural banking policy, said in a statement that “agricultural lenders, like all lenders, are risk managers at their core and are always looking for ways to reduce risk for their customers. While there is still work to be done to understand the threats posed by climate change, we are collaborating with organizations like EDF and working to educate our members to help bridge the gap between financing and climate resilience. Agriculture is constantly evolving, and we look forward to continuing to work with agricultural groups and other stakeholders to do everything we can to help producers succeed.”

The EDF report said “current loan offerings do not align with the financial attributes of conservation practices, and therefore create challenges for farmers who use or are considering adopting these practices.”

The benefits of some conservation practices “can take several years to materialize,” the report says. “Practices

that build soil health can take several years (for example, three to five years for cover crops) to generate a financial benefit.”

Said Monast: “Lenders are not collecting or looking at farm budgets in a way that would allow them to see the value of resilient farming practices. And when it comes to the short-term focus of nearly all annual operating loans, that focus means that lenders miss longer term value, cost savings, and risk reduction.”

There needs to be more assistance for farmers starting to use more sustainable farm practices, the report said.

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“Some lenders contend that if farmers increase their financial health and stability by using resilient practices, ultimately their lending terms will improve along with the farm’s improved financial performance,” it said.

“However, this is a lagging indicator and does not support farmers in navigating the transition so that they can arrive at the better outcome. Farmers face an additional barrier to conservation adoption when they cannot partner with their lenders to plan for the transition period and take a multi-year view of conservation investments.”

In addition to the difficulty of measuring the benefit of practices that may take years to materialize, the report identifies other barriers to making ag lending more conservation-friendly. One is the need to look at the interaction between farm practices to assess cost savings.

Another is the need to look at the benefits of risk reduction. “The relationship between healthy soils, water management and crop yield resilience is important, as is the opportunity to reduce financial risk overall through crop diversification and cost savings,” the report says. “However, it can be challenging to measure financial benefits that only appear in certain years or under poor weather conditions.”

Keeping accurate records also can be an impediment. “Farm recordkeeping allows farmers to track practice interactions and potential cost savings, and to effectively manage the many variables involved on each farm to achieve the best results,” the report said. “However, comprehensive recordkeeping often is not at the top of farmers’ priorities, especially for those under financial stress or who have less capacity around the farm.”

For more news, go to [www.Agri-Pulse.com](http://www.agri-pulse.com) (<http://www.agri-pulse.com/>)



Steve Davies (<mailto:steve@agri-pulse.com>)

Associate Editor

Ag banks and regulators need to assess climate risks CFTC panel says

Ag bankers and federal regulators should conduct stress tests to assess the financial risks of climate change, which poses a major threat to U.S. agriculture, says a new report released by a Commodity Futures Trading Commission commissioner.

“There is general agreement that climate change will reduce average yields and total production for most crops in most regions,” the [report](#) says, adding that “climate change is impacting, and is projected to impact, not only commercial agriculture in the United States, but also the ecological systems and biodiversity that agricultural systems rely on for everything from the provision of clean water to healthy forests.”



The report notes it was not issued by the CFTC itself. "It was approved by the Subcommittee on Climate-Related Market Risk of the Market Risk Advisory Committee (MRAC)," whose sponsor is Commissioner Ross Behnam.

Commenting on the report, Behnam said that "extreme weather events continue to sweep the nation from the severe wildfires of the West to the devastating Midwest derecho and damaging Gulf Coast hurricanes. This trend — which is increasingly becoming our new normal — will likely continue to worsen in frequency and intensity as a result of a changing climate."

The report says that traders dealing in farm commodities “must adapt to this wide range of physical risks by devising new ways to value, price, and manage climate risk.”

But financial markets “will only be able to channel resources efficiently to activities that reduce greenhouse gas emissions if an economy-wide price on carbon is in place at a level that reflects the true social cost of those emissions,” the report says.

The report urged the financial community to “not simply be reactive — it should provide solutions.

