

November 10, 2015

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

RE: File No. SR-FINRA-2015-036, Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for the TBA Market

Dear Ms. Murphy:

On October 20, 2015, the Securities and Exchange Commission (“SEC” or “Commission”) published the above referenced notice of filing of the proposed rule (“the proposal”), prepared by the Financial Industry Regulatory Authority (“FINRA”), to solicit comments on the proposed rule change from interested parties. Lancaster Pollard Holdings, LLC (“LPH”) is pleased to have the opportunity to comment on the proposal’s impact to the multifamily and residential healthcare agency markets.

Although the proposal is to establish margin requirements in the single-family “to-be-announced” (TBA) market, the proposal would apply to the multifamily housing finance programs of Fannie Mae, Freddie Mac, and the Ginnie Mae/Federal Housing Administration by reference to a footnote regarding the proposed definition of Covered Agency Transactions. This definition was included in the Treasury Market Practices Group’s (“TPMG”) updated Frequently Asked Questions issued in June 2014 regarding Margining Agency MBS Transactions and incorporated by FINRA in the proposal without including any forward settling multifamily mortgage-backed securities (“MBS”) trades in their sample data or providing an economic analysis on the impact to multifamily rental housing. LPH is supportive of the MBA’s and SIFMA’s prior comment letters and strongly recommends that the Commission exclude forward settling multifamily MBS trades from the proposal. The proposal should carve out multifamily transactions from coverage under the margin requirements. The multifamily finance market is significantly different than the single-family TBA market, and does not present the systemic and counterparty risks that appear to have motivated the development of this rule.

LPH is active in the forward settling multifamily MBS market on a daily basis through its wholly owned subsidiaries, Lancaster Pollard Mortgage Company, LLC (“LPMC”) and Lancaster Pollard & Co., LLC (“LPC”). LPMC is primarily engaged in the business of originating, selling, and servicing senior housing, healthcare, affordable housing, and multifamily loans under loan programs administered by the Federal Housing Administration (“FHA”), a division of the U.S. Department of Housing and Urban Development (“HUD”), the Government National Mortgage Association (“Ginnie Mae” or “GNMA”), the United States Department of Agriculture (“USDA”) and the Federal

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National Mortgage Association (“Fannie Mae”). LPMC is an approved Fannie Mae Seniors Housing and Affordable lender nationally, a HUD Multifamily Accelerated Processing (“MAP”) lender nationally, a HUD Section 232 LEAN lender nationally, and a Ginnie Mae Issuer. LPMC securitizes originated FHA and USDA loans by issuing related GNMA MBS, and it originates loans and sells them to Fannie Mae in exchange for cash or MBS. LPC is registered as a securities broker and dealer pursuant to the Securities Act of 1934 and is a member of FINRA. LPC actively trades in the forward settling multifamily MBS market with other mortgage lenders, institutional investors and other broker dealers. Therefore, LPH is in a unique position to provide perspective on the proposal from both a mortgage lender and a FINRA member.

LPH recommends that forward settling multifamily MBS trades be excluded from the proposal based primarily on the following:

1. The mechanics of the trade are materially different than single-family TBA trades. Some of those differences are as follows:
 - a. Trades are for a specified single loan (that has been underwritten and rate locked with the borrower) on a forward basis.
 - b. The trades are settled at the agreed trade price on a forward date on a delivery versus payment (“DVP”) basis. The trades are not net settled and do not create a credit risk to either counterparty.
 - c. There is no speculative trading in the Multifamily MBS market.
 - d. The risk to the broker dealer is related to how it hedges its investment in the MBS, not credit risk to the counterparty.
 - e. The proposal requires that the trades be liquidated upon a failure to meet the margin requirements; however, due to the mechanics of the forward settling multifamily MBS trades, a liquidation of the position is not possible.
2. The unsecured risks that exist in the TBA market today do not exist in the forward settling multifamily MBS market. The proposal states that “Unsecured credit exposures that exist in the TBA market today can lead to financial losses by dealers. Permitting counterparties to participate in the TBA market without posting variation margin can facilitate increased leverage by customers, thereby potentially posing a risk to the dealer expending credit and to the marketplace as a whole.”
 - a. This risk is not present in the Multifamily MBS market. Whereas a treasury futures or single family TBA creates an obligation (credit exposure) from either counterparty based on changes to market values, the trade price for a forward settling multifamily MBS is set at the trade date (and always results in the buyer paying the seller (MF Lender) delivery vs payment upon settlement).

Secondarily, forward settling multifamily MBS trades should be excluded from the proposal based on the following:

1. The size of the multifamily market (approx. \$50 billion in annual originations) is dwarfed by the size of the single-family market (approx. \$1 trillion in annual

originations), yet a disproportionately large portion of the multifamily market would be impacted by the proposal as compared to the relatively small portion of the single-family market. While the proposal largely concludes that the impact to mortgage bankers will be minor, (see 2. Economic Impact (a) Mortgage Bankers “Accordingly, FINRA expects that the majority of the mortgage bankers’ positions would be excepted from the proposed margin requirements.”), the data sets used by FINRA to assess the likely impact of the proposal appear not to include any forward settling multifamily MBS trades and are thus flawed and contradictory to the conclusions that would have been reached should the multifamily data have been included or separately evaluated.

- a. For example, utilizing the current (as of 10/30/2015) GNMA Multifamily database:
 - i. There are a total of 12,978 transactions in the database which have a total original principal balance of \$102.8 billion.
 - ii. The average transaction size is \$7.9 million, well above the proposals gross open position de minimus amount of \$2.5 million.
 - iii. There are 54 issuer Multifamily lenders in the database. Looking at the average for each lender, only 4 lenders have an average transaction size below the gross open position de minimus amount of \$2.5 million.
2. Delivery fails in the forward settling multifamily MBS market have been extremely rare. Furthermore, among the small number of delivery fails, a common cause was a property-level event (rather than a counterparty risk-driven event).
3. Increased cost to market participants.
 - a. Contradictory to the proposal’s conclusion in the Economic Impact section regarding direct costs, multifamily lenders do not have systems in place to mark-to-market these open trades on a daily basis or the systems/processes or liquidity to post variation margin on a daily basis. Since these trades are not homogenous and are dependent on the underlying terms of the individual loan and security, there is no third party pricing service that exists that can price these open positions accurately on a daily basis.
4. Existing safeguards are in place that work in response to the risks of the forward settling multifamily MBS trades.
 - a. Trade Confirmation Agreements
 - b. Good Faith Deposits and Extension Fees
 - c. Agency and regulator oversight and net worth and liquidity requirements
 - d. Counterparty trading limits established by counterparties (instructional investors and broker dealers).

While the proposal may be well structured to establish margin requirements for the single-family TBA market, the proposal would have significant and unintended consequences to the multifamily and residential healthcare agency markets. Therefore, LPH strongly recommends that the Commission exclude forward settling multifamily MBS trades from the proposal. Alternatively, short of an exemption, FINRA should specifically evaluate the proposal's impact to the multifamily and residential healthcare agency markets to establish appropriate mark-to-market, de minimus amounts, and a collection and "liquidation" process. To the extent that an exemption is not provided, LPH believes that a longer implementation period would be appropriate.

LPH appreciates the opportunity to comment on the proposal. Should you have any questions regarding our comments, please do not hesitate to contact the undersigned at the number below.

Sincerely,



Robert T. Kirkwood
Chief Operating Officer
Lancaster Pollard Holdings, LLC

