FARMER MAC

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Via Electronic Mail to reg-comm@fca.gov

To: Barry F. Mardock
Deputy Director, Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

and the Addressees listed on Schedule I attached hereto

Re: Margin and Capital Requirements for Covered Swap Entities
RIN 3052-AC69 (FCA)
Docket ID OCC-2011-0008 (OCC)
Docket No. R-1415, RIN 7100 AD74 (Federal Reserve)
RIN 3064-AE21 (FDIC)
RIN 2590-AA45 (FHFA)

Ladies and Gentlemen:

The Federal Agricultural Mortgage Corporation ("Farmer Mac") appreciates this opportunity to comment on the above-referenced joint proposed rule (the "Proposed Rule"),[1] which addresses capital and margin requirements for registered swap dealers, major swap participants and certain other financial entities, including Farmer Mac, on all non-cleared swaps[2] under Sections 731 and 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

Farmer Mac is a stockholder-owned, federally-chartered corporation that combines private capital and public sponsorship to provide a secondary market for a variety of loans made to borrowers in rural America. The secondary market provided by Farmer Mac is designed to increase the availability of long-term credit at stable interest rates to America's rural communities and to provide rural borrowers with the benefits of capital markets pricing and product innovation. As part of its funding strategy for providing liquidity and capital to rural America, Farmer Mac is an end user of derivatives (primarily interest rate swaps) that often uses swap transactions to

[1] 79 Fed. Reg. 57348 (Sept. 24, 2014). For Farmer Mac, the Proposed Rule would be implemented pursuant to 12 C.F.R. Part 624.

[2] In this letter, the terms "swaps," "swap dealer," and "major swap participant" refer to both swaps and security-based swaps, swap dealers and security-based swap dealers, and major swap participants and major security-based swap participants, respectively, unless otherwise stated.

manage its interest rate risk and increase the availability of credit to rural lenders and their borrowers.

Farmer Mac supports the efforts of the Farm Credit Administration ("FCA"), as well as the other prudential regulators[3] (collectively, with the FCA, the "Agencies"), in seeking to establish minimum capital and initial and variation margin requirements for swap transactions not cleared by a central counterparty. However, Farmer Mac believes that these efforts, which are intended to further the Agencies' goals of reducing systemic risk to the financial system consistent with the purposes of the Dodd-Frank Act, should also be coupled with a view towards fostering, rather than constraining, the efficient operation of the over-the-counter ("OTC") swaps market. To that end, Farmer Mac has several comments to the Proposed Rule, as described below.

I. Calculation of "Material Swaps Exposure"

The Proposed Rule identifies four separate types of swap counterparties to covered swap entities, as follows: (1) other swap entities; (2) financial end users with a material swaps exposure; (3) financial end users without a material swaps exposure; and (4) other counterparties.[4] The term "material swaps exposure" is defined under the Proposed Rule as an average daily aggregate notional amount of non-cleared swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July, and August of the previous calendar year that exceeds $3 billion, where such amount is calculated only for business days.[5] Although the Proposed Rule provides a method of calculation to determine whether a financial end user has a "material swaps exposure," Farmer Mac has identified several issues with the definition that it requests the Agencies to address and clarify.

First, the Proposed Rule does not address whether swaps entered into prior to the effective dates for mandatory clearing rules implemented by the Commodity Futures Trading Commission ("CFTC"), and therefore exempt from the clearing mandate, are to be included in the calculation of the notional amount of non-cleared swaps to determine whether a financial end user has a material swaps exposure. Farmer Mac believes that the exclusion of non-cleared swaps entered into prior to the clearing mandate for purposes of this determination would be consistent with the CFTC's approach that has been in place for over a year and would not conflict with the Agencies'

[3] The other prudential regulators are: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve; Federal Deposit Insurance Corporation; and Federal Housing Finance Agency (the "FHFA"). The Agencies originally proposed rules to implement the above-referenced sections of the Dodd-Frank Act in May 2011 (the "2011 Proposal"), and as a result of comments received, have issued the new Proposed Rule.