“Regulators should recognize that the financial system can itself be a catalyst for investments that accelerate economic resilience and the transition to a net-zero emissions economy. Financial innovations, in the form of new financial products, services, and technologies, can help the U.S. economy better manage climate risk and help channel more capital into technologies essential for the transition,” the report says.

The report also says that agricultural adaptation measures such as micro-irrigation and resilience technologies, including drought-tolerant biotechnology, “offer great promise for mitigating potential future declines in agricultural output.”

But a major challenge, as highlighted in a [recent report](#) from the Environmental Defense Fund, is how “financial markets and institutions can channel significantly more capital toward sustainable investments and net-zero-emission activities,” the report says.

One of the report's recommendations is that federal regulators need to take a close look at the financial implications of climate change. Research should focus on “the potential for and implications of climate-related ‘sub-systemic’ shocks to financial markets and institutions in particular sectors and regions of the United States, including, for example, agricultural and community banks and financial institutions serving low-to-moderate income or marginalized communities.”

Related Articles

[Ag lenders need to take conservation into account, report says](#)[CFTC moves to expand hedging options for ag commodities](#)[CEOs worry regulators won't allow critical climate fixes](#)

Banks also need to conduct stress tests, the report says. “In this context, regulators should prescribe a consistent and common set of broad climate risk scenarios, guidelines, and assumptions and mandate assessment against these scenarios.”

Agricultural banks and those with large ag loan portfolios are specifically vulnerable to the risks of climate change, the report says.

“Small banks in the Midwest, in particular, hold proportionately more of certain types of agricultural loans that could be affected by climate impacts,” the report says. “Flooding and extreme heat reduce crop yields and disrupt agricultural production.”

As an example, the report cites last year's spring flooding, when “bankers lending in the Midwest reported to the Federal Reserve Bank of Chicago that about 70 percent of their borrowers were at least moderately affected by extreme weather events in the first half of the year. At the same time, the portion of the region's agricultural loan portfolios reported as having ‘major’ or ‘severe’ repayment problems hit its highest level in 20 years.”

Democrat Sen. Debbie Stabenow of Michigan, ranking member on the Senate Agriculture Committee, called the report “groundbreaking” and said it “comes at a critical juncture for our country and includes important recommendations that will help protect our economy from the climate impacts we’re already seeing.”

Interested in more coverage and insights? Receive a free month of [Agri-Pulse West](#).

John Hartmann, global sustainability lead for Cargill's agricultural supply chain and a member of the CFTC subcommittee, said in a note posted by the agency: "Agriculture is how we can mitigate greenhouse gas emissions, capture carbon and provide other ecosystem services for society as a whole,. In addition, a healthy and vibrant agricultural sector is necessary for a safe, sustainable and affordable food system."

In December, Cargill adopted a target of reducing greenhouse gas emissions in its global supply chains by [30% per ton of product by 2030](#).

Other members of the 34-member Climate-Related Market Risk Subcommittee include Robert Coviello, senior vice president for sustainability and government affairs at Bunge; Jeffrey S. Dukes, director of the Purdue Climate Change Research Center; Athena Eastwood, outside counsel for Dairy Farmers of America; Dave Jones, The Nature Conservancy's senior director of environmental risk; Nathaniel Keohane, senior vice president for climate at the Environmental Defense Fund; Sara Menker, founder and CEO at Gro Intelligence; and Julie Winkler, chief commercial officer for CME Group.

For more news, go to www.Agri-Pulse.com

This article was corrected to note that the report was not issued by the CFTC, but by a subcommittee of the CFTC's Market Risk Advisory Committee.

TAB 6

- Livestock Dealer Trust
- USDA OneRD Rule
- Rural De Novo Bank Legislation H.R. 8410
- Beginning Farmers & Ranchers

LMA Supported Dealer Trust Legislation Active in Congress (LMA Newsletter excerpt – August 28, 2020)

LMA encourages Congress to pass a Dealer Statutory Trust, which would give unpaid sellers of livestock the legal right to reclaim livestock or, if they have been resold, proceeds from livestock in the unfortunate event of a livestock dealer payment default. While this is always important, the necessity to address this topic is greatly heightened today.

