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Part IV

Farm Credit Administration

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12 CFR Chapter VI  
Board Policy Statements; Rule

**FARM CREDIT ADMINISTRATION****12 CFR Chapter VI****Board Policy Statements****AGENCY:** Farm Credit Administration.**ACTION:** Policy statements.

**SUMMARY:** The Farm Credit Administration (FCA) Board recently undertook its 5-year review of FCA Board policy statements. This review resulted in revisions to 14 policy statements that are mostly technical, grammatical, or syntactical. However, a few of the revisions add clarity to the policy statements and other revisions incorporate changes required either by new laws or by changes in the functional statement of operations for some FCA offices.

**DATES:** The effective date is indicated on each individual policy statement set forth below.

**FOR FURTHER INFORMATION CONTACT:** Wendy Laguarda, Assistant General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean Virginia 22102-5090, (703) 883-4020, TTY (703) 883-4020.

**SUPPLEMENTARY INFORMATION:** A list of the 14 revised FCA Board policy statements and the text of each are set forth below in their entirety. All FCA Board policy statements may be viewed on FCA's Web site. Please go to <http://www.fca.gov>. Then select "Laws & Regulations," then select "FCA Handbook," then select "FCA Board Policy Statements."

**FCA Board Policy Statements**

- FCA-PS-37 Communications During Rulemaking
- FCA-PS-41 Alternative Means of Dispute Resolution
- FCA-PS-44 Travel
- FCA-PS-53 Examination Philosophy
- FCA-PS-59 Regulatory Philosophy
- FCA-PS-62 Equal Employment Opportunity and Diversity
- FCA-PS-64 Rules for the Transaction of Business of the Farm Credit Administration Board
- FCA-PS-65 Release of Consolidated Reporting System Information
- FCA-PS-68 FCS Building Association Management Operations Policies and Practices
- FCA-PS-71 Disaster Relief Efforts by Farm Credit Institutions
- FCA-PS-72 Financial Institution Rating System (FIRS)
- FCA-PS-77 Borrower Privacy
- FCA-PS-78 Official Names of Farm Credit Institutions
- FCA-PS-79 Consideration and Referral of Supervisory Strategies and Enforcement Actions

**Communications During Rulemaking***FCA-PS-37**Effective Date:* 08-JUL-11.

*Effect on Previous Actions:* Replaces previous Farm Credit Administration (FCA or Agency) Board policy on public communications during a rulemaking, adopted March 25th, 1992. See 57 FR 11083, April 1, 1992. Amended by NV-11-15 (8-JUL-11).

*Source of Authority:* None.

The FCA Board finds that it is in the public interest and consistent with the requirements of the Administrative Procedure Act to revise its policy on communications with the public during the rulemaking process.

**The FCA Board Hereby Adopts the Following Policy Statement**

In keeping with the need to ensure an open, freely accessible, and well-informed rulemaking process while balancing the need for impartiality and fairness, the FCA adopts the following guidelines governing substantive oral communications between the public and Board members and staff during the course of a related rulemaking.

**Before a Rulemaking Begins**

Unrestricted communication with the public before rulemaking begins supports and promotes the Agency's efforts to design creative and effective regulatory policy. No specific guidelines apply to that communication.

**From Publication of Notice of Proposed Rulemaking to the End of the Comment Period**

After a particular rulemaking has begun with publication of a notice of proposed rulemaking (including publication of an advance notice of proposed rulemaking), FCA encourages members of the public to provide written comments during the public comment period. All written comments are placed in a public file, where they are available for examination and copying during normal business hours. The comments receive careful consideration and become part of the public record of the rulemaking.

Where appropriate, FCA may also conduct public hearings or open meetings to take testimony or hold discussions on a rulemaking. Such opportunities for comment from the public will be announced in advance and the comments received will be placed in the public rulemaking file.

Substantive oral communications during the comment period between FCA personnel, including Board members and staff, and members of the public regarding the subject of an

ongoing rulemaking will be summarized in writing and placed in the public rulemaking file. While FCA personnel are always available to explain or clarify proposed rules, if an individual wants to engage FCA personnel in substantive discussion concerning a published proposed rule, he or she should first file a written comment covering the matter to be discussed, particularly if he or she has not already filed a written comment. If new substantive comments are discussed, FCA staff will reduce the substance of such comments to writing, promptly place it in the public rulemaking file, and urge the individual to submit a written comment.

**From the Close of the Comment Period to the Adoption of the Final Rule**

From the close of the comment period until adoption of the final rule, substantive discussions between members of the public and FCA personnel relating to the proposed rule should be curtailed. In the interest of fairness, if new facts or arguments must be brought to the attention of the FCA, the communication must be in writing so that it can promptly be placed in the public rulemaking file.

FCA believes these guidelines will help ensure a complete rulemaking record for future agency consideration of the rule or in the event of court review. Further, FCA strongly believes that the rulemaking process must be open and evenhanded in order to avoid even the appearance of impropriety or undue influence that might arise from private communication during certain periods. Finally, if a substantive comment on a proposed rule were transmitted to FCA in a private communication that did not become part of the public record, other members of the public would not have an opportunity to respond to any new arguments or facts contained in that communication. Because FCA believes that its rulemaking process benefits from give and take among commenters who are able to consider each others' comments, this policy statement requires all comments to be placed in the public rulemaking file.

This policy statement does not apply to public communications regarding any rulemaking issue unless and until the matter becomes the subject of a notice of proposed rulemaking. Nothing in the policy statement is meant to affect the ability of FCA to use negotiated rulemakings, open meetings or other types of public forums to augment its rulemaking under section 553 of the Administrative Procedure Act.

Dated this 8th day of July 2011.

By Order of the Board.  
Dale L. Aultman,  
Secretary to the Board.

### Alternative Means of Dispute Resolution

FCA-PS-41

*Effective Date:* 8-JUL-11.

*Effect on Previous Action:* Originally adopted 16-JUL-92 (see 57 FR 33198, July 27, 1992); amended 30-MAY-96; amended 10-FEB-97; amended by NV-11-15 (8-JUL-11).

**Source of Authority:** Administrative Dispute Resolution Act of 1996, Public Law 104-320, 110 Stat. 3870 (1996), and codified at 5 U.S.C. 571 *et seq.*

The Administrative Dispute Resolution Act of 1996 (Act), addresses the concern that traditional methods of dispute resolution, such as litigation and administrative adjudication, have become increasingly time-consuming and expensive. The Act authorizes and encourages greater use of alternative means of dispute resolution (ADR), requiring each Federal agency to adopt a policy addressing the use of ADR.

ADR consists of informal, voluntary procedures used by parties who seek to resolve their disputes by consent. Such procedures include, but are not limited to, mediation, conciliation, facilitation, fact-finding, arbitration, and mini-trials, or any combination thereof. By emphasizing the common goals of the parties and fostering an atmosphere of cooperation, ADR can offer a less contentious and more expeditious alternative to traditional methods of dispute resolution such as litigation and administrative adjudication.

The use of ADR in appropriate circumstances is consistent with the Farm Credit Administration's (FCA or Agency) mission as an agency. To promote a safe and sound, competitive Farm Credit System, the FCA always strives to effectively and efficiently manage its resources. By expediting the resolution of certain disputes, ADR can reduce the FCA's transaction costs, increase the FCA's productivity, and help the FCA accomplish its goals.

### The FCA Board Hereby Adopts the Following Policy Statement

It is the policy of the FCA to resolve disputes in an effective and efficient manner. Many of the disputes encountered by the FCA are resolved most effectively and efficiently through settlement negotiations between the FCA and the other parties to the disputes prior to the initiation, or in the early stages of, more formal litigation or administrative adjudication. The FCA will continue to use settlement

negotiations as a method of dispute resolution.

In addition, the FCA will consider whether it is appropriate to use ADR when a dispute arises. In assessing the advisability of using ADR procedures, as defined in 5 U.S.C. 571(3), the FCA will consider whether such procedures are likely to reduce the FCA's transaction costs, increase the FCA's productivity, and help the FCA accomplish its goals of effective regulations and policies and the enhancement of FCA's effectiveness and cost efficiency. The FCA will also consider the factors set forth in 5 U.S.C. 572(b) in deciding whether it is appropriate to use such ADR procedures.

The FCA's Dispute Resolution Specialist (ADR Specialist), designated by the Chairman, is responsible for the implementation of this policy statement. The ADR Specialist is available to assist FCA personnel in considering the appropriate application of ADR procedures. Before deciding whether it is appropriate to use an ADR procedure, FCA personnel will consult with, and obtain the concurrence of, the ADR Specialist or his or her designee.

The ADR Specialist and those FCA personnel involved in resolving disputes are encouraged to attend educational and training programs relating to the theory and application of ADR on a regular basis, as the FCA budget permits.

Based on the voluntary nature of ADR, all parties to a dispute must agree to use an ADR procedure before it can be initiated.

Dated This 8th day of July 2011.

By Order of the Board.  
Dale L. Aultman,  
Secretary to the Board.

### Travel

FCA-PS-44

*Effective Date:* 8-JUL-11.

*Effect on Previous Actions:* Originally adopted 13-JUN-91; amended 12-NOV-92; amended by NV-11-15 (8-JUL-11).

**Source of Authority:** 5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 12 U.S.C. 2242 (Section 5.8 of the Farm Credit Act of 1971, as amended), 41 CFR part 301.

### The FCA Board Hereby Adopts the Following Policy Statement

Members of the Farm Credit Administration (FCA or Agency) Board are not subject to the same requirements regarding allowances for travel and subsistence that generally apply to

officers and employees of the United States (§ 5.8 of the Farm Credit Act of 1971, as amended). Nevertheless, it is the general policy of the FCA Board (Board) that Board members will travel on official business in the most economical fashion reasonable under the circumstances.

FCA Board members are subject to Federal laws, rules, and Executive Orders relating to conflicts of interest that may result from accepting gifts, including travel related expenses, from outside sources. Generally, Board members may not accept anything of value from:

- A person seeking official action from, doing business with, or conducting activities regulated by the FCA, or
- A person whose interests may be substantially affected by the performance or nonperformance of our official duties.

Such persons are *prohibited sources*. (See Executive Order 12674, as amended; 5 U.S.C. 7353; and 5 CFR part 2635, the Executive Branch-wide standards of ethical conduct issued by the Office of Government Ethics.) An organization is also a *prohibited source* if more than half of its members are *prohibited sources*.

The gift rule under the standards of ethical conduct and the Agency's gift acceptance authority at 31 U.S.C. 1353 outline the limited circumstances in which government officials may accept gifts and the payment of travel expenses from outside sources. Unless an exception applies, ethics rules prevent Board members from accepting gifts offered because of their official positions. Under no circumstances may Board members accept anything of value in return for being influenced in the performance of an official act. The aim of these rules is to prevent an actual conflict of interest or the appearance of a conflict and to uphold public confidence in the integrity of the Government and the Agency.

Except as noted above, third parties may not pay for official Agency expenditures. Because the Agency is responsible for the cost of conducting official business, Board members will ensure that the Agency is billed directly for travel expenses whenever possible (for example, by using a Government issued credit card for travel expenses). On those occasions when direct Agency payment is impossible or impractical (for example, a large group business dinner arranged and paid for in advance by the organizer), Board members will promptly notify the Agency of the obligation and ensure that the payer is promptly reimbursed. Board Members

recognize that it is important not to create the impression that a third party, particularly a prohibited source, is paying for their expenses.

### Travel

#### Transportation

Board members will use less than first-class accommodations for all modes of transportation except in circumstances where:

1. A Board member must use first-class accommodations because no other space accommodations are reasonably available or where other practical considerations exist (such as to accommodate a disability or other special need);
2. Exceptional security circumstances require it;
3. The conduct of Agency business requires it; or
4. A Board member receives first-class travel benefits on an unsolicited basis from a carrier (such as free first-class coupons) and the benefit cannot be used by the Agency either in the present or the future, cannot be redeemed for cash value, and does not require the redemption of official miles. Under these circumstances, Board members can use the first-class benefit for either official or personal travel.

