November 26, 2012

By Electronic Submission

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Re: Margin and Capital Requirements for Covered Swap Entities; Reopening of Comment Period (RIN 1557-AD43, RIN 7100-AD74, RIN 3064-AD79, RIN 3052-AC69, RIN 2590-AA45)

Ladies and Gentlemen:

On behalf of its members, the Farm Credit Council appreciates the opportunity to submit these further comments regarding the proposed margin and capital requirements (the "Proposed Margin Rule") for swap dealers and major swap participants ("swap entities") issued by the Farm Credit Administration (the "FCA"), Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and

the Federal Housing Finance Agency (the "FHFA") (collectively, the "Prudential Regulators") under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").[1]

The Farm Credit Council is the national trade association for the Farm Credit System, a government instrumentality created "to accomplish the objective of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operations."[2] Today, the Farm Credit System comprises four banks and 82 associations. To provide tailored financing products for farmers and farm-related businesses, Farm Credit System institutions rely on the safe use of derivatives to manage interest rate, liquidity, and balance sheet risk, primarily in the form of U.S. dollar, LIBOR-based interest rate swaps and caps. For example, Farm Credit System institutions use interest rate swaps to create synthetic floating rate funding at longer maturities and at a lower cost than investors would typically be willing to offer for outright floating rate issuance. Because derivatives allow the Farm Credit System to offer reliable, low-cost, and flexible funding to the farmers, ranchers, and rural cooperatives that borrow from, and cooperatively own, System institutions, the Farm Credit Council appreciates the opportunity to submit these further comments on the Proposed Margin Rule.

I. Introduction

A. Farm Credit Council Comments

On July 11, 2011, the Farm Credit Council submitted its initial comments on the Proposed Margin Rule. Those comments focused on preserving the Farm Credit System's ability to hedge risk and provide low-cost, dependable financing products for farmers, ranchers, and rural America, and offered a number of suggestions on the proposed rules applicable to all covered swap entities, as well as the proposed special rules applicable only to FCA- and FHFA-regulated entities. We respectfully refer the Prudential Regulators to our earlier comments,[3] and we repeat only the most salient points below. In addition, we offer some additional detail

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[1] Pub. L. No. 111-203, 124 Stat. 1376 (2010). The Proposed Margin Rule is set forth in Margin and Capital Requirements for Covered Swap Entities, 76 Fed. Reg. 27,564 (proposed May 11, 2011) (to be codified at 12 C.F.R. pts. 45, 237, 324, 624, and 1221). On October 2, 2012, the Prudential Regulators reopened the comment period "for all aspects of the Proposed Margin Rule." Margin and Capital Requirements for Covered Swap Entities; Reopening of Comment Period, 77 Fed. Reg. 60,057 (Oct. 2, 2012).

[2] 12 U.S.C. § 2001(a).

[3] We incorporate by reference the Farm Credit Council's July 11, 2011 comments to the Prudential Regulators regarding the Proposed Margin Rule, as well as our comments submitted on February 22, 2011, to the Commodity Futures Trading Commission regarding the end-user clearing exception and the further definition of "swap dealer."

regarding our expectations of how the Proposed Margin Rule will affect Farm Credit System institutions and their risk-management activities.

The Farm Credit Council believes that the proposed special rules for FCA-regulated entities are not warranted from a safety and soundness perspective. Low-risk financial end users should not be required to collect margin from swap entity counterparties; the decision to collect margin should instead be determined by the individual entity's risk management practices. In addition, consistent with market practice, variation margin should not be subject to segregation and rehypothecation restrictions.[4] Low-risk financial end users should be able to rely on initial margin models developed and used by their swap entity counterparties (which are subject to review by their own prudential regulators), rather than having low-risk financial end users incur the expense of developing their own initial margin models.

Finally, the requirement in Section ___.8 that such a model calculate initial margin based on a minimum time horizon of 10 days (the "10-day VAR requirement" and, more generally, a "VAR requirement") is excessive compared to the five-day VAR assumption that the CME uses for U.S. dollar interest rate derivatives and therefore should not be applied to these highly liquid products when executed between swap dealers and either low-risk financial end users (including all FCA-regulated institutions) or non-financial end users. Coupled with the proposed special rules in Section ___.11, the 10-day VAR requirement would make Farm Credit System institutions less attractive end-user customers and would require swap dealers to increase the pricing on all swaps executed with Farm Credit System institutions. Based on these adverse consequences, the strong liquidity in the U.S. dollar swap market, the low risk profile of Farm Credit System institutions with regard to their use of swaps, and the cooperative exemption proposed by the Commodity Futures Trading Commission ("CFTC"), discussed below, the Farm Credit Council requests that (1) Farm Credit System institutions be excluded from the special rules in Section ___.11, and (2) the Prudential Regulators reduce the VAR requirement for non-cleared U.S. dollar swaps between swap dealers and low-risk financial or non-financial end users from 10 days to five days to be in line with the VAR assumption used by the CME (and updated annually).