The Securing All Livestock Equitably (SALE) Act, which would create a Dealer Statutory Trust, has been re-introduced in both the House (H.R. 6067) and the Senate (S. 3419). Dealer Statutory Trust was included in the House HEROS Act. The Senate is considering next steps on COVID-19 relief legislation in response to the House HEROS bill. Even in times of great disagreement, Congress and the cattle industry agree the Dealer Statutory Trust is a no-cost, bipartisan solution that provides needed certainty to livestock sellers in troubling times.

LMA Members should reach out to your U.S. Senators and House member to encourage them to co-sponsor the SALE Act and for it to be included in COVID relief moving forward. If you would like help finding the best contact person for your congressional offices, reach out to Chelsea Good (cgood@lmaweb.com / 816-305-9540) or Pierce Bennett (pbennett@lmaweb.com / 937-541-1287).

Unfortunately, last week, misinformation has been circulating on how Dealer Trust would affect lending. A recent USDA study found a Dealer Trust would improve recovery while not hampering access to credit (see conclusion #7 and page 90 for lending analysis).

Recovery by an unpaid seller of livestock would be limited to the dollar amount needed to pay for those purchases. All other livestock, receivables, and proceeds beyond that would still be available to lenders. Additionally, lenders would retain their first priority in non-trust assets such as land, vehicles, and equipment. A Dealer Trust does not remove a lender's first lien and does not make collateral unsecured.

Opposition Analysis

As to the first two sentences, on a case by case basis, it would be true that an unpaid seller's recovery would be limited to the amount of its unpaid claim. But this is an unrealistic example. In cases of dealer insolvency, the total amount of unpaid sellers' claims normally exceed the amount of receivables, often by a large margin. The UCC normally give the secured lender priority in these receivables and this is the basis for much secured lending. If the collateral is in jeopardy then it stands to reason that lenders will be reluctant to extend credit.

The third sentence, asserting that lenders would retain their "first priority in non-trust assets," is far from certain. If trust assets are used to purchase other assets, such as real estate, the real

estate could be subjected to the trust. See *Tom Lange Co. v. Kornblum & Co. (In re Kornblum & Co.)*, 81 F.3d 280, 284 (2d Cir. N.Y. 1996), held in a PACA case that “Units [of real estate], which were indisputably acquired by [the Debtor] Kornblum prior to its transactions with the Creditors...” could be trust assets; *West Coast Distrib., Inc. v. Universal Fresh Produce, LLC*, 2018 U.S. Dist. LEXIS 192330, at * 10 - 11 (S.D. Fla. 2018) (quoting *Kornblum*).

Finally, we take issue with the last sentence that make the global assertion that the proposed trust “does not remove a lender’s first lien and does not make collateral unsecured.” In fact, the trust assets do not belong to the dealer and could not be collateral. These assets would belong the beneficiaries, namely, the unpaid sellers, and not to the dealer.

In fact, this concept is a primary motivation for the trust. The proponents of the trust say that a major benefit is that they will have a defense to claims in bankruptcy cases for preferential transfers. A claim for a “preferential transfer” can occur if a creditor receives a payment from a company that later files bankruptcy. The defense afforded by the trust is that a preferential transfer requires proof of the transfer of an asset of the bankrupt, and because a trust asset belongs to the unpaid seller as trust beneficiary and not to the bankrupt, no transfer of an asset could occur, preferential or otherwise. See *In re Fresh Approach, Inc.*, 51 B.R. 412, 424 (Bankr. N.D. Tex. 1985) (a dealer’s inventory and proceeds are not “property of the estate” of a bankrupt dealer and therefore not subject to preference claims of a trustee).

