Testimony of the Honorable Leland A. Strom
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Mr. Chairman, Members of the Committee, I am Leland A. Strom, Chairman and Chief Executive Officer of the Farm Credit Administration (FCA or Agency). On behalf of my colleagues on the FCA Board, Nancy Pellett of Iowa, and Kenneth Spearman of Florida, and the dedicated men and women of the Agency, I want to thank the Committee for this important and timely hearing regarding the Financial Stability Improvement Act Discussion Draft (FSIA).

The FSIA is a comprehensive proposal designed to strengthen regulation and supervision of financial markets and some of the largest, most complex financial institutions. The FSIA establishes a regulatory framework to monitor and oversee the stability of the financial system and address stability threats. As proposed, the legislation does not directly amend the Farm Credit Act of 1971, as amended, (Farm Credit Act), which provides the primary statutory authority for the establishment and regulation of institutions of the Farm Credit System (FCS or System), including the Federal Agricultural Mortgage Corporation (Farmer Mac). However, a close reading of the FSIA reveals direct conflict with the Farm Credit Act as it relates to the requirement for credit risk retention in the context of securitizations. In addition, the FSIA creates uncertainty in the definition of a financial company and other parts that potentially include FCS institutions in the regulatory structure and activities authorized by the FSIA.

Over the past weekend, my staff had productive discussions with key policy officials at the Treasury. They told us that it was not Treasury's intent to cover FCS institutions in the FSIA. They committed to work with my staff over the next several days to develop clarifying language for the FSIA to insure that their intent is carried out and to ensure the FSIA does not create a jurisdictional conflict. I look forward to working with the Committee and Treasury on addressing these matters. The Agency's more complete description and analysis of the FSIA is included later in my testimony.

MISSION OF THE FARM CREDIT ADMINISTRATION

FCA is an independent agency responsible for examining and regulating the banks, associations, and related entities in the FCS, including Farmer Mac. The FCS finances almost 39 percent of all U.S. farm business debt, providing credit to more than 450,000 eligible agricultural borrowers through a nationwide framework of 5 banks and 90 local retail associations. In addition, the System finances cooperatives, agribusinesses, rural utilities, and rural residents. The System also has a special mission to develop programs and make special efforts to serve young, beginning, and small (YBS) farmers and ranchers.

As directed by Congress, FCA's mission is to ensure a safe, sound, and dependable source of credit and related services for agriculture and rural America. The Agency accomplishes its mission in two important ways.

First, FCA ensures that FCS institutions, including Farmer Mac, operate in a safe and sound manner and comply with applicable law and regulations. Our examinations and oversight strategies focus on an institution's financial condition and any material existing or potential risk. We evaluate the ability of management and board to direct operations in each institution. We also evaluate each institution's compliance with laws and regulations to serve all eligible borrowers, including YBS farmers and ranchers. If a System institution violates a law or regulation or operates in an unsafe or unsound manner, we use our supervisory and enforcement authorities to ensure appropriate corrective action.

Second, FCA develops policies and regulations that govern how System institutions conduct their business and interact with customers. FCA's policy and regulation development focuses on protecting System safety and soundness, implementing the Farm Credit Act, providing minimum requirements for lending, related services, investments, and capital, and ensuring adequate financial disclosure and governance. In addition, FCA has adopted regulations to implement statutory borrower rights provisions, including actions for restructuring a distressed agricultural loan before initiating foreclosure, and other borrower protection rules. The policy development program includes approval of corporate charter changes, System debt issuance, and other financial and operational matters.

As the arms-length regulator of the FCS, the Agency will continue to focus on ensuring that the System remains safe and sound by promulgating regulations, providing appropriate guidance and maintaining strong and proactive examination and supervisory programs.

