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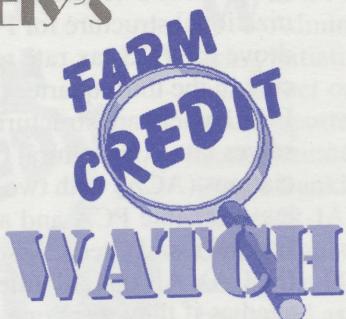
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Bert Ely's



Shedding Light on the Farm Credit System, America's Least Known GSE

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Finally, the FCA Does Something Right

(December
2000)

Editor's Note: Bert Ely's Farm Credit Watch is a monthly report that is available in the "Members Only" section on the ABA Web site (www.aba.com). The following articles are the most recent installments.

To keep Journal of Agricultural Lending readers up to date on Mr. Ely's comments, we will publish all his columns that appear between publication dates. Mr. Ely welcomes information about the Farm Credit System in your area and can be reached at (703) 836-4101 or by e-mail at bert@ely-co.com.

In December, the Farm Credit Administration (FCA) did something right. Although the FCA Board did not explicitly say so, it appears the FCA will not issue any national charters on January 1. For the moment, at least, rural America and commercial banks are safe from reckless FCS expansion. However, even though the FCA has struck out twice in unleashing the FCS empire builders, first with "lender's choice" and now in its attempt to evade the federal government's formal rule-making procedures, the FCA apparently intends to try again this year to launch its National Chartering initiative, but only after playing by the rules.

In addition to strong negative reactions from Rep. Jim Leach (R-IA) and Rep. Larry Combest (R-TX), chairmen, respectively, of the House Banking and Agriculture committees, and an adverse legal opinion from the General Accounting Office (GAO), Assistant Treasury Department Secretary Gregory Baer sent a strongly worded letter to FCA Chairman Michael Reyna on November 30. That letter stated in part:

- "I strongly recommend that the [FCA] suspend approval of applications for national charters for [FCS] associations pending completion of a formal rulemaking on this issue.

• “[The Treasury Department] believe[s] the proposal would reduce the focus of [FCS] associations on serving all eligible borrowers in their local areas and diminish the System’s local cooperative structure.

• “While not directly expanding the lending powers of [FCS] associations, the proposal would likely allow a government-advantaged competitor to increase market share, which in the long term could effect [sic] competitiveness in ag credit markets.

• “It seems clear that the issue is of sufficient importance to merit public comment. Thus, we believe that the FCA should proceed with a rulemaking for its national charter proposal that requires public notice and comment procedures.”

FCW could not have said this better. While the FCA Board did not indicate when it would repropose National Chartering, bankers can expect the proposal to be relaunched early this year, this time as a formal rule on which bankers can, and must, comment.

The next version of the national charters proposal apparently will be somewhat more responsible, but that will not make the proposal any more desirable for farmers, ranchers, or rural America. Reportedly, key improvements in this proposal supposedly will include:

- A definition of the national charter and the procedures for applying for one.
- A definition of what an FCS Local Service Area (LSA) is and a requirement that an FCS association must continue to serve its LSA once it has been granted a national charter.
- A requirement that a business plan be submitted with an

association’s application for a national charter. The plan must describe how the association will serve its LSA, identify the additional areas of the country it intends to serve, assess the risk of serving those areas, and assess its capacity to operate in those areas.

Despite what should be an improved application process, FCW readers can reasonably expect the FCA to hand out national charters liberally because that, of course, is what the FCS empire builders want, and what they want is what the FCA will give them.

However, a formal rulemaking procedure for national charters will provide an opportunity to kill this concept once and for all. First, the FCA Board will be forced to consider the numerous objections which will be raised about national charters, including questions about the concept’s legality.

Second, this rulemaking procedure will give the new Congress and Bush Administration an opportunity to address the public policy implications about national charters that Baer raised in his November 30 letter. Hopefully, Congress and the Administration will go beyond just national charters to address this much more important question: Do agriculture and rural America still need a Farm Credit System? As a Treasury Department official observed a few years ago, GSEs have a life cycle. In the life of every GSE, there comes a time to consider privatization. This year is the time Congress should consider privatizing the FCS. FCW will keep its readers posted as the national charter debate evolves.