Board members will use a commercial charter flight at Agency expense only when no commercially scheduled flights are available in time to meet the requirements of the travel or when the charter flight would be more economical than a commercial flight. Board members will avoid the use of private aircraft whenever possible and use them only where commercial or charter flights are not reasonably available or would impose undue hardships. When reporting travel expenses, Board members must adequately justify the use of a commercial charter flight, private aircraft, or first-class accommodations.

#### Lodging

When available and practical, Board members will book lodging at the Government rate or another available reduced rate at hotels and motels. When attending a convention, meeting, or other official activity, Board members will ordinarily obtain lodging at the hotel or motel holding the activity even if reduced rates are available elsewhere. Board members may also book more than one room when necessary for the conduct of official business on the premises.

The Agency will not ordinarily reimburse Board members for lodging in the metropolitan Washington, DC, area.

However, lodging may be necessary to take full advantage of a conference.

#### Other Expenses for Official Activities

The FCA will reimburse Board members for the usual and reasonable expenses incurred as a consequence of official activities in the Washington, DC, metropolitan area and in other locations. The Agency will allow the repayment of expenses for:

1. Transportation costs;
2. Meal costs;
3. Registration fees or other fees assessed for attendance or participation;
4. The cost of miscellaneous supplies needed to participate in a particular function or activity; and
5. Other costs we incur by participating in official activities.

The Agency will *not* allow reimbursement of expenses for official activity incurred on behalf of other persons, including relatives, except as provided in the Board policy on Official Function (Representation and Reception) Expenses.

#### Form of Payment

Board members will arrange for official travel using the Agency's travel management system whenever possible. Although Board members may use cash to pay for official travel expenses and seek repayment from the Agency afterwards, whenever possible, the preferred method of payment will be the use of the Government-issued credit card for all official travel expenses.

#### Receipts

When filing claims for reimbursement of travel expenses, Board members will provide receipts for expenses as normally required of other FCA employees under the Federal Travel Regulation, which currently requires receipts for all lodging and travel expenses over \$75. However, failure to provide a receipt as normally required is not grounds for denial of a claim. If a receipt is not available, Board members will provide a statement explaining the nature and amount of the expense and the reason for not having a receipt.

#### Combining Official Business Travel With Personal Activities

Although it is permissible to engage in personal activities while on official travel, the purpose of the trip must always be the need to conduct official business. The Agency pays for travel and related expenses incurred in performing official business. However, the Agency may not pay for personal expenses incurred while on official travel. Therefore, it is important to

record and allocate expenses carefully to ensure that official expenses are clearly differentiated from personal expenses. Proper handling of Agency expenses is always important, but particularly so when engaging in personal activities while on official Agency business.

The Board is aware that, in certain circumstances, engaging in personal activities while on official travel could create an appearance that personal activities, not official business, prompted the trip. When Board members take a trip to conduct official business, it is usually clear from the nature of the business that the trip is proper and necessary. If there are concerns that personal activities during the trip might suggest otherwise, Board members will consult the DAEO to avoid a possible appearance of impropriety. The Board understands that engaging in official travel that involves a given destination (for example, our home state) on a disproportionate basis may raise questions about whether the travel truly is necessary. Again, Board members will consult with the DAEO about such concerns.

Dated This 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

### Examination Philosophy

#### FCA-PS-53

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Responds to NV 93-04 (15-JAN-93) and Amends FCA Policy Statement 53 dated 15-JUL-93; amended by NV-11-15 (8-JUL-11).

**Source of Authority:** Sections 5.9 and 5.19 of the Farm Credit Act of 1971, as amended.

#### The Farm Credit Administration (FCA or Agency) Board Hereby Adopts the Following Policy Statement

This policy provides a general philosophy and direction for the examination and oversight of the Farm Credit System (System).

The FCA Board provides for the examination and supervision of each System institution in accordance with the Farm Credit Act of 1971, as amended (the "Act"). The Board fulfills this responsibility primarily through the Office of Examination (OE). The FCA fulfills its supervision and examination responsibilities for Farmer Mac, a separate government-sponsored enterprise, through its Office of Secondary Market Oversight. OE develops oversight plans, conducts examinations, monitors the System's condition, current and emerging risks,

and develops supervisory strategies to ensure that the System operates in a safe and sound manner and fulfills its public policy purpose. The Act also provides that the Farm Credit System Insurance Corporation (FCSIC) Board of Directors should utilize FCA examiners to conduct examinations of System institutions, to the extent practicable.

#### *Oversight and Examination*

The FCA Board directs the maintenance of a “risk-based” approach to oversight and examination for System institutions, which maximizes OE’s effectiveness and strategically addresses the System’s safety and soundness and compliance with laws and regulations. The amount of examination resources devoted to a System institution and the scope of an examination will depend on an institution’s ability to identify and manage its risks. Accordingly, oversight and examination efforts will be heightened and accompanied by appropriate preventive, corrective, or enforcement actions when institutions are unable or unwilling to address material unsafe and unsound practices or comply with law and regulations. This risk-based approach is critical to maintaining shareholder, investor, and public confidence in the financial strength and future viability of the System.

#### *Examination Staff and Communications*

The risk-based approach must promote effective communications with System institutions. Examiners are an essential communication link with System institutions through ongoing institution oversight, on-site examinations, meetings with boards and management, and written reports and correspondence. The examination program shall therefore maintain adequately trained examiners who understand the unique risks and opportunities of agriculture, maintain an appropriate level of regulatory and financial industry experience and skills, and communicate and work effectively with System institutions to ensure they remain safe and sound and able to fulfill their public policy purpose.

#### *Reporting to the FCA Board*

Annually, the Chief Examiner will provide the Board an annual oversight and examination plan (plan) for approval. This plan will:

- Assess the condition of and risks affecting the System at large and in specific institutions;
- Establish priorities and identify staffing, training, and budgetary needs;

- Include an examination schedule that ensures statutory requirements are met; and,

- Include operational objectives and strategies for meeting the plan.

The Chief Examiner will report semi-annually to the Board on the status of, and proposed adjustments to, the plan. The Chief Examiner will also report quarterly on the current condition of the Farm Credit System, emerging risks, and any necessary follow-up strategies.

Dated This 8th Day of July 2011.

By Order of the Board.

Dale L. Aultman,  
*Secretary to the Board.*

#### **Regulatory Philosophy**

*FCA-PS-59*

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Originally adopted BM-17-FEB-94-02 (*see* 59 FR 32189, June 22, 1994); *see also* 60 FR 26034, May 16, 1995; amended by NV-11-15 (8-JUL-11).

**Sources of Authority:** Farm Credit Act of 1971, as amended; 12 U.S.C. 2001 *et seq.*

#### **The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement**

The FCA shall develop regulations consistent with its authorities under the Farm Credit Act of 1971 (Act), as amended, and other relevant statutes. It is the FCA Board’s philosophy to (1) promulgate regulations that are necessary to implement the law; (2) support achievement of the Farm Credit System’s (System) public mission; and (3) ensure the System’s safety and soundness.

The FCA Board will strive to create an environment that promotes the confidence of customers and shareholders, investors, Congress, and the public in the System’s financial strength and future viability. The FCA Board believes that safe and sound operations of System institutions will instill: (a) Investor confidence in System debt securities, which helps ensure that adequate funds are available at reasonable rates; and, (b) shareholder/member confidence in each cooperatively owned System institution by ensuring that sufficient financial resources are maintained to support an adequate supply of credit and other services to its shareholders/members in both good and bad times.

FCA will give high priority to issues that enable the System to more effectively accomplish its mission and to those issues that pose significant risks to the successful operation of the System, with the intent of ensuring an adequate and flexible flow of money

into rural areas. As such, the FCA Board intends to provide System institutions with the flexibility consistent with changes in law, agriculture, and rural America so institutions can offer high quality, reasonably priced credit and related services to farmers, ranchers, their cooperatives, rural residents, and other entities upon which farming operations are dependent.

The strategies for accomplishing the Board’s regulatory philosophy are as follows:

1. We will develop regulations based on a reasoned determination that benefits of any proposed regulation justify its cost.

2. We will focus our regulatory efforts on issues that address identified risks in System institutions or enhance the ability of System institutions to better meet the needs of agriculture and rural America. Preambles to regulations will explain the rationale for the regulatory approach adopted.

3. We will utilize diverse approaches to encourage public participation in the development and review of regulatory proposals in appropriate circumstances.

4. We will emphasize the cooperative principles of a farmer-owned Government-sponsored enterprise by advancing regulatory proposals that encourage farmer- and rancher-borrowers to participate in the management, control, and ownership of their institutions.

5. We will work to eliminate unnecessary regulations that impair the ability of the System to accomplish its mission to serve agriculture and rural America and any regulations that are unduly burdensome, costly, or not based on the law.

The details of how the FCA will implement these strategies will be described in the Agency’s Five-Year Strategic and Annual Performance Plans and in its Unified Agenda.

Semi-annually, the Director of the Office of Regulatory Policy (ORP) will provide the Board a proposed Unified Agenda for approval. The Unified Agenda will describe the regulatory projects the Agency plans to work on during the next 12 month period and apply the principles and strategies reflected in this policy. Quarterly, the ORP Director will report to the Board on the status of, and proposed adjustments to, regulatory projects scheduled on the Unified Agenda.

Dated this 8th Day of July 2011.

By Order of the Board.

Dale L. Aultman,  
*Secretary to the Board.*

## Equal Employment Opportunity Programs and Diversity

FCA-PS-62

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Updates FCA-PS-62 [BM-13-JUL-06-03] (71 FR 46481, 8/14/2006) 7-13-06; amended by NV-11-15 (08-JUL-11).

**Sources of Authority:** Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e *et seq.*); Age Discrimination in Employment Act (29 U.S.C. 621 *et seq.*); Rehabilitation Act of 1973, as amended (29 U.S.C. 721 *et seq.*); Equal Pay Act of 1974 (29 U.S.C. 206(d)); Civil Service Reform Act of 1978 (5 U.S.C. 3112); Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (NO FEAR Act) (5 U.S.C. 2301); Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff *et seq.*); section 5.9 of the Farm Credit Act of 1971, as amended (12 U.S.C. 2243); Executive Order 11478 (Equal Employment Opportunity in the Federal Government), as amended by Executive Orders 13087 and 13152 to include prohibitions on discrimination based on sexual orientation and status as a parent; Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency); 29 CFR part 1614; Equal Employment Opportunity Commission Management Directives.

### Purpose

The Farm Credit Administration (FCA or Agency) Board reaffirms its commitment to Equal Employment Opportunity (EEO) and Diversity (EEOD) and its belief that all FCA employees should be treated with dignity and respect. The Board also provides guidance to Agency management and staff for deciding and taking action in these critical areas.

### Importance

Unquestionably, the employees who comprise the FCA are its most important resource. The Board fully recognizes that the Agency draws its strength from the dedication, experience, and diversity of its employees. The Board is firmly committed to taking whatever steps are needed to protect the rights of its staff and to carrying out programs that foster the development of each employee's potential. We believe an investment in efforts that strongly promote EEOD will prevent the conflict and the high costs of correction for taking no, or inadequate, action in these areas.

### The Farm Credit Administration (FCA) Board Adopts the Following Policy Statement

It is the policy of the FCA to prohibit discrimination in Agency policies, program practices, and operations.

Employees, applicants for employment, and members of the public who seek to take part in FCA programs, activities, and services will be treated fairly. FCA, under the appropriate laws and regulations, will:

- Ensure equal employment opportunity based on merit and qualification, without discrimination because of race, color, religion, sex, age, national origin, disability, sexual orientation, status as a parent, genetic information, or participation in discrimination or harassment complaint proceedings;
- Provide for the prompt and fair consideration of complaints of discrimination;
- Make reasonable accommodations for qualified applicants for employment and employees with physical or mental disabilities under law;
- Provide an environment free from harassment to all employees;
- Create and maintain an organizational culture that recognizes, values, and supports employee and public diversity and inclusion;
- Develop objectives within the Agency's operation and strategic planning process to meet the goals of EEOD and this policy;
- Implement affirmative programs to carry out this policy within the Agency; and
- To the extent practicable, seek to encourage the Farm Credit System to continue its efforts to promote and increase diversity.

