Director orders an enrollment change, a person whose enrollment has been changed from one plan to another, or from one option of a plan to the other option of that plan, and who is confined to a hospital or other institution for care or treatment on the last day of enrollment under the prior plan or option, is entitled to continuation of the benefits of the prior plan or option during the continuance of the confinement. Continuation of benefits shall not extend beyond the 91st day after the last day of enrollment in the prior plan or option. The plan or option to which enrollment has been changed shall not pay benefits with respect to that person while he or she is entitled to any inpatient benefits under the prior plan or option. The gaining plan or option shall begin coverage according to the limits of its FEHB Program contract on the day after the day all inpatient benefits have been exhausted under the prior plan or option or the 92nd day after the last day of enrollment in the prior plan or option, whichever is earlier. For the purposes of this paragraph (b)(2), “exhausted” means paid or provided to the maximum benefit available under the contract.

(3) The employing agency must notify the enrollee of the termination of the enrollment and of the right to convert to a non-group contract within 15 days after the date the enrollment terminates.

(4) When an individual converts his or her rights to convert to non-group plan during the extension period is deemed to have declined the right to convert unless the Carrier, or, upon review, OPM determines the failure was for cause beyond his or her control.

[FR Doc. 2018–03510 Filed 2–20–18; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 45
RIN 1557–AE29

FEDERAL RESERVE SYSTEM
12 CFR Part 237
[Docket No. R–1596]
RIN 7100–AE96

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 349
RIN 3064–AE70

FARM CREDIT ADMINISTRATION
12 CFR Part 624
RIN 3052–AD28

FEDERAL HOUSING FINANCE AGENCY
12 CFR Part 1221
RIN 2590–AA92

Margin and Capital Requirements for Covered Swap Entities; Proposed Rule
Agency: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and the Federal Housing Finance Agency (FHFA).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Board, OCC, FDIC, FCA, and FHFA (each an Agency and, collectively, the Agencies) are seeking comment on proposed amendments to the minimum margin requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator (Swap Margin Rule). The Agencies are proposing these amendments in light of the rules recently adopted by the Board, the OCC, and the FDIC that impose restrictions on certain non-cleared swaps and non-cleared security-based swaps and other financial contracts (Covered QFCs) (the QFC Rules). The QFC Rules amend the definition of “Qualifying Master Netting Agreement” in the Federal banking agencies’ regulatory capital and liquidity rules to ensure that a Covered QFC is not prevented from being part of a Qualifying Master Netting Agreement solely because the Covered QFC conforms to the new requirements in the QFC Rules. The FCA also plans to propose amendments to its capital rules, including potential revisions to its regulatory definition of “Qualifying Master Netting Agreement,” which is expected to be identical to the definition used in the Federal banking agencies’ regulatory capital and liquidity rules.

The Agencies are proposing to amend the definition of “Eligible Master Netting Agreement” in the Swap Margin Rule so that it remains harmonized with the amended definition of “Qualifying Master Netting Agreement” in the Federal banking agencies’ regulatory capital and liquidity rules, and amendments to the capital rules that the FCA separately plans to propose. This proposed rule would also ensure that netting agreements of firms subject to the Swap Margin Rule are not excluded from the definition of “Eligible Master Netting Agreement” based solely on their compliance with the QFC Rules. The Agencies are also proposing that any legacy non-cleared swap or non-cleared security-based swap (i.e., a non-cleared swap or non-cleared security-based swap entered into before the applicable compliance date) that is not subject to the margin requirements of the Swap Margin Rule would not become subject to the provisions of the
Swap Margin Rule if the non-cleared swap or non-cleared security-based swap is amended solely to comply with the requirements of the QFC Rules.

DATES: Comments should be received by April 23, 2018.

ADDRESSES: Interested parties are encouraged to submit written comments jointly to all of the Agencies. Commenters are encouraged to use the title “Margin and Capital Requirements for Covered Swap Entities” to facilitate the organization and distribution of comments among the Agencies. Commenters are also encouraged to identify the number of the specific question for comment to which they are responding. Comments should be directed to:

