

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.”

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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 to 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, it 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