### Diversity and Inclusion

The FCA intends to be a model employer. That is, as far as possible, FCA will build and maintain a workforce that reflects the rich diversity of individual differences evident throughout this Nation. The Board views individual differences as complementary and believes these differences enrich our organization. When individual differences are respected, recognized, and valued, diversity becomes a powerful force that can contribute to achieving superior results. Therefore, we will create, maintain, and continuously improve on an organizational culture that fully recognizes, values, and supports employee diversity. The Board is committed to promoting and supporting an inclusive environment that provides to all employees, individually and collectively, the chance to work to their full potential in the pursuit of the Agency's mission. We will provide everyone the opportunity to develop to his or her fullest potential. When a barrier to someone achieving this goal

exists, we will strive to remove this barrier.

### Affirmative Employment

The Board reaffirms its commitment to ensuring FCA conducts all of its employment practices in a nondiscriminatory manner. The Board expects full cooperation and support from everyone associated with recruitment, selection, development, and promotion to ensure such actions are free of discrimination. All employees will be evaluated on their EEOD achievements as part of their overall job performance. Though staff commitment is important, the role of supervisors is paramount to success. Agency supervisors must be coaches and are responsible for helping all employees develop their talents and give their best efforts in contributing to the mission of the FCA.

### Workplace Harassment

It is the policy of the FCA to provide a work environment free from unlawful discrimination in any form, and to protect all employees from any form of harassment, either physical or verbal. The FCA will not tolerate harassment in the workplace for any reason. The FCA also will not tolerate retaliation against any employee for reporting harassment or for aiding in any inquiry about reporting harassment.

### Disabled Veterans Affirmative Action Program (DVAAP)

A disabled veteran is defined as someone who is entitled to compensation under the laws administered by the Veterans Administration or someone who was discharged or released from active duty because of a service-connected disability.

The FCA is committed to increasing the representation of disabled veterans within its organization. Our Nation owes a debt to those veterans who served their country, especially those who were disabled because of service. To honor these disabled veterans, the FCA shall place emphasis on making vacancies known to and providing opportunities for employing disabled veterans.

### Responsibilities

The Chairman and Chief Executive Officer (CEO) is ultimately responsible for developing and carrying out all EEOD requirements and initiatives in accordance with laws and regulations to fulfill diversity initiatives in approved program plans.

To help in fulfilling these responsibilities the CEO, or designee, will fill the following positions:

- EEO Director and, as appropriate, EEO Coordinator(s);

- Special Emphasis Program

Managers required by law or regulation;

- EEO Counselors; and

- EEO Investigators.

Persons in these positions will perform their duties as specified by the CEO or designee and as required by law or regulation. The Head of each Agency office will make such persons available upon request from the EEO Director.

The CEO or EEO Director may also establish standing committees to deal with specific issues as they arise.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,

Secretary to the Board.

## Rules for the Transaction of Business of the Farm Credit Administration Board

FCA-PS-64

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Originally adopted by NV-94-05 (07-FEB-94)[FCA-PS-58]; corrected by memo 09-FEB-94; amended by NV-95-03 (13-JAN-95)[FCA-PS-64]; amended by NV-95-18 (20-MAR-95); amended by NV-95-46 (9-AUG-95); amended by BM-24-OCT-95-02; amended by NV-95-69 (02-JAN-96). *See also* 58 FR 6633, Feb. 1, 1993 and 59 FR 17537, Apr. 13, 1994; reaffirmed by NV-96-22 (30-MAY-96); amended by NV-96-36 (26-AUG-96); amended by NV-98-16 (8-MAY-98); amended by NV-99-09 (16-MAR-99); amended by NV-99-25 (24-SEP-99); amended by NV-11-15 (8-JUL-11).

**Source of Authority:** Sections 5.8, 5.9, 5.10, 5.11 and 5.17 of the Farm Credit Act of 1971, as amended.

### The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

*Rules for the Transaction of Business of the Farm Credit Administration Board*

Purpose, Scope, and Definitions

*Section 1. Purpose and Scope.* These Rules adopted under § 5.8(c) of the Farm Credit Act of 1971, as amended (Act), concerning the transaction of business of the Farm Credit Administration (FCA) Board (Board) supplement the statutes and regulations that govern the procedures and practice of the Board (including, without limitation, the Act, the Sunshine Act, and FCA regulations, 12 CFR 600 *et seq.*). Unless otherwise provided in these Rules, or relevant statutes or regulations, this Board will

transact its business in accordance with Robert's Rules of Order (Newly Revised) (most recent edition).

### *Section 2. Definitions, Reporting Relationships, and Performance Appraisals.*

- "Act" means the Farm Credit Act of 1971, as amended.

- "Board Member" means each of the three individuals appointed by the President, by and with the advice and consent of the Senate, to serve as Members of the Board, including the Chairman, unless the context requires otherwise. Each Board Member appraises the performance of his or her staff.

- "Board Member Staff" means those employees reporting directly to a Board member such as executive or special assistants, and who are organizationally located within the Office of the Board.

- "Chairman" means the Board Member designated by the President to serve as Chairman of the Board. The Chairman also serves as the Agency's Head and Chief Executive Officer (CEO). After consultation with the other Board Members, the Chairman appraises the performance of the Secretary, Equal Employment Opportunity Director, Designated Agency Ethics Official, Chief Operating Officer, and all Office Directors reporting directly to him or her.

- "Designated Agency Ethics Official" (DAEO) means an employee of the FCA designated by the Head of the Agency to administer the provisions of Title I of the Ethics in Government Act of 1978, to coordinate and manage the Agency's ethics program, and to provide liaison with the Office of Government Ethics on all aspects of FCA's ethics program. The DAEO reports directly to the Chairman on the Agency's ethics program.

- "Equal Employment Opportunity (EEO) Director" means an employee of the FCA designated by the Head of the Agency to administer the provisions of the Agency's EEO program as set forth in 29 CFR part 1614.

- "General Counsel" (GC) means an employee of the FCA who serves as the chief legal officer of the Board. The GC reports to the Chairman concerning administrative matters and to the FCA Board on matters of Agency policy. By the nature of the position the GC, as appropriate and necessary, maintains special advisory relationships in confidence with the individual Board Members. The GC must also keep the FCA Board fully informed of all litigation in which the Agency is involved.

- "Inspector General" (IG) means an appointed head of the Office of

Inspector General (OIG), an independent component of the FCA, established by and responsible for adhering to the IG Act of 1978, as amended. The purpose of the IG is to promote economy, efficiency and effectiveness, and to prevent and detect fraud and abuse in the programs and operations of FCA.

- "Office Director" means an employee of the FCA serving as head of an FCA Office, excluding the Inspector General unless specified.

- "Secretary" means an employee of the FCA who serves as Secretary to the Board as appointed by the Chairman. The Secretary, or another FCA employee designated by the Chairman, serves as the parliamentarian for the Board. The Secretary keeps permanent and complete records and minutes of the acts and proceedings of the Board.

- "Sunshine Act" means the Government in the Sunshine Act, 5 U.S.C. 552b.

### Amendments

*Section 1.* The business of the Board will be transacted in accordance with these Rules, which may be amended from time to time: Provided, however, that upon agreement of at least two Board Members convened in a duly called meeting, the Rules may be waived in any particular instance, except that action may be taken on items at a Special Meeting only in accordance with part I, Article I, § 3(b) of this policy.

*Section 2.* These Rules may be changed or amended by the concurring vote of at least two Board Members upon notice of the proposed change or amendments having been given at least thirty days before such vote.

*Section 3.* These Rules will be reviewed by the Board at least every five years or as needed.

*Section 4.* The Secretary to the Board is hereby delegated authority to make technical, syntactical, and grammatical changes to any Board Policy, provided a redlined complete copy of the policy(ies) is given to each Board member that clearly details each change made at least 30 days prior to the effective date of the change. Any Board member may, within the 30 day period, stop the proposed changes(s) and, if a Board member so desires, put forth the matter for Board consideration.

### Part I—Rules for the FCA Board Meetings

Article I. Board Meetings.

Article II. Board Action.

Article III. Board and Chairman Delegations.

**Article I***Board Meetings*

*Section 1. Sunshine Act.* All FCA Board meetings will be announced and conducted in conformance with the Government in the Sunshine Act.

*Section 2. Presiding Officer.* The Chairman will preside at each meeting. In the event the Chairman is unavailable, the other Board Member from the Chairman's political party will preside. If there is no other Board Member from the Chairman's political party, the Board Member serving the longest on the Board will preside.

*Section 3. Calls and Agenda.*

(a) *Regular Meeting.* The Secretary, at the direction of the Chairman, issues a call for items for the agenda to the other Board Members and the Office Directors of FCA. The Secretary provides to the Chairman a list of all the items submitted, including a list of outstanding notational votes and matters voted "not appropriate for notational vote." The Chairman then establishes the agenda to be posted on the Agency's public notice board or on its public Web site at least 1 week before the meeting. The agenda will also be published in the **Federal Register** at least 3 calendar days before the meeting date. At each meeting, the Board votes to approve or amend the agenda established by the Chairman. The Board may amend the agenda to add items that the Board Members believe need to be considered at that meeting.

(b) *Special Meeting.* Special meetings of the Board may be called:

- (1) By the Chairman; or
- (2) By the other two Board Members;

or

(3) If there is at the time a vacancy on the Board, by a single Board Member.

Any call for a Special Meeting will specify the business to be transacted and state the place and time of such meeting. No business will be brought before a Special Meeting that has not been specified in the notice of call of such meeting without the unanimous consent of all Board Members.

(c) *Notice.* The Secretary will give appropriate notice of any and all meetings and make the call for Special meetings. Reasonable efforts to provide such notice to Board Members will be made for all meetings of the Board, but failure of notice will in no case invalidate a meeting or any action taken during that meeting.

*Section 4. Board Materials.* The Secretary will distribute complete Board Meeting Books to each Board Member and their staff at least three full business days before any Regular Meeting. There may be instances when the proposed

Board meeting agenda approved by the Chairman may need to be amended prior to a Board meeting to include items that require Board action. In such instances the Secretary will update the Board meeting books with the newly approved item(s) and make the required Sunshine Act disclosures and notices as soon as possible. However, unless agreed to by all Board Members, no vote may be taken on an issue unless the necessary material has been provided to the Board Members not less than twenty-four hours before the meeting to consider such issue.

*Section 5. Supporting Documentation.* The Secretary will maintain one copy of all Board Meeting Book material. All copies of the Board Meeting Book material for Closed Sessions provided to anyone other than the Secretary will be returned to the Secretary for disposal or maintained in a secure location approved by the Secretary. One copy of each Executive Summary provided to a Board Member will be provided to and maintained by the Secretary. Board Meeting Books and Executive Summaries are not part of the minutes of the Board unless expressly incorporated therein.

*Section 6. Telephone Conference.* Any Board Member, including the Chairman, may participate in a meeting of the Board through the use of conference call telephone or similar equipment, provided that all persons participating in the meeting can simultaneously speak to and hear each other. Any Board Member so participating will be deemed present at the meeting for all purposes.

*Section 7. Public Attendance.*

(a) *Attendance.* Members of the public may attend all meetings of the Board except those meetings or portions of meetings that are closed as directed by the Board, consistent with the Sunshine Act.

(b) *Public Appearances before the Board.* While members of the public are invited and encouraged to attend Board meetings, no member of the public has a right to speak in a Board meeting. However, the Board may, in its sole discretion, permit a member of the public to address the Board if he or she provides a written request and statement covering the intended subject matter at least fifteen days before the meeting.

*Section 8. Minutes.*

(a) *Format.* The format of minutes of the Board meetings, unless otherwise stated in these rules or relevant statutes or regulations, will comply with the most recent edition of Robert's Rules of Order and the Sunshine Act. The minutes will clearly identify the date, time, and place of the meeting, the type

of meeting held, whether the meeting was open or closed, the identity of Board Members present and, where applicable, that they participated by telephone, and the identity of the Secretary and the GC in attendance, or, in their absence, the names of the persons who substituted for them. The minutes will contain a separate paragraph for each subject matter and will note all main motions or motions to bring a main motion before the Board, except any that were withdrawn. The minutes will not contain any reference to statements made unless a request is specifically made that a statement be made a part of the minutes, or if required by the Sunshine Act. The minutes of meetings will indicate the substance and disposition of any notational votes completed since the last meeting. Except in the case of a voice vote, the Secretary will record the vote of each Board Member on a question or will note a unanimous consent. The Chairman and the Secretary will sign the minutes of the Board meeting, indicating the date of approval by the Board.