[4] *See* Proposed Rule at 57353. The Proposed Rule states that no Farm Credit System institution, including Farmer Mac, would fall within the proposed definition of a "covered swap entity," and therefore, become directly subject to the rule. However, the Proposed Rule does indicate that Farmer Mac would be considered a financial end user. *See* Proposed Rule at 57357.

[5] *See* Proposed Rule at 57391 (proposed 12 C.F.R. § 624.2).

purpose of reducing systemic financial risk. The CFTC's rules for mandatory clearing of many interest rate swaps became effective for certain types of counterparties in June 2013,[6] and Farmer Mac began clearing all of its interest rate swaps required to be cleared under such rules shortly before this effective date. As of September 30, 2014, Farmer Mac had $6.6 billion notional amount of interest rate swaps outstanding, of which $3.8 billion were cleared through swap clearinghouses. However, had Farmer Mac been required to clear its interest rate swaps for a period of time prior to June 2013, a larger percentage of its notional amount of interest rate swaps outstanding would have been cleared through swap clearinghouses. Specifically, the CFTC could have applied the clearing mandate retroactively to clearable swaps that had been entered into prior to the compliance date, but chose not do so. Excluding these non-cleared swaps from the clearing requirement suggests that the CFTC's view of the risk related to these non-cleared swaps at the time of the clearing compliance date was not so great that the mandate should have been applied retroactively. Farmer Mac encourages the Agencies to consider this regulatory judgment in finalizing the calculation for "material swaps exposure." With this judgment in mind, Farmer Mac believes it would be inconsistent to include non-cleared swaps that could have been cleared had the clearing mandate been in effect earlier or applied retroactively in the calculation to determine whether an entity has a "material swaps exposure."

Additionally, the proposed definition of "material swaps exposure" does not promote the establishment of a comprehensive regulatory framework for the OTC derivatives market because the definition of "material swaps exposure" does not align with the dates on which clearing mandates have or will become effective for different types of swaps. This significantly increases the probability of different U.S. regulators creating a disjointed framework for derivatives regulation and an operationally inefficient derivatives market may result. Furthermore, the three-month period used to determine "material swaps exposure" does not match up with the three-month period used to determine what the relevant compliance date is for the imposition of initial margin requirements.[7] It is also unclear why the determination of whether a financial end user must comply with the initial margin requirements under the Proposed Rule is based upon a retroactive determination of the average daily aggregate notional amount of non-cleared swaps outstanding during a previous three-month period, particularly when that average may decline in subsequent years due to a greater amount of swaps being cleared through swap clearinghouses.

[6] 77 Fed. Reg. 74284 (Dec. 12, 2012). The effective date of the mandatory clearing rules for certain classes of interest rate swaps and credit default swaps for "Category 1" entities was March 11, 2013, for "Category 2" entities was June 10, 2013, and for "Category 3" entities was September 9, 2013.

[7] To determine whether it has a material swaps exposure under the definition, a financial end user is required to perform a calculation based upon the average daily aggregate notional amount of non-cleared swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July, and August of the *previous* calendar year. However, the calculation performed by a financial end user with a material swaps exposure to determine the relevant compliance date for the implementation of initial margin requirements is based upon the average daily aggregate notional amount of non-cleared swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July, and August of the *same* calendar year in which the compliance date for the implementation of initial margin requirements would become effective.