Even worse for secured lenders than loss of collateral may be the prospect of disgorgement. If the secured lender is found to have used trust assets to repay its loan to a dealer, if can be forced to disgorge those payments to trust beneficiaries. See eg. *Classic Harvest LLC v. Freshworks LLC*, 2017 WL 3971192 (N. D. Ga. 2017) “(Permitting AgriFact [the lender] to retain amounts it collected on the Receivables after Crisp failed to pay its PACA Creditors would, in effect, advance AgriFact’s interest in the Trust Assets above the PACA Creditors. This is the “imbalance” PACA intended to remedy. See 7 U.S.C. § 499e(c)(1); *Endico Potatoes*, 67 F.3d at 1067. AgriFact is required to disgorge the amount of funds necessary to satisfy in full the unpaid PACA Creditors’ claims, up to the limit of Trust Assets AgriFact held while the PACA Creditors remained unpaid.”)

Our reading of this is that the “First Lien” is indeed jeopardized by LMA’s Dealer Trust legislation. And we are concerned that with incorrect information LMA continues to gain co-sponsors.

And LMA has two opportunities before the end of the year – Senate consideration of a pandemic economic response bill, or when a second CR or the 2021 appropriations bill is considered.

July 28, 2020

The Honorable Pat Roberts
Chairman
U.S. Senate Committee
on Agriculture, Nutrition & Forestry
Washington, D.C. 20510

The Honorable Debbie Stabenow
Ranking Member
U.S. Senate Committee
on Agriculture, Nutrition & Forestry
Washington, D.C. 20510

Dear Chairman Roberts and Ranking Member Stabenow:

On behalf of the American Bankers Association (ABA) and the Independent Community Bankers of America (ICBA), representing over 52,000 bank locations across the United States, we write to express our concern over possible inclusion of the so-called “Livestock Trust” legislation in the COVID-19 relief package being considered by the Senate. We believe this legislation could be very disruptive to the financing of livestock in many states and will cause great confusion and uncertainty to producers and their lenders. We believe careful consideration should be given to the issues raised in this letter to ensure the most workable and effective solutions are available to livestock producers.

A dealer trust only targets sales to undefined “dealers” and would be a complicated, expensive solution that could disrupt the entire livestock industry, including its financing, and cause many producers to receive lower prices for their livestock. One analysis of Packers & Stockyards (P&S) records indicates that over a recent 18 year period **99.9% of livestock purchased** by registered dealers and order buyers resulted in **no losses**.

There are existing alternatives in place that provide better protection. Existing private sector insurance products (Livestock Market Payment Insurance) already provides several billion dollars of prompt protection against potential losses from livestock sales, covering 80 percent of risk. By comparison, the current Packer Trust, upon which this legislation is modeled, has provided only a 45 percent payment in the Sam Kane Beef Processors case, even after 3 years of lawsuits and nearly \$1 million spent by livestock sellers in legal fees. Additionally, current protections offered producers via the P&S prompt payment rules and bond requirements already cover producers who require dealers who purchase their cattle to follow current laws and pay them within 24 hours. The proposed livestock trust appears intended to cover livestock auctions/marketers who do not pay or require payments within 24 hours but rather intend to offer credit for a multi-day or multi-week period, contrary to P&S rules. They are seeking the protection of a “cash sale” under P&S when in fact they are extending credit. Producers and auction barns can also obtain a bank-to-bank wire transfer before releasing cattle for shipment. Payments are certain because banks only wire money if the sender has the funds available. The money is typically available the same day.

Livestock producers will be harmed. Producers will receive lower prices for cattle from fewer buyers and auction barn bidders. By using a statutory trust to supersede or negate the legitimate first liens of lenders on cattle utilized as collateral, fewer cattle buyers will qualify for financing as they will lack the collateral and capital needed to verify their ability to repay loans. Small to

midsized cattle buyers will exit the business leaving fewer, larger cattle buyers. The reduced number of cattle buyers will mean less competitive bidding on livestock and thus lower prices.