(b) *Circulation.* The Chairman and GC will review draft minutes. The Secretary will circulate draft minutes to all Board Members at least one week before their consideration at a Board Meeting. The Secretary will place in all Board Meeting Books copies of the minutes of the meetings of the Board to be voted on at a Board Meeting.

**Article II***Board Action*

*Section 1. Affirmative Vote Required.* Action on any matter requires the affirmative vote of at least two Board Members, except as provided in Article III, § 1 of this part.

*Section 2. Records of Board Action.*

(a) *Meetings.* The vote of each Board Member, including the Chairman, on a question voted on at a meeting will be recorded in the minutes. The Chairman may, if there is no objection, call for a voice vote on adjournment or other actions. If a voice vote is taken, its result will be recorded in the minutes.

(b) *Notational Votes.* The Secretary will provide a summary of any action taken by notational vote to the Board Members and Chairman and the action taken will be reflected in the minutes of the next meeting of the Board.

*Section 3. Notational Voting.*

(a) Nothing in these Rules precludes the transaction of business by the circulation of written items (notational votes) to the Board Members.

(b) The Board may use notational voting procedures to decide any matter



that may come before it. Any Board Member may submit a motion to the Secretary for distribution as a notational vote. However, in view of the public policy of openness reflected in the Sunshine Act and the desire to allow any Board Member to present viewpoints to the other Board Members, any Board Member can veto the use of the notational voting procedure for the consideration of any particular matter by voting "not appropriate for notational vote."

(c) Upon submission of an item for notational vote, the Secretary will provide each Board Member a complete package of all relevant information and a notational vote ballot specifying the Board Member making the motion, the motion itself, and the deadline for return of the ballot. Within ten business days of receipt, or earlier if the motion requires, each Board Member will act on the matter by returning the ballot to the Secretary. Each Board Member is to indicate his/her position in writing on the ballot in the following manner: (1) Approve, (2) disapprove, (3) abstain, or (4) not appropriate for notational vote.

(d) No partial concurrences or amendments are permitted; however, a Board Member may suggest a revision to the proponent of the motion, subject to compliance with the Sunshine Act, and the proponent may withdraw his or her motion at any time before receipt by the Secretary of all the ballots of all Board Members or the end of the time period provided for on the ballot.

(e) A Board Member who is absent from the office may authorize a staff member to initial the ballot for him/her, provided that the Board Member has a designation memorandum on file with the Secretary.

*Section 4. Board Records.* The Secretary will maintain the records of the Board including, without limitation, the minutes of the Board meetings and notational votes.

### Article III

#### *Board and Chairman Delegations*

*Section 1. Two Vacancies/Authority to Act.* In the event two Board Members are not available by reason of recusal, resignation, temporary or permanent incapacitation, or death, to perform the duties of their offices, the Board hereby delegates to the remaining Board Member the authority to exercise, in his/her discretion, the authorities of the FCA granted to the Agency or the Board by statute, regulation or otherwise, except those authorities which are non-delegable. This delegation of authority does not include authority to establish general policy and promulgate rules and

regulations, or any delegation expressly prohibited by statute. This delegation will include but is not limited to the exercise of the following powers:

(a) The approval of actions of the Farm Credit System (System) institutions that are required by statute, regulations or otherwise to be approved by the FCA or its Board;

(b) The exercise of all powers of enforcement granted to the FCA by statute, including but not limited to, the authorities contained in 12 U.S.C. 2154, 2154a, 2183, 2202a, and 2261–2274; and

(c) Any actions or approvals required in connection with the conduct of a receivership or conservatorship of a System institution.

Authorities delegated by this Section may be re-delegated, in writing, at the discretion of the remaining Board Member, to other FCA officers or employees.

*Section 2. National Security Emergencies.* Pursuant to Executive Order 12656, as amended, in the event of a national security emergency, if the Chairman is unable to perform his or her duties for any reason, the Chairman, at his or her sole discretion, delegates to the following individuals, in the order mentioned and subject to being available, the authority to exercise and perform all the functions, powers, authority and duties of the Chairman in an acting capacity until such time as either the Chairman can resume his/her position or, if no longer able to serve as Chairman, the President of the United States designates a new Chairman:

(a) Member of the Board of the Chairman's political party;

(b) If there is no other Board Member from the Chairman's political party, the Board Member serving the longest on the Board;

(c) General Counsel.

The Chairman or Acting Chairman will ensure that FCA has an alternative location for its headquarters functions in the event a national security emergency renders FCA's headquarters inoperative. The Chairman or Acting Chairman may establish such branch office or offices of the FCA as are necessary to coordinate its operations with those of other government agencies.

*Section 3. Individual Assignments.* To the extent consistent with law, the Board or the Chairman may offer another Member of the Board a special assignment and define the duties incident thereto, and the Chairman may delegate to another Board Member certain duties and responsibilities of the Chairman.

*Section 4. Other Delegations.* The FCA Board may delegate such

authorities as it deems necessary and appropriate. Such delegations are included in Attachments A and B to this policy.

### Part II—Board and Staff Governance

Article I. Board Governance.  
Article II. Staff Governance.

#### Article I

##### *Board Governance*

*Section 1. General.* The purpose of this part is to ensure the efficient operation of the FCA in light of the various authorities and operational responsibilities of Board and the FCA Chairman and CEO.

The Board recognizes that for the Agency to run efficiently, the Chairman/CEO must have sufficient latitude and discretion to direct the implementation of Board policies and run the Agency's day-to-day affairs. Notwithstanding such latitude, the other Board Members must have access to staff and must be able to request information from staff that they find necessary to fulfill their policy- and rulemaking responsibilities under the Act.

The Chairman/CEO is always free to bring to the Board issues that do not require Board action. Conversely, the Board may involve itself in operational matters ordinarily reserved for the Chairman/CEO if it concludes that they rise to the level of policy due to their sensitivity, seriousness, or controversial nature.

*Section 2. Board Authorities.* The Board, acting as a unit, must manage, administer, and establish policies for the FCA. The Board specifically approves the rules and regulations implementing the Act; provides for the examination, enforcement, and regulation of System institutions; provides for the performance of all the powers, functions, and duties vested in the FCA; and requires any reports deemed necessary from System institutions. The Board also adopts the FCA seal. Each Board Member has the authority to appoint and direct regular, full-time staff in his or her immediate office.

*Section 3. Chairman Authorities.* The Chairman, in carrying out his or her responsibilities, is governed by the general policies adopted by the Board and by such regulatory decisions, findings, and policy determinations as the Board may by law be authorized to make.

The Chairman, in carrying out policies as directed by the Board, acts as spokesperson for the Board and represents the Board and the FCA in official relations within the Federal

Government. Under policies adopted by the Board, the Chairman must consult on a regular basis with the Secretary of the Treasury concerning the exercise of the System's powers under § 4.2 of the Act; the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and the Secretary of Agriculture concerning the effect of System policies on farmer, ranchers, and the agricultural economy. As to third persons, all acts of the Chairman will be conclusively presumed to be in compliance with general policies and regulatory decisions, findings, and determinations of the Board.

The Chairman enforces the rules, regulations, and orders of the Board. The Chairman designates attorneys to represent the Agency in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships and in civil proceedings or civil actions when so authorized by the Attorney General under provisions of title 28 of the United States Code. The Chairman, subject to the approval of the Board, may establish one or more advisory committees in accordance with the Federal Advisory Committee Act.

The Chairman may not delegate any of the foregoing powers without prior Board approval.

The Chairman also exercises those powers conferred on the Head of the Agency, including the power to make certain designations.

**Section 4. CEO Authorities.** The Chairman of the FCA Board is also the Agency's CEO. The CEO, in carrying out his or her responsibilities, directs the implementation of policies and regulations adopted by the Board and, after consultation with the Board, executes the administrative functions and duties of the FCA.

"Consultation with the Board" is achieved when the Chairman/CEO makes a good faith attempt to seek advice, guidance, and input from the Board before taking significant action on matters related to the execution of administrative functions or duties.

The Chairman as CEO runs the day-to-day operations of the Agency. This includes the power to implement the policies and regulations adopted by the Board, appoint personnel as necessary to carry out Agency functions, set staff pay and benefits and direct staff. As provided in § 5.11(b) of the Act, the Chairman/CEO appoints heads of major administrative divisions subject to the approval of the Board. In accordance with the IG Act, the IG is appointed by the FCA Board.

The Chairman as CEO may designate to other FCA officers and employees the authority to exercise and perform those powers necessary for the day-to-day management of the Agency.

## Article II

### Staff Governance

**Section 1. Authority over Staff.** The Chairman/CEO has authority to hire the personnel necessary to carry out the mission of the Agency and to direct staff, except that each Board Member is entitled to appoint and direct his or her regular, full-time staff within the constraints of the adopted budget for the Office of the Board.

Subject to the approval of the Board, the Chairman/CEO appoints and removes the "heads of major administrative divisions." The Board defines the "heads of major administrative divisions" as all Office Directors who are career appointees. The Board must approve the conversion of an existing career position to a non-career (political) position. In accordance with the IG Act, a removal of the IG may only be made upon the written concurrence of a 2/3 majority of the FCA Board.

**Section 2. Organization Chart.** Consistent with its mandate to approve regulations and appointments outlined above, the Board approves the FCA organizational chart down through the Office level along with relevant functional statements for each Office. Authority to make organizational changes within any division rests with the Chairman/CEO, and may be delegated to the Chief Operating Officer or Office Directors. In accordance with the IG Act, the IG has personnel authority for the Office of the Inspector General.

## Part III—Board Operations

Article I. Committee and Financial Operations, and Other Activities.

Article II. Board Member Travel and Related Expenses.

### Article I

#### Committee and Financial Operations, and Other Activities

**Section 1. Committee Operations.** To assist the Board in exercising its authority for oversight and approval of the Strategic Plan, the formulation of regulations and policy, and the monitoring and assessment of risk, the Board directs the formation of three committees.

Each Committee Chair will be designated by the Chairman. Each committee will be comprised of the Board Members' Executive Assistants

and such Agency staff as determined by the Committee Chair. The Committee Chair will designate a Coordinator with expertise in, or significant accountability for, the activities of the committee. Committees will meet as often as determined by the Committee Chair to achieve committee objectives. The Chairman may also approve the use of external consultants to assist the committees on an as-needed basis.

(a) **Strategic Planning Committee.** The objective of this committee is to provide a forum for Board input on (1) the development of, and periodic updates to, the Strategic Plan, and (2) changes in processes and procedures that will improve the quality of this key Agency document.

(b) **Regulation and Policy Development Committee.** The objective of this committee is to provide a forum to (1) obtain Board input throughout the entire process of developing, modifying, or eliminating individual regulations, (2) discuss changes in processes and procedures that will improve the Agency's regulation and policy development process, and (3) foster open discussion during the development and periodic update of the Agency's regulatory agenda.

(c) **Risk Committee.** The objective of this committee is to provide a forum to (1) facilitate Board awareness of risks to the ongoing mission fulfillment and safety and soundness of the System and Farmer Mac, (2) ensure an integrated and coordinated Agency risk analysis process that effectively uses information from a wide variety of internal and external sources, and (3) foster open discussion about risks to the System and Farmer Mac and the implications of such risks for future Agency operations.

### Section 2. Financial Operations.

(a) **Budget Approval.** The Chairman, consistent with the provisions of the Act, other law and regulations, and applicable policy, oversees the development of budget proposals and causes the expenditure of funds within approved budgets to meet the Agency's mission and objectives. The Board approves an object class budget for the Agency as a whole and a budget for each office. Any reallocation of funds in excess of \$100,000 requires FCA Board approval. Reallocation of funds of \$100,000 or less requires the Chairman's approval (or that of the Chairman's designee). The Chief Financial Officer (CFO) will provide a monthly report to the Board on all budgetary reallocations that occur after the FCA Board approves a fiscal year budget. The CFO will also provide a quarterly budget report to the Board that discusses actual performance of the budgeted items. The quarterly

report may be presented during regular Board meetings or during a Board briefing.

