From: Auer, Ken <auer@fccouncil.com>
Sent: Monday, September 20, 2010 3:49 PM
To: dfadefinitions <dfadefinitions@CFTC.gov>
Subject: Definitions - File Nummber S7-16-10
Attach: CFTC comment 9-20.pdf

We are submitting the attached comment letter in response to the Federal Register notice dated August 20, 2010.

Kenneth E. Auer
President and CEO
50 F Street, NW, Suite 900
Washington, DC 20001

202-879-0843 office
202-309-2602 mobile
202-626-8718 fax
fccouncil.com

THE FARM CREDIT COUNCIL

50 F STREET, NW • SUITE 900 • WASHINGTON, DC 20001 • 202/626-8710

September 20, 2010

Mr. David A Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Mr. Stawick:

We are writing to provide comments in response to the advanced notice of public rulemaking (File Number S7-16-10) regarding certain definitions in Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We would note that our comments are intended to reflect the perspective of the institutions of the Farm Credit System (FCS). Farm Credit was created by Congress 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." (Section 1.1 of the Farm Credit Act of 1971, as amended) In fulfilling that congressional mission, Farm Credit offers its customer/owners a wide range of financing products specifically tailored to meet their unique needs. Farm Credit's ability to provide these tailored financing products is in some measure dependent upon the economical use of derivatives to manage interest rate, liquidity, and balance sheet risk.

In enacting the Dodd-Frank Act Congress took note of the unique nature of the Farm Credit System and recommended that the CFTC exempt System institutions from the clearing requirements of the Act. We will be providing more expansive comment to you regarding that at a later point.

Interest rate swaps contracts are critical to the System's ability to offer the fixed and floating rate loan products needed by farmers, farmer-owned cooperatives, rural utilities, and other FCS customers. It would be inconsistent with what Congress has directed Farm Credit to accomplish if regulations implementing the Dodd-Frank legislation increase the cost of using these interest rate swap contracts and resulting in higher costs for those Congress has directed us to serve.

We would offer the following comments on three specific terms -- a) major swap participant b) swap dealer and c) swap. The OTC swap activities of FCS institutions do not rise to a sufficient level such that a System institution should be captured either by the definition of "major swap participant" or "swap dealer" included in the Dodd-Frank Act. No Farm Credit institution today enters into swaps in a sufficient amount to "create substantial counterparty exposure that could have serious adverse effects on the financial stability of the Unites States banking system or

financial markets" as called for in the legislation's definition of "major swap participant." Counterparty exposure is closely managed by Farm Credit System institutions through collateralization agreements and is subject to full examination by the Farm Credit Administration, the independent Federal regulatory agency that oversees the safety and soundness of Farm Credit System institutions.

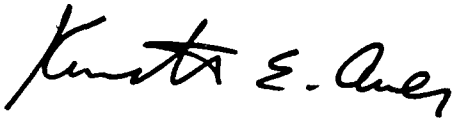
Additionally, the "major swap participant" definition in the legislation applies a test of "highly leveraged" financial institutions that "are not subject to capital requirements established by an appropriate federal banking agency." FCS institutions are not "highly leveraged" compared to other types of financial institutions. More importantly, all FCS institutions are subject to very strict capital requirements established by the Farm Credit Administration.

The "swap dealer" definition included in the Dodd-Frank legislation establishes a multi-part test to determine if an institution should be regulated as a swap dealer. No FCS institution meets this multi-part test. Among FCS institutions, only one currently enters into swaps with or on behalf of customers and it does so only in a very limited number of transactions and in a limited notional amount. These are done in connection with "transactions with or on behalf of its customers" as called for in the "de minimis" exception included in the legislation.

Lastly, with respect to the proposed definition of "swap", we believe that the regulations should make clear that typical loan transactions such as variable rate loans, or other structured loans, which currently are made by lenders including Farm Credit System institutions are not to be included in the definition of a swap. We are not aware that they are considered to be a part of the existing OTC derivatives market, and we are unaware that Congress intended any change in this as a result of the new law. Even if the terms of these loans depend on changes in interest rate indices to determine the level of interest payments, they should not be considered to be swaps. Doing so would tremendously increase the complexity and cost associated with these loan products that are used in the marketplace every day.

We would be pleased to provide any additional information regarding these comments or the Farm Credit System and its swaps activities that you might find helpful.

Sincerely,



Kenneth E. Auer
President and CEO