OCC: You may submit comments to the OCC by any of the methods set forth below. Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title “Margin and Capital Requirements for Covered Swap Entities” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—“Regulations.gov”: Go to www.regulations.gov. Enter “Docket ID OCC–2018–0003” in the Search box and click “Search.” Click on “Open Docket Folder” on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on “View all documents and comments in this docket” and then using the filtering tools on the left side of the screen.
- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov. The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- Viewing Comments Personally: You may personally inspect and photocopy comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.
- Board: You may submit comments, identified by Docket No. R–1596 and RIN 3064–AE70, Federal Reserve System, 550 17th Street NW, Washington, DC 20551. All comments received must include the agency name (FDIC) and RIN 3064–AE70 and will be posted without change to http://www.fdic.gov/regulations/laws/federal, including any personal information provided.
- Comments received at our office in Washington, DC, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.
- You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:
  - Viewing Comments Electronically: Go to www.regulations.gov. Enter “Docket ID OCC–2018–003” in the Search box and click “Search.” Click on “Open Docket Folder” on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on “View all documents and comments in this docket” and then using the filtering tools on the left side of the screen.
  - Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov. The docket may be viewed after the close of the comment period in the same manner as during the comment period.
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FCA: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA’s website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comments multiple times via different methods. You may submit comments by any of the following methods:

- Mail: Address to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/fia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), between 9:00 a.m. and 5:00 p.m. on weekdays.
- FDIC: You may submit comments, identified by RIN 3064–AE70, by any of the following methods:
  - Email: CommentsFDIC.gov. Include “RIN 3064–AE70” on the subject line of the message.
- Hand Delivery/Courier: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. All comments received must include the agency name (FDIC) and RIN 3064–AE70 and will be posted without change to http://www.fdic.gov/regulations/laws/federal, including any personal information provided.

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FCA: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA’s website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comments multiple times via different methods. You may submit comments by any of the following methods:

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- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/fia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying
I. Background

A. The Swap Margin Rule

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was enacted on July 21, 2010.1 Title VII of the Dodd-Frank Act established a comprehensive new regulatory framework for derivatives, which the Dodd-Frank Act generally characterizes as “swaps” (swap is defined in section 721 of the Dodd-Frank Act to include, among other things, an interest rate swap, commodity swap, equity swap, and credit default swap) and “security-based swaps” (security-based swap is defined in section 761 of the Dodd-Frank Act to include a swap based on a single security or loan or on a narrow-based security index).2 For the remainder of this preamble, the term “swaps” refers to swaps and security-based swaps unless the context requires otherwise.

Sections 731 and 764 of the Dodd-Frank Act required the Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and the Federal Housing Finance Agency (FHFA) (collectively, the Agencies) to adopt rules jointly that establish capital and margin requirements for swap entities 3 that are prudentially regulated by one of the Agencies (covered swap entities),4 to offset the greater risk to the


4 Sections 1a(39) of the Commodity Exchange Act of 1936, as amended, defines the term “prudential regulator” for purposes of the margin requirements applicable to swap dealers, major swap participants, security-based swap dealers and major security-based swap participants. The Board is the prudential regulator for any swap entity that is (i) a state-chartered bank that is a member of the Federal Reserve System, (ii) a state-chartered branch or agency of a foreign bank, (iii) a foreign bank which does not operate an insured branch, (iv) an organization operating under section 25A of the Federal Reserve Act of 1913, as amended, or having an agreement with the Board under section 25 of the Federal Reserve Act, or (v) a bank holding company, a foreign bank that is treated as a bank holding company under section 6(a) of the International Banking Act of 1978, as amended, or a savings and loan holding company (on or after the transfer date established under section 311 of the Dodd-Frank Act), or a subsidiary of such a company or foreign bank (other than a subsidiary for which the OCC or the FDIC is the prudential regulator or that is required to be registered with the CFTC or SEC as a swap dealer or major swap participant or a security-based swap dealer or major security-based swap participant, respectively). The OCC is the prudential regulator for any swap entity that is (i) a national bank, (ii) a federally chartered branch or agency of a foreign bank, or (iii) a Federal savings association. The FDIC is the prudential regulator for...
covered swap entity and the financial system arising from swaps that are not cleared by a registered derivatives clearing organization or a registered clearing agency (non-cleared swaps). On November 30, 2015, the Agencies published a joint final rule (Swap Margin Rule) to establish minimum margin and capital requirements for covered swap entities.8

In the Swap Margin Rule, the Agencies adopted a risk-based approach for initial and variation margin requirements for covered swap entities.7 To implement the risk-based approach, the Agencies established requirements for a covered swap entity to collect and post initial margin for non-cleared swaps with a counterparty that is either: (1) A financial end user with material swaps exposure, or (2) a swap entity.9 A covered swap entity must collect and post variation margin for non-cleared swaps with all swap entities and financial end user counterparties, even if such financial end users do not have material swaps exposure.10 Other counterparties, including nonfinancial end users, are not subject to specific, numerical minimum requirements for initial and variation margin.11

The effective date for the Swap Margin Rule was April 1, 2016, but the Agencies established a phase-in compliance schedule for the initial margin and variation margin requirements.12 On or after March 1, 2017, all covered swap entities are required to comply with the variation margin requirements for transactions with other swap entities and financial end user counterparties. By September 1, 2020, all covered swap entities will be required to comply with the initial margin requirements for non-cleared swaps with all financial end users with a material swaps exposure and all swap entities.

