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November 7, 2019

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Re: Certain Swap Data Repository and Data Reporting Requirements (RIN 3038-AE32)

Dear Mr. Kirkpatrick:

The Federal Home Loan Mortgage Corporation (“**Freddie Mac**”) appreciates the opportunity to submit these comments in response to the rule proposal, “Certain Swap Data Repository and Data Reporting Requirements” (the “Proposal”), published by the Commodity Futures Trading Commission (the “**Commission**” or “**CFTC**”) in the Federal Register on May 13, 2019.¹

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. Freddie Mac currently operates under the direction of the Federal Housing Finance Agency as our conservator.

I. Introduction

Freddie Mac believes the reporting of swaps, as implemented by the CFTC, has brought significant benefits to the market by increasing transparency, which both supports regulatory initiatives and assists customers in obtaining fair execution prices. Further, Freddie Mac supports the aims of the Proposal to increase the accuracy of reported swap data. However, Freddie Mac believes that any incremental improvements to the accuracy that would be achieved under the Proposal are outweighed by the costs it would impose. This is particularly the case as applied to unregistered end users, such as Freddie Mac, that infrequently serve as a “reporting counterparty.”² Accordingly, Freddie Mac recommends that the existing

¹ 84 Fed. Reg. 21044 (May 13, 2019); 84 Fed. Reg. 57831 (Oct. 29, 2019) (extending comment period to Jan. 27, 2020).

² In this letter, “end user” is used as shorthand for market participants such as Freddie Mac that are not swap dealers or major swap participants and infrequently enter into swaps for which they are required to act as the reporting counterparty. As noted by Commissioner Stump, end user reporting counterparties account for less than 2% of interest rate and credit swaps reported. Proposal at 21122.

system for reporting swaps, at least insofar as applied to end users, should be maintained. Even if the Commission chooses to move forward with the Proposal as a general matter, Freddie Mac urges the Commission to limit its requirements to CFTC registrants such as swap dealers that routinely act as reporting counterparties currently since such firms are likely to have in place existing systems that would materially facilitate their compliance. Alternatively, the CFTC might consider imposing additional requirements only on end users that are reporting counterparties in a material number of transactions, as opposed to end users that are seldom the reporting parties.³ In doing so, the CFTC should formalize its expectations that any future SDR reporting procedures minimize the burdens on such end users.

II. Discussion

Under existing Regulation 45.14, an end user such as Freddie Mac is required to (i) report to an SDR errors and omissions in previously reported data “as soon as technologically practicable after discovery of any such error or omission,” when it is the “reporting counterparty” to a swap, and (ii) “promptly” after discovery of an error or omission notify the reporting counterparty of any such error when it is not the “reporting counterparty.” Freddie Mac believes that these existing obligations are sufficient to meet the objectives of SDR reporting with respect to end users and that it would be unnecessary and unduly costly to impose additional obligations on end users.

The Proposal would significantly expand end user obligations. Rather than a straightforward “negative affirmation” approach coupled with an obligation to report known errors, a reporting counterparty would be subject to a materially more burdensome and costly obligation to reconcile its internal books and records for all of its swaps against SDR data. An end user reporting counterparty would then be required to verify or provide a notice of any discrepancy within 96 hours of receipt of the report from the SDR, which would generally be required to be sent by the SDR on a monthly basis.⁴ Other than in Commissioner Stump’s statement (see Proposal at 21122), the Proposal does not address the need for imposing on end users SDR reconciliation requirements in light of existing portfolio reconciliation requirements imposed through swap dealer regulation under Regulation 23.502. In Freddie Mac’s view, the new monthly reconciliation requirements that would be imposed on end users under the Proposal are an unnecessary burden given existing requirements for quarterly or annual portfolio reconciliation (depending upon the size of their swap portfolio) to be performed by swap dealers with end users.⁵

In addition, by requiring reporting counterparties to “error” report when an SDR does not provide a report as expected, the Proposal effectively imposes on market participants a duty to monitor for SDR compliance. In Freddie Mac’s view, imposing such a requirement on an end user is both unnecessarily burdensome and would, in effect, impose a quasi-regulatory requirement on entities that are not registered

³ Entities that frequently report but are not CFTC-registrants might be those that are engaged in “dealing” activity, but are not required to register as swap dealers because they are below the *de minimis* registration level.

⁴ See proposed Regulation 49.11.

