



U.S. Office of Government Ethics  
Program Review Division

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# Ethics Program Review

Farm Credit Administration

Report No. 12-20  
December 2011

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## Results in Brief

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The United States Office of Government Ethics (OGE) conducted a review of the Farm Credit Administration's (FCA) ethics program between October and November 2011. The results of the review indicated that the FCA's ethics program is effectively administered and in compliance with applicable laws, regulations, and policies. The ethics office is staffed by experienced FCA officials and the program has the support of agency leadership.

### Highlights

- FCA employees submitted timely financial disclosure reports. Ethics officials reviewed and certified all reports within the required time frame. Reports included extensive evidence of communication with filers and detailed reviewer notes.
- FCA provided ethics guidance for FCA employees quickly. Advice was well-organized and shared among all ethics officials.
- FCA has used or considered a variety of ethics training methods including live-training, computer training, handouts, video review, and emailed news briefs.
- The FCA ethics office and Office of Inspector General (OIG) have established a signed memorandum of understanding.
- FCA's organizational chart reflects the ethics office's functional reporting relationship with the FCA Chairman.

### Concerns

- Annual ethics training in 2011 focused primarily on the Hatch Act, which is not a training requirement under 5 CFR 2638 Subpart G.

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## **Objectives, Scope, and Methodology**

OGE provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance. The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program. OGE has the authority to evaluate the effectiveness of executive agency ethics programs. See Title IV of the Ethics in Government Act and 5 CFR part 2638.

OGE's review focused on FCA's ethics program and, by extension, ethics services provided to the Farm Credit System Insurance Corporation (FCSIC). To assess FCA's ethics program, OGE examined a variety of documents provided by ethics officials; other documents that FCA forwarded to OGE, including the 2010 annual questionnaires from FCA and FCSIC; all of FCA's public and confidential financial disclosure reports; and a sample of advice and counsel provided to FCA employees. In addition, members of OGE's Program Review Division met with ethics officials to obtain additional information about the strengths and weaknesses of FCA's ethics program, seek clarification on issues that arose through the documentation analysis, and verify data collected.

## **Program Administration**

The FCA's ethics office consists of a Designated Agency Ethics Official (DAEO), Alternate DAEO (ADAEO), and Deputy Ethics Official (DEO). Ethics officials report functionally to FCA's Chairman and Chief Executive Officer. Because the ADAEO is also the Chief Human Capital Officer, the ethics office has ready access to employee personnel action reports that reflect status changes for purposes of financial disclosure, initial ethics orientation and post-employment counseling.

The FCA Chairman has visibly backed the ethics program by providing closing remarks for annual ethics training and supporting FCA's new electronic financial disclosure filing system. FCA Board Members supported the development and recent adoption of FCA's "Arm's Length" impartiality policy. In addition, the ethics office has access to senior leadership throughout FCA and obtains timely updates from senior staff meetings. Consequently, the ethics program appears to have strong leadership support and the organizational stature necessary for meeting the FCA's ethics responsibilities.

## **Financial Disclosure**

The financial disclosure program at FCA is especially robust. Public and confidential financial disclosure reports showed detailed reviewer notes and evidence of follow-up to clarify specific entries. This thorough review process produced finished reports that appeared technically sound and without apparent conflicts of interest.

Annual reports were also submitted by filers and reviewed and certified by ethics officials within the time frame allotted by regulation. FCA's financial disclosure program is supported by an electronic filing system that appears effective in its first filing year of operation. Filers are identified by regular personnel action reports, notified electronically of upcoming filing deadlines, and provided instructions on navigating the electronic filing system. Because the system notifies ethics officials automatically when an employee submits a completed form, the ethics office is able to respond more timely to the filer, making a more rapid conflict of interest analysis possible.

Reviewing officials are trained to identify FCA-specific conflicts, and a complete list of potentially-conflicting institutions is available to ethics officials. The ethics program has taken steps to identify potential conflicts for employees who are not required to file a financial disclosure form through FCA's supplemental Confidential Conflict of Interest Certification form.

## Education & Training

FCA provides ethics training electronically, through written handouts, and by live presentation. All FCA employees must complete an initial ethics orientation (IEO) training module and attend an in-person orientation course. Completion of IEO is confirmed with supervisors when ethics officials identify new employees on the bi-weekly personnel action report. OGE encourages FCA to continue its development of a system to track verification of IEO completion.