FARM CREDIT SYSTEM

The FCS is a Government-sponsored enterprise (GSE) created by Congress in 1916 to provide American agriculture with a dependable source of credit. The FCS is a nationwide network of cooperatively organized banks and associations that are owned and controlled by their borrowers, serving all 50 States and the Commonwealth of Puerto Rico. The System provides credit and other services to agricultural producers and farmer-owned agricultural and aquatic cooperatives. It also makes loans for agricultural processing and marketing activities, rural housing, farm-related businesses, rural utilities, and foreign and domestic companies involved in international agricultural trade.

Despite the unprecedented instability in the U.S. and global financial markets and a recessionary world economy, the overall condition and performance of the System remains fundamentally safe and sound. As of September 30, 2009, total FCS assets were $215 billion and loans exceeded $162 billion.

While supporting significantly higher provisions for loan losses of $733 million, the System maintained positive profitability with net income of $2.02 billion for the first nine months of 2009, compared to $2.37 billion for the same period in 2008. Improved net interest margins and spreads contributed to this earnings performance, and were primarily caused by better conditions in the debt markets and the lower interest rate environment.

Total capital grew 8.1 percent, or $2.2 billion, to $29.3 billion at September 30, well above the 0.5 percent and 0.4 percent growth in loans and total assets, respectively. Capital as a percentage of total assets grew from 12.7 percent at December 31, 2008, to 13.6 percent at September 30, 2009. Capital increased primarily due to net income earned and retained, and a decrease in accumulated other comprehensive loss, but this may be impacted by year-end patronage programs.

Asset quality overall remained acceptable at September 30, 2009, with 94.8 percent of the loan portfolio classified "acceptable" and "other assets especially mentioned," down from 97.1 percent at year end 2008. Asset quality in stressed agricultural sectors remains under pressure, and further deterioration in System credit quality is expected.

In the first nine months of 2009, nonaccrual loans increased $1.9 billion to $4.1 billion, and now represent 2.78 percent of the loan portfolio, compared to 1.52 percent at year end 2008. However, the System's capital and loss reserves provide sufficient overall risk-bearing capacity. The nonperforming assets to risk funds ratio was 14.7 percent at September 30, 2009, and the adverse assets to risk funds ratio was 28.2 percent.

FARM CREDIT SYSTEM INSURANCE CORPORATION

The Farm Credit System Insurance Corporation (FCSIC or Corporation) was established by the Agricultural Credit Act of 1987. The Corporation insures the timely payment of principal and interest on Systemwide consolidated joint and several debt obligations issued to investors. FCSIC holds the Farm Credit Insurance Fund (Insurance Fund) and collects annual insurance premiums from System banks and associations. At September 30, 2009, the Insurance Fund totaled $3.2 billion and Systemwide debt securities were $177.1 billion. The Corporation also serves as conservator or receiver of any System bank or association placed into conservatorship or receivership by the FCA Board. Similarly, it is empowered to provide assistance to System banks and direct lender associations suffering financial difficulties subject to a cost-test limitation. As a result, the Corporation protects investors in Systemwide debt securities.

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

Congress established Farmer Mac in 1988 to provide secondary market arrangements for agricultural mortgage and rural home loans. Farmer Mac creates and guarantees securities and other secondary market products that are backed by mortgages on farms and rural homes, including certain USDA guaranteed loans. The 2008 Farm Bill expanded Farmer Mac's program authorities by allowing it to purchase and guarantee securities backed by eligible rural utility loans made by cooperative lenders. Through a separate office required by statute (Office of Secondary Market Oversight), the Agency examines, regulates, and monitors Farmer Mac's operations.

Farmer Mac is a separate GSE devoted to agriculture and rural America. By statute, in extreme circumstances Farmer Mac may issue obligations to the U.S. Treasury Department, not to exceed $1.5 billion, to fulfill the guarantee obligations of Farmer Mac Guaranteed Securities. The Insurance Fund does not back Farmer Mac's securities, and the System is not liable for any Farmer Mac obligations.

