



05/15/2017

**VIA ELECTRONIC SUBMISSION**

Mr. Christopher J. Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

Re: RIN3038-AD54: Capital Requirements of Swap Dealers and Major Swap Participants, 81  
Fed. Reg. 91252 (December 16, 2016)

To Whom It May Concern:

CME Group Inc. ("CME Group") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("CFTC" or the "Commission") request for comment on its proposed rulemaking for capital requirements of swap dealers and major swap participants (the "Proposed Rulemaking").

CME Group is the parent company of four designated contract markets ("DCMs"): Chicago Mercantile Exchange Inc. ("CME Inc."), the Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX"). These DCMs offer the widest range of benchmark products available across all major asset classes, including futures and options on futures based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural, and commodities products. CME Inc. operates a clearing house, registered as a derivatives clearing organization ("DCO"), which offers clearing and settlement services for exchange-traded derivatives contracts and cleared swap derivatives transactions. In respect of its clearing operations, CME Inc. has been deemed a systemically important financial market utility by the Financial Stability Oversight Council ("FSOC").

CME Group supports the CFTC's longstanding approach of implementing risk-based capital requirements. It is critical that the same approach be taken to determining capital requirements for swap dealers. We have observed the implementation of different capital requirements for financial institutions across the industry and have seen the unintended negative consequences inappropriate capital requirements have on the marketplace and market participants.

Consistent with the views of other market stakeholders, CME Group does not believe the inclusion of proprietary swaps and security-based swaps risk margin in the determination of a futures commission merchant's (FCM) risk-based capital requirement is either effective or



appropriate. Under current CFTC regulations, FCMs are required to make capital deductions for the margin related to their proprietary cleared over-the-counter (“OTC”) derivatives in determining their adjusted net capital<sup>1</sup> and FCMs are required to continue to do this under the Proposed Rulemaking. Therefore, it would be duplicative for an FCM to also account for the risk margin related to its proprietary swaps and security-based swaps positions in the calculation of eight-percent of its total risk margin requirement.

In this regard, the Proposed Rulemaking would unnecessarily increase the amount of adjusted net capital an FCM would have hold for it swaps and security-based swap exposures. In particular, this outcome could burden smaller swap dealer FCMs that are not broker-dealers and in turn, threaten their ability to provide clearing services for swaps. These types of FCMs, as the CFTC noted in the Proposed Rulemaking are often the ones that “may be more willing to provide swaps markets in commodities to agricultural firms and smaller commercial end users such as farmers and ranchers that might not otherwise be able to use such markets to manage risks in their businesses or might have to pay higher fees to engage in swaps.”<sup>2</sup> In addition, burdening smaller swap dealer FCMs is likely to also further exacerbate the concentration of client clearing among larger FCMs.

CME Group is also concerned with the proposed amendments that use notional amounts in informing certain swap dealers’ and FCMs’ capital requirements, as it is also likely to unnecessarily burden these firms. It is inappropriate for notional amounts to be relied upon for determining financial institutions’ capital requirements. Notional amounts are an unsophisticated measurement of risk and in fact can overstate the risk of derivatives exposures.<sup>3</sup> We have observed this occur under other approaches to determining capital requirements that are reliant on notional amounts, such as the standardized approach for a bank determining its leverage ratio requirements and risk weighted assets capital requirements.

For example, specific to the Proposed Rulemaking, where notional amounts are used in determining a swap dealer’s capital requirement, it could be inappropriately penalized for carrying high notional amounts of swaps exposures, in comparison to a swap dealer that may actually have more or the same amount of risk in swap exposures, but can calculate its capital requirements on a risk basis using an internally developed model. Therefore, to ensure a level playing field for entities that are not permitted to use internally developed models, capital requirements should be determined using market values, opposed to notional amounts. This is consistent with the approach the Commission currently employs.

Inappropriately sizing capital requirements will unnecessarily burden the firms subject these requirements and constrain the competitiveness of the markets in which they participate.

## **Conclusion**

CME Group appreciates the goals of the Commission’s Proposed Rulemaking and more broadly, its ongoing work to foster financial stability. We would be happy to further discuss and clarify any of the above comments with the Commission. If any comments or questions

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<sup>1</sup> 17 CFR 1.17(c)(5)(x)(A) and (B).

<sup>2</sup> 81 Fed. Reg. 91268 (Dec 16, 2016).

<sup>3</sup> See Office of Financial Research, *Financial Stability Report* (Dec 2015), at page 38 (noting the difficulty in using notional exposures to account for risk), available at: [https://www.financialresearch.gov/financial-stability-reports/files/OFR\\_2015-Financial-Stability-Report\\_12-15-2015.pdf](https://www.financialresearch.gov/financial-stability-reports/files/OFR_2015-Financial-Stability-Report_12-15-2015.pdf).



regarding this submission arise, please feel free to contact Sunil Cutinho, President, CME Clearing at +1 312 634-1592 and [sunil.cutinho@cmegroup.com](mailto:sunil.cutinho@cmegroup.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Sunil Cutinho".

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