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Bert Ely's

# FARM CREDIT WATCH

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

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## A Big Victory, But the Fat Lady Hasn't Sung Yet

(October  
2001)

**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](http://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](mailto:bert@ely-co.com).*

In October 2001, the Board of the Farm Credit Administration (FCA) voted to reject the National Charters proposal that it had been considering for more than a year. If adopted, National Charters would have permitted individual FCS associations to expand their lending activities outside of their chartered territories, which now have very little overlap. More aggressive associations surely would have tried to become nationwide lenders in competition with other FCS associations. This rejection is a stinging defeat for the FCS empire builders and a victory for rural America.

FCW commends FCA Chairman Mike Reyna and FCA Board member Ann Jorgenson for opposing a proposal that had wide, but far from unanimous, support within the FCS. Reyna delivered an especially impressive statement at the Board meeting outlining his reasoning for opposing National Charters. (See Fall 2001 *Journal*.)

After rejecting the proposal, the FCA Board directed its staff to study further several aspects of the proposal, including (1) developing during the next three to four months an updated regulation on business planning by FCS associations and (2) beginning work on developing a

policy statement related to the mission of the FCS. The latter study could be a positive development if it questions the need for the FCS in the 21st century.

Bankers deserve much of the credit for the FCA's rejection of the National Charters proposal. Reyna noted in his statement that he carefully reviewed the 1,500 comment letters sent to the FCA, many opposing National Charters, and many of those letters were from bankers. The FCA's rejection of this proposal comes two years after another proposal, "Lender's Choice," bit the dust. That proposal, like National Charters, would have empowered the FCS's empire builders to spread their lending tentacles over vast regions or even the entire country. But, and this is the big but, do not think for a moment that the empire builders have given up, for surely they will try again to break out of their present chartered territories. In the meantime, consolidation within the system will continue and perhaps accelerate. Since April 1 of 2001, the number of FCS associations has declined 10 percent, dropping from 128 to 115. Bigger associations often are more formidable competitors.

### **Just Who Is FCS Supposed To Be Lending To?**

A reader brought to *FCW*'s attention one example of a common occurrence — an FCS association lent money, on an unsecured basis, to an older wealthy individual who owns some farmland, but has never farmed it, leasing it out instead. Question: Is this an appropriate use of the FCS's highly subsidized credit, particularly

because the FCS has a special mission to help finance young, beginning, and small farmers? Obviously, *FCW* answers no. The loan to that older, wealthy individual was an entirely inappropriate extension of subsidized FCS credit.

*FCW* explored this issue by reading the FCA regulations, at [www.fca.gov](http://www.fca.gov) as Item 1 under Legal Info, FCA Handbook. Reg. 613.3000 defines a "bona fide farmer" as "a person owning agricultural land" or engaged in producing agricultural products. That regulation might make our wealthy landowner a legal FCS borrower, but the next regulation (613.3005), "lending objective," clearly states that the FCS should "provide full credit, to the extent of creditworthiness" to persons "whose primary business and vocation is farming, ranching" or fishing. Credit should be supplied conservatively to "less than full-time farmers." Importantly, "loans to farmers shall be on an increasingly conservative basis as the emphasis moves away from the full-time bona fide farmer." By this standard, a wealthy absentee landowner is not a farmer, and therefore is not an eligible FCS borrower. The FCA should examine how closely FCS associations are complying with the spirit of FCA regulations, and crack down accordingly.

### **Mother, May I?**

Have you ever wondered how some FCS associations get away with what they do? Have you asked: Isn't it illegal for an associa-

tion to finance a particular non-farm business? Well, when in doubt, it is time for "Mother, May I?" It seems that FCS associations routinely ask their friendly regulator if they can stretch the Farm Credit Act just a little bit this way or that way. *FCW* readers will be absolutely shocked to learn that the FCA legal eagles almost always agree that a little stretch this way or that is perfectly legal. Like any permissive mom, the FCA almost always says yes. Readers can access Mother, May I? by clicking on "Legal Opinions" under "Legal Info" on the FCA home page. Future issues of *FCW* will entertain readers with some of the more outrageous FCA legal stretches. What a mom!

#### **Website Address Error In August *FCW***

The August *FCW* gave the wrong address for the USDA's Agricultural Economics & Land Ownership Survey. The correct address is:

<http://www.nass.usda.gov/census/census97>.