B. Regulatory Developments

Since the Prudential Regulators issued the Proposed Margin Rule and the Farm Credit Council submitted its July 11, 2011 comments, other regulators in the United States and globally have made progress with respect to margin requirements to be imposed on non-cleared derivatives. First, the Basel Committee on Banking Supervision ("BCBS") and the International Organization of Securities Commissions ("IOSCO") have issued a consultative document

[4] See the Farm Credit Council comment letter previously submitted on July 11, 2011, regarding the Proposed Margin Rule.

concerning margin requirements for non-centrally cleared derivatives (the "Consultative Document").[5] Second, the CFTC has issued rules and regulatory guidance that is relevant to the Prudential Regulators' proposed margin requirements. For example, jointly with the Securities and Exchange Commission, the CFTC has issued final rules further defining "swap dealer."[6] The CFTC has also issued final rules implementing the end-user clearing exception,[7] and proposed a clearing exemption for certain swaps entered into by cooperatives (the "Proposed Cooperative Exemption").[8] We appreciate that the Prudential Regulators have re-opened the comment period for all aspects of the Proposed Margin Rule to allow affected market participants to refine and reconsider their comments in light of these regulatory developments and in an effort to harmonize regulatory treatment across U.S. agencies and around the world.

As discussed in greater detail below, we believe these recent regulatory developments, reflected in both the Consultative Document and the CFTC's proposed and final rules, reflect an appropriate comprehensive regime for the treatment of margin on non-cleared swaps entered into by Farm Credit System institutions. We also believe it is critically important that the Prudential Regulators consider the entirety of the developing swap regulatory infrastructure to ensure that additional, unnecessary burdens are not placed on Farm Credit System institutions, as compared to other swap market participants. Specifically, developing rules reflect the CFTC's view that the Farm Credit System should not be subject to costly new requirements burdening swap dealers and large financial institutions because, among other things, such regulation would be unnecessary from a safety and soundness perspective and would impose unwarranted new costs on the cooperative Farm Credit System's member owners. The Farm Credit Council respectfully submits that this reasoning applies equally to the Proposed Margin Rule, and respectfully requests that the Prudential Regulators' final capital and margin rules, and particularly any special rules promulgated for FCA-regulated institutions, should not be inconsistent with the CFTC's approach and the overall regulatory regime for swaps.

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[5] Basel Committee on Banking Supervision & Board of the International Organization of Securities Commissions, Consultative Document, Margin Requirements for Non-Centrally-Cleared Derivatives (July 2012).

[6] Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant" and "Eligible Contract Participant" ("Final Entity Definitions"), 77 Fed. Reg. 30,596 (May 23, 2012) (to be codified at 17 C.F.R. pts. 1 & 240).

[7] End-User Exception to the Clearing Requirement for Swaps, 77 Fed. Reg. 42,560 (July 19, 2012) (to be codified at 17 C.F.R. pt. 39).

[8] *See* Clearing Exemption for Certain Swaps Entered Into by Cooperatives, 77 Fed. Reg. 41,940 (proposed July 17, 2012) (to be codified at 17 C.F.R. pt. 39).

II. Like The CFTC's Proposed And Final Swap Rules, The Prudential Regulators' Final Margin Rules Should Account For The Cooperative Nature And Unique Risk Profile Of Farm Credit System Institutions

We fully support the Consultative Document's statement that "[t]here [i]s broad consensus within the BCBS and IOSCO that the margin requirements need not apply to non-centrally-cleared derivatives to which non-financial entities that are not systemically-important are a party, given that (i) such transactions are viewed as posing little or no systemic risk and (ii) such transactions are exempt from central clearing mandates under most national regimes."[9] In several recent proposed and final rulemakings, the CFTC has recognized the cooperative nature and unique risk profile of Farm Credit System institutions in clarifying that such institutions will not be swap dealers and should be exempt from the central clearing mandate. In light of these regulatory developments, for the reasons explained below, the Farm Credit Council believes that margin requirements for non-cleared derivatives proposed in Section ___.11 should not apply to Farm Credit System institutions because such institutions (a) are cooperatives composed ultimately of non-financial entities, (b) pose little or no systemic risk and have previously established two-way collateral agreements with all swap dealers, (c) should be exempt, under rules proposed by the CFTC, from the United States' central clearing mandate, and (d) would be viewed as unattractive end-user counterparties by the major swap dealers, which may decline to offer swaps to Farm Credit System institutions rather than bear the cost of complying with the mandatory collection of initial and variation margin with zero thresholds by FCA-regulated entities.