At the very least, if the "material swaps exposure" definition must be tied to a retroactive date for operational reasons, then the definition should take into account the compliance dates prior to which certain swaps were not required to be cleared. For all of the reasons stated above, Farmer Mac believes that any definition for "material swaps exposure" should relate back to the mandatory clearing dates for different types of swaps and exclude the notional amount of any non-cleared swaps outstanding that could have been cleared had the respective clearing mandates for such swaps been in effect earlier or applied retroactively. If the Agencies do not revise the definition for "material swaps exposure" as discussed above in the final rule, then the Agencies should consider increasing the $3 billion notional derivative exposure threshold to more closely align with the €8 billion (approximately $11 billion) threshold set forth under the international framework for margin requirements on non-cleared swaps adopted by the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions in September 2013 (the "2013 international framework").[8] The disparity between these thresholds for determining whether a "financial end user" must exchange initial margin increases the likelihood that inconsistencies in margin requirements between global regulators will result in significant costs and operational challenges for derivatives users and adversely impact global liquidity.

Another point related to the concept of "material swaps exposure" about which Farmer Mac seeks additional clarification is whether, if a financial end user is deemed to have a "material swaps exposure" as of the calculation date in one year, it will remain subject to the requirements applicable to financial end users with a "material swaps exposure" indefinitely, or whether this calculation should be performed on an annual basis to determine whether and when margin requirements are applicable. Though the Proposed Rule explicitly states that a covered swap entity and its counterparty will remain subject to the initial margin requirements for non-cleared swaps based upon the compliance dates set forth in the Proposed Rule once they must begin complying with those requirements,[9] it is silent as to whether a financial end user will always be considered to have a "material swaps exposure" once it crosses the $3 billion threshold of average daily aggregate notional amount of non-cleared swaps outstanding during the specified three-month period. Such an interpretation could produce unintended results, however. For example, if a financial end user as of January 1, 2015 had $3.01 billion of average daily aggregate notional amount of non-cleared swaps outstanding during June, July, and August of 2014, then it would be considered a financial end user with a material swaps exposure subject to the initial margin requirements, with a likely compliance date of December 1, 2019. If that financial end user had $2.3 billion of average daily aggregate notional amount of non-cleared swaps outstanding during June, July, and August of 2018, it would not be considered a financial end user with a material swaps exposure on January 1, 2019. Without explicit language stating that the "material swaps exposure" calculation may be performed annually, such that an annual determination may be made as to whether the initial margin requirements will be applicable, a financial end user may have

[8] *See* Proposed Rule at 57366.

[9] *See id.* at 57398 (proposed 12 C.F.R. § 624.1(e)).

significantly reduced the notional amount of its non-cleared swaps and yet still be subject to initial margin requirements as of December 1, 2019, when it no longer has a "material swaps exposure." This result does not effectuate the Agencies' purpose of reducing the systemic risk of the financial system, especially given that the Proposed Rule does not contemplate imposing minimum initial margin requirements on financial end users without a material swaps exposure. Thus, Farmer Mac requests that the Agencies consider including explicit language in any final rule that allows a financial end user to determine annually whether it has a "material swaps exposure," which in turn will determine whether and when the financial end user will be subject to the initial margin requirements.

II. Eligible Collateral

a. Initial Margin Collateral

The Agencies expanded in the Proposed Rule the types of eligible collateral that may be posted as initial margin compared to the types allowed under the 2011 Proposal, noting that the current list of eligible collateral includes a "broader range of high-quality, liquid and readily marketable assets."[10] Although Farmer Mac welcomes an expanded list of eligible collateral for initial margin purposes, Farmer Mac does not agree with the Proposed Rule's divergence from the 2011 Proposal regarding the characterization of the senior debt obligations of various government-sponsored enterprises ("GSEs") as eligible collateral. Specifically, the 2011 Proposal explicitly stated that the senior debt obligations issued by Fannie Mae, Freddie Mac, the Federal Home Loan Banks, or Farmer Mac, and the insured obligations of the Farm Credit banks constituted eligible collateral.[11] The Proposed Rule has eliminated specific references to any GSE and instead differentiates between, and applies different treatment to, publicly traded debt securities issued by a GSE operating with capital support or another form of direct financial assistance from the U.S. government and publicly traded debt securities issued by a GSE that does not operate with such support or assistance and has "adequate capacity to meet financial commitments."[12] Aside from briefly acknowledging this divergence and requesting comments on how a party should determine whether a GSE has adequate capacity to meet its financial commitments, the Agencies do not provide any reasoning as to why this substantive change has been made from the 2011 Proposal,

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[10] *See id.* at 57370.