Total program business of loans, guarantees and commitments as of September 30, 2009, stood at $10.8 billion. Farmer Mac's net income for the nine months ended September 30, 2009 was $76.8 million, and its capital surplus over the statutory minimum was $126 million, up from $100 million as of June 30, 2009.

Farmer Mac's nonperforming assets decreased to $84.8 million, or 1.94 percent of the portfolio, as of September 30, 2009. Its 90-day delinquencies were $59.4 million, or 1.36 percent of the portfolio. The reduced levels of nonperforming assets and delinquencies as of September 30, 2009 from earlier dates in the year reflect sales of acquired property previously owned.

Farmer Mac was also impacted last year by the financial system stress. Losses on certain investments required Farmer Mac to raise additional capital during the Fall of 2008 and management changes were made by its Board of Directors. Farmer Mac continues to restructure its balance sheet and further strengthen its operations and risk bearing capacity to focus on fulfilling its mission.

EXAMINATION PROGRAMS FOR FCS BANKS AND ASSOCIATIONS

The Agency's highest priority is to maintain appropriate risk-based oversight and examination programs. FCA's programs have worked well over the years and have contributed to the present overall safe and sound condition of the System, but we must continue to evolve and prepare for the increasingly complex nature of financing agriculture and rural America. We are hiring more examiners and increasing onsite presence and oversight of FCS institutions in response to the changing and more risky environment we face today.

We evaluate each institution's risk profile on a regular basis. The Financial Institution Rating System (FIRS) is the primary risk categorization and rating tool used by examiners to indicate the safety and soundness of an institution.

FCA Actions to Mitigate Risk

To address the heightened risk environment facing the System, we have told FCS boards and management that solid portfolio management and underwriting are paramount in these uncertain times and have emphasized the importance of portfolio stress testing. The Agency's examiners are increasing onsite presence and placing special emphasis on testing and evaluating:

- Internal audit and credit review programs to ensure they are adequate and timely reflect each institution's risks;
- Portfolio management and stress testing functions to ensure they are appropriate for the institution;
- Large loans held by multiple institutions to ensure underwriting, servicing, and independent credit decisions are made by purchasing FCS institutions and that representations and warranties of the FCS originating lender are appropriate;
- Adequacy of the Allowance for Loan Losses and loan loss provisions;
- Capital adequacy and capital management; and,
- Adequacy and quality of liquidity at System banks.

WORKING WITH FINANCIALLY STRESSED BORROWERS

Agriculture involves significant inherent risks and volatility because of many factors, including adverse weather, changes in Government programs, international trade issues, fluctuations in commodity prices, and crop and livestock diseases. The significant risks in agriculture can sometimes make it difficult for borrowers to repay loans. The System (under provisions of the Farm Credit Act) provides borrowers certain rights when they apply for loans and when they have difficulty repaying loans. For example, the Act requires FCS institutions to consider restructuring a distressed agricultural loan before initiating foreclosure. It also provides borrowers an opportunity to seek review of certain credit and restructuring decisions. If a borrower's loan goes through foreclosure, the Farm Credit Act and implementing regulations provide borrowers that qualify the opportunity to buy back their property at the appraised fair market value or make an offer to buy the property back at less than this value.

FCA enforces the borrower rights provisions of the Farm Credit Act and examines institutions to make sure that they are complying with these provisions. It also receives and reviews complaints from borrowers regarding their rights as borrowers. Through these efforts, FCA ensures compliance with the law and helps FCS institutions continue to provide sound and constructive credit and related services to eligible farmers and ranchers.

RECENT DETERIORATON IN THE ECONOMIC ENVIRONMENT

The United States is slowly recovering from a severe global recession. The economic downturn began in late 2007; it worsened in 2008 from significant financial market instability; then it extended into 2009 with increased unemployment, lost consumer confidence, and continued housing sector weaknesses. The government responded to this crisis with significant programs to stabilize the financial markets and stimulate economic growth.