First, the CFTC's final rules further defining "swap dealer" recognize that a cooperative financial institution, such as a Farm Credit System institution, should not be required to register as a swap dealer based on the notional amount of swaps entered into with its members.[10] In the CFTC's view, a swap between a Farm Credit System institution and one of its members does not warrant swap dealer regulation because such a swap "serves to allocate or transfer risks within an affiliated group, rather than to move those risks from the group to an unaffiliated third party, so long as the cooperative adheres to certain risk management practices."[11]

Second, the CFTC has implemented rules clarifying that Dodd-Frank's clearing requirement does not apply to a non-financial entity, or a small financial entity, that uses a swap to hedge or mitigate commercial risk and complies with notice obligations. The CFTC has determined that small financial entities qualifying for the end-user exception must have total

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[9] Consultative Document, at 9.

[10] *See* Final Entity Definitions, 77 Fed. Reg. at 30,625, 30,746 (to be codified at 17 C.F.R. § 1.3(ggg)(6)(ii)).

[11] *Id.* at 30,746.

assets of $10 billion or less.[12] This rule would thus not extend the end-user exception to several Farm Credit Banks with total assets of more than $10 billion. The CFTC recognized, however, that "cooperatives exist to serve their member owners," and that "some cooperatives represent their members in the financial markets, and the members of some of these cooperatives are entities that could elect the end-user exception if acting alone."[13] When finalizing the end-user exception rules, the CFTC indicated that it might consider providing separate exemptive relief for financial cooperatives.[14]

Finally, by a unanimous vote, the CFTC proposed such exemptive relief on July 17, 2012, in the form of the Proposed Cooperative Exemption. The Proposed Cooperative Exemption provides that an "exempt cooperative," such as a Farm Credit System institution, may elect not to clear swaps used to hedge or mitigate commercial risk related to loans to its members.[15] Briefly summarized, the CFTC reasoned that cooperatives exist for the benefit of, and cannot be separated from, their member owners.[16] The CFTC recognized that member owners of a financial entity could elect the end-user exception if acting alone, but could not do so collectively with other member owners at the level of a cooperative financial entity with total assets exceeding $10 billion.[17] To address this issue, the CFTC proposed exemptive relief for cooperative financial institutions, such as a Farm Credit Bank.[18] In doing so, the CFTC concluded, among other things, that "[u]sing the substantial, finance-focused resources of the

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[12] *See* End-User Exception to the Clearing Requirement for Swaps, 77 Fed. Reg. at 42,591 (to be codified at 17 C.F.R. § 39.6(d)(ii)).

[13] *Id*. at 42,580.

[14] *See id.*

[15] *See* Proposed Cooperative Exemption, 77 Fed. Reg. at 41,952 (proposed 17 C.F.R. § 39(f)).

[16] *See id.* at 41,943 ("Cooperatives have a member ownership structure in which the cooperatives exist to serve their member owners and do not act for their own profit. Furthermore, the member owners of the cooperative collectively have full control and governance of the cooperative. In a real sense, the cooperative is not separable from its member owners." (footnote omitted)).

[17] This approach is consistent with the Consultative Document's conclusion that there is broad consensus that margin requirements need not apply to non-cleared swaps in which a non-systemically-important non-financial entity is a party. With the CFTC's proposal that financial cooperatives are not to be treated like financial entities for purposes of the exemption to clearing, Farm Credit System institutions and other financial cooperatives would be treated the same as non-financial entities, such as their cooperative member owners.