The IG, in accordance with the IG Act, transmits a budget estimate specifying an aggregate amount for OIG operations, OIG training needs, and amounts for support of the Council of the Inspectors General on Integrity and Efficiency.

#### *Section 3. Other Board Operations.*

(a) *Audit Resolution Process.* The Chairman is responsible for overseeing the audit resolution process and, through a designee, for audit resolution implementation and follow-up. However, the Chairman must obtain Board approval of audit resolutions where the issue would normally require Board action. The Inspector General and Audit Follow-up Official will report to the Board the status of any unresolved audit recommendations, unimplemented management decisions, and other issues on a semiannual basis following the Inspector General's Semi-Annual Report to Congress.

(b) *Litigation.* The Chairman has authority to undertake litigation to defend the Agency, consistent with established Board policy. The Board will approve litigation where the Agency is plaintiff, will approve recommendations to the Justice Department to pursue an appeal, and will approve positions advanced in litigation that conflict with existing Board policy or establish a significant new policy. The Chairman's authority to settle certain claims against the Agency have been delegated to the GC provided the GC consults with the Chairman.

#### *(c) Documents and Communications.*

(1) *Approval, Review, and Consultation.* The FCA Board is responsible for determining the Agency's position on policy. Board Policy Statements should be reviewed at least every five years.

The Board must approve all documents published in the **Federal Register**, including proposed and final FCA regulations, except for notices of effective dates or technical corrections of regulations. Board approval is not necessary prior to **Federal Register** publication of Privacy Act systems notices or notices of other routine or administrative matters unless they raise policy issues requiring Board approval. Bookletters, informational memoranda, and other mass mailings to Farm Credit institutions (except documents listed in Attachment A) must be approved by the Board prior to distribution. Documents may be added to or deleted from Attachment A by Board approval.

The issuance of a "no action" letter is a policy matter requiring Board approval. For the purposes of this

statement, a "no action" letter is a statement to a Farm Credit institution that, notwithstanding any other provision of law or regulation, the Board will take no action against a System institution solely because it engaged in conduct specified in the letter.

Authority to promulgate internal administrative issuances, including FCA Policies and Procedures Manual (PPM) issuances, rests with the Chairman and may be delegated to the Chief Operating Officer. The Chairman will provide the Board with final drafts of PPM issuances and other administrative issuances for an appropriate consultative period if those issuances relate to examination and supervision, audits, internal controls, the budget, the strategic planning process, regulation development, or personnel matters relating strictly to promotion or pay.

(2) *Signature Authority.* Authority to sign official Board documents, including, but not limited to, proposed and final regulations, **Federal Register** notices, no-action letters, minutes, and other Board actions is delegated to the Secretary. After any action by the Board required under paragraph (c)(1) of this section, the Chairman has the authority to sign bookletters, informational memoranda, and other mass mailings to Farm Credit institutions. This signature authority may be delegated to senior staff members.

(3) *Correspondence.* The Chairman approves and signs routine correspondence (that is, correspondence in the ordinary course of business), to members of Congress, correspondence responding to White House referrals, or other correspondence on behalf of the Board or the Agency. The Chairman may delegate approval and signature authority for such correspondence to the Chief Operating Officer or FCA Office Director when the subject matter involves congressional or White House case work. When the subject matter involves the presentation of an Agency position or policy relative to regulations, legislation, or any other significant matter, the Chairman may not delegate authority, and the correspondence must be approved by the Board, except that the Board need not approve a previously approved response or a restatement of previously adopted Board policy. Board approval does not apply when the Chairman is speaking only for him- or herself and includes the appropriate disclaimer. Likewise, on similar matters, Board Members should include appropriate disclaimers. The Chairman or the Chairman's designee has authority to sign acknowledgments or interim responses without Board approval,

provided such responses contain no policy statements or only previously approved statements.

(4) *Authentication and Certification of Records and Documents.* The Chairman designates the person authorized and empowered to execute, issue and certify under the seal of the FCA:

- Statements authenticating copies of, or excerpts from official records and files of the FCA;
- Effective periods of regulations, orders, instructions, and regulatory announcements on the basis of the records of the FCA;
- Appointment, qualification, and continuance in office of any officer or employee of the FCA, or any conservator or receiver acting in accordance with the FCA receivership regulations at 12 CFR part 627 on the basis of the records of the FCA.

The Chairman may further empower the designated official(s) to sign official documents and to affix the seal of the FCA thereon for the purpose of attesting the signature of officials of the FCA.

## **Article II**

### *Board Member Travel and Related Expenses*

*Section 1. Pre-confirmation Travel.* Travel expenses incurred by an FCA Board nominee that are solely for the purpose of attending his or her Senate confirmation hearings will be considered the personal expense of the nominee and will not be reimbursed by FCA. However, consistent with existing Government Accountability Office interpretations, the FCA will pay for a nominee's travel expenses to the Washington, DC metropolitan area (including lodging and subsistence), if payment is approved, in advance whenever practicable, by the Chairman based on a determination that the nominee's travel is related to official business that will result in a substantial benefit to the FCA. That determination will be made on a case-by-case basis and is within the sole discretion of the Chairman. The same standards and policies that apply to the reimbursement of Board Members' travel expenses will apply to the reimbursement of nominee's expenses. As part of the documentation for the approval process, the Chairman must execute a written finding that a nominee's travel would substantially benefit the FCA.

Travel that may result in substantial benefit to the FCA could include meetings, briefings, conferences, or other similar encounters between the nominee and FCA Board Members, office directors, the Chief Operating Officer, or other senior congressional

and executive branch officials, for the purpose of developing substantive knowledge about the FCA, its role, its interaction with other Government entities, or the institutions that it regulates. Meetings or briefings of this nature may enable a nominee to more quickly and effectively assume leadership at the Agency after confirmation by the Senate and could thus substantially benefit the Agency.

*Section 2. Board Member Relocation.* Notwithstanding the provisions of § 5.8(d) of the Act, Board Members will be reimbursed by FCA for travel and transportation expenses incurred in connection with relocation to their first official duty station in accordance with the provisions of the Federal Travel Regulations (FTR). Board Members will be issued a specific prior written authorization by the Chief Human Capital Officer detailing the expenses that may be reimbursed under the current FTR.

*Section 3. Representation and Reception Fund.* Section 5.15(a) of the Act allows the payment of FCA funds for official representation and reception expenses. Expenses incurred from official functions may be paid for with funds from the Representation and Reception (R&R) Fund only under this policy statement and decisions from the Department of Justice or guidance from the Comptroller General of the United States (Comptroller General).

“Official functions” include meetings and other contacts with the public to explain or further the Agency’s mission and typically are activities of the FCA Board, individual Board Members, or other FCA officials acting for the Board. For example, while extending official courtesies to the public on occasions associated with the mission of the Agency, FCA staff may use the R&R Fund to cover catering services, rental of facilities, receptions, coffee, snacks, refreshments, supplies, services and tips.

Consistent with opinions of the Comptroller General, the FCA Board has determined, as a matter of policy, that it will not permit the R&R Fund to be used for events or functions in which attendance is restricted to Agency employees.

Similarly, the R&R Fund may not be used for activities relating solely to “personal entertainment” (interpreted by the Comptroller General to include attendance at a sporting event or concert, for example) or for personal favors, even if the entertainment is enjoyed with, or is a favor given to, members of the public, such as Farm Credit System representatives.

The FCA Board has determined, as a matter of policy, that the R&R Fund shall be a fund of last resort and shall not be used for expenses that can properly be classified as another type of Agency expense.

The FCA Board will decide how much to budget for the R&R Fund. The FCA Board will approve any amount available for R&R expenses for the Chairman and each Board Member, and an amount available for general R&R expenses. The amount approved for use by the Chairman and each Board Member will be maintained in their budget code. The amount approved for general R&R will be maintained in a separate budget class code by the Secretary.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

#### **Attachment A FCA Communications**

*Part 1—Mass Communications That Do Not Require Review by the FCA Board Prior to Distribution to Farm Credit System Institutions*

1. Issuances or revisions to:
  - The FCA Examination Manual, examination criteria, and examination procedures;
  - The FCA Uniform Call Report instructions;
  - Examination plans and general guidance provided to examiners, except those relating to Agency positions not previously approved by the Board.
2. Requests for information on:
  - Call Reports, LARS, or similar data requests;
  - Young, beginning, and small farmers and ranchers reports;
  - Other reports as required by statute or determined necessary by the Board (consistent with Board instruction).
3. Information that is being provided on:
  - Fraudulent activities;
  - Removals/suspensions/prohibitions;
  - Other related activities.
4. Documents that have been issued by other Federal agencies including regulations, official staff commentary on regulations, and forms;
5. FCA Handbook updates;
6. Annual Report of Assessments and Expenses under 12 CFR 607.11;
7. Office of Inspector General mailings for official purposes;
8. Vacancy Announcements;
9. PPM mailings.

*Part 2—Mass Communications That Contain the Following Matters Require Review by the FCA Board Prior to Distribution to Farm Credit System Institutions*

1. Agency policy;
2. Agency legal interpretations;
3. Substantive Agency positions on examination, corporate or accounting;
4. No-action positions;
5. Any communication listed in part 1 containing any of the matters listed in part 2 would also require review by the FCA Board prior to distribution.

#### **Attachment B**

##### **Delegations**

1. The FCA Board delegates to the Chairman the authority to:

- a. Sign letters notifying the Chairman of the Boards of Farm Credit System institutions of final approval for *any* approved corporate application, after all conditions for final approval have been met and in accordance with applicable procedures;

- b. Execute and issue under the FCA seal the new charter or charter amendment document for such institutions; and

- c. Sign certificates of charter after new charters and charter amendments are executed.

The Chairman may re-delegate the authority in item “a” to other FCA officers or employees as needed.

2. The FCA Board delegates to the Chairman the authority to approve (preliminary and final) corporate applications from associations requesting to merge or consolidate provided the applications are deemed noncomplex, noncontroversial, and low risk. Applications for mergers or consolidations approved under authority of § 7.8 of the Act will be considered noncomplex, noncontroversial, and low risk if they meet all of the following criteria:

- a. The applicant association(s) has a current FIRS rating of 1, 2, or 3 (with no 3-rated association having a formal enforcement action);

- b. The continuing or resulting association(s) has a gross loan volume of \$500 million or less;

- c. The application(s) is consistent with the Act and regulations governing its approval, and

- d. There are no policy or precedent-setting decisions embedded in the request.

3. The FCA Board delegates to the Chairman the authority to approve, execute, and issue under the seal of the FCA, amendments to charters requested by Farm Credit associations, limited to name changes and/or headquarters

relocations. The Chairman may redelegate this authority to other FCA officers or employees. However, all official charters or charter amendments must be signed by the Chairman and the Secretary and may not be delegated to other staff.

### Release of Consolidated Reporting System Information

FCA-PS-65

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* None. See 60 FR 15921, Mar. 28, 1995; amended by NV-11-15 (08-JUL-11).

**Source of Authority:** 12 CFR part 621, subpart D; Freedom of Information Act, 5 U.S.C. 552; 12 CFR part 602; OMB Circular A-130 (Nov. 28, 2000).

### The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

*Purpose:* The FCA Board has adopted a policy to disclose reports of condition and performance (Call Reports) and any subsequent reports containing nonexempt information that are produced from the FCA's Consolidated Reporting System (CRS) [hereinafter nonexempt CRS reports]. For purposes of this policy, nonexempt CRS reports are defined as reports produced from the CRS containing information that has been routinely disclosed in Farm Credit System (System) institutions' quarterly and annual financial reports and filed with the FCA.

The nonexempt CRS reports include the Uniform Performance Report (UPR), Uniform Peer Performance Report (UPPR), Six-Quarter Trend Report, Six-Year Trend Report, and Institution Comparison Report. Under this policy, the Call Reports and subsequent reports for the institution that submitted the information will be available to that institution on the FCA Web site approximately 35 days after the end of a quarter or a fiscal year.

