



## OCC BULLETIN 2014-50

**Subject: Proposed Rule on Margin and Capital Requirements for Covered Swap Entities**  
**Date: October 7, 2014**

**To: Chief Executive Officers of All National Banks, Federal Branches and Agencies, and Federal Savings Associations, Department and Division Heads, and All Examining Personnel**

**Transmittal - See OCC 2015-49**

**Description: Notice of Proposed Rulemaking**

### Summary

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency (collectively, agencies) request comment on a proposal to establish minimum margin requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants (swap entities) subject to agency supervision. This proposed rule implements sections 731 and 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank). Sections 731 and 764 require the agencies to jointly adopt rules to establish capital requirements, as well as initial and variation margin requirements, for swap entities on all non-cleared swaps and non-cleared security-based swaps to offset the greater risk to such entities and the financial system arising from the use of swaps and security-based swaps that are not cleared.

The margin requirements mandated by Dodd-Frank are intended to address a number of weaknesses in the regulation and structure of the swap markets that were revealed during the recent financial crisis. The requirements are intended to reduce risk, increase transparency, and promote market integrity.

The proposed rule was published in the *Federal Register* on September 24, 2014. The agencies request comments on the proposed rule no later than November 24, 2014.

### Highlights

If finalized as proposed, this rule would establish minimum requirements for the exchange of initial and variation margin between covered swap entities and their counterparties to non-cleared swaps and non-cleared security-based swaps. The requirements would apply to transactions entered into after the proposed rule's applicable compliance dates. The amount of margin that would be required would vary based on the relative risk of the counterparty and of the particular non-cleared swap or non-cleared security-based swap.

The rule would not require a covered swap entity to collect specific or minimum amounts of initial margin or variation margin from nonfinancial end users (e.g., commercial end users and sovereign entities). The rule would leave that decision to the covered swap entity, consistent with its overall credit risk management. The agencies believe this rule would maintain the status quo for nonfinancial end users and is consistent with Dodd-Frank's requirements.

### Note for Community Banks

The agencies expect that the proposed rule likely would have a minimal impact on community banks. The agencies do not anticipate that community banks will engage in the level of swap activity necessary to cross the different thresholds under the rule that trigger the collection or posting of margin. Please

see the "Notice of Proposed Rulemaking" at 79 Fed. Reg. 57348, 57357 (September 24, 2014) for further discussion of the status of community banks under the proposed rule.

## Background

This proposal builds on another proposal originally released by the agencies in April 2011 and includes some modifications made in light of comments received, such as an expansion of the types of collateral eligible to be posted as initial margin. Additionally, this proposal seeks to promote global consistency by generally following the final framework for margin requirements on non-cleared derivatives that the Basel Committee on Banking Supervision and the International Organization of Securities Commissions adopted in September 2013.

Staff of the five agencies consulted with staffs of the Commodity Futures Trading Commission and the U.S. Securities and Exchange Commission to develop the proposed rule as required by Dodd-Frank.

## Further Information

Direct questions to Jamey Basham, Assistant Director, Legislative and Regulatory Activities Division, at (202) 649-5490; or Kurt Wilhelm, Director, Financial Markets Group, at (202) 649-6360.

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## Related Link

- ["Notice of Proposed Rule: Margin and Capital Requirements for Covered Swap Entities" \(PDF\)](#)