Federal bank examiners will object to lenders financing cattle buyers. Bank examiners will recognize banks can no longer obtain a first lien on cattle used by undefined “dealers” to purchase livestock. Lenders won’t be able to identify or monitor when a trust claim may exist and supersede their liens until after lawsuits and clawback actions are taken against them. Mitigation of lenders’ risk at the time of the loan will be impossible. Examiners will require banks to obtain additional sources of collateral from buyers to ensure loans can be repaid and that no trust assets have been used to make loan payments. Many buyers will be unable to do so and examiners will classify such loans forcing banks to discontinue these loans. The only target for a dealer trust at that point will be other livestock producers.

A livestock trust will be confusing and disruptive at a time of industry distress.

Implementing a livestock trust will introduce tremendous confusion and dramatic changes to the financing and marketing of livestock at a time of immense economic duress. It will be unclear to lenders when a customer will act as a “dealer” and also a seller and some customers will function in both capacities. Since the definition of a dealer is not limited to “registered livestock dealers” and will be subject to broad interpretation by the courts for the actions of any person or entity who buys and then sells livestock, the number of persons, entities and transactions involved will be huge and nearly impossible to track. Many lawsuits will be filed due to this lack of clarity.

An enormous regulatory burden would be placed upon the USDA’s P&S division.

USDA’s P&S division doesn’t have the resources to effectively regulate, investigate, track down transactions, monitor and provide oversight in a timely manner for this increase in the number of transactions and entities subject to a new dealer trust regulation. What will be the cost, the effectiveness, and the impact of these new powers of enforcement given to P&S to act promptly and efficiently when a dealer trust claim is filed? What will be the industry’s hard costs for compliance, competition, prices, and the unintended consequences to all market participants?

We are quite concerned about major disruptions in the financing and marketing of cattle caused by a livestock trust. The livestock trust appears designed allow the financing of livestock inconsistent with the P&S’s prompt payment rules. Sellers requiring prompt payment at the time of the transaction has proven very effective as shown by the P&S’s historical data. Private sector insurance products and electronic funds transfers provide additional protections.

We strongly urge you not to include the livestock trust legislation in the next COVID-19 relief package. As this discussion continues, it is important to focus on protecting producer prices, ensuring all voices are heard and safeguarding existing private sector insurance products. Congress should want credit to flow more freely within the livestock industry during these difficult times. Thank you for your consideration of our views.

Sincerely,

American Bankers Association

Independent Community Bankers of America



September 13, 2020

The Honorable John Cornyn
U.S. Senate
Washington, DC 20510

Dear Senator Cornyn:

Our organizations fear that an attempt will be made to add language to create a livestock dealer statutory trust to the Senate's pandemic economic stimulus. Our members, Texas livestock producers, dealers, auctions and lenders, strongly oppose the creation of a livestock dealer statutory trust, which is currently a rider in the House's Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, even though there have been no hearings on the concept.

While we firmly believe that an unpaid seller should be compensated in the event of a dealer bankruptcy or fraud, there is significant concern that the establishment of a dealer statutory trust could cause unintended consequences throughout the cattle supply chain. A dealer trust would both reduce actual money available for dealers to purchase livestock and increase financial risk to lenders. In a recent USDA feasibility study on a dealer trust, USDA suggested that cattle should not be utilized as collateral for a loan. This dramatic change is like buying a house but not being able to use it as collateral. This increased risk will reduce the amount of financing available to livestock dealers while increasing their cost of borrowing money. When combined, these limiting factors will drastically reduce the buying capacity of livestock dealers, thus adversely affecting market prices for all livestock sellers.

Unfortunately, Texas cattle producers know firsthand just how little protection a trust provides. Several livestock sellers have yet to recover all payments for cattle sold to Sam Kane Beef Processors, LLC before the company filed bankruptcy. Even though a packer trust was in place, the funds only provided a 45% return, after the feeders spent almost \$1 million in legal fees. If there are insufficient funds available, livestock sellers are going to be left empty-handed regardless. A review of USDA's Packers & Stockyards Division records shows that 99.9% of livestock purchased by registered dealers and order buyers in the most recent 18 years resulted in no loss. In short, a livestock dealer statutory trust attempts to mitigate a nominal risk but promises very little reward and greatly costs all market participants.