[11] 76 Fed. Reg. 27564, 27578 (May 11, 2011).

[12] *See* Proposed Rule at 57371-72. The Proposed Rule does not define "publicly traded debt securities," though Farmer Mac assumes that any definition of "publicly traded debt securities" would include Farmer Mac's debt securities because they are actively traded in liquid markets even though they are not listed on a registered exchange. Farmer Mac notes that in the Liquidity Coverage Ratio Rule (defined below), the Agencies (other than the FCA and the FHFA) explicitly deleted the "publicly traded" requirement for corporate debt securities that could be included as level 2B assets, acknowledging that corporate debt securities are frequently traded in OTC secondary markets and are less frequently listed and regularly traded on national securities exchanges. *See* 79 Fed. Reg. 61440, 61459-60 (Oct. 10, 2014).

or why the Agencies believe that the debt securities of GSEs that do not operate with capital support or direct financial assistance from the U.S. government have significantly dissimilar liquidity characteristics from the debt securities of GSEs that do operate with such support or assistance. Moreover, the Proposed Rule provides no reasons why the Agencies believe that the debt securities of GSEs that do not operate with capital support or direct financial assistance from the U.S. government have substantially similar liquidity characteristics to, and should be treated the same as, the debt securities of corporate issuers.[13] Farmer Mac believes that the distinction made in the Proposed Rule between the types of GSEs for the purposes of identifying different types of eligible collateral is without basis for the reasons discussed below.

The debt securities of the various GSEs, whether or not operating with capital support or direct financial assistance from the U.S. government, trade at comparable levels due to the homogeneity of the GSE debt market, even during major market disruptions. GSEs are frequent issuers of debt in the market and are generally served by the same trading desks of market making firms. Certain large programmatic "benchmark" debt issuances are actively traded in repurchase and securities lending markets at comparable levels for GSE issuers, largely because the GSE debt market exhibits similar liquidity characteristics and offers pricing transparency, as compared to the corporate debt market, which is non-uniform.

The final rule adopted by all of the Agencies (other than the FCA and the FHFA) earlier this year requiring a company subject to the rule to maintain an amount of high-quality liquid assets to fulfill the requisite quantitative minimum liquidity coverage ratio (the "Liquidity Coverage Ratio Rule") also supports the view regarding the high liquidity of the U.S. GSE securities market.[14] Specifically, the Liquidity Coverage Ratio Rule describes U.S. GSE securities as "highly liquid instruments that trade in deep and active markets" and includes them as a level 2A liquid asset, which means that these assets "have characteristics that are associated with being relatively stable and significant sources of liquidity."[15] Notably, the Liquidity Coverage Ratio Rule does not differentiate between GSEs operating with or without capital support or direct financial assistance from the U.S. government.[16] Therefore, it appears inconsistent that the

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[13] Currently the debt securities of GSEs that do not operate with capital support or some other form of direct financial assistance from the U.S. government are categorized generally with publicly traded debt securities for which the issuer has adequate capacity to meet financial commitments, and receive the same collateral haircut treatment as corporate debt securities. *See* Proposed Rule at 57371-72 (proposed 12 C.F.R. § 624.6(a)(2)(vii)(A) and proposed 12 C.F.R. § 624.12, Appendix B to Part 624 – Margin Values for Cash and Noncash Initial Margin Collateral). Corporate debt securities were not listed as a type of eligible collateral for initial margin purposes under the 2011 Proposal.

[14] 79 Fed. Reg. 61440 (Oct. 10, 2014).

[15] *Id.* at 61458-59.