The Swap Margin Rule’s requirements apply only to a non-cleared swap entered into on or after the applicable compliance date (covered swap); a non-cleared swap entered into prior to a covered swap entity’s applicable compliance date (legacy swap) is generally not subject to the margin requirements of the Swap Margin Rule.13 However, a legacy swap that is later amended or novated on or after the applicable compliance date would be deemed to be a covered swap, and therefore would become subject to the requirements of the Swap Margin Rule.14

Whether a non-cleared swap is deemed to be a legacy swap or a covered swap also affects the treatment of a covered swap entity’s netting portfolios. The Swap Margin Rule permits a covered swap entity to (1) calculate initial margin requirements for covered swaps under an eligible master netting agreement (EMNA) with a counterparty on a portfolio basis in certain circumstances, if it does so using an initial margin model; and (2) calculate variation margin on an aggregate net basis under an EMNA.15 In addition, the Swap Margin Rule permits swap counterparties to identify one or more separate netting portfolios under an EMNA, including netting sets of covered swaps and netting sets of non-cleared swaps that are not subject to margin requirements.16 Specifically, a netting portfolio that contains only legacy swaps is not subject to the margin requirements set out in the Swap Margin Rule.17 However, if a netting portfolio contains any covered swaps, the entire netting portfolio is subject to requirements, and the corresponding average daily notional thresholds, are: September 1, 2016, $3 trillion; September 1, 2017, $2.25 trillion; September 1, 2018, $1.5 trillion; September 1, 2019, $0.75 trillion; and September 1, 2020, all swap entities and counterparties. See § 230.1(e) of the Swap Margin Rule.

The applicable compliance date for a covered swap entity is based on the average daily aggregate notional amount of non-cleared swaps, foreign exchange forwards and foreign exchange swaps of the covered swap entity and its counterparty (accounting for their respective affiliates) for each business day in March, April and May of that year. The applicable compliance dates for initial margin of the margin requirements of the Swap Margin Rule.18

B. The QFC Rules

As part of the broader regulatory reform effort following the financial crisis to increase the resolvability and resiliency of U.S. global systemically important banking institutions (U.S. GSIBs) and the U.S. operations of foreign GSIBs (together, GSIBs),20 the Board, the OCC, and the FDIC adopted final rules that establish restrictions on and requirements for certain non-cleared swaps and other financial contracts (collectively, Covered QFCs) of GSIBs and their subsidiaries (the QFC Rules).21

Subject to certain exemptions, the QFC Rules require U.S. GSIBs, together with their subsidiaries, and the U.S. operations of foreign GSIBs (each a Covered QFC Entity and, collectively, Covered QFC Entities) to conform Covered QFCs to the requirements of the rules.22 The QFC Rules generally require the Covered QFCs of Covered QFC Entities to contain contractual provisions that opt into the ‘‘temporary stay-and-transfer treatment’’ of the Federal Deposit Insurance Act (FDI Act)23 and Title II of the Dodd-Frank Act, thereby reducing the risk that the stay-and-transfer treatment would be challenged by a Covered QFC Entity’s counterparty or a court in a foreign jurisdiction.24 The temporary stay-and-transfer treatment is part of the special

8 Id.
10 The U.S. operations of 20 foreign GSIBs are currently subject to the Board’s QFC Rule.
11 See 12 CFR 252.82(c) (defining Covered QFC). 382.2(c) (same). See also 82 FR 56630 (November 29, 2017) (for OCC’s QFC Rule). See also 82 FR 50228 (October 30, 2017) (for FDIC’s QFC Rule). See also 82 FR 43882 (September 12, 2017) (for the Board’s QFC Rule). The effective date of the Board’s QFC Rule was November 13, 2017, and the effective date for the substance of the OCC’s and FDIC’s QFC Rules was January 1, 2018. The QFC Rules include a phased-in conformance period for a Covered QFC Entity that varies depending upon the counterparty type of the Covered QFC Entity. The first conformance date is January 1, 2019, and applies to Covered QFCs with GSIBs. The QFC Rules provide Covered QFC Entities an additional six months or one year to conform its Covered QFCs with other types of counterparties.
12 To the extent a U.S. GSIB, any of its subsidiaries, or the U.S. operations of a foreign GSIB include a swap entity for which one of the Agencies is a prudential regulator, a Covered QFC Entity may be a covered swap entity.
resolution framework for failed financial firms created by the FDI Act and Title II of the Dodd-Frank Act. The stay-and-transfer treatment provides that the rights of a failed insured depository institution’s or financial company’s counterparties to terminate, liquidate, or net certain qualified financial contracts on account of the appointment of the FDIC as receiver for the entity (or the insolvency or financial condition of the entity for which the FDIC has been appointed receiver) are temporarily stayed when the entity enters a resolution proceeding to allow for the transfer of the failed firm’s Covered QFCs to a solvent party.25 The QFC Rules also generally prohibit Covered QFCs from allowing the exercise of default rights related, directly or indirectly, to the entry into resolution of an affiliate of the Covered QFC Entity (cross-default rights).26