Since the concept of a dealer trust originated, private insurance has become available for cattle sales. The insurance is for up to 80% of the loss – far higher than is anticipated from a dealer trust based on the experience with the packer trust. Additionally, enforcement of existing laws/regulations and more transparency on the part of the USDA Packers & Stockyards Division would be a more efficient and effective means of addressing this issue, as opposed to requiring a new, disruptive government program.

We appreciated and recognize your help to prevent dealer trust language from being added to the 2018 Farm Bill and respectfully ask that you not support or sign onto any such bill or amendment to establish a dealer trust at this most critical time of recovery from unprecedented difficulty in the marketing of cattle due to the COVID-19 pandemic. Please help ensure that this complex and controversial concept has been properly vetted by Congress with hearings before any further action is taken.

Sincerely,

Bryan Forester, President, Livestock Marketing Association of Texas
Paul J. Defoor, Chairman, Texas Cattle Feeders Association
Robert E. McKnight Jr., President, Texas & Southwestern Cattle Raisers Association
Christopher L. Williston VI, CAE, President & CEO, Independent Bankers Association of Texas
Chris Furlow, President & CEO, Texas Bankers Association

OneRD Guarantee Loan Initiative

Background

USDA is cutting red tape to increase private investment in rural communities across the country by making it easier for lenders to access four flagship Rural Development loan programs. USDA is implementing a standard application process for the:

- Water and Waste Disposal Loan Guarantees Program;
- Community Facilities Guaranteed Loan Program;
- Business and Industry Guaranteed Loan Program; and
- Rural Energy for America Program Loan Guarantees.

These innovative improvements will create a faster and better customer experience and increase private investment in rural businesses and economic development projects.

USDA is seeking public comment on a series of regulatory reforms known collectively as the OneRD Guarantee Loan Initiative. The changes will take effect on October 1, 2020.

For more information on how to submit comments, contact RD.Innovation@usda.gov.



Initiative Benefits

Among the reforms, USDA intends to:

- Launch a common application and consistent forms for lenders to use across the four loan guarantee programs;
- Issue loan note guarantees to lenders within 48 hours after they provide documentation to prove the requirements of the conditional commitment have been met;
- Provide guarantee percentage and fee requirements for each program to lenders through a single annual notice at the beginning of each fiscal year;
- Allow lenders to obtain approval for a loan guarantee prior to the beginning of construction projects. A one-time fee and other requirements may apply; and
- Provide automatic approval to lenders in good standing who are supervised or created by state or federal regulatory agencies to participate in all four programs. This expands the base of eligible lenders for the four guaranteed loan programs. Non-regulated lenders may seek approval to participate through a single certification process that will be valid for five years.

For additional information, visit www.rd.usda.gov/onerdguarantee or contact OneRDGuarantee@usda.gov.

NOTE: Because citations and other information may be subject to change, please contact your local office for assistance. You will find additional forms, resources, and program information at rd.usda.gov. *USDA is an equal opportunity provider, employer, and lender.*

OneRD Initiative Benefits

Under the OneRD Guarantee Loan Initiative, USDA removed regulatory barriers to make it easier for private lenders to use USDA programs to invest in rural businesses and grassroots rural economic development efforts.



OneRD, One Process

USDA standardized requirements for credit reviews, loan processing, loan servicing and loss claims across the four lending programs to help improve the customer experience for rural lenders.



Common Application and Consistent Forms

A common loan note guarantee application and consistent forms for the four loan guarantee programs are now available.



Speed and Transparency

USDA intends to issue lenders loan note guarantees within 48 hours after they provide documentation to prove the requirements of the conditional commitment have been met. To improve transparency, USDA will provide guarantee percentage and fee requirements to lenders through a single annual notice at the beginning of each fiscal year.