The confluence of economic and financial and market events resulted in the System facing funding challenges in the Agency debt markets, particularly for term debt. Due to the strong condition of the FCS and its status as a GSE, it was able to issue short-term debt securities, even though the issuance of longer-term debt became much more difficult. The financial environment also negatively impacted the System's cost of funding, as spreads relative to Treasuries increased significantly. Early in 2009, the System faced increased costs and limited liquidity access for term debt funding (5 years maturity or greater). For instance, the spread to comparable Treasuries for 2-year FCS debt peaked at 230 basis points compared to typical levels before the financial market crisis, ranging from 20 to 30 basis points. However, as the year progressed, there was steady improvement in market access for term financing and generally low interest rates overall, despite relatively wider spreads to Treasury. More recently, the improved economic and financial market conditions have afforded the System good access to funding across the yield curve with narrower spreads. The access to a wider range of debt securities helped support net interest income and profitability and allowed some improvements in pricing options for System borrowers.

During this period of extreme market volatility, many non-System banks and financial institutions were able to access funds through various programs created or expanded by the U.S. Government in response to the financial crisis. The System does not have access to these programs or to any other U.S. Government backed liquidity credit line. While this situation has not prevented the System from obtaining funds, continued volatility within the GSE debt market makes the outlook for the availability and pricing of future funding less certain. This is an area meriting close monitoring by the FCS, its regulator, and Congress.

At present, financial market turmoil, prolonged economic weaknesses, and deterioration in the agricultural economy pose significant management challenges for borrowers, FCS institutions, and FCA. High unemployment and the domestic and global recession have caused demand for U.S. farm products to falter and lowered commodity prices, thereby weakening the agricultural economy. After setting a record in 2008, net cash farm income is forecast to drop by 30 percent to a forecasted $66.2 billion in 2009. The 10-year average is $71.2 billion.

System borrowers face increased risk from volatile commodity prices, soft farm product demand, higher input prices, and uncertain weather conditions. The specific sectors showing the most stress are hogs, dairy, forestry, ethanol, and poultry. Those sectors represent 21.8 percent of the System's portfolio. The cattle sector is also experiencing some stress.

In addition to volatile commodity prices, agricultural producers have had to endure much more volatile input costs, although costs are down from records set in 2008. Squeezed profit margins have seriously undermined incomes and thus repayment capacity for major farm commodity groups. While many agricultural producers entered this economic downturn with a relatively strong financial condition, the downturn has reduced their financial strength and equity positions.

Increased unemployment has also adversely impacted many rural communities. Continued job loss is a potential ongoing risk for these communities and may become an issue for the large number of System borrowers who depend on off-farm income to pay their loans. The housing slump has significantly reduced demand for lumber and nursery products, leading to reduced income, lost jobs, and increased stress in these industries.

The potentially slow economic recovery and lagging prospects for employment growth as well as an uncertain housing recovery suggest that 2010 may likely be another difficult year for many agricultural producers. These uncertainties will present challenges to lenders and regulators alike.

The System's capital position and solid financial condition will help it weather these difficult times. Also importantly, as increased stress is beginning to surface in FCS portfolios, we recognize that System senior management is well experienced and seasoned. Many gained experience during the agricultural credit crisis of the 1980s, and we believe appropriate actions, in general, are being taken by FCS boards and management.

EXPERIENCE GAINED FROM 1980's AGRICULTURAL CREDIT CRISIS

Through the oversight and leadership of the House and Senate Agriculture Committees, many important reforms were made to the Farm Credit Administration and the FCS as a result of the agricultural credit crisis of the 1980's. This included restructuring FCA as an independent arm's-length regulator with formal enforcement powers, providing borrowers rights to System borrowers with distressed loans, and establishing the Insurance Fund to protect System investors.

Then, over the ensuing two decades, the System restored its financial health and the trust of its borrowers. With its new authority as an arm's length regulator, FCA was able to ensure that System institutions adhered to safety and soundness standards. And the Insurance Fund also helped restore investor confidence.

