

October 9, 2013

The Honorable Debbie Stabenow  
Chairwoman, Senate Committee on  
Agriculture, Nutrition, and Forestry  
328A Russell Senate Office Building  
Washington, DC 20510

The Honorable Thad Cochran  
Ranking Member, Senate Committee on  
Agriculture, Nutrition, and Forestry  
328A Russell Senate Office Building  
Washington, DC 20510

Dear Chairwoman Stabenow and Ranking Member Cochran:

I am writing to you on behalf of the members of the American Bankers Association (ABA) who are alarmed at the growth and questionable practices of the *federally subsidized* Farm Credit System (FCS). The FCS was created to provide credit to farmers at a time when credit was not readily available. Today, with total assets of \$248 billion, the FCS, if it were a bank, would be the ninth largest bank in the country. For comparison, in 2005, the FCS had total assets of \$140 billion. Since that time, the assets of FCS have increased over \$100 billion in just eight years. In 2012, the FCS enjoyed a tax subsidized net profit of \$4.118 billion while paying just 5.12 percent in combined federal, state, and local taxes.

To my knowledge, neither the House nor Senate Agriculture committees have held a hearing on the FCS in many years. We respectfully request that the Committee hold an oversight hearing to examine the financial practices, regulation, and growth of the FCS. Specifically, we believe that the Senate Committee on Agriculture, Nutrition, and Forestry or its subcommittees should examine:

- **Indirect lending.** A number of FCS institutions own or invest in indirect money lending operations that enable producers to borrow taxpayer subsidized money from the Farm Credit System without being members of the lending cooperative. These programs work under highly questionable “loan participation” rules approved several years ago by the Farm Credit Administration (FCA), the FCS regulator. As we understand it, a producer seeking machinery and equipment loans applies for credit to purchase equipment at the machinery dealership. The dealer takes minimal financial information from the farmer and submits the application to the FCS lender, who in turn does the credit underwriting, completes all of the loan documentation, funds, and closes the loan. The farmer then makes his or her payments to the FCS institution. Various FCS lenders have concealed their presence in the loan by operating under various names including, “AgDirect.”

We do not believe such schemes are an intended outcome of the benefits bestowed by Congress on the FCS – namely, Government Sponsored Enterprise (GSE) borrowing privileges and deep tax subsidies. Despite these indirect lending programs now accounting for a significant percentage of the growth of the FCS, tracking the growth of these questionable operations has been very difficult to do based on the financial information supplied by the FCS lenders and as reported by FCA. Indirect lending can be

higher risk lending. Congress should examine these programs to determine if they present a safety and soundness threat to the FCS and to the taxpayers who are ultimately on the hook for any FCS failure.

- **Retained mineral rights.** The Farm Credit Amendments Act of 1985 prohibited FCS institutions from retaining mineral rights on any properties the FCS foreclosed upon, but did not require FCS lenders to divest earlier acquired rights. Prior to the 1985 Act, it was common practice for FCS lenders to strip mineral rights from farm properties following foreclosure and retaining them even after the property was resold. We understand that some FCS institutions continue to hold extensive mineral rights (some dating back to the 1930s) that, in some cases, are now very valuable. Other than hearsay, it is very difficult for the farmer-owners of an FCS institution to ascertain what the present market values of such mineral rights are. We question why a taxpayer subsidized GSE should hold any mineral rights beyond the amount of time it takes to market and sell such rights. We believe it is important for FCS farmer-owners to understand what the present market value is of such rights because it may be in their best interests to demand these rights be sold.
- **Never ending pilot programs.** In 2008, FCA created an “Investments in Rural America” pilot program. Under this program, FCS institutions are allowed to make “investments” in businesses to which they cannot legally lend. After FCA solicited public comments on the “pilot” program, ABA, many banks, and others questioned the purpose and the legality of such a lending program. In fact, more than 10,400 letters were submitted to FCA in response to their request for public comment. Since the creation of the “pilot” program, the FCS has been involved in various types of lending, including rural hospitals, fair grounds, tourist destinations, and other questionable deals.
- **Questionable practices involving the sale of Federal Crop Insurance.** There have been numerous regulatory and legal challenges in many states involving the marketing and sale of Federal Crop Insurance by FCS lenders. We question why the Farm Credit System, a tax advantaged Government Sponsored Enterprise, is in the business of selling Federal Crop Insurance in the first place. We believe this situation demands a comprehensive review by Congress.
- **Shadow banking activities.** While the Farm Credit System is not allowed to accept customer deposits, many FCS institutions are engaged in shadow banking activities that closely mirror services provided by the banking industry. These activities include, but are not limited to, deposit taking, cash management, and credit cards. FCS institutions have become very adept at using language that is intended to make producers believe that they are the same as banks when it comes to banking services. This is just one example from a FCS website: “Our online banking platform is a free service designed to help you better manage your business, saving you time and money. Through [our service] you can quickly and easily view loan and investment balances, initiate transactions, and access a suite of cash management tools.”

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It is not the goal of this letter for the Committee to require “farmers to pay more for credit.” On the contrary, Congress has a responsibility to examine anachronisms in federal tax expenditure policy. Government ought not to pick winners and losers in the marketplace, whether it is in the agricultural economy or elsewhere. Fair competition in the marketplace will ensure the availability and affordability of agricultural credit.

As the committee of oversight for FCS, it is critical that all aspects of the FCS, especially their financial practices in areas outside of FCS’s core mission, be closely scrutinized and thoroughly examined.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Keating". The signature is written in a cursive style with a large initial "F".

Frank Keating

cc: Members of the Senate Committee on Agriculture, Nutrition, and Forestry