The Board’s QFC Rule applies to U.S. GSIBs and their subsidiaries, state branches, and state agencies, as well other U.S. operations of foreign GSIBs with the exception of banks regulated by the FDIC or OCC, Federal branches, or Federal agencies.27 The FDIC’s QFC Rule applies to GSIB subsidiaries that are state savings associations and state-chartered banks that are not members of the Federal Reserve System.28 The OCC’s QFC Rule applies to national bank subsidiaries and Federal savings association subsidiaries of GSIBs, and Federal branches and agencies of foreign GSIBs.29

C. The Definitions of Qualifying Master Netting Agreement

As part of the QFC Rules, the Federal banking agencies amended the definition of qualifying master netting agreement (QMNA) in their capital and liquidity rules to prevent the QFC Rules from having disruptive effects on the treatment of netting sets of Board-regulated firms, OCC-regulated firms, and FDIC-regulated firms.30 The FCA plans to propose several technical and clarifying amendments to its capital regulations, including a possible revision to the definition of QMNA so it continues to be identical to the definition in the regulations of the Federal banking agencies’ regulatory capital and liquidity rules.31

The amendments to the Federal banking agencies’ capital and liquidity rules are necessary because the previous QMNA definition did not recognize some of the new close-out restrictions on Covered QFCs imposed by the QFC Rules.32 Pursuant to the previous definition of QMNA, a banking organization’s rights under a QMNA generally could not be stayed or avoided in the event of its counterparty’s default. However, the definition of QMNA permitted certain exceptions to this general prohibition to accommodate certain restrictions on the exercise of default rights that are important to the prudent resolution of a banking organization, including a limited stay under a special resolution regime, such as Title II of the Dodd-Frank Act, the FDI Act, and comparable foreign resolution regimes. The previous QMNA definition did not explicitly recognize all the restrictions on the exercise of cross-default rights.33 Therefore, a master netting agreement that complies with the QFC Rules by limiting the rights of a Covered QFC Entity’s counterparty to close out against the Covered QFC Entity would not meet the previous QMNA definition. Thus, a failure to meet the definition of QMNA would result in a banking organization subject to one of the Federal banking agencies’ capital and liquidity rules losing the ability to net offsetting exposures under its applicable capital and liquidity requirements when its counterparty is a Covered QFC Entity. If netting were not permitted, the banking organization would be required to calculate its capital and liquidity requirements relating to certain Covered QFCs on a gross basis rather than on a net basis, which would typically result in higher capital and liquidity requirements. The Federal banking agencies do not believe that such an outcome would accurately reflect the risks posed by the affected Covered QFCs.

The amendments to the QMNA definition maintain the netting treatment for these contracts under the Federal banking agencies’ capital and liquidity rules. The amendments permit a master netting agreement to meet the definition of QMNA even if it limits the banking organization’s right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of a counterparty that is a Covered QFC Entity to the extent necessary for the Covered QFC Entity to comply fully with the QFC Rules. The amended definition of QMNA continues to recognize that default rights may be stayed if the defaulting counterparty is in resolution under the Dodd-Frank Act, the FDI Act, a substantially similar law applicable to government-sponsored enterprises, or a substantially similar foreign law, or where the agreement is subject by its terms to, or incorporates, any of those laws. By recognizing these required restrictions on the ability of a banking organization to exercise close-out rights when its counterparty is a Covered QFC Entity, the amended definition allows a master netting agreement that includes such restrictions to continue to meet the definition of QMNA under the Federal banking agencies’ capital and liquidity rules.

II. Proposed Changes to the Swap Margin Rule

A. Proposed Amendment to the Definition of Eligible Master Netting Agreement

In the Swap Margin Rule, the Agencies explained that the current definition of EMNA was purposefully aligned with the Federal banking agencies’ then-current definition of QMNA in the capital and liquidity rules. This was to “minimize operational burden for a covered swap entity, which otherwise would have to make a separate determination as to whether its netting agreements meet the requirements of this [Swap Margin Rule] as well as comply with the regulatory capital rules.”34 In addition, the Agencies’ rationale for recognizing netting of non-cleared swap exposures pursuant to the Swap Margin Rule is quite similar to the Federal banking agencies’ rationale for recognizing netting of various asset and liability exposures pursuant to their capital and liquidity rules. Therefore, it is appropriate that the corresponding conditions for recognizing a robust
netting set under all three rules be the same.