*Objectives:* The FCA facilitates the competitive delivery of financial services to agriculture while protecting the public, the taxpayer, and the investor. Consistent with that mission, the FCA endeavors to provide information to System institutions and to the public. Call Reports and other nonexempt CRS reports contain information of value to the Agency, the System, and the public that enables an evaluation of the financial condition of a System institution in comparison to its peers. This information will provide institutions with a succinct assessment of performance, in addition to that provided in the examination process. The FCA believes that implementation

of this policy statement will enhance the FCA's information management activities in an efficient, effective, and economical manner consistent with OMB Circular A-130.

*Operating Principles:* Certain information reported to the Agency in compliance with Call Report instructions and not routinely disclosed by an institution, such as asset and liability repricing schedules or loan specific data, will continue to be exempt from disclosure and the FCA will not make it available under this policy statement.

*Availability of Reports:* All nonexempt CRS reports will be available within 45 days after the end of a quarter or a fiscal year free of charge on the FCA Web site.

The FCA often receives special requests for new reports containing nonexempt CRS information not produced from the CRS. Consistent with the Freedom of Information Act, the FCA will grant such special requests when the record is readily reproducible with reasonable efforts. We will assess fees to recover the direct costs of complying with the request, including the cost of collecting, processing, and disseminating the information. The FCA may grant a request for a fee waiver to an educational institution, a researcher, a governmental agency, a newspaper, and others, when the benefit derived from releasing the information exceeds the waived fee. Requests should be directed to the Office of Management Services.

*Delegated Authority:* The Director, Office of Management Services, in concurrence with the Director, Office of Examination, and the General Counsel, is responsible for implementing this policy statement, developing operating procedures, and assessing requests for fee waivers. Any of these responsibilities may be re-delegated to appropriate staff in their respective offices.

*Reporting Requirements:* The Director, Office of Management Services, shall report annually to the Chief Executive Officer on the number of special requests for new reports containing nonexempt CRS information and fees received.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

### FCS Building Association Management Operations Policies and Practices

FCA-PS-68

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Amends NV-95-40, FCA-PS-68-7-JUL-95; amended by NV-11-15 (08-JUL-11).

**Source of Authority:** Farm Credit Act of 1971, as amended (Act), and the FCS Building Association (FCSBA) Articles of Association and Bylaws.

### The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

The FCSBA was established to provide the facilities and related services for the FCA and its field offices. The FCSBA is owned by the banks of the Farm Credit System (banks) and is funded by assessments, rental income from commercial tenants, and other income. The original ownership interest of each bank was based on the bank's assets as a percentage of total Farm Credit System (FCS) assets on June 30, 1981. The FCSBA owns and operates the FCA headquarters in McLean, Virginia, and holds the leases and provides certain services and furnishings for FCA field offices. The FCA Board has sole discretionary authority under section 5.16 of the Act to approve the plans and decisions for such building and facilities. In order to carry out this authority and to preserve the FCA's arms-length relationship with the banks, the Articles of Association and Bylaws of the FCSBA grant the FCA Board the responsibility to oversee the affairs of the FCSBA.

The purpose of this policy statement is to outline general parameters and policies for various operational practices of the FCSBA that are supplementary to the FCSBA Bylaws.

#### A. FCA Board Responsibilities

*Board Responsibilities.* As outlined further in this policy statement, the FCA Board is responsible for items including, but not limited to, approval of all budgets and subsequent changes in object class limitations, signature authorities for financial expenditures, and long-term investment decisions. The FCA Board concurs in the development of performance standards, goals and pay scales for the FCSBA President as provided by the FCA Chairman and Chief Executive Officer (Chairman). Additionally, all contracts in excess of \$150,000 per year, or those that cover the selection of outside auditors, property management services or the commission of special studies with a cost in excess of \$5,000 that were not approved during the annual budget process require the approval of the FCA Board.

*Chairman's Responsibilities.* The Chairman shall be responsible for

coordinating the FCA Board's involvement in, and responsibilities for, the operation of the FCSBA, including: (1) Developing performance standards and pay scales for the President of the FCSBA and appraising the President's performance with the concurrence of other FCA Board Members, (2) reviewing periodic financial and operating reports, (3) providing procedures as necessary concerning the FCA staff's relationship with the FCSBA, and (4) reviewing such other matters as the Chairman may deem advisable for the purpose of bringing such matters to the attention of the FCA Board. The Chairman may delegate these responsibilities to one or more FCA staff, as he or she deems advisable, except those responsibilities related to pay and performance.

#### **B. FCSBA President**

*General Signature Authority.* As required by Article V, Section 2 of the FCSBA Bylaws, in addition to member certificates, the FCA Board authorizes the FCSBA President to sign general correspondence and contracts deemed necessary for the administration of FCSBA activities. The FCSBA President must get Board approval before changing the signatory authority for checks and before changing any banks with which the FCSBA does business.

*Duties.* The FCSBA President reports to the FCA Board and is generally responsible within the context of governing policies for all activities necessary to: (1) Manage FCSBA support to FCA, (2) manage the assets of the FCSBA, and (3) understand and consider the interests of the banks. Specific responsibilities include budget preparation and execution; planning; financial reporting and control; preparation of quarterly cash flow reports; supervision of inventory and supporting schedules for all fixed assets (furniture, fixtures and equipment); maintenance of management objectives schedules; supervision of the telecommunications system; the purchase and contracting for all supplies and services; records management; necessary correspondence; public relations activities in consultation with the FCA Office of Congressional and Public Affairs; personnel supervision and evaluation; the leasing and management of all space in the Farm Credit Building; site selection and lease negotiation for all FCA Field Offices; investment management; preparation and administration of all policies and operating procedures; engineering oversight; construction management; and preparation of all monthly,

quarterly and annual reports required by the FCA Board. The FCSBA President shall coordinate these activities with the FCA Liaison as appropriate or required.

*Standard Operating Procedures.* In addition to those duties outlined under Article V, Section 2, of the FCSBA Bylaws and this Policy Statement, the FCSBA President is authorized to issue Standard Operating Procedures (SOPs), as he or she deems appropriate, in an effort to carry out the mission of the FCSBA provided that each SOP is reviewed by the FCA Board in advance. The President shall maintain all SOPs in a manner that reflects current policies and practices. SOPs will be filed with the Secretary to the Board, the FCSBA and others as requested.

*Periodic Reports.* The FCSBA President shall submit such periodic reports and proposals to the FCA Board and Liaison as may be necessary to facilitate budgets, assessments, audits, finances, plans, investments, reserve policy and accounting procedures that support the needs of the FCA Board and the banks as owners of the FCSBA. The FCSBA President shall normally report to the FCA Board at least quarterly. At a minimum, the report shall include:

1. A cash statement of operations, an explanation of budget variances, and month-to-date cash reconciliation report. This report will include specific notations of any expected reallocations of funds requiring Board approval.

2. A status of all projects/building improvements that are planned, including current accounting of actual costs of each project.

3. A summary of the status of reserve accounts and investments including documentation as available demonstrating compliance with investment policies.

4. A comprehensive Management Objectives tracking report outlining the status of issues and projects resulting from a combination of one or more sources such as audit and examination recommendations, FCA Board directives, as well as management initiatives.

5. Other matters such as insurance, leasing and contract performance issues that may be timely for the particular reporting period.

*Annual Report.* The FCSBA President shall prepare an annual report on the operations of the FCSBA. The draft of the report shall be provided to the FCA Board for its review within approximately 30 days of receiving the final report from the independent auditors. After FCA Board review, the report shall be provided to the banks and may be provided to others who have an interest in FCSBA affairs.

Although other reports to the banks may be warranted from time to time, the Annual Report shall serve as the primary report to the FCS. The report shall include:

1. A discussion of significant issues and accomplishments.

2. Audited financial statements and reportable conditions.

3. A discussion of the previous year's and current year's budget.

4. A discussion of basic and supplemental services provided to FCA by the FCSBA including an estimate of market and actual values of those services.

5. A discussion of non-budgeted expenditures, that have been reimbursed by the FCA.

#### **C. FCA Liaison**

*Duties.* The FCA Chief Executive Officer appoints the Liaison to the FCS Building Association. The FCA Liaison facilitates and coordinates the FCA's needs with the FCSBA in such areas as office renovations, internal moves, telecommunications services, field office support, and matters concerning building security and Emergency Preparedness. The FCA Liaison provides an internal control function through the countersigning of certain categories of checks as designated by the FCA Board. Additionally, the FCA Liaison reviews FCSBA proposals that come before the FCA Board, and provides counsel regarding issues on which the FCA Board must decide or provide direction. The FCA Liaison is also responsible for assuring that FCA operations, as appropriate, comply with FCSBA policies and practices as well as FCA guidance relating to the FCSBA. Finally, the FCA Liaison shall review monthly cash reconciliation reports as provided by the FCSBA President and report irregularities, as appropriate.

#### **D. Annual Audit and Management Controls**

*Annual Audit and Management Controls Review.* As provided by Article IV, Section 9, of the FCSBA Bylaws, the FCSBA shall produce audited financial statements on an annual basis. A review of material internal control procedures shall be included in the audit process on a periodic basis.

#### **E. Financial Management**

*Budget Philosophy.* It is FCA Board policy to ensure that every effort is made to minimize operating expenses without jeopardizing the banks' investment in the assets that are managed. Approved budgets are planned and implemented in consideration of a series of policy

objectives as outlined in this statement and always in an effort to balance income and expenses.

**Budget Development Time Frames.** FCSBA budgets are prepared on a calendar year basis. Each November 1, the FCSBA President shall provide the proposed budget for the next calendar year to the FCA Board for its review and comment. With FCA Board concurrence, the proposed budget may be made available to the banks for further comment.

**Operating Revenues.** The FCSBA receives annual operating revenues from (1) bank assessments, (2) office rental income from private commercial tenants, (3) other income from operating balances, and (4) reserve account transfers as necessary.

**Operating Expenses.** Operating expenses are budgeted using the appropriate object classifications as follows, which may be modified with FCA Board approval:

FCA Field Office Rent,  
Taxes and Contract Services,  
Maintenance and Repair,  
Utilities,  
Salaries and Benefits,  
Professional and Consulting Fees,  
Property Management Fees,  
Other Expenses.

As a part of the draft budget proposal to the FCA Board on or before November 1st every year, the FCSBA President shall provide an individual expense breakdown for each item within the object class. This breakdown shall include the actual expense from the previous year, the estimated expense for the current year, and the projected expense for the proposed year. Unanticipated and emergency expenses during the course of the year as well as expenditures beyond amounts approved for object classes may be funded out of the operating reserve subject to FCA Board approval.

Capital expenditures funded by transfers from the component reserve account should be shown separately with a breakdown of individual expenditures.

**Operating Reserves.** In consideration of liquidity needs as well as unanticipated expenses, each approved budget shall include the sum equivalent to 15 percent of the annual operating expense as operating reserves.

**Component Reserve Account.** To reserve for capital replacement items and repairs to the McLean facility, the FCSBA shall maintain a component reserve account which is separate from operating funds and reserves. The funding for this account shall be initially based on the Capital Reserve

Study of June 1, 2005, which is then to be updated every 10 years by an independent engineering assessment. The policy objective is to ensure adequate funding, on a net present value basis, to cover up to a 10-year capital repair and replacement program to be updated, as necessary, with each approved budget.

**Assessments.** To ensure the maintenance of minimum "cash on hand," FCSBA assessments are based on bank assets as of June 30, and issued quarterly consistent with the FCSBA Bylaws. After taking interest, rental, and other revenue into consideration, budgeted annual assessments must be sufficient to fund the operations of the FCSBA, including the ability to hold operating reserves equal to 15 percent of expenses as well as component reserves consistent with FCSBA policy.

Adjustments to assessments can occur subject to FCA Board approval when total year end "cash and cash equivalents" exceed or are below operating and component reserve requirements. Adjustments are normally considered for third quarter assessments and are based upon the previous year's audited financial statements. Earnings, if any, are distributed through this process in lieu of direct payment.

