

FCA does not believe that the \$1,000,000 exception creates undue risk for System institutions since the FCA's regulations still require full compliance with the Uniform Standards of Professional Appraisal Practices (USPAP) requirements for all loans in excess of the \$250,000 *de minimis* level. The FCA regulation is conservative because it establishes minimum criteria for all collateral evaluations, whether completed under USPAP or not.³ These FCA criteria provide flexibility for the presentation of the evaluation, but otherwise are comparable to the "departure provision" minimums contained in USPAP.

The ASA strongly opposed those portions of the Interim Rule that it felt would "exempt the vast majority of farm credit loan transactions from the appraisal requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)." The ASA believes that FCA has underestimated the risk to safety and soundness created by exempting 90 percent of the FCS's real estate loan volume and close to 80 percent of total loan volume from professional appraisal requirements. In addition, the ASA contends that the cost differential between an appraisal and a valuation of approximately \$300 per evaluation reported by the System is overestimated and does not take into account the significant reduction in costs that will occur once System institutions are permitted to obtain limited appraisals prepared pursuant to USPAP's Departure Provision. The ASA further stated that the FCA may have overlooked substantial opposition to the Federal regulatory agencies' appraisal rule changes from Federal regional banking and thrift regulatory officials, and even from the thrift industry itself.

The FCA has reviewed the comments received from the ASA and considered those comments in the context of their application to the operations and risk of the FCS institutions. In addition to reviewing ASA's written comments, the FCA, at the ASA's request, met with representatives of the ASA to discuss the proposed final rule and their concerns. The FCA understands the basis for the ASA's concerns with the standards for state-sanctioned appraisers and risk in residential

lending markets but believes that the portfolio structure and associated risks of the System are different. The FCS institutions' portfolios contain only a small percentage of residential loans, representing only 6 percent of the total real estate mortgage loan volume and 13 percent of the total number of mortgage loans. It should also be noted that FIRREA does not apply to FCS institutions. The FCA's regulations do, however, address similar appraisal policies in addition to concerns and issues specifically related to the FCS institutions and their collateral evaluation requirements. As indicated by the statistics cited earlier, the large majority of the System's loans and related collateral is agricultural in nature, therefore requiring agricultural-based knowledge and evaluation standards. The fact that an individual is a State licensed or certified appraiser does not ensure that the individual possesses the necessary training and expertise to value a given agricultural property. On the other hand, there are individuals who have the training and expertise to value such properties, but have not obtained a State license or certification.

FCA's regulations require the FCS institutions to establish criteria and standards concerning educational and expertise levels necessary to adequately and competently value the types of collateral found within the institution's portfolio. The FCA collateral regulations constitute only one of a number of statutory and regulatory controls placed on System institutions (e.g., maximum loan to value of 85 percent, first lien requirements for mortgage loans, and annual FCA examinations). These statutory and regulatory requirements form the framework for addressing certain safety and soundness concerns. In addition, the System institutions are restricted by certain statutory eligibility requirements which serve to limit the outer boundaries of the FCS lending institutions' activities. Given the existence of these additional statutory and regulatory requirements, the FCA believes that the collateral evaluation requirements contained in the Interim Rule adequately identify and address System risks from a safety and soundness standpoint.

D. Section 614.4265—Real Property Evaluations

An FCB commented that the cost of compliance with this section of the regulation is unjustified considering that other regulators do not require this level of compliance with USPAP for real estate collateral evaluations on "business loans" that are in excess of

\$250,000 and not otherwise exempted by § 614.4260(c). Therefore, the FCB urges FCA to delete the requirement for USPAP compliance for business loans over \$250,000 and less than \$1,000,000. Another FCB commented that most appraisers with the training necessary to perform a real estate evaluation in compliance with USPAP are in fact state-certified or state-licensed and that this requirement therefore makes the exemption meaningless, placing the System at a severe competitive disadvantage. The ACA also maintained that the cost of compliance with this section of the regulation is unjustified considering that other regulators do not require this level of compliance with USPAP. Both FCBs and the ACA believe that the requirement places System institutions at a competitive disadvantage.

On the other hand, the ASFMRA applauded the FCA's action to require that all evaluations above \$250,000 meet the standards established under USPAP, but it was troubled by the provision allowing valuations to be completed by persons who are not licensed or certified. The ASFMRA urged the FCA to consider extending the USPAP provision to recognize that all valuations, irrespective of the "de minimis" level, be completed under USPAP or under the Departure provision of USPAP.

The ASA stated that by requiring all real estate valuations to be performed by licensed or certified appraisers in accordance with USPAP, the FCA could achieve all of the regulatory flexibility it deems necessary and reduce regulatory burden even below the level set by the Interim Rule. The ASA contends that instead of easing the burden of regulatory compliance, the Interim Rule only adds to the patchwork of confusing exemption criteria under which the necessity for obtaining a licensed or certified appraisal will be dependent on an analysis, for each loan, of a variety of complex factors. They also contend that because many of these factors are so subjective in nature that they almost invite noncompliance. Both the ASA and ASFMRA proposed that the FCA extend USPAP requirements to all FCS loan transactions where collateral is valued.

The FCA believes that financial institutions operating in today's environment must engage collateral evaluators that are cognizant of the current appraisal industry standards, including knowledge of and compliance with the USPAP standards. In order for lenders to accept appraisal reports as support for their credit decisions there must be an assurance that such reports

³ Subsequent to the publication of the FCA's interim collateral evaluation regulation revisions the other Federal financial regulatory agencies adopted, on October 27, 1994, a set of "Interagency Appraisal and Evaluation Guidelines" which provide guidance for the development and application of prudent appraisal and evaluation policies, procedures, practices, and standards. Such guidelines are similar to the guidelines established in the FCA's collateral evaluation regulations.