[16] The Liquidity Coverage Ratio Rule explicitly acknowledges that certain U.S. GSEs currently operate under the conservatorship of the FHFA and receive capital support from the U.S. Treasury, noting that the events related to the 2007-2009 financial stress that required these entities to be placed under conservatorship do not support temporarily improving the high-quality liquidity status of all GSE securities. *See* Liquidity Coverage Ratio Rule at 61458.

Proposed Rule explicitly allows the factor of capital support received from the U.S. government to temporarily improve the status of certain GSE securities over others by reducing the haircut factor applied to such securities for purposes of eligible initial margin collateral. Farmer Mac believes that the Agencies should convey consistent positions across rules they propose or adopt, unless there is some stated reason for not doing so. However, the Proposed Rule articulates no reason as to why the liquidity characteristics of the debt securities of GSEs in the initial margin collateral context are different depending upon whether a GSE operates with capital support or direct financial assistance of the U.S. government.

Furthermore, the Liquidity Coverage Ratio Rule categorizes corporate debt securities as level 2B assets assuming they meet specific requirements, signifying that these assets are thought to have less liquidity than or differing liquidity characteristics from those categorized as level 2A assets such as GSE debt obligations. The Liquidity Coverage Ratio Rule requires that for the purpose of calculating a company's high-quality liquid asset amount, each of the level 1 liquid asset amount, level 2A liquid asset amount, and level 2B liquid asset amount is calculated using the fair values of the assets in each of these asset classes multiplied by the appropriate haircut factor prescribed for each level of high-quality liquid assets.[17] Significantly, under the Liquidity Coverage Ratio Rule, a 15 percent haircut is applied to level 2A assets and a 50 percent haircut is applied to level 2B assets.[18] However, under the Proposed Rule, the haircut factors applied to debt securities of GSEs operating without capital support or direct financial assistance from the U.S. government and corporate debt securities are identical at 1-8 percent of market value (depending upon the debt maturity date), which is double the haircut factors applied to debt securities of GSEs operating with capital support or direct financial assistance from the U.S government.[19] The Agencies provide no reasons for these disparities between the haircut factors applied to GSE debt obligations under the Liquidity Coverage Ratio Rule and the Proposed Rule, which appear to be unwarranted especially because both rules aim to undertake a risk-based approach towards liquidity. Notably, in addition to the Liquidity Coverage Ratio Rule, the rule adopted earlier this year by the Agencies (other than the FCA and the FHFA) generally prohibiting banking entities from engaging in proprietary trading expressly exempts from this prohibition, in accordance with Section 619 of the Dodd-Frank Act, trading in the debt obligations of Fannie Mae, Freddie Mac, the Federal Home Loan Banks, Farmer Mac, or Farm Credit banks.[20] This exemption allows for banking entities to make markets in *all* of these GSE debt obligations, without distinction as to whether they are operating with capital support or direct financial assistance of the U.S. government. Therefore, in light of the various rules recently adopted by the Agencies (other than

[17] *Id.* at 61471.

[18] *Id.*

[19] *See* Proposed Rule at 57396 (proposed 12 C.F.R. § 624.12, Appendix B to Part 624 – Margin Values for Cash and Noncash Initial Margin Collateral). Notably, under the 2011 Proposal, the proposed haircut ranges applied across all GSEs was identical.

[20] 79 Fed. Reg. 5536, 5639 (Jan. 31, 2014). This rule was also adopted by the Securities and Exchange Commission.

the FCA and the FHFA) highlighting the similar liquidity characteristics of all GSEs, Farmer Mac requests that the Agencies differentiate between, and apply different collateral "haircuts" to, the debt securities of GSEs, regardless of whether they are operating with the capital support or direct financial assistance of the U.S. government, and those of non-GSE corporate issuers.