**Investments.** The FCSBA invests its funds in an effort to achieve maximum yield consistent with liquidity needs and investment safety. For short-term accessibility, operating reserves and other operating "cash on hand" may be invested in short-term money market accounts, certificates of deposits of Federally insured institutions, and short-term instruments of the U.S. Government or commercial paper rated P-1 or A-1 by Moody's and Standard and Poor's, respectively. Operating reserves investment decisions are made by the FCSBA President consistent with this policy.

With the goal of achieving the best long-term returns while minimizing risk, component reserves are invested solely in instruments backed by the U.S. Government and agencies of the U.S. Government. The maturities and amounts of component reserve investments shall be generally consistent with the anticipated liquidity needs of the FCSBA capital replacement and repair program. Component reserve investment decisions require FCA Board approval.

**Budgeting for Reimbursable Expenses.** The FCA regularly reimburses the FCSBA for telecommunications and other expenditures on a cost recovery basis. Because there is no positive or negative financial impact on the FCSBA, these transactions are handled on a

"net" basis and thus not included in the budget.

**Budget Execution.** The FCSBA President shall administer the annual budget as approved by the FCA Board. Expenditures during the course of the year that would exceed the object class budget require prior FCA Board approval. Exceptions to this policy are made in the event of emergency or the funding of accrued employee benefits. Expenditures in these cases will be brought to the FCA Board in the form of an Executive Summary for approval within 10 business days of occurrence. In considering its approval, the FCA Board has the option of either adjusting other object classes, utilizing the operating reserve, or taking other action, as it deems appropriate.

#### F. Contract Management

**General.** In accordance with Article IV of the FCSBA Bylaws, it is the policy of the FCA Board that all contracts issued on or on behalf of the FCSBA be:

1. Competitively bid with a minimum of three bids, when in excess of \$15,000.
2. Obtained with a minimum of three price quotes, when less than \$15,000, and more than \$2,500.
3. Generally awarded to the lowest bidder meeting contract specifications except in those instances where the differences in cost are considered negligible relative to a particular benefit offered by a higher bid.
4. Reviewed and approved by the FCA Board when in excess of the amount of \$150,000, or for the purpose of outside auditors, property managers, or special studies that were not approved during the budget process.
5. Retained in file a minimum of 3 years.
6. When possible, bid in conjunction with the budget year.

**Exceptions.** Notwithstanding the above requirements, the FCA Board has the authority to make exceptions, as it deems appropriate to the circumstances. Additionally, competitive bidding is not required if the circumstances warrant immediate resolution or are vendor specific to equipment, in which case the FCSBA President will provide the FCA Board with a detailed report of the surrounding circumstances in 10 business days.

**Contract Timeframes.** Recurring contracts are normally for annual terms; however, when deemed cost effective, the FCSBA may allow terms up to 3 years. Obtaining best and final offers from bidders is encouraged.

**Approval Authorization.** The FCSBA President is authorized to approve contracts consistent with these guidelines and the FCSBA SOP. The

FCSBA President may re-delegate up to \$50,000 of contracting authority to the building property manager.

*Contract Performance.* The FCSBA President shall insure that adequate systems are in place to measure, administer, and report on the performance of FCSBA contracts.

### G. Asset Management

*Personal Property.* The FCSBA President shall insure that adequate methodologies and systems are in place to ensure that FCSBA property is effectively accounted for on a periodic basis.

### H. The FCSBA as a System Institution

*Examination.* The FCSBA is examined as provided by the Act. The scope of examination shall be generally consistent with the level of risk deemed associated with the operating practices of FCSBA management.

*Assessments for Examination.* The FCSBA will be charged annually for assessments consistent with FCA regulation found in 12 CFR 607.4, "Assessment of other System entities."

*Liquidation by System Request.* Should the Boards of the banks adopt, pursuant to Article IX of the FCSBA Articles of Association, a resolution to dissolve and liquidate the FCSBA, the dissolution and liquidation will be subject to, and conducted in accordance with, the Act and the regulations promulgated thereunder.

### I. FCSBA Services to the FCA

*Basic Services.* The FCSBA provides space to the FCA headquarters in McLean, Virginia, and leases space on behalf of FCA for its field offices. Basic services provided to the FCA are similar to what is typical of rented office space and include, but are not limited to, such items as utilities, janitorial service, repairs for normal wear and tear, parking and appropriate landscaping as well as amenities which are available to all tenants and have the effect of maintaining property values and/or enhancing rental income.

*Supplemental Services.* In addition to providing basic services, the FCSBA will, on a case-by-case basis, provide certain supplemental support services related to FCA's housing needs under the following kinds of circumstances:

1. The FCSBA can provide the service on better terms than the FCA.
2. The service, if not provided by the FCSBA, could potentially adversely affect the aesthetic or other value of property, systems, building infrastructure, the health and safety of occupants, or the occupancy level of commercial tenants.

3. The capacity exists for the FCSBA to provide the service within the context of its employee expertise and/or its overall responsibilities to all tenants.

4. By providing the service, an advantage inures to the benefit of the FCS that would not otherwise occur.

5. An FCA Board determination that the service will be of particular benefit to the FCA, the FCS or the public.

As deemed necessary, the FCSBA President shall issue SOPs prescribing operational or other details of FCSBA services provided to the FCA.

*Non-Reimbursable and Reimbursable Services.* Whether or not the FCA will reimburse the FCSBA for a supplemental service will generally be determined as follows:

1. Reimbursement is not required for support provided by the FCSBA when resources are available within FCA Board approved budgets for the FCSBA and one or more of the criteria for supplemental services expenditures outlined above have been met.

2. Unless otherwise determined by an FCA Board action, supplemental support services requiring resources beyond that available within the FCSBA budget will require reimbursement.

Reimbursements in excess of \$10,000 that occur on an ongoing basis will require a written Memorandum of Understanding between the FCA and the FCSBA outlining the terms and conditions of the services provided and reimbursement. One time or minor recurring reimbursements may be handled by purchase orders. Reimbursable expenses shall be determined on an actual cost basis or a recognized methodology to achieve the goal of fully reimbursing the FCSBA on the transaction.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

### Disaster Relief Efforts by Farm Credit Institutions

FCA-PS-71

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Supersedes FCA Bookletter 368-OE, September 14, 1993. See 61 FR 37471, July 18, 1996; amended by NV-11-15 (08-JUL-11).

*Source of Authority:* Section 5.17 of the Farm Credit Act of 1971, as amended.

### The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

The FCA recognizes that in the aftermath of hurricanes, floods, droughts, or other natural or man-made disasters, specific sections of the

country or segments of the agricultural community are declared to be disaster areas. Such disaster area declarations may be made by the President of the United States, the Governor of a State, or a specific Federal or State government agency. When a disaster area includes a rural community where a Farm Credit institution is located or does business, the institution can be affected in two ways: directly, such as by physical damage to the institution itself or incapacitation of employees; or indirectly, such as by damage suffered by individuals and businesses with loans from the institution. In the interest of providing the highest quality and most efficient service to agricultural borrowers, the FCA encourages Farm Credit institutions operating in disaster-affected areas to work within their communities to help alleviate pressures on borrowers under stress.

When conducted in a reasonable and prudent manner, the efforts of Farm Credit institutions to work in the public's interest with borrowers in the disaster areas will be considered consistent with safe and sound business practices. It is the FCA's belief that the institutions have considerable flexibility under the existing regulations to provide appropriate disaster relief. Such relief efforts may include, but would not necessarily be limited to, extending the terms of loan repayment or restructuring a borrower's debt obligations. In addition, a Farm Credit institution may consider easing some loan documentation or credit-extension terms for new loans to certain borrowers or requesting the FCA to grant relief from specific regulatory requirements. It is the FCA's belief that the principal objectives of any disaster assistance program developed by a Farm Credit institution and approved by its board should be to:

1. Provide necessary and timely relief to disaster-affected customers of the institution;

2. Minimize the adverse effects of the disaster on the profitability, financial condition, operating efficiency, and morale of customers, as well as on the institution;

3. Review applicable statutory and regulatory requirements and determine whether requesting the FCA to provide exceptions from regulatory requirements would be appropriate; and

4. Promote, through such consideration and actions, the Farm Credit System's mandate to provide American farmers and ranchers with sound, adequate, and constructive credit and closely related services.

The FCA further believes that proper risk controls and management oversight



should be exercised to ensure that such efforts serve the interests of the lending institution as well as those of the community. Any institution providing disaster relief should document such relief actions as well as any significant departures from otherwise applicable institution policies and procedures.

The aforementioned objectives and risk controls are conditions and characteristics on which the FCA will evaluate an institution's relief activities. These objectives and risk controls should be set forth in any request to the FCA for specific regulatory relief.

The FCA also recognizes that conditions related to a disaster may impair an institution's ability to comply in a timely way with regulatory reporting and publishing requirements. Farm Credit institutions should contact the Director of the Office of Examination when relief from specific regulatory or reporting requirements is needed.

Additionally, the Board of Governors of the Federal Reserve System (Federal Reserve Board) has, from time to time, granted relief from certain Regulation Z requirements to consumers located in declared disaster areas. It is likely that the Federal Reserve Board will continue to promulgate similar temporary exceptions in disaster-affected areas. When this occurs, the FCA will, as a matter of convenience, continue to notify the Farm Credit institutions affected by Regulation Z exceptions.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

## Financial Institution Rating System (FIRS)

FCA-PS-72

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Amended by NV-11-15 (08-JUL-11).

**Source of Authority:** Sections 5.9 and 5.17 of the Farm Credit Act of 1971, as amended.

### The Farm Credit Administration Board Hereby Adopts the Following Policy Statement

#### I. Policy

The Financial Institution Rating System (FIRS) shall be the rating system used by Farm Credit Administration (FCA or Agency) examiners for evaluating and categorizing the safety and soundness of Farm Credit System (System) institutions on an ongoing, uniform, and comprehensive basis.

The FIRS will provide valuable information to the Agency for assessing risk and allocating resources based on the safety and soundness of regulated

institutions. Ratings assigned to regulated institutions will be adjusted periodically so that they accurately reflect the condition of institutions.

#### II. Standards and Implementation

Based on the conclusions reached in the ongoing examination of an institution's financial, managerial, and operational condition, FCA examiners will assign ratings to each of the rating factor components and assign a composite rating that reflects the condition and overall safety and soundness of the System institution. These ratings shall be reported to the institution's Board of Directors and Chief Executive Officer.

Component and composite ratings are assigned on a 1 to 5 numerical scale. A 1-rating indicates the strongest performance and management practices and the least degree of supervisory and regulatory concern, while a 5-rating indicates an extremely high, immediate or near-term probability of failure and unsatisfactory management practices and, therefore, the highest degree of concern.

Although each institution has its own examination and supervisory issues and concerns, the FIRS is structured to evaluate all significant financial, asset quality, and management factors common to all System institutions. Examination criteria for each of the rating components are defined in the FCA Examination Manual, which is available to the public. The FCA Examination Manual also incorporates the evaluative criteria under which component and composite ratings are assigned.

#### Composite Rating

The FIRS provides a general framework for assimilating and evaluating all significant financial, managerial, and operational factors to assign a composite rating to each System institution. The composite rating is based on a qualitative and quantitative analysis of the factors comprising each of the following components, the interrelationships among components, and the overall level of concern for those risks that affect a System institution.

The composite rating does not assume a predetermined weight for each component nor does it represent an arithmetic average of assigned component ratings. The weight given to any individual component in determining composite ratings varies depending on the degree of concern associated with the component and the threat posed to the overall safety and soundness of the institution.

#### Component Ratings

Listed below is a brief description of the FIRS components and the more common evaluative criteria and factors considered under each component.

- **Capital**—A System institution is expected to maintain capital and capital management practices commensurate with the nature and extent of risks to the institution and the ability of management to identify, measure, monitor, and control these risks. The capital component is based on an evaluation of an institution's capacity to absorb losses and provide for future growth. An evaluation of capital relies on many factors such as regulatory capital requirements, trends, portfolio and institutional risk, growth, adequacy of risk funds, management capability, and other factors as appropriate.