[18] *See id.* ("[T]he cooperative members would not benefit from the end-user exception if they use their cooperative as the preferred vehicle for hedging commercial risks in the greater financial marketplace. In light of this, the Commission is exercising its authority under Section 4(c) of the CEA to propose § 39.6(f) and establish the cooperative exemption.").

cooperative to undertake hedging activities for the numerous members of the cooperative promotes greater economic efficiency and lower costs for the members,"[19] and the Proposed Cooperative Exemption "would promote responsible economic and financial innovation and fair competition."[20]

Taken together, these proposed and final rules effectively mean that Farm Credit System institutions (1) will not be swap dealers and accordingly will not be required as such to collect margin from their counterparties, and (2) will not be required to bear new clearing-related margin costs in connection with swaps that hedge or mitigate commercial risk related to member loans. As discussed above, the manifest purpose of these results is to preserve the Farm Credit System's ability to provide low-cost financial products to its member owners and to preserve member owners' ability to hedge risk at the cooperative level without incurring new margin-related costs. The Farm Credit Council strongly supports the CFTC's approach and believes that, in proposing to exempt Farm Credit System institutions from Dodd-Frank's clearing requirement, the CFTC's approach indicates that Farm Credit System institutions do not pose sufficient systemic risk to warrant the margin requirements proposed by the Prudential Regulators. Accordingly, the Farm Credit Council respectfully requests that the Proposed Margin Rule should not be inconsistent with or contravene the CFTC's approach to Farm Credit System institutions.

III. The FCA Should Not Impose A Special Requirement, Which Would Be Inconsistent With The CFTC's Treatment Of Farm Credit System Institutions, For All FCA-Regulated Entities To Collect Initial and Variation Margin From Swap Entity Counterparties With Zero Thresholds And Using The Proposed 10-Day VAR Requirement

The Farm Credit Council remains concerned about the special rules that the FCA has proposed for FCA-regulated entities in Section ___.11 of the Proposed Margin Rule.[21] According to the preamble, the special rules "would require that any entity that is regulated by [the] FCA, but is not itself a covered swap entity, collect initial margin and variation margin from its counterparty when entering into a non-cleared swap or non-cleared security-based swap with a swap entity,"[22] and would not permit collateral thresholds to be used. For the reasons stated below, and in our June 11, 2011 comments, the Farm Credit Council respectfully requests that the FCA not impose such requirements on Farm Credit System institutions.

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[19] *Id.* at 41,943-44.

[20] *Id.* at 41,944.

[21] The FHFA has also proposed special rules for entities that it regulates.

[22] Proposed Margin Rule, 76 Fed. Reg. at 27,582.

As previously noted, no Farm Credit System institution will be designated a swap dealer. Instead, all Farm Credit System institutions will meet the criteria for low-risk financial end users and will qualify for the CFTC's Proposed Cooperative Exemption. Because Farm Credit System institutions will be low-risk financial end users, they should be able to negotiate appropriate initial and variation margin thresholds with swap dealers. To do so, however, Farm Credit System institutions will, consistent with current practice, need to be able to provide reciprocal initial and variation margin thresholds to swap dealers, as well. But the special rules in Section ___.11 preclude Farm Credit System institutions from providing initial or variation margin thresholds to swap dealers. This will likely result in the inability of Farm Credit System institutions to obtain initial or variation margin thresholds from swap dealers. In addition, swap dealers will have to recover the cost of posting initial and variation margin with zero thresholds through higher pricing on swaps offered to Farm Credit System institutions. Accordingly, the rules in Section ___.11 that require Farm Credit System institutions to collect initial and variation margin from swap dealers for all non-cleared swaps would significantly increase the cost of executing non-cleared swaps and could therefore force Farm Credit System institutions to clear swaps despite the CFTC's Proposed Cooperative Exemption.

The requirement that variation margin posted by Farm Credit System institutions with swap dealers be held in segregated accounts by third parties[23] will result in additional price increases from swap dealers for non-cleared swaps executed with Farm Credit System institutions. The standard market pricing on swaps executed with end users is based on the assumption that cash posted by the end user as variation margin can be rehypothecated by the swap dealer. Rehypothecation of cash posted as collateral enables the swap dealer to avoid having to borrow the funds in the market to post as collateral with another swap dealer for the margin owed on its offsetting swap positions that are executed with other swap dealers. The requirement to segregate these funds will result in the swap dealers having to increase the price of swaps further to cover the cost of the segregation of variation margin.[24] This result could also effectively force Farm Credit System institutions to clear swaps, contrary to the CFTC's Proposed Cooperative Exemption.

Lastly, the proposed 10-day VAR requirement for non-cleared interest rate swaps should be the same five-day VAR requirement used by the CME. Otherwise, this requirement will add even more cost for Farm Credit System institutions to execute non-cleared swaps, and will make them more expensive than executing cleared swaps. This result would also be contrary to the CFTC's Proposed Cooperative Exemption.