b. Variation Margin Collateral

Under the Proposed Rule, variation margin is limited to cash, which would be a significant shift from arrangements currently observed in the OTC swaps market.[21] Currently, participants in the OTC swaps market use fixed income securities, particularly obligations issued by or fully guaranteed by the U.S. government, in large part to fulfill their variation margin obligations, which was contemplated by the 2011 Proposal.[22] The Agencies' concern that the risk of disputes over the value of variation margin collateral will be high if it is not limited to cash appears to unfounded, given that the OTC swaps market is currently operating in a manner that allows for non-cash variation margin collateral to be posted. Similarly, the Agencies' reference to central counterparties only accepting cash as variation margin does not support the limitations on variation margin set forth under the Proposed Rule. Central counterparties act as "middlemen" for purposes of variation margin collateral, and have limited mechanisms to accept any variation margin collateral other than cash, whereas a financial institution or operating business does have the capability of accepting different types of variation margin. Farmer Mac requests the Agencies to consider reverting to their 2011 Proposal on this point, as U.S. government agency securities have transparent pricing and minimum associated transaction costs, are highly liquid, and serve as readily available collateral.

Another operational challenge that should be mentioned in connection with the limitation of variation margin collateral solely to cash is that each party will have to track various master agreements published by the International Swaps and Derivatives Association, Inc. ("ISDA") and related credit support annexes for each of its counterparties to determine whether and when it must post cash or it may post other non-cash collateral to fulfill its variation margin requirements. Specifically, swap transactions that occur between counterparty A and counterparty B prior to the compliance date for the implementation of variation margin requirements could continue to have securities posted as variation margin collateral, whereas any swap transactions that occur following that date will require that only cash be posted as variation margin collateral. In practice, it will be challenging for counterparty A's back office to track the old and new credit support annexes it has in place with counterparty B because it will be dealing with different files for each transaction with counterparty B. The operational complexity and costs related to identifying which type of variation margin collateral is acceptable for each trade between counterparties will be significant, with little additional benefit to each counterparty. For these reasons, Farmer Mac requests that variation margin collateral not be limited solely to cash.

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[21] *See* Proposed Rule at 57371.

[22] *Id.* at 57370.

III. Compliance Dates

The Proposed Rule sets forth a tiered schedule for the compliance dates for the implementation of initial margin requirements, with the earliest beginning on December 1, 2015 and the latest beginning on December 1, 2019.[23] With regard to the implementation of the variation margin requirements, the Proposed Rule sets December 1, 2015 as the compliance date for all covered swap entities and financial end users.[24] Farmer Mac believes that several clarifications or modifications are warranted in connection with this proposed compliance schedule.

With regard to the implementation of the initial margin requirements, the Proposed Rule sets forth an aggressive timeline for compliance by various OTC swaps market participants. The Agencies indicate that the compliance dates under the Proposed Rule are consistent with the 2013 international framework.[25] The 2013 international framework was established following a proposal issued by these international agencies in October 2012, which resulted in significant public comments. Therefore, international swaps market participants subject to the 2013 international framework will have had, at the very least, since September 2013 (if not October 2012) to make the necessary operational and legal changes required to prepare for compliance with the new requirements of the 2013 international framework. Taking the first compliance date of December 1, 2015, and assuming that some form of the Proposed Rule is adopted by the Agencies by March 2015, a swap entity subject to the 2013 international framework would have had at least one and a half years longer to prepare for compliance than a covered swap entity will have to prepare for compliance with the final rule adopted by the Agencies. Thus, Farmer Mac believes that swaps market participants that will be subject to some form of the Proposed Rule be allowed a similar timeframe in which to prepare for compliance with the new margin requirements, especially in light of the Agencies' acknowledgement that covered swap entities will likely need

[23] *See* Proposed Rule at 57358-59 (proposed 12 C.F.R. § 624.1(d)). The tiered schedule for the compliance dates for the implementation of initial margin requirements are based upon the average aggregate daily notional amount of covered swaps of a covered swap entity (combined with its affiliates) and its counterparty (combined with its affiliates) that exceed the specified threshold amount. Specifically, if the average aggregate daily notional amount of covered swaps of a covered swap entity (combined with its affiliates) and its counterparty (combined with its affiliates) exceeds $4 trillion, $3 trillion, $2 trillion, or $1 trillion, then the compliance date is December 1, 2015, December 1, 2016, December 1, 2017, or December 1, 2018, respectively. For any other covered swap entity that does not have an average aggregate daily notional amount of covered swaps that exceeds $1 trillion, then the initial margin requirements will become effective on December 1, 2016 for swaps between that covered swap entity and any other counterparty.