FCA's annual ethics training for 2011 consisted of a self-paced PowerPoint presentation. Of the 47 content slides, 42 focused on Hatch Act provisions which are not interpreted by OGE and not an annual ethics training requirement. OGE does not consider training spent predominately on a non-ethics topic to be an effective use of ethics training time. FCA provided a single slide with hyperlinks to the remaining required ethics subject matter, but this overly simplistic approach risks minimizing the importance of critical ethics elements.

OGE does commend the FCA on the variety of training methods used or considered for ethics training including self-paced presentations, in-person training, regular emailed ethics updates, video presentations, and the review of ethical failures found in a major motion picture. However, FCA should remain mindful of the material requirements when implementing these various training techniques.

### Suggestion

- Provide more substantive, thorough treatment of required ethics material during annual training.

## Advice & Counsel

The advice and counsel process at FCA is clear and concise. Ethics officials primarily respond to questions via email and routinely copy one another on email guidance to help ensure knowledge transfer and consistency of approach. Additionally, this practice maintains multiple email records of the advice. Hard copies of guidance for financial disclosure filers are maintained in each employee's financial disclosure file. Guidance for non-filers is maintained in a separate, general advice file. OGE reviewers found samples of advice and counsel to be very timely, with detailed responses often provided in a matter of hours.

FCA further expands upon the advice and counsel process by providing post-employment counseling to all departing employees. By establishing the ethics office as a mandatory step on an employee's out-processing checklist, FCA ethics officials help ensure that all employees can benefit from counseling on their post-employment restrictions. Ethics officials also provide employees with regular "Ethics in Action" news briefs on common ethics issues, lending a visible presence to the ethics office and providing prospective guidance on possible ethics concerns.

## Agency-Specific Ethics Rules

The FCA Handbook reprints the agency's supplemental ethics regulation in its entirety, thereby avoiding potentially inaccurate summarization of the approved regulatory language. Ethics training references prohibited holding and outside activity restrictions which are subsequently enforced through financial disclosure analysis. OGE reviewers observed approved outside activity requests in several employees' ethics records with corresponding outside activities identified on their financial disclosure reports.

## Conflict Remedies

Prevention of potential conflicts at FCA focuses primarily on preventative recusals and counseling. Executive assistants and supervisors typically screen recusals. FCA has also enforced a recusal obligation by detailing an employee to a position that would not cause a potential conflict of interest.

FCA has not issued any waivers of 18 U.S.C. 208. FCA board members cannot serve on the board while holding stock in an FCA institution and must divest prior to assuming the position.

## Enforcement

The ethics office and Office of Inspector General at FCA have established a good working relationship. A signed memorandum of understanding between both offices clearly delineates investigative and notification responsibilities for addressing potential criminal conflicts of interest. The last issue requiring OIG services occurred in the early 1990s.

## 1353 Travel Acceptances

At the time of the review, OGE identified one outstanding semi-annual report of payments from non-Federal sources. Upon notification from reviewers, FCA ethics officials immediately provided OGE with the outstanding report indicating no travel payments were accepted during that time period.

## Agency Comments

FCA provided the following comments via email on December 7, 2011. They are reproduced below in their entirety.

“Our seriously considered ethics training efforts each year are extensive and multifaceted and go above and beyond the minimal ethics training requirements set forth in the Standards. More specifically:

- We have a comprehensive on-line orientation training course that every new employee must take;
- In addition to the on-line orientation course, each year we provide:
  - In-person orientation training sessions to all new employees, and
  - One-on-one orientation training to our new Board Members with an *Ethics Briefing Booklet* that focuses on the particular ethical concerns and challenges for our Board;
- Each year, as required by 5 C.F.R. § 2638.704(b), our mandatory annual training course includes a review of the Principles, the Standards, the Federal conflict of interest statutes, the supplemental ethics rules, and the names, addresses and phone numbers of the Ethics Staff[;];
- Our annual training materials also include the most recent DOJ survey of prosecuted ethics violations;
- Since 1992, the overwhelming majority of our annual training courses have focused solely on the ethics rules;

- This year, in anticipation of the 2012 Presidential election year, we included a review of the Hatch Act combined with a detailed review of the rules on fundraising in the Standards and a link to all the material required by 5 C.F.R. § 2638.704(b). We believe this course was timely and appropriate. As OGE noted in its exit conference, our training was also in compliance with the requirements of the training regulation.
- Our *Ethics in Action* articles (published several times each month) focus on many of the provisions in the Principles, Standards, and Federal conflict of interest laws and provide regular, on-going staff training in addition to the orientation and annual training.
- Finally, the ethics guidance sought by FCA staff reflects their understanding of the Principles, Standards, Conflict of Interest Laws, and FCA's supplementary rules, as well as their ability to identify the red flags that require further counsel from the Ethics Staff."