Bert Ely's

FARM CREDIT WATCH

The Vote Is In. Don't Believe the Vote. (September 2000)

The informal comment period on the Farm Credit Administration's (FCA) National Chartering proposal closed on August 31. The FCA was flooded with comment letters (774 by my count) plus 217 post-cards, or almost 1,000 comments. The raw data suggest 2-to-1 support for unleashing unrestricted competition within the Farm Credit System (FCS). But, a few mind-numbing hours spent perusing the comment letters suggests two things. First, the FCA can expect litigation from within the FCS if it authorizes National Chartering January 1, as it has proposed to do. Second, Congress should carefully and fully examine the likely consequences of National Chartering on the FCS, agriculture, and rural America before National Chartering commences because it will be nearly impossible to unscramble the mess National Chartering will create.

The Vote Tally

The banking industry expressed universal opposition to National Chartering, with 184 banks filing 281 comment letters. These letters often reflected the writer's first-hand experience with unfair FCS competition or drew upon the banker's past experience as an FCS lender to explain the damage National Chartering could cause. Those letters were reinforced by 11 letters from 10 state bankers associations, plus comprehensive comment letters filed by the ABA and another national bank trade association. Nine other "no" letters were filed with the FCS plus a letter from House Banking Committee Chairman Jim Leach (R-IA) expressing concern about the National Chartering proposal.

While banking industry opposition to National Chartering was broad and deep, reaction from within the FCS was decidedly mixed. Almost two-thirds of the FCS institutions did not even file comment letters, whereas approximately one-half commented on the FCA's last attempt to unleash reckless competition within the FCS–the so-called "lender's choice" regulation the FCA issued in 1998.

While four of the seven Farm Credit Banks (FCB) and 36 FCS associations expressed support for National Chartering, the Texas FCB and 15 associations strongly oppose the concept. The FCB of Wichita and four associations support competition within the FCS, but expressed concerned that certain statutorily designated associations could bar FCS competition within their territories while being able to compete without restriction outside of their territories. The Texas FCB rattled the litigation sword, and others within the FCS may also sue the FCA if it proceeds with its plan to authorize National Chartering on January 1.

Over 400 comment letters, as well as postcards, or almost two-thirds of the total comments, represented an almost comical attempt by supporters of the chartering to stuff the ballot box. Yet, while this stuffing would have done Tammany Hall proud, it was too transparent to be taken seriously. The champion stuffer was AgStar, a billion-dollar-plus association headquartered in Minnesota. It generated not only 217 postcards, but also 151 painfully similar letters; AgStar alone accounted for 37 percent of the total comments. Runnerup was Northwest FCS, with 53 "inspired" letters. Other instigators of nearly identical comment letters were FCS of Central Kansas (40), Mid-Atlantic Farm Credit (33), Farm Credit Services of America (22), Greenstone FCS (19), and FCS of Central Arkansas (15).

The most interesting set of letters came from the "friends of CoBank." CoBank is the largest FCS institution and a key driver of National Chartering. In addition to serving as FCS's exclusive lender to agricultural co-ops, it also is the FCB for eight Northeastern states. Not only did five agriculture commissioners in those states commend the proposal, as well as three regional trade associations, but so too did 34 farmers and one fisherman. One must wonder how well the four FCS associations funded by CoBank are serving their member-borrowers if 35 of them feel they would be better served by non-CoBank associations. Perhaps the FCA needs to check out how good a job CoBank is doing as an FCB before giving it what it wants.

Reasons for Opposition from Within the FCS

The reasons cited by the 16 FCS associations opposing National Chartering largely reinforced the analysis of the proposal presented in the summer 2000 *Journal* issues of FCW as well as in Leach's June 23 letter to FCA Chairman Mike Reyna, which also summarized in that issue. These reasons deal with both the process by which National Chartering will be implemented ("regulation by booklet," which sidesteps well-established administrative rulemaking procedures) as well as its potential implications.

FCS commenters found many flaws with the chartering: The unrestrained ability of taxpayer-subsidized GSEs (FCS associations) to compete against each other; the lack of FCA preapproval before an FCS association charges out of its assigned territory; the near certainty that out-of-territory FCS lenders will use predatory pricing to compete for large borrowers; a continued decline in FCS lending to small, young, beginning, minority and women farmers; and increased safety-and-soundness problems within the FCS, which could trigger another ag lending crisis and a second taxpayer bailout of the FCS.

These commenters also noted that associations will expand geographically by hiring the better lending officers of other associations, hoping that they will bring large borrowers with them. This practice will serve only to drive up loan officers' salaries while pushing down lending rates. FCB of Wichita also noted that permitting an FCS association to expand outside its assigned territory effectively "overrides [its] supervising bank's regulatory responsibilities." Therefore, the Wichita bank contends, FCBs should not have that responsibility. If not the FCBs, then who? The FCA?