Both the System and FCA learned much during the crisis of the 1980s, and those lessons helped build a much stronger Farm Credit System, as well as a stronger regulator. Mr. Chairman, I want to emphasize that System institutions were not involved in and did not contribute to the financial crisis that our Nation experienced during the past two years.

COMMENTS REGARDING THE FINANCIAL STABILITY IMPROVEMENT ACT

The FSIA is a comprehensive proposal designed to strengthen regulation and supervision of financial markets and some of the largest, most complex financial institutions. A key feature of the proposal is the establishment of a new Financial Services Oversight Council (FSOC) that would bring together representatives of nearly all Federal financial regulatory agencies to monitor and oversee the stability of the financial system and address stability threats. Among its many other detailed provisions, the draft also addresses prudential regulation of financial companies and activities for financial stability; merges the Office of Thrift Supervision into the Office of the Comptroller of the Currency; improves regulation for bank holding companies and depository institutions; addresses payment, clearing, and settlement supervision; creates new standards for asset-backed securities and imposes credit risk retention requirements; enhances regulatory resolution authority; and enhances powers for financial crisis management.

Support for Congressional Efforts

The FCA supports Congressional efforts to address the root causes and systemic failures that resulted in the catastrophic meltdown in the financial industry and marketplace last year. The Committee on Financial Services' FSIA legislation under review seeks to provide a mechanism for the oversight, control, and resolution of any financial company or U.S. financial marketplace activity that could pose a systemic risk to financial stability or the economy. The focus is to eliminate gaps in the supervision, regulation, identification, and control of risks in the U.S. financial markets and the largest, interconnected, and complex financial firms present to financial stability or the economy. The overall objective is to ensure the regulatory structure protects the economy and financial system as a whole. The proposal is far reaching, complex, modifies many existing laws, and affects numerous financial marketplace participants.

The objectives of the Committee draft are commendable, and we support the efforts of Congress to improve the financial regulatory structure. Whether through legislative changes, new regulatory activities, or a combination of both, there must be robust supervision and regulation of financial firms and market practices that pose threats to the financial stability of the country or the economy.

Farm Credit System Not a Contributor to the Economic Downturn or Financial Market Destabilization

The Farm Credit Act of 1971, as amended, (Farm Credit Act) and sound regulations adopted by the FCA address the fundamental safety and soundness requirements for the FCS and Farmer Mac. Under FCA's examination and oversight, the System and Farmer Mac did not engage in lending practices and market activities that contributed to the economic downturn and financial market turmoil. However, the FCA, System, and Farmer Mac had to manage through the spillover impacts on the agricultural economy, the lending environment, the funding challenges, and unintended impacts from government stabilization programs to ensure that credit and related services remained available to agricultural producers and rural areas.

From Farmer Mac's creation, Congress included strong statutory underwriting, security appraisal, and repayment standards for qualified loans, with Farmer Mac's activities regulated and supervised by the FCA. In addition to statutory minimum requirements, Farmer Mac was required to develop sound underwriting standards for loans to qualify for its programs. To date, these standards and regulations have prevented any investor credit losses in Farmer Mac securities.

For direct lender institutions of the cooperative Farm Credit System, regulations are in place for sound and constructive loans, including loan underwriting requirements, loan security appraisal standards, and repayment capacity requirements. Regulatory requirements are also in place for eligibility and scope of financing, lending and leasing limits, and regulatory capital. Additionally, requirements were put in place 20 years ago to provide for borrower rights that require clear disclosures and certain safeguards for borrowers when loans are made, as well as when their loans become distressed. Regulatory requirements and risk-based examinations have ensured the System continues to serve eligible borrowers in a safe and sound manner despite the prolonged economic recession and destabilized financial markets.