Like the definition of QMNA, the definition of EMNA recognizes that default rights of the covered swap entity may be stayed pursuant to a special resolution regime such as Title II of the Dodd-Frank Act, the FDI Act, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Farm Credit Act of 1971, and comparable foreign resolution regimes. However, as was the case with the previous definition of QMNA, the current EMNA definition does not explicitly recognize certain restrictions on the exercise of cross-default rights imposed under the QFC Rules.

Therefore, a master netting agreement that is amended in order to address a Covered QFC Entity’s compliance with the QFC Rules will not meet the current definition of EMNA from the standpoint of a Covered QFC Entity’s counterparty that is a swap entity. Failure to meet the definition of EMNA would require that covered swap entity to measure its exposures from covered swaps on a gross, rather than net, basis for purposes of the Swap Margin Rule. This outcome would be an unintended consequence of the QFC Rules and would be contrary to the policy decisions expressed in the Swap Margin Rule to permit initial margin to be calculated on a net basis for covered swaps subject to netting agreements.

Accordingly, the Agencies are proposing to add a new paragraph to the definition of “eligible master netting agreement” to make clear that a master netting agreement meets the definition under the Swap Margin Rule when the agreement limits “the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.” This text is identical to the corresponding text used in the amended definition of QMNA in the Federal banking agencies’ capital and liquidity rules.

B. Proposed Amendment to the Meaning of “Swaps Entered Into”

As discussed above, the Swap Margin Rule’s requirements apply only to covered swaps.35 Legacy swaps will generally not be subject to the Swap Margin Rule’s initial and variation margin requirements.36 However, in the preamble to the Swap Margin Rule, the Agencies declined to include language extending legacy swap treatment to a swap if it is subsequently novated or amended after the applicable compliance date.37 At the time, the Agencies did not contemplate that legacy swaps might be amended solely to meet other regulatory requirements imposed by one or more of the Agencies, such as the QFC Rules.

As discussed above, Covered QFC Entities must conform to the requirements of the QFC Rules. Covered QFCs entered into on or after January 1, 2019, and, in some instances, Covered QFCs entered into before that date.38 To comply with the requirements governing the restrictions on Covered QFCs, a Covered QFC Entity may directly amend the contractual provisions of its Covered QFCs, or alternatively, cause its Covered QFCs to be subject to the International Swaps and Derivatives Association 2015 Resolution Stay Protocol (“Universal Protocol”) or a yet-to-be-developed protocol that is expected to be similar to the Universal Protocol.39 Therefore, in order to provide clarity to market participants as to the effects of an amendment that is required by the QFC Rules to a legacy QFC that is a legacy swap, the Agencies are proposing an amendment to the Swap Margin Rule that makes clear that a legacy swap will not be deemed a covered swap under the Swap Margin Rule if it is amended, either by a direct amendment or a modification causing the legacy swap to be governed by one of the aforementioned protocols, by either counterparty solely to conform to the QFC Rules.

This proposal is intended to provide certainty to a covered swap entity and its counterparties about the treatment of legacy swaps and any applicable netting arrangements in light of the QFC Rules. However, if in addition to amendments required to comply with the QFC Rules, any other amendments are contemporaneously entered into, the amended legacy swap will be treated as a covered swap in accordance with the application of the existing Swap Margin Rule.

III. Regulatory Analysis

A. Paperwork Reduction Act

OCC: In accordance with 44 U.S.C. 3512, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC reviewed the proposed rule and concluded that it contains no requirements subject to the PRA.

Board: In accordance with section 3512 of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The Board reviewed the proposed rule under the authority delegated to them by OMB. The proposed rule contains no requirements subject to the PRA.

FDIC: In accordance with the requirements of the PRA, the FDIC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The FDIC reviewed the proposed rule and concludes that it contains no requirements subject to the PRA. Therefore, no submission will be made to OMB for review.

FCA: The FCA has determined that the proposed rule does not involve a collection of information pursuant to the Paperwork Reduction Act for Farm Credit System institutions because Farm Credit System institutions are Federally chartered instrumentalities of the United States and instrumentalities of the United States are specifically excepted from the definition of “collection of information” contained in 44 U.S.C. 3502(3).

FHFA: The proposed rule amendments do not contain any

35 See supra note 13.

36 However, a legacy swap may be subject to margin requirements if it is part of a netting set that includes non-cleared swaps that are entered into after the compliance date applicable to the covered swap entity.

