

# Bank Asset/Liability Management

Vol. 28, No. 3 March 2012



Prepared by Mary Brookhart

## Proposed FDIC Derivatives Regulations

Federal regulators are soon expected to release the detail rules associated with the implementation of the Dodd-Frank Act. Bank risk managers & corporate derivatives end-users are waiting to see how the anticipated regulations will affect the management of over-the-counter swaps.

Two of the most controversial issues that regulators must tackle include whether corporate swap users will have to post margin deposits, & whether inter-affiliate swaps will be exempted from new or proposed margin deposit, tracking & reporting requirements.

Members of Congress recently introduced legislation that will exempt corporate swap end-users from margin requirements, & legislation has been proposed to assure that companies using swaps internally among affiliates are exempted from Dodd-Frank margin & reporting rules.

Many risk managers lobbied extensively to exempt end-users from margin requirements when the Dodd-Frank legislation was being written. These exemptions were included in the initial legislation, along with an exemption from clearing the transactions. However, since the Dodd-Frank legislation became law, FDIC officials have proposed giving regulators the authority to require banks to post margin deposits on swaps. FDIC officials have also proposed that financial institutions be required to collect margins from their corporate & international clients.

Many commercial organizations use inter-affiliate swaps to balance their books, net out their exposures & to hedge their operational risks. However, regulators appear to be moving toward a requirement that corporate swap users report their swap transactions to still-to-be-designed & deployed swap data repositories in real time. Many risk managers are concerned that margin cash requirements & the margin monitoring & reporting infrastructure will increase their operating costs.

NACT has supported more transparent approaches to swap reporting & has suggested that banks report the swap transactions they engage in with corporate customers. Many industry advisors argue that inter-affiliate swaps are not market transactions &, unlike banks acting as swap counterparties, companies typically lack the systems to report the data. Many industry pundits believe that if margin requirements & the

### Also in This Issue:

- Why Hedge Interest Rate Exposures? ..... 1
- A New Approach to Analyzing Core Deposit Behaviors ..... 3
- REMINDER – COMPENSATION SURVEY!! ..... 8

### Editorial Board:

**George K. Darling**, *Darling Consulting Group*  
**Gregory W. Doner**, *FIMAC Solutions LLC*  
**David Easton**, *Bank of America*  
**Mark Evans**, *Vining-Sparks IBG*  
**Orlando B. Hanselman**, *Fiserv Risk and Performance*  
**Ira G. Kawaller**, *Kawaller and Co., LLC*  
**Jon Kozlowski**, *Profitstars—a Jack Henry Company*  
**William McGuire**, *McGuire Performance Solutions, Inc.*  
**Deedee Myers**, *DDJ Myers Ltd.*  
**Fred Poorman**, *Bank Risk Advisors*

proposed documentation rules are imposed on corporate swap users, banks & other dealers will require corporate customers to enter into CSAs. Most swap market participants already use the ISDA's CSA template. However, corporate swap users must be sure that their legal advisors are familiar with negotiating CSAs, while assuring that they quickly enter the documentation queue with their banks as banks will most likely quickly become overwhelmed with the increased volumes. Most corporate risk managers & treasurers who are swap users are waiting further developments prior to tackling the CSA issue.

It is important to note that if a corporate swap user is called to meet margin requirements & fails to do so, management will be in default of their swap agreements. For this reason, corporate swap users will be forced to hold the necessary assets to meet potential margin calls. Holding aside this amount of credit, with a cushion required to cover unexpected margin calls, will be a significant increase in the cost of ongoing business operations.

Peter Mihaltian  
*Southeast Consulting, Inc.*

*To read this article in its entirety, see the March 2012 issue of Bank Asset/Liability Management*