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August 18, 2016

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation; Farm Credit Administration; Federal Housing Finance Agency: Margin and Capital Requirements for Covered Swap Entities*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency (OCC); Federal Reserve System (the Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); Federal Housing Finance Agency (FHFA) (collectively, the agencies) entitled "Margin and Capital Requirements for Covered Swap Entities" (RINs: 1557-AD00; 7100-AD74; 3064-AE21; 3052-AC69; 2590-AA45). We received the rule from FCA on July 27, 2016, from FDIC on August 4, 2016, and from the Board on August 17, 2016. It was published in the *Federal Register* as a final rule on August 2, 2016. 81 Fed. Reg. 50,605.

The final rule adopts exemptions from the initial and variation margin requirements published by OCC, the Board, FDIC, FCA, and FHFA (each an agency and, collectively, the agencies) in November 2015 pursuant to sections 731 and 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act or the Act). Pursuant to title III of the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA), this final rule exempts certain non-cleared swaps and non-cleared security-based swaps with certain financial and non-financial end users that qualify for an exception or exemption from clearing.

Enclosed is our assessment of the agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the agencies complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Andy Jiminez
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation

Linda Robertson
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Kenneth A. Spearman
Board Chairman and CEO
Farm Credit Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMPTROLLER OF THE CURRENCY;
FEDERAL RESERVE SYSTEM;
FEDERAL DEPOSIT INSURANCE CORPORATION;
FARM CREDIT ADMINISTRATION;
FEDERAL HOUSING FINANCE AGENCY
ENTITLED
“MARGIN AND CAPITAL REQUIREMENTS
FOR COVERED SWAP ENTITIES”
(RINS: 1557-AD00; 7100-AD74; 3064-AE21; 3052-AC69; 2590-AA45)

(i) Cost-benefit analysis

The final rule discussed the estimated burden of information collection requirements under the Paperwork Reduction Act as discussed below. The Department of the Treasury, Office of the Comptroller of the Currency (OCC); Federal Reserve System (the Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FHA); Federal Housing Finance Agency (FHFA) (collectively, the agencies) discussed those burdens in hours rather than dollars. In its submission of the final rule to us, FDIC indicated that preparation of an analysis of costs and benefits was not applicable.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Board does not believe that the interim final rule would have a significant economic impact on a substantial number of small entities. FDIC certified that the interim final rule does not have a significant impact on a substantial number of small FDIC-supervised institutions. OCC has previously determined that it was unnecessary to publish a notice of proposed rulemaking for this final rule, and that accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply. FCA certified that the interim final rule will not have a significant economic impact on a substantial number of small entities as FCA institutions are not small entities as defined by the Act. FHFA certified that the interim final rule will not have a significant impact on a substantial number of small entities since none of FHFA's regulated entities are small as defined in the Act.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As independent regulatory agencies, the Board, FDIC, FCA, and FHFA are not subject to the Act. OCC did not address the Act in the final rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On November 30, 2015, the agencies published and sought comment on an interim final rule. 80 Fed. Reg. 74,916. Three banking organizations, two individuals, two trade associations, and

one nonprofit finance cooperative submitted comments in response to the interim final rule. Comments were also received from two public sector entities organized under foreign laws whose obligations are guaranteed by foreign governments (foreign public sector entities). The agencies summarized and responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The agencies determined the interim final rule contains information collection requirements under the Act. The Office of Management and Budget (OMB) control numbers for the information collection requirements are 1557-0335 for OCC, 3064-0204 for FDIC, and 7100-0364 for the Board. OCC's and FDIC's requirements have been submitted to OMB for review. The title of the proposed information collection is "Reporting and Recordkeeping Requirements Associated with Margin and Capital Requirements for Covered Swap Entities." The total estimated annual burdens as stated in the final rule are 20,000 hours for OCC, 1,000 for FDIC, and 50,000 for the Board. FCA determined the final rule does not involve a collection of information pursuant to the Act for FCA institutions because they are federally chartered instrumentalities of the United States which have an exception under the Act. FHFA determined the final rule does not contain an information collection requirement for any entity under its regulatory authority.

Statutory authorization for the rule

OCC promulgated the interim final rule under the authority of section 6s(e) of title 7; sections 1 to 16, 93a, 161, 481, 1818, 3907, 3909, and 5412(b)(2)(B) of title 12; and section 78o-10(e) of title 15, United States Code.

The Board promulgated the interim final rule under the authority of section 6s(e) of title 7; sections 221 to 522, 1461 to 1470, 1818, 1841 to 1852, and 3101 to 3111 of title 12; and section 78o-10(e) of title 15, United States Code.

FDIC promulgated this interim final rule under the authority of section 6s(e) of title 7; sections 1813, 1818, 1819, and 3108 of title 12; and section 78o-10(e) of title 15, United States Code.

FCA promulgated the interim final rule under the authority of section 6s(e) of title 7 and section 78o-10(e) of title 15, United States Code, and sections 4.3, 5.9, 5.17, and 8.32 of the Farm Credit Act. 12 U.S.C. §§ 2154, 2243, 2252, 2279bb-1.

FHFA promulgated the interim final rule under the authority of section 6s(e) of title 7; sections 4513 and 4526(a) of title 12; and section 78o-10(e) of title 15, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As independent regulatory agencies, the Board, FDIC, FCA, and FHFA are not subject to the Order. OCC did not address the Order in the final rule.

Executive Order No. 13,132 (Federalism)

As independent regulatory agencies, the Board, FDIC, FCA, and FHFA are not subject to the Order. OCC did not address the Order in the final rule.