- **Assets**—This component is based on an assessment of both the quality of the current portfolio and the quality of the associated risk management processes that substantially impact the quality of assets. An assessment of assets relies on many factors such as loan portfolio management, investment portfolio management, loan portfolio trends, risk identification processes, credit administration, allowance for loan losses, and other factors that affect the quality, performance, income producing capacity, and stability of assets.

- **Management**—The management component is based on an assessment of board and management performance against all factors considered necessary to operate the institution within accepted banking practices and in a safe and sound manner in accordance with applicable laws, regulations, and guidelines.

- **Earnings**—This component is based on an evaluation of the quantity, quality, and sustainability of the institution's earning performance. An evaluation of earnings considers factors such as the level of earnings, composition and quality of net income, stability of earnings performance, relationship to portfolio risk, quality of earnings management, and other factors as deemed appropriate.

- **Liquidity**—The liquidity component is based on an evaluation of an institution's capacity to promptly meet the demand for payment of its obligations, fund its loan portfolio, and readily meet the reasonable credit needs of the territory served. An evaluation of liquidity also considers continued access to funding, the existence of secondary sources of liquidity, and other factors as deemed appropriate.

• *Sensitivity*—This component reflects the degree to which changes in interest rates may affect earnings or the market value of an institution's equity. An evaluation of this component considers such factors as the size and complexity of the institution's financial activities, the level of interest rate risk exposure relative to capital and earnings, investment and derivatives activities, management's ability to identify, measure, monitor, project, and control interest rate risk, and other factors as deemed appropriate.

### III. Responsibility

It is the responsibility of the Chief Examiner to ensure that the components used to support the composite ratings are reviewed periodically to make certain they reflect the material matters that impact the safety and soundness of institutions. In this respect, the Chief Examiner shall make recommendations to the FCA Board to add or delete components as necessary. Specific evaluative criteria and factors for determining component and composite ratings shall be established by the Chief Examiner and incorporated in the FCA Examination Manual or by other means as appropriate. The Chief Examiner is responsible for ensuring that ratings assigned to institutions are commensurate with and accurately reflect the risk in the institutions.

### IV. Reporting

At least quarterly, the Chief Examiner will provide the FCA Board a report of the composite rating of all FCS institutions.

### V. Implementation

System institutions examined after the date this policy is adopted by the FCA Board will be assigned composite and component ratings in accordance with this Policy Statement.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

### Borrower Privacy

FCA-PS-77

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Amended by NV-11-15 (08-Jul-11).

**Source of Authority:** Section 5.9 of the Farm Credit Act of 1971, as amended.

### The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

The Farm Credit Administration Board believes that each Farm Credit System institution has an affirmative

and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Since 1972, FCA regulations have required that borrower information be held in strict confidence by Farm Credit institutions, their directors, officers and employees. Our regulations at 12 CFR part 618, subpart G specifically restrict Farm Credit institution directors and employees from disclosing information not normally contained in published reports or press releases about the institution or its borrowers or members. These regulations also provide Farm Credit institutions clear guidelines for protecting their borrowers' nonpublic personal information. Particularly since Farm Credit institutions are owned and directed by the farmers, ranchers and cooperatives who borrow from them, the privacy and security of customer information is vital to the System's continued dependability and long-term success. Therefore, the FCA Board strongly encourages each System institution to regularly inform their customers of the institution's obligation to protect nonpublic personal information.

Additionally, rapid technological advances have made unauthorized and/or inadvertent disclosure of personal financial information more common and more difficult to protect against. Therefore, in addition to monitoring compliance with our regulations on disclosure, FCA will examine each System institution's internal controls on a regular basis to ensure that adequate safeguards are in place to protect the confidentiality of customer nonpublic personal information.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Secretary to the Board.

### Official Names of Farm Credit System Institutions

FCA-PS-78

*Effective Date:* 08-JUL-11.

*Effect on Previous Action:* Supercedes FCA-PS-63 [NV-96-22] 05/30/96; amended by NV-11-15 (08-JUL-11).

**Source of Authority:** Sections 1.3(b), 2.0(b)(8), 2.10(c), 3.0, 5.17(a)(2)(A), 7.0, 7.6(a), 7.8(a) of the Farm Credit Act of 1971, as amended; 12 CFR part 611.

### The Farm Credit Administration (FCA or Agency) Board Hereby Adopts the Following Policy Statement

#### Objective

Our objective is to ensure that the public can identify a Farm Credit

System (System) bank, association, or service corporation as belonging to the Farm Credit System and is not misled by the name the institution uses. We also believe that Farm Credit System institutions should have some flexibility in proposing official names for their institutions.

#### Official Names

The FCA Board will approve an official name for a Farm Credit System bank,<sup>1</sup> association, or service corporation that meets the following two requirements:

- The name includes *appropriate identification* of the institution as a System institution; and
- The name is not *misleading* or inappropriate.

*Appropriate identification* means the name contains either 1) the relevant statutory or regulatory designation, or its corresponding acronym, or 2) other appropriate identification as a System institution. Relevant statutory and regulatory designations, and their corresponding acronyms, are as follows:

- Agricultural Credit Bank or ACB.
- Bank for Cooperatives or BC.
- Farm Credit Bank or FCB.
- Agricultural Credit Association or ACA.
- Production Credit Association or PCA.
- Federal Land Credit Association or FLCA.
- Federal Land Bank Association or FLBA.

Other *appropriate identification* as a System institution includes the following:

- Farm Credit Services.
- Farm Credit.
- FCS.
- A member of the Farm Credit System.

*Misleading* names are those that a reasonable person might find confusing. For example, we would not issue a charter to an institution requesting a name that is the same as or similar to that of an existing institution because the public might find this confusing. Merely avoiding identical names is not enough; to minimize confusion, a proposed name must sufficiently distinguish an institution from other institutions. If the Agency had approved a charter for an institution using MyTown, ACA, as its official name, it would not issue a charter for an institution proposing ACA of MyTown or MyTown Farm Credit Services, ACA, as its official name. Nor would we issue

<sup>1</sup> Farm Credit System bank includes Farm Credit Banks, Banks for Cooperatives, and Agricultural Credit Banks.

a charter with the phrase “farm credit association” as part of the official name, because of the inevitable use of the acronym “FCA” would be confused with the name of the Agency. Also, we would not approve a name for an institution that could cause the public to confuse that institution’s authorities and services with those of a commercial bank, thrift institution, or credit union. For example, we would not issue a charter to a System institution requesting the term “national bank” in its official name because this could cause confusion regarding the services the institution may offer.

### Trade Names

A System institution may use a trade name. The trade name must not be misleading. If an institution uses a trade name, it must use both the official and trade names in all written communications.

### Related Issues

If an ACA and its subsidiaries operate under substantially different names, they must clearly identify the parent/subsidiary relationship in all written communications. For example, if MyTown, PCA, is a subsidiary of EveryTown, ACA, the PCA must identify itself as a subsidiary of the parent ACA in its written communications.

Please note that while the FCA cannot reserve names, the Patent and Trademark Office will register names under certain conditions. When applying for a name change or new charter, System institutions should submit a statement indicating whether they have applied for a trademark in that name.

This statement addresses only FCA’s policy. Other laws, such as Federal or state trademark laws, may apply. Institutions should ensure that their official and trade names do not infringe the trademarks or service marks of other companies. Institutions may wish to consult legal counsel to determine whether their proposed names could be challenged or protected under state or Federal law.

Dated This 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,  
Farm Credit Administration Board.

### Consideration and Referral of Supervisory Strategies and Enforcement Actions

FCA-PS-79

Effective Date: 08-JUL-11.

*Effect on Previous Action:* Rescinds and supersedes the previous PS-79; amended by NV-11-15 (08-JUL-11).

**Source of Authority:** Sections 5.19, 5.25-5.35 of the Farm Credit Act of 1971, as amended.

### The FCA Board Hereby Adopts the Following Policy Statement

The Farm Credit Administration (FCA or Agency) Board provides for the regulation and examination of Farm Credit System (System or FCS) institutions, which includes the Federal Agricultural Mortgage Corporation (Farmer Mac), in accordance with the Farm Credit Act of 1971, as amended (the “Act”). This policy addresses conditions that warrant referrals to the Agency’s Regulatory Enforcement Committee (REC) to consider appropriate supervisory strategies and recommend to the FCA Board the use of the enforcement authorities conferred on the Agency under part C, Title V of the Act or other statutes. Enforcement actions include formal agreements, orders to cease and desist, temporary orders to cease and desist, civil money penalties, suspensions or removals of directors or officers, and conditions imposed in writing to address unsafe or unsound practices or violations of law, rule or regulation (Enforcement Document). Taking these actions, in an appropriate and timely manner, is critical to maintaining shareholder, investor, and public confidence in the financial strength and future viability of the System.

This policy provides only internal FCA guidance. It is not intended to create any rights, substantive or procedural, enforceable at law or in any administrative proceeding.

### Composition of the REC

The Chairman of the FCA Board will designate the Chief Operating Officer and the office directors of the Office of Examination, Office of General Counsel, and Office of Regulatory Policy, or the directors of successor offices, as voting members of the REC. A representative from the Farm Credit System Insurance Corporation will be invited to participate in REC activities as a non-voting member. The Chairman of the FCA Board will also designate one of the voting REC members as Chairman of the REC.

Due to the statutory independence of the Office of Secondary Market Oversight (OSMO), there will be different REC membership when considering issues related to Farmer Mac.

### Referrals to the REC

Recommended supervisory strategies or enforcement actions concerning an FCS institution or person will be referred to the REC when any of the conditions exist, as specified below, or when a specified condition does not exist, but consideration of an enforcement action or review by the REC is appropriate. The REC will review the proposed actions and draft enforcement documents and assess the recommendations for pursuing any such actions. The REC may revise the recommendations and will document its concurrence or nonconcurrence with the supervisory strategy or enforcement action.

### Conditions Warranting Referral to the REC

Any one of the following conditions requires a referral to the REC for its consideration of supervisory strategies or enforcement actions.

1. A “4” or “5” composite FIRS rating is assigned to an FCS institution;
2. The institution or person is deemed unable or unwilling to address a material: (a) Unsafe or unsound condition or practice; or (b) violation or ongoing violation of law or regulation;
3. The institution or person is about to engage in a material unsafe or unsound practice or is about to commit a willful or material violation of law or regulation that exposes the institution to significant risk;
4. Conditions meet the statutory criteria for a suspension or removal;
5. Conditions meet the statutory criteria for assessing a civil money penalty and the factors to be considered in determining the amount of a civil money penalty justify the imposition of the penalty;
6. Conditions meet the statutory criteria to place an FCS institution in conservatorship or receivership;
7. An institution or person fails to comply with an Enforcement Document or is unwilling or unable to address a violation of a condition imposed in writing; or
8. Conditions justify termination or modification of an existing Enforcement Document.

As appropriate, referrals for the REC’s consideration also may be made for conditions not specified above.

### Notification of the REC

The REC will be notified when any institution is assigned a “3” composite FIRS rating and informed of the Agency’s supervisory strategies.

*Consultation With the REC*

For institutions under a formal Enforcement Document, or assigned a composite FIRS rating of “4” or “5”, requests for prior approvals, or other actions, will be referred to the REC for consultation.

*Referral to the FCA Board*

The REC will refer to the FCA Board for its consideration all recommendations concurred with by the REC for the placement of an Enforcement Document on a FCS institution or person. In the unlikely instance, when an institution receives a composite “4” or “5” FIRS rating and a

formal Enforcement Document is not recommended to the FCA Board, the REC will promptly document and report the Agency’s supervisory strategy to the FCA Board.

*Reporting to the FCA Board*

The REC Chairman will report at least quarterly to the FCA Board if matters are referred to or reviewed by the REC, but FCA Board action is not subsequently requested.

*Actions by the REC*

The REC will develop procedures to address the responsibilities outlined herein.

Due to OSMO’s statutory independence, the Director of OSMO will develop procedures for actions affecting Farmer Mac.

Dated this 8th day of July 2011.

By Order of the Board.

Dale L. Aultman,

*Farm Credit Administration Board.*

Dated: August 25, 2011.

**Dale L. Aultman,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 2011–22203 Filed 8–31–11; 8:45 am]

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