37 80 FR 74850–74851. The Agencies articulated the materiality of, or the intended purpose of, amendments to legacy swaps.

38 The QFC Rules require a Covered QFC Entity to conform Covered QFCs entered into, executed, or to which it otherwise became a party before January 1, 2019 (legacy QFCs), if the Covered QFC Entity or any affiliate that is a Covered QFC Entity also enters, executes, or otherwise becomes a party to a new Covered QFC with the counterparty to the preexisting Covered QFC or a consolidated affiliate of the counterparty on or after January 1, 2019. See, e.g., 12 CFR 252.82 (2017); 12 CFR 382.2 (2017).

39 The QFC Rules set forth requirements for the yet-to-be-developed protocol to be an acceptable alternative protocol for purposes of the QFC Rules, which would cause the new protocol to differ from the Universal Protocol. The QFC Rules also permit the new protocol to include certain other differences from the Universal Protocol. For example, the yet-to-be developed protocol is permitted to allow Covered QFC counterparties to adhere only with respect to Covered QFC Entities.
collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 et seq.). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

B. Initial Regulatory Flexibility Act Analysis

OCC: In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. § 601 et seq.) requires that in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. Under section 605(b) of the RFA, this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the Federal Register along with its rule. The OCC currently supervises approximately 364 small entities. None of these entities is a covered swap entity. Moreover, because the OCC assumes that this proposal will be implemented before any OCC-supervised entities are required to comply with the QFC Rules, the OCC believes that the proposal will not result in savings—or more than de minimis costs—for OCC-supervised entities. Therefore, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small OCC-regulated entities.

Board: In accordance with section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq. (RFA), the Board is publishing an initial regulatory flexibility analysis for the proposed rule. The RFA requires an agency to provide an initial regulatory flexibility analysis with the proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The Board welcomes comment on all aspects of the initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after consideration of comments.

40 The OCC bases its estimate of the number of small entities on the Small Business Association’s size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining if we should classify an OCC-supervised institution as a small entity. The OCC used December 31, 2016, to determine size because a “financial institution’s assets are averaging the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the U.S. Small Business Administration’s Table of Size Standards.

41 See 13 CFR 121.201 (effective December 2, 2014); see also 13 CFR 121.101(a)(6) (noting factors that the SBA considers in determining whether an entity qualifies as a small business, including receipts, employees, and other measures of its domestic and foreign operations).

42 The CFTC has published a list of provisionally registered swap dealers as of November 20, 2017 that does not include any small financial institutions. See http://www.cftc.gov/Law规章/Registration/registeredswapdealer. The SEC has not yet imposed a registration requirement on entities that meet the definition of security-based swap dealer or major security-based swap participant.

43 Other Federal rules. Absent this proposal, the definition of EMNA would conflict with the definition of QMNA in the Federal banking agencies’ regulatory capital and liquidity rules. This would result in additional compliance costs for firms that are subject to both definitions. In addition, absent these amendments, there would be a conflict between what the QFC Rules require in Covered QFCs and the policy determination previously made by the Board about the application of the Swap Margin Rule to legacy swaps.

5. Significant alternatives to the proposed rule. As discussed above, the Agencies have requested comment on the scope of the proposed amendments and have solicited comment on any approaches that would reduce the burden on covered swap entities. The Board welcomes comment on any significant alternatives that would minimize the impact of the proposal on small entities.

FDIC: The Regulatory Flexibility Act (RFA), 5 U.S.C. § 601 et seq., requires an agency to provide an initial regulatory flexibility analysis with a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of $530 million or less). According to the most recent data from the Consolidated Reports of Income and Condition (CALL Report), the FDIC supervised 3,674 institutions. Of those, 2,050 are considered “small,” according to the terms of the Regulatory Flexibility Act. The proposed rule primarily affects covered swap entities. The FDIC believes that FDIC-supervised small entities are unlikely to be a covered swap entity because such entities are unlikely to engage in the level of swap activity that would require them to register as a swap entity. The Swap Margin Rule implements sections 716 and 764 of the Dodd-Frank Act, as amended by the Terrorism Risk Insurance Program Reauthorization Act
of 2015 ("TRIPRA"). Because TRIPRA excludes non-cleared swaps entered into for hedging purposes by a financial institution with total assets of $10 billion or less from the requirements of the Swap Margin Rule, when a covered swap entity transacts non-cleared swaps with a small entity supervised by the FDIC, and such swaps are used to hedge a commercial risk of the small entity, those swaps will not be subject to the Swap Margin Rule. The FDIC believes that it is unlikely that any small entity it supervises will engage in non-cleared swaps for purposes other than hedging. Therefore, it is unlikely that the amendments included in the proposed rule would result in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

For these reasons, the FDIC certifies that the Proposed Rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities, within the meaning of those terms as used in the RFA. Accordingly, a regulatory flexibility analysis is not required.