Under the jurisdiction of the Agriculture Committee, the FCA continues to effectively address FCS and Farmer Mac systemic, credit, and operational risk issues to ensure continued credit availability for agriculture and rural areas. Importantly, the FCA has the statutory authority to examine, regulate, and oversee the System and Farmer Mac, including strong enforcement authorities and the ability to appoint a conservator or receiver. Enforcement actions can result in written agreements; orders to cease and desist; civil money penalties; and orders of removal, suspension, or prohibition. When appointed by FCA, the Insurance Corporation has the statutory responsibility to serve as receiver or conservator for the orderly wind down of System institutions.

Scope of the FSOC Established by the FSIA

The draft legislation would subject all financial companies that may pose significant risks to the financial system to the framework for consolidated supervision that currently applies to bank holding companies (BHC). Large, interconnected banks, non-bank financial companies, and industrial lending companies would be subjected to comprehensive supervisory oversight applied to BHC. Large, interconnected financial companies are actively engaged in the financial markets for profit purposes. They tend to amass a material volume of complex financial transactions and obligations with other financial companies. Such firms frequently trade in various securities, financial instruments, and derivatives. At times, they may take highly leveraged speculative positions in the financial marketplace. As a result, large, interconnected financial companies are at the core of the financial markets and relied on by market participants for the intermediation of various financial transactions. Considering their central role in the marketplace, these companies can pose systemic risk due to their size, level of activity, interconnectivity and business practices.

The draft legislation would create the FSOC, with voting membership consisting of Federal financial regulatory agencies, to reinforce regulatory systemic risk oversight of large, interconnected financial companies. The FSOC would have exclusive and broad authority to identify any financial company where a material financial distress could pose a threat to financial stability or the economy or financial activity that could pose such a threat. Criteria for indentifying systemically significant financial companies include the nature of the financial assets, liabilities, off-balance sheet exposures, and transactions with other companies as well as its importance as a source of credit and liquidity. While the nature, scope, and mix of the company's activities are important considerations, the FSOC would have the discretion to consider other factors it deems appropriate.

Once the FSOC identifies a financial company as posing a systemic risk, it would be treated as a BHC and the Board of Governors of the Federal Reserve System (Board) would be required to impose heightened prudential standards. These standards include risk-based capital requirements, leverage limits, liquidity requirements, concentration limits, prompt corrective action requirements, resolution plans, and overall risk management requirements. After notice, the Board may also require the identified financial company to reduce its asset size and scope of business activities. For a subsidiary depository institution of an identified financial company, the Board would be authorized to recommend heightened prudential regulation to the primary financial regulatory agency for such subsidiary. The Board would have backup authority to impose its recommendation if the primary financial regulatory agency failed to impose the prudential standards.

To ensure the bankruptcy of a large interconnected financial company does not destabilize the financial markets or the economy, the proposed legislation provides for the orderly resolution of such firms by the Federal Deposit Insurance Corporation (FDIC). An identified financial company would be subject to the enhanced resolution process based on a recommendation by the Board and FDIC or the Security and Exchange Commission (SEC) and certain determinations by the Secretary of the Treasury. The FDIC would then be authorized to wind down an identified company's operation in a manner that ensures market critical obligations are honored and shareholders and creditors bear the brunt of any resulting losses. The FDIC would also be able to draw on the Treasury any amount needed for the resolution of such financial firms and recoup the expenditures from assessments on the financial services industry through the ex post creation of the systemic resolution fund. Risk-based assessments would be made on all financial companies with more than $10 billion in consolidated assets on a graduated basis, with credit given for fees paid to deposit insurance, investor protection, or insurance company funds.

In summary, the FSIA would grant the FSOC broad far-reaching powers over financial companies. These powers would include the authority to gather information and identify a financial company as posing a systemic risk to financial stability or the economy. Upon identifying a financial company, the FSOC would empower the Board to require heightened prudential standards and subject the identified company to enhanced resolution authorities. The FSOC and Board also would have broad authority to identify financial activities and practices that pose risks to financial stability and the economy. Once an activity or practice is identified, the Board would be required to recommend prudential standards to the primary financial regulatory agencies.