⁵ See Reg. 23.502(b)(3).

with the CFTC. End users, which are not subject to CFTC registration and direct regulation, are not well positioned to perform such obligations.⁶ In Freddie Mac's view, imposing these new requirements on end users is unnecessary, unduly burdensome and inconsistent with the CFTC's commitment to simplify its regulations.⁷

The Proposal asserts that this new process is necessary to "help improve swap data quality by facilitating the resolution of any discrepancies."⁸ However, we believe that Commissioner Stump raises the valid question of whether verification is a "solution in search of a problem."⁹ As Commissioner Stump effectively asks: (i) is there currently a material problem with swap data and (ii) if there is a material problem, would imposing additional end user obligations address that problem efficiently, as opposed to requiring improved operations at swap dealers. Consistent with the concerns expressed by Commissioner Stump,¹⁰ Freddie Mac believes that the Proposal imposes substantial and unnecessary burdens on end users of swaps that act infrequently as a reporting counterparty to a swap.

Currently, transactions involving at least one swap dealer make up, by some measures, over 98% of the credit and interest rate swaps (Freddie Mac does not currently transact in FX or commodity swaps).¹¹ For such a small percentage of market activity, end users would be required to build and maintain entirely new reconciliation systems – systems for which the specifications and both the startup and the maintenance costs are yet to be known – in order to comply with the requirements of the Proposal.

As written, the Proposal makes it difficult for Freddie Mac to meaningfully assess the full extent to which it will require Freddie Mac to implement new compliance and operational systems, hire new employees, and engage new third-party service providers because many requirements of proposed Regulation 45.14 are tied to the processes and procedures to be established by an SDR under proposed Regulation 49.11 at a future date. Moreover, proposed Regulation 49.11 provides little specificity or constraint as to the ultimate substance of these processes. The CFTC states that it expects that "SDRs and reporting counterparties would work together to design the method for submitting verifications and notifications that is the most efficient for both parties, with particular attention to creating a system that is not unnecessarily burdensome for non-SD/MSP/DCO reporting counterparties."¹² While Freddie Mac appreciates that the CFTC has expressed concern for smaller end users of swaps, we are less confident that

⁶ In this regard, Freddie Mac notes that neither the futures markets nor the securities markets impose demands on non-registrant customers to oversee whether FCMs or securities broker-dealers are fulfilling their own reporting obligations.

⁷ See, e.g., CFTC Press Release 7555-17 (May 3, 2017) (announcing the CFTC's "Keep it Simple, Stupid" or "KISS" initiative).

⁸ Proposal at 21068.

⁹ Proposal at 21118.

¹⁰ Proposal at 21118.

¹¹ Proposal at 21122.

¹² Proposal at 21068.

this is how the market will act. End users that act as reporting counterparties tend to do so infrequently and often on an *ad hoc* basis. Many end users already are subject to the expense of third-party service providers to comply with CFTC reporting requirements. It is not clear that SDRs will have an economic incentive to cater to end users, such as Freddie Mac, that account for fewer than 2% of the reported credit or interest rate swaps. In Freddie Mac's view, the current system of reporting swap transactions to SDRs appears to be working for end users, given that end users are only infrequent reporting counterparties.

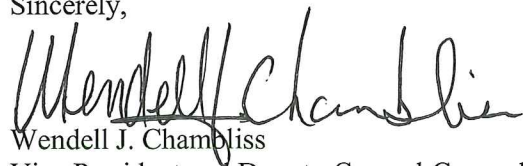
III. Conclusion

In light of the foregoing, Freddie Mac strongly urges the Commission to retain the current system of "negative affirmation" for correction of reported data with respect to end users. If the Commission adopts a version of the Proposal that imposes additional obligations on end users, Freddie Mac strongly urges the Commission to limit those obligations to end users who act as reporting counterparties on a material number of transactions. As noted above, such end users may be more likely to be engaged in dealing transactions, albeit at a level that is below that requiring registration.¹³ In addition, the Commission should codify as a requirement its expectations that an SDR, in establishing its reporting standards or procedures, "work together" with end users that are infrequent reporting parties and to give "particular attention" to the burdens imposed on such end users.¹⁴

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

Sincerely,



Wendell J. Chambliss
Vice President and Deputy General Counsel
Mission, Legislative and Regulatory Affairs Department
Legal Division

¹³ See also Proposal at 21122 (Commissioner Stump: "Given the limited number of swaps for which end-users are RCPs compared to the overall swaps market, I question whether imposing on all end-users that may serve as an RCP the additional burdens of preparing for compliance with the requirements of this Proposal reflects an appropriate consideration of costs and benefits.").

¹⁴ See Proposal at 21068 ("[T]he Commission expects that SDRs and reporting counterparties would work together to design the method for submitting verifications and notifications that is the most efficient and convenient for both parties, *with particular attention to creating a system that is not unnecessarily burdensome for non-SD/MSP/DCO reporting counterparties.*") (emphasis added).