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[23] *See id.* at 27,583.

[24] *See id.* at 27,595 (proposed 12 C.F.R. § 624.11(c)-(d)).

In summary, the special rules proposed in Section ___.11 will force swap dealers to raise the prices significantly on swaps and caps offered to Farm Credit System institutions to cover the array of increased costs they will have to bear to execute swaps with Farm Credit System institutions. In our view, these proposed rules are so severe that they may discourage swap dealers from offering non-cleared swaps to Farm Credit System institutions because swap dealers view Farm Credit System institutions as end users and not swap dealers. Given that Farm Credit System institutions are safe and sound and have appropriate risk management policies with respect to derivatives, we do not believe that these additional costs are justified. To the contrary, the increased price and diminished availability of swaps used to hedge the Farm Credit System's risk and the risk of individual loans will ultimately raise the cost of capital for farmers, ranchers, and rural cooperatives.

We recognize the FCA's important role as the safety and soundness regulator of the Farm Credit System. We further recognize that the Farm Credit System has a special obligation to ensure the safety and soundness of its member institutions, which are government-sponsored enterprises and, as such, have special obligations to the American public. In this regard, we appreciate that the FCA has proposed these special rules in its capacity as the Farm Credit System's safety and soundness regulator.[25] We respectfully submit, however, that the special margin rules proposed in Section ___.11 for non-cleared swaps would not, if applied to all Farm Credit System institutions, result in a risk-reducing benefit that is justified by the significant increase in costs for non-cleared swaps. All four Farm Credit Banks already have rigorous counterparty risk management policies and procedures in place, which include two-way collateral agreements with all counterparties. These collateral agreements provide for either zero collateral thresholds or very low thresholds relative to both counterparties' capital, and the thresholds decline if either counterparty's credit rating declines. These policies and procedures already limit the financial repercussions of counterparty defaults to de minimis levels relative to each bank's capital and earnings.

The CFTC has carefully reviewed the swap volume executed by the Farm Credit Banks and concluded that the low volume and notional amounts of interest rate swaps that are executed by the Farm Credit System are of insufficient volume and size to create any material systemic risk.[26] The special rules proposed in Section ___.11 are thus not required for Farm Credit System institutions to promote safety and soundness. Accordingly, we believe that Farm Credit System institutions should be excluded from the special rules proposed in Section ___.11 and treated as low-risk financial end users subject, as such, to the remaining parts of the

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[25] *See id.* at 27,583.

[26] *See* Proposed Cooperative Exemption, 77 Fed. Reg. at 41,948 ("[T]he Commission believes that, given the small number of swaps that will be exempted from clearing as a result of the proposed rule, estimated above to be 500 each year, these risks to the public will be minimized.").

Proposed Margin Rule. In fact, all Farm Credit System institutions currently meet the proposed definition of low-risk financial end users found in Section ___.2 and are expected to remain in this category for the foreseeable future.

IV. The 10-Day VAR Requirement Should Not Apply To Non-Cleared U.S. Dollar Interest Rate Swaps Involving Low-Risk Financial End Users or Non-Financial End Users

We appreciate the Prudential Regulators' request for comment regarding whether the minimum time horizon should vary across swaps.[27] We believe that the 10-day VAR requirement proposed in Section ___.8 should not apply to non-cleared U.S. dollar interest rate swaps between covered swap entities and low-risk financial end users or non-financial end users, because these swaps are not materially riskier than cleared swaps. In addition, the purpose of the clearing exemptions is to reduce the amount of margin that end users need to post to execute non-cleared swaps, as well as to avoid all of the fees charged by futures commission merchants or central clearing parties, for cleared swaps

The Prudential Regulators justified the 10-day VAR requirement because "non-cleared swaps are expected to be less liquid than cleared swaps."[28] However, the market for U.S. dollar interest rate swaps and caps is extremely liquid, with an estimated $300 trillion in total notional amount of contracts outstanding. While the 10-day VAR requirement may be appropriate for credit default swaps or swaps between swap entities and high-risk financial end users, we respectfully submit that the requirement is not appropriate for U.S. dollar interest rate swaps to which a low-risk financial end user or a non-financial end user is a counterparty. The low level of U.S. dollar interest rate swaps executed by any individual end user is de minimis relative to the size and liquidity of the market for these swaps.