Single-Point Lender Approval

Through one application, USDA will provide automatic approval to lenders in good standing who are supervised or created by state or federal regulatory agencies to participate in all four programs. This expands the base of eligible lenders for the four loan guarantee programs. Non-regulated lenders may seek approval to participate through a single certification process that will be valid for five years.



Additional Options for Lenders

USDA will allow lenders to obtain approval for a loan guarantee prior to the beginning of construction projects. A one-time fee and other requirements may apply.

Lender Help Desk

As USDA's four flagship guarantee loan programs are streamlined under the OneRD Guarantee Loan Initiative, a core team of program experts are available to help you prepare for the new policies and procedures included in the final rule.

Questions may be submitted to OneRDGuarantee@usda.gov.

PLEASE NOTE: Though it is not intended or expected, should any discrepancy occur between the document here and that published in the Federal Register, the Federal Register publication controls. This notice is being made available through the Internet solely as a means to facilitate the public's access to this document.

BILLING CODE 3410-XY-U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Docket No. RUS-20-WATER-0032

OneRD Annual Notice of Guarantee Fee Rates, Periodic Retention Fee Rates, Loan Guarantee Percentage and Fee for Issuance of the Loan Note Guarantee Prior to Construction Completion for Fiscal Year 2021

AGENCY: Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS), Rural Housing Service (RHS), and the Rural Utilities Service (RUS), agencies of the Rural Development mission area within the U.S. Department of Agriculture (USDA), hereinafter collectively referred to as the Agency, offer loan guarantees through four programs: Community Facilities (CF) administered by RHS; Water and Waste Disposal (WWD) administered by the RUS; and Business and Industry (B&I) and Rural Energy for America Program (REAP) administered by the RBCS. This notice provides applicants with the Guarantee Fee rates, Guarantee percent for Guaranteed Loans, the Periodic Retention Fee, and Fee for Issuance of the Loan Note Guarantee Prior to Construction Completion for FY 2021, to be used when applying for guarantee loans under the aforementioned guarantee loan types. This notice is being published prior to the passage of a FY 2021 appropriation. Should the fees need to be adjusted after passage of the FY 2021 appropriation bill, the agency will publish a subsequent notice in the *Federal Register*.

DATES: The fees in this notice are effective October 1, 2020.

FOR FURTHER INFORMATION CONTACT:

For information specific to this notice contact Michele Brooks, Director, Regulations Management, Rural Development Innovation Center – Regulations Management, USDA, 1400 Independence Avenue SW, STOP 1522, Room 4266, South Building, Washington, DC 20250-1522. Telephone: (202) 690-1078. Email michele.brooks@wdc.usda.gov. For information regarding implementation contact your respective Rural Development State Office listed here: <http://www.rd.usda.gov/browse-state>.

SUPPLEMENTARY INFORMATION:

As set forth in 7 CFR Part 5001, 407, 454, 455 and 456 published on July 14, 2020 in *Federal Register* Vol. 85, page number 42494 which will be effective on October 1, 2020, the Agency is authorized to charge a guarantee fee, a periodic guarantee retention fee, a fee for the issuance of the loan note guarantee prior to construction completion and establish a loan guarantee percentage for guaranteed loans made under this rule loans. Pursuant to this and other applicable authority, and subject to the current appropriated authority, the Agency is establishing the following for FY 2021:

Loan Type	Guarantee Fee	Periodic Guarantee Retention Fee	Loan Guarantee Percentage	Fee for Issuance of Loan Note Guarantee Prior to Construction Completion
B&I	3.0%	0.5%	80%	0.5%
B&I Reduced Fee	1.0%	0.5%	80%	0.5%
CF	1.5%	0.5%	80%	0.5%
REAP	1.0%	0.25%	80%	0.5%
WWD	1.0%	N/A	80%	0.5%

The initial guarantee fee is paid at the time the loan note guarantee is issued. The periodic guarantee retention fee is paid by the lender to the Agency once a year. Payment of the periodic guarantee retention fee is required in order to maintain the enforceability of the guarantee. The fee for issuance of the loan note guarantee prior to construction

completion DOES NOT apply to all construction loans. This additional fee only applies to loans requesting to receive a loan note guarantee prior to project completion.