[24] *See id.*

[25] *See id.* at 57358.

to make significant operational and legal changes to their current swaps business operations to achieve compliance with the Proposed Rule.[26]

Additionally, the Proposed Rule is silent as to the mechanics of the public dissemination of each covered swap entity's (combined with its affiliates) and its counterparty's (combined with its affiliates) status in connection with the thresholds for the average aggregate daily notional amount of covered swaps set forth in the Proposed Rule. Thus, it appears that each covered swap entity will have to rely on representations in documentation with its counterparties as to whether either is over a specific threshold. However, timely executing documentation with individual counterparties before the relevant compliance date for each counterparty will be challenging because the calculation date to determine the average aggregate daily notional amount of covered swaps is at the end of August in the same year that compliance is required. Farmer Mac requests that the Agencies consider the operational difficulties posed by the proposed calculation dates for the average aggregate daily notional amount of covered swaps and their relation to the compliance dates for the implementation of initial margin requirements.

Farmer Mac also believes that some of the language contained in the provisions related to the compliance dates for initial margin requirements remain unclear, and therefore seeks clarification. The Proposed Rule states that the December 1, 2019 compliance date is "with respect to the [initial margin requirements in 12 C.F.R. § 624.3(d)] for any other covered swap entity with respect to non-cleared swaps and non-cleared security-based swaps entered into with *any other counterparty*."[27] However, the provisions related to the initial margin requirements under the Proposed Rule state that "a covered swap entity is not required to collect initial margin with respect to any non-cleared swap or non-cleared security based swap with a counterparty that is neither a financial end user with material swaps exposure nor a swap entity."[28] The terminology of "any other counterparty" at the very least is ambiguous and may even conflict with the operational provisions regarding the applicability of the initial margin requirements. The provision containing the compliance date appears to suggest that all counterparties, including financial end users without material swaps exposure and other counterparties, will be subject to the provisions imposing the initial margin requirements in December 1, 2019, which contradicts the provisions explicitly stating that covered swap entities are not required to collect initial margin from financial end users without material swaps exposure and other counterparties. Therefore, Farmer Mac requests that the Agencies revise these provisions to clarify their intent that financial end users without material swaps exposure and other counterparties not be subject to the initial margin requirements.

[26] *See id.* at 57359.

[27] *See id.* at 57389 (proposed 12 C.F.R. § 624.1(d)(6)) (emphasis added).

[28] *See id.* at 57391 (proposed 12 C.F.R. § 624.3(d)).

Finally, with regard to the implementation of variation margin requirements, the Proposed Rule sets forth a compliance date of December 1, 2015, which Farmer Mac considers to be exceedingly aggressive. Assuming that a form of the Proposed Rule is finalized in March 2015, all swap participants will have approximately only three quarters in which to renegotiate their ISDA master agreements and corresponding credit support annexes with all of their counterparties. Given the amount of time that swaps participants subject to the 2013 international framework had to prepare for compliance with the variation margin requirements, it would be reasonable for the Agencies to allow a comparable amount of time for all swaps participants that will be subject to the final form of the Proposed Rule to effectuate the operational and legal changes required for compliance with variation margin requirements. Accordingly, Farmer Mac requests that the compliance date for the variation margin requirements be set no earlier than December 1, 2016.

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Farmer Mac appreciates your thoughtful consideration of the comments and proposals included in this letter and would be pleased to provide further detail or explanation at your request.

Very truly yours,

R. Dale Lynch
Senior Vice President – Chief Financial Officer

<u>SCHEDULE I</u>

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