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By Comments Online process at: <http://comments.cftc.gov>

September 30, 2011

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

Re: Notice of Proposed Rulemaking Regarding Clearing Member Risk Management;
RIN 3038-AD51

Dear Mr. Stawick:

Freddie Mac is pleased to submit these comments in response to the Notice of Proposed Rulemaking regarding Clearing Member Risk Management, published by the Commodity Futures Trading Commission (the Commission) on August 1, 2011 (the Proposal).¹ The Proposal is issued under Sections 3(b) and 8a(5) of the Commodity Exchange Act (CEA) with respect to futures commission merchants (FCMs), and Section 4s(j)(2) of the CEA, added by Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), with respect to swap dealers and major swap participants.

Freddie Mac was chartered by Congress in 1970 with a public mission to stabilize the nation's residential mortgage markets and expand opportunities for affordable homeownership and rental housing. Our statutory mission is to provide liquidity, stability and affordability to the U.S. housing market. Freddie Mac uses swaps to hedge large-scale commercial risks on an ongoing basis. We currently operate under the direction of the Federal Housing Finance Agency (FHFA) as our Conservator.

Freddie Mac supports the Commission's efforts to require prudent management of risk associated with cleared swaps, including the application of enhanced risk-management requirements to swaps cleared by FCMs for proprietary accounts and customers. However, we are concerned that the Proposal could be interpreted in an overly rigid manner as it relates to FCM customers. We therefore recommend that the Commission either revise the Proposal to require FCMs to employ a prudent risk management process rather than impose numerical position or other risk limits, or otherwise that the Commission clarify that the Proposal does not require position limits for each customer.

Discussion

Section 1.73(a)(1) of the Proposal provides that each FCM that is a member of a derivatives clearing organization (DCO) is required to "[e]stablish risk-based limits in the proprietary account and in each customer account based on position size, order size, margin requirements, or other similar factors." Other provisions of proposed Section 1.73 require FCMs to use

¹ 76 Fed. Reg. 45724.

automated means to screen orders for risk based limits and to monitor for adherence to those limits on an intra-day and overnight basis. While the Proposal addresses risk-based limits, and the Commission acknowledges that it does not intend to prescribe the particular means that an FCM must use to satisfy these obligations, the emphasis on size-based limits creates a implication that aggregate position limits based on notional position size, aggregate margin requirements or similar metrics are required. As a result, FCMs may believe that they are compelled to impose such position limits on all customers, even when such limits would be artificial and unduly limiting on a customer's access to the market.

While Freddie Mac supports requirements for a comprehensive risk analysis and management methodology, proper risk management requires a flexible approach to regulation that permits designing controls in a manner that is sensitive to context. In our view, proper credit risk management is always a function of the risks presented and the nature of the credit relationship. Accordingly, FCMs should be permitted flexibility to adopt individualized strategies toward credit risk that reflect their considered assessment of the counterparty's credit profile. In some cases, specific position limits may not be required in light of a counterparty's credit, the relevant swap product(s) and the pace and nature of a customer's trading. In other cases, the specification of house margin requirements (which may or may not be greater than DCO margin requirements) or the provision of guarantees may be a better approach. In still other cases, the appropriate way to manage counterparty credit risk may be daily or aggregate position limits measured according to notional position size, margin requirements and the like. Imposing requirements that focus on particular tools is likely to be both ineffective and unduly restrictive.

We therefore suggest that proposed Section 1.73 be revised to focus on risk management process rather than position limits or other particular tools. Such an approach would emphasize requirements for FCMs to have comprehensive written procedures for the analysis and monitoring of customer credit exposures in connection with cleared swaps and for the application of risk controls as necessary and appropriate to mitigate risk from such exposures. These written procedures could be submitted to the Commission for review and approval prior to the commencement of customer clearing of swaps. In such manner, FCMs would be allowed the flexibility to develop practices that are responsive to the requirements of their particular relationships while the Commission would have the ability to monitor for conformity to best practices.

Alternatively, if the Commission decides to retain rule Section 1.73(a)(1) in substantially its present form, we request that the Commission clarify in the rule, or related interpretive materials, that the rule is not intended to require any particular set of risk-limit tools to all customers. Such clarification could read as follows: "this rule does not require the application of position limits or any other particular set of risk-limit tools to all customers."

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Freddie Mac appreciates the opportunity to provide its views in response to the Proposal. Please contact me if you have any questions or would like further information.

Sincerely,



Lisa M. Ledbetter