Unless precluded by a subsequent FY 2021 appropriation, these rates will apply to all guarantee loans obligated in FY 2021. The amount of the periodic retention fee on each guaranteed loan will be determined by multiplying the periodic retention fee rate by the outstanding principal loan balance as of December 31, multiplied by the percentage of guarantee.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in, or administering, USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

ALERT!

COVID-19/CORONAVIRUS INFORMATIONAL LINKS (/2020/3/covid-19-coronavirus-informational-links)

PRESS RELEASES (/PRESS-RELEASES)

Congressman Barr Tries to Spur Investment in Rural Communities with New Banking Bill (/press-releases?ID=116B3F0C-E0FE-492B-9429-BB06E5A2CBA5)

September 30, 2020

Washington, D.C. – Congressman Andy Barr (KY-06) proposed the “Promoting Access to Capital in Underbanked Communities Act of 2020,” to spur economic investment in rural communities in Kentucky by easing regulations that hinder bank formation. This proposal requires federal banking regulators to jointly issue rules to allow new banks up to three years to meet capital requirements otherwise applicable. It would also streamline existing banking regulations to promote banking services in underserved rural areas.

Bank closures and consolidations have negatively affected access to capital for small businesses, families and individuals throughout Kentucky and the U.S. Recently, a study (<https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf>) conducted by the Federal Reserve identified 44 counties “deeply affected” by these trends. As of 2012, these counties only had 10 or fewer bank branches and by 2017 had lost at least 50% of these bank branches. Nicholas County, Kentucky in the Sixth District is one of those deeply affected counties.

“Our pro-growth economic tax, regulatory and trade policies have helped power a great economic recovery since the COVID-19 pandemic began in the U.S.,” **said Congressman Barr.** “That being said, we still have work to do. Access to capital is critical to sustained economic growth, prosperity and success in any community. This proposal will incentivize the formation of new community banks in underserved areas.”

“I thank Congressman Barr for his continued support for small community banks and the areas they serve,” said **Corey Craig, President and Chief Executive Officer of Citizens Bank in Mount Vernon and Chairman of the Bluegrass Community Bankers Association**. “This bill would expand access to capital in rural areas and help promote financial inclusion for underbanked Kentuckians.”

###

Permalink: <https://barr.house.gov/2020/9/congressman-barr-tries-to-spur-investment-in-rural-communities-with-new-banking-bill> (<https://barr.house.gov/2020/9/congressman-barr-tries-to-spur-investment-in-rural-communities-with-new-banking-bill>)

Today to discuss:

- Goals for panels
- Consensus on topics and any additional ones needed
- Follow up on BFR and Best Practices Panels

Overview of Afternoon session:

Discuss best practices for collaboration between USDA and private lenders at the local level. Roundtable or moderated discussion with field FSA loans staff, a regional FSA beginning farmer coordinator, and loan officers/staff from lenders in regions seeing high rates of success.

- **Success stories**

- Examples of successful BFs who utilized the guaranteed loan program
- Examples of times that the lender and/or FSA went above and beyond to serve a BF
- Examples of a joint BFR event, joint training, etc.

- **Improving communication**

- FSA providing a troubleshooting outlet that lenders can use to help with operational problems and issues of program consistency
 - Examples of times where this may have helped work through an issue
 - Discuss ideas of how to implement without burning bridges – mediation?
- Coming together for a joint meeting with the borrower when multiple lenders and FSA are involved

- **Leveraging resources**

- Increasing joint training and outreach efforts
 - Inviting each other to BFR lending events
 - Joint training modules on collaboration between FSA and lenders
- Lenders referring BRF to FSA when they are unable to provide credit, and vice versa