Effect of the Legislation on Farm Credit System Institutions

As proposed, the legislation does not directly amend the Farm Credit Act, which provides the primary statutory authority for the establishment and regulation of institutions of the System, including Farmer Mac. The draft does not indicate an intention to affect the System or include FCA. Moreover, its scope seems to be directed at systemic financial marketplace issues and very large, interconnected financial companies that pose systemic risk to the entire financial system and the nation's economy as a whole. However, a close reading of the draft reveals direct conflict with the Farm Credit Act as it relates to the requirement for credit risk retention in the context of securitizations. In addition, the draft creates uncertainty for the potential inclusion of the System in the regulatory structure or activities authorized. Three specific areas are noted.

First, the FSOC, composed of all Federal financial institutions regulatory agencies except the FCA and FCSIC, is established to monitor and address systemic risk to the financial stability of the United States. The significant and far reaching authority and regulatory activities of the FSOC extend broadly to any "financial company" as defined. It is not clear what the many implications may be of simply meeting the basic definition of "financial company." Nevertheless, as written, institutions of the System would appear to meet that definition, as they are companies or entities engaged in financial activities.[1] Therefore, the FSOC would have regulatory authority without inclusion of the FCA, the FCS's primary regulator, or consultation with the Agriculture Committees responsible for overseeing agricultural credit and related services delivered through the System. Similarly, any potential action by the FSOC to identify a System institution as systemically significant and treat it as a BHC would be impractical given the System's unique structure and public policy purpose. Given the FCA already analyzes, regulates, examines and oversees potential systemic risks of the System, the FSOC appears to create a conflicting regulatory framework if it applied to the System. The end result is regulatory uncertainty and confusion for the cooperative System that lends to farmers, ranchers, and others as authorized by the Farm Credit Act.

[1] Section 4 (k) (4) of the BHC Act considers lending, guaranteeing against loss, or issuing instruments representing interest in pools of assets as activities that are financial in nature.

Subtitle F of the draft legislation, through the Securities and Exchange Commission, would require creditors and those that securitize loans to retain 10 percent of the credit risk on any loan that is transferred, sold, conveyed, or securitized. This new requirement would be directly applicable to the securitization activities of Farmer Mac and perhaps to other activities of System institutions when they extend credit within the System or with external lenders. It is important to note that in 1996, Congress repealed a similar 10-percent retention requirement that existed in title VIII of the Farm Credit Act for loans sold to Farmer Mac. Farmer Mac has minimum statutory loan underwriting requirements outlined in 12 U.S.C. 2279aa-8 and definitions applying to qualified loans in 12 U.S.C. 2279aa. Separately, the FCA repealed regulations that required lead lenders to retain 10 percent of the credit risk in loan participations they sold to other lenders. As written, since the FCA is not a named Federal financial regulator on the FSOC, enforcement of the credit risk retention requirements would fall to the Securities and Exchange Commission, as outlined in 1502(e)(2), creating further conflicts.

Third, subtitle G of the draft legislation would provide the FDIC enhanced resolution authority for large, interconnected financial companies that pose systemic risks to the financial stability of the United States. Although the structure and text of subtitle G seems to imply that it does not cover the System (which is not a large, interconnected company that could pose systemic financial risks), this matter is not absolutely clear. A related issue is confusion over the authority of the FDIC to assess System banks and associations to cover the costs of dealing with failed financial institutions that already pay premiums to FCSIC.

CONCLUSION

Thank you for the opportunity to participate in today's hearing. I look forward to commenting further on the FSIA, including any revised proposals, and working with the Committee on this legislation. As you consider credit issues in agriculture, I stand ready to work with this Committee on enhancements to the Farm Credit Act to ensure our regulatory, enforcement, and resolution authorities keep pace with best practices.