FCA: Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities; nor does the Federal Agricultural Mortgage Corporation meet the definition of “small entity.” Therefore, System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

FHFA: The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation’s impact on small entities. FHFA need not undertake such an analysis if the agency has certified the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act, and certifies that the proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only FHFA’s regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

Section 722 of the Gramm-Leach-Bliley Act requires the U.S. banking agencies to use plain language in proposed and final rulemakings. The Agencies have sought to present the proposed rule in a simple and straightforward manner, and invite comment on the use of plain language in this proposal.

Question 1: Have the Agencies organized the proposal in a clear way? If not, how could the proposal be organized more clearly?

Question 2: Are the requirements of the proposed rule clearly stated? If not, how could they be stated more clearly?

Question 3: Does the proposal contain unclear technical language or jargon? If so, which language requires clarification?

Question 4: Would a different format (such as a different grouping and ordering of sections, a different use of section headings, or a different organization of paragraphs) make the regulation easier to understand? If so, what changes would make the proposal clearer?

Question 5: What else could the Agencies do to make the proposal clearer and easier to understand?

D. OCC Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that the OCC prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the OCC to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposed rule does not impose any new mandates and will not result in expenditures by State, local, and Tribal governments, or by the private sector of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Table of Subjects

12 CFR Part 45

Administrative practice and procedure, Capital, Margin requirements, National banks, Federal savings associations, Reporting and recordkeeping requirements, Risk.

12 CFR Part 237

Administrative practice and procedure, Banks and banking, Capital, Foreign banking, Holding companies, Margin requirements, Reporting and recordkeeping requirements, Risk.

12 CFR Part 349

Administrative practice and procedure, Banks, Holding companies, Margin Requirements, Capital, Reporting and recordkeeping requirements, Savings associations, Risk.

12 CFR Part 624

Accounting, Agriculture, Banks, Banking, Capital, Cooperatives, Credit, Margin requirements, Reporting and recordkeeping requirements, Risk, Rural areas, Swaps.


12 CFR Part 1221

Government-sponsored enterprises, Mortgages, Securities.

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons stated in the preamble, the Office of the Comptroller of the Currency proposes to amend part 45 of chapter I of title 12, Code of Federal Regulations, as follows:

PART 45—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES

1. The authority citation for part 45 continues to read as follows:


2. Section 45.1 is amended by adding paragraph (e)(7) to read as follows:

§ 45.1 Authority, purpose, scope, exemptions and compliance dates.

(e) * * * *

(7) For purposes of determining the date on which a non-cleared swap or a non-cleared security-based swap was entered into, a Covered Swap Entity will not take into account amendments to the non-cleared swap or the non-cleared security-based swap that were entered into solely to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.

3. Section 45.2 is amended by revising paragraph (2) of the definition of Eligible master netting agreement to read as follows:

§ 45.2 Definitions.

(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or

(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and

(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR part 237 to read as follows:

PART 237—SWAPS MARGIN AND SWAPS PUSH-OUT

4. The authority citation for part 237 continues to read as follows:


5. Section 237.1 paragraph (e)(7) is added to read as follows:

Subpart A—Margin and Capital Requirements for Covered Swap Entities (Regulation KK)

§ 237.1 Authority, purpose, scope, exemptions and compliance dates.

(e) * * * *

(7) For purposes of determining the date on which a non-cleared swap or a non-cleared security-based swap was entered into, a Covered Swap Entity will not take into account amendments to the non-cleared swap or the non-cleared security-based swap that were entered into solely to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.

6. Section 237.2 is amended by revising paragraph (2) of the definition of “Eligible master netting agreement” to read as follows:

§ 237.2 Definitions.

(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or

(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and

(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 349 as follows:
PART 349—DERIVATIVES

Subpart A—Margin and Capital Requirements for Covered Swap Entities

7. The authority citation for Subpart A continues to read as follows:


8. Section 349.1 is amended by adding paragraph (e)(7) as follows:

§ 349.1 Authority, purpose, scope, exemptions and compliance dates.

(e) * * *

(7) For purposes of determining the date on which a non-cleared swap or a non-cleared security-based swap was entered into, a Covered Swap Entity will not take into account amendments to the non-cleared swap or the non-cleared security-based swap that were entered into solely to comply with the requirements of part 47, Subpart I of part 252 or part 382 of title 12, as applicable.