We estimate that the 10-day VAR requirement would result in approximately a 40% increase in initial margin for U.S. dollar interest rate swaps versus the 5-day VAR that the CME currently uses for the same U.S. dollar swaps.[29] The higher VAR requirement will raise the cost of hedging significantly for all end users that choose to execute non-cleared swaps to save on costs. The cost of the additional initial margin may, in turn, discourage proper hedging by all end users, including Farm Credit System institutions, to save on margin costs and raise the cost of borrowing and hedging for Farm Credit System institutions. This result is inconsistent with Congress's desire to preserve end users' access to cost-effective hedging.

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[27] *See* Proposed Margin Rule, 76 Fed. Reg. at 27,580 (Question 72).

[28] *See id.* at 27,579.

[29] The CME is among the top three clearinghouses for clearing interest rate swaps as measured by notional volume or number of transactions.

We support the proposal allowing swap entities to provide initial and variation margin thresholds for swaps with low-risk financial end users and with non-financial end users. However, as noted above, the requirement that Farm Credit System institutions demand zero thresholds from their swap dealer counterparties could limit their ability to obtain initial or variation margin thresholds in practice. This would require Farm Credit System institutions to pay the price of the 10-day VAR requirement, despite the Prudential Regulators' proposal to allow low-risk financial end users to be subject to appropriate margin thresholds. In addition, requiring Farm Credit System institutions to collect initial margin from swap dealers using a 10-day VAR requirement, as is proposed in Section ___.11, would make Farm Credit System institutions unattractive customers. This requirement will either discourage swap dealers from executing non-cleared swaps with the Farm Credit System institutions or will result in higher pricing on swaps to Farm Credit System institutions for non-cleared swaps. As discussed above, the increased costs associated with non-cleared swaps could effectively force Farm Credit System institutions to clear swaps, contrary to the CFTC's Proposed Cooperative Exemption.

Accordingly, the Farm Credit Council recommends that, for U.S. dollar interest rate swaps and caps in which a counterparty is a low-risk financial end user or a non-financial end user, the initial margin model should be reduced to the same assumptions that the CME uses which is a five-day VAR requirement and 99% confidence interval. The number of days of historical data used in the VAR calculation should also be the same number of days used by the CME.

V. Conclusion

The Farm Credit Council appreciates the opportunity to submit these further comments. As described above, the CFTC has considered the relative systemic risk posed by the Farm Credit System's derivatives activity, as well as the costs and benefits of certain new regulations. After such consideration, the CFTC has finalized or proposed several rules specifically designed to preserve the ability of the member owners of Farm Credit System institutions — e.g., farmers, ranchers, and rural cooperatives — to hedge risk with or at the level of cooperative Farm Credit Banks without incurring burdensome new costs associated with mandatory clearing or regulation of Farm Credit Banks as swap dealers. The Farm Credit Council believes that the Prudential Regulators, and particularly the FCA, should take the same approach in issuing final capital and margin rules.

In this regard, we are most concerned about the proposed special rules for FCA-regulated entities, which, as detailed in our July 11, 2011 comments, would be inconsistent with the CFTC's approach and would impose substantial and unjustified new costs on Farm Credit System institutions without materially reducing risk. For Farm Credit System institutions, these requirements would make non-cleared swaps unnecessarily expensive to hedge risk. And for their swap entity counterparties, these requirements would unfairly make Farm Credit System institutions prohibitively expensive counterparties. The proposed special rules would therefore make swaps used by the Farm Credit System to hedge risk more expensive and less available.

Dodd-Frank does not contemplate this result. To the contrary, in enacting Dodd-Frank, Congress warned that "[i]f regulators raise the costs of end user transactions, they may create more risk."[30] As indicated in our July 11, 2011 comments, the Farm Credit Council believes that the Proposed Margin Rule, and especially the proposed special rules for FCA-regulated entities, could have the unintended consequence of doing just that.

Thank you again for your consideration. If you have any questions or we can provide other information, please do not hesitate to contact us.

Sincerely,

Robert P. Boone, III
Vice President, Government Affairs
Farm Credit Council

cc: Honorable Gary Gensler, Chairman
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott D. O'Malia, Commissioner
Honorable Mark P. Wetjen, Commissioner
Commodity Futures Trading Commission

[30] Letter from Sens. Dodd and Lincoln to Reps. Frank and Peterson, *in* 156 Cong. Rec. H5248 (daily ed. June 30, 2010).