9. Section 349.2 is amended by revising the definition of “Eligible master netting agreement” to read as follows:

§ 349.2 Definitions.

Eligible master netting agreement means a written, legally enforceable agreement provided that:

(1) The agreement creates a single legal obligation for all individual transactions covered by the agreement upon an event of default following any stay permitted by paragraph (2) of this definition, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty;

(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,

(i) Any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than:

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or

(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and

(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable;

(3) The agreement does not contain a walkaway clause (that is, a provision that permits a non-defaulting counterparty to make a lower payment than it otherwise would make under the agreement, or no payment at all, to a defaulter or the estate of the defaulter, even if the defaulter or the estate of a defaulter is a net creditor under the agreement); and

(4) A covered swap entity that relies on the agreement for purposes of calculating the margin required by this part must:

(i) Conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that:

(A) The agreement meets the requirements of paragraph (2) of this definition; and

(B) In the event of a legal challenge (including one resulting from default or from receivership, conservatorship, insolvency, liquidation, or similar proceeding), the relevant court and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; and

(ii) Establish and maintain written procedures to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy the requirements of this definition.

10. The authority citation for part 624 continues to read as follows:


11. Section 624.1 is amended by adding paragraph (e)(7) as follows:

§ 624.1 Authority, purpose, scope, exemptions and compliance dates.

(e) * * *

(7) For purposes of determining the date on which a non-cleared swap or a non-cleared security-based swap was entered into, a Covered Swap Entity will not take into account amendments to the non-cleared swap or the non-cleared security-based swap that were entered into solely to comply with the requirements of part 47, Subpart I of part 252 or part 382 of Title 12, as applicable.

12. Section 624.2 is amended by revising paragraph (2) of the definition of Eligible master netting agreement to read as follows:

§ 624.2 Definitions.

(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,

(i) Any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than:

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to
facilitate the orderly resolution of the defaulting counterparty; or
(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and
(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart 1 of part 252 or part 382 of Title 12, as applicable;
* * * * *
FEDERAL HOUSING FINANCE AGENCY
Authority and Issuance
For the reasons set forth in the preamble, the Federal Housing Finance Agency proposes to amend chapter XII of title 12, Code of Federal Regulations, as follows:

PART 1221—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES
13. The authority citation for part 1221 continues to read as follows:
14. Section 1221.1 is amended by adding paragraph (e)(7) to read as follows:

§1221.1 Authority, purpose, and scope, exemptions and compliance dates.
* * * * *
(e) * * *
(7) For purposes of determining the date on which a non-cleared swap or a non-cleared security-based swap was entered into, a Covered Swap Entity will not take into account amendments to the non-cleared swap or the non-cleared security-based swap that were entered into solely to comply with the requirements of part 47, Subpart 1 of part 252 or part 382 of Title 12, as applicable.
* * * * *
15. Section 1221.2 is amended by revising paragraph (2) of the definition of Eligible master netting agreement to read as follows:

§1221.2 Definitions.
* * * * *
(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,
(i) Any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than:
(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or
(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and
(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, Subpart 1 of part 252 or part 382 of Title 12, as applicable;
* * * * *
Joseph M. Otting,
Comptroller of the Currency.
By order of the Board of Governors of the Federal Reserve System, January 24, 2018.
Ann E. Misback,
Secretary of the Board.
Dated at Washington, DC, this 25th day of January 2018.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
Dated: January 26, 2018.
Melvin L. Watt,
Director, Federal Housing Finance Agency.
Dale L. Aultman,
Secretary, Farm Credit Administration Board.
[FR Doc. 2018–02560 Filed 2–20–18; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 39
RIN 2120–AA64
Airworthiness Directives; AgustaWestland S.p.A. Helicopters
AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of proposed rulemaking (NPRM).
SUMMARY: We propose to adopt a new airworthiness directive (AD) for AgustaWestland S.p.A. (AgustaWestland) Model AW189 helicopters. This proposed AD would require inspecting the tail gearbox (TGB) fitting for a crack. This proposed AD is prompted by a report of a crack on a TGB fitting that was found during a scheduled inspection. The actions of this proposed AD are intended to prevent an unsafe condition on these products.
DATES: We must receive comments on this proposed AD by April 23, 2018.
ADDRESSES: You may send comments by any of the following methods:
• Federal eRulemaking Docket: Go to http://www.regulations.gov. Follow the online instructions for sending your comments electronically.
• Fax: 202–493–2251.
• Mail: Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
• Hand Delivery: Deliver to the “Mail” address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
Examining the AD Docket
You may examine the AD docket on the internet at http://www.regulations.gov by searching for and locating Docket No. FAA–2017–0619; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.
For service information identified in this proposed rule, contact Leonardo