



**Carl B. Wilkerson**  
Vice President & Chief Counsel, Securities & Litigation

Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading  
Commission, Three Lafayette Centre  
1155 21st Street, NW.  
Washington, DC 20581

September 29, 2017

RE: ACLI Response to CFTC Project KISS-Clearing Issues

Dear Mr. Kirkpatrick:

We greatly appreciate the opportunity to share our views the CFTC's project KISS, which elicits comment about how the CFTC's existing rules, regulations, or practices could be applied in a simpler, less burdensome, and less costly manner. The CFTC seeks ideas from industry, other stakeholders and interested parties, and the broader public on where the CFTC rules can be simplified and made less costly to comply. The press release explains that the KISS project focuses on "taking the CFTC's existing rules as they are and applying them in ways that are simpler, less burdensome and less of a drag on the American economy."

The American Council of Life Insurers ("ACLI") is a national trade association. ACLI represents 290 life insurers that hold over 95 percent of the industry's total assets. Our members serve 75 million American families that rely on life insurers' products for financial and retirement security. Our members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance. Life insurers have actively participated in the important regulatory dialog leading to implementation of Title VII of the Dodd-Frank Act.<sup>1</sup>

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<sup>1</sup> For example, ACLI submitted detailed comments on the following related and parallel regulatory proposals developed by the U.S. Prudential Regulators, the U.S. Commodity Futures Trading Commission ("CFTC"), and the U.S. Securities and Exchange Commission ("SEC") governing margin and capital requirements :

- Supplemental Request for Comments on Proposed Margin and Capital Requirements for Covered Swap Entities; [[http://www.fhfa.gov/webfiles/24691/95\\_American%20Council%20of%20Life%20Insurers%20ACLI.pdf](http://www.fhfa.gov/webfiles/24691/95_American%20Council%20of%20Life%20Insurers%20ACLI.pdf)] [Prudential Regulators];
- Supplemental Request for Comments on Proposed Margin Requirements Governing Uncleared Swap Transactions for Swap Dealers and Major Swap Participants [<http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=58806&SearchText=wilkerson>] [CFTC];
- CFTC Proposal on Protection of Cleared Swaps Customer Contracts and Collateral [<http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=48045&SearchText=wilkerson>] [CFTC];
- SEC proposal on margin, capital and segregation for security-based swap dealers and major security-based swap participants [<http://www.sec.gov/comments/s7-08-12/s70812-25.pdf>]; and,
- Request for Comments on Reproposed Rule for Margin and Capital Requirements for Covered Swap Entities [[http://www.federalreserve.gov/SECRS/2015/January/20150127/R-1415/R-1415\\_112414\\_129786\\_278794149594\\_1.pdf](http://www.federalreserve.gov/SECRS/2015/January/20150127/R-1415/R-1415_112414_129786_278794149594_1.pdf)].

ACLI also submitted comments on the initial BCBS-IOSCO Consultative Document for Non-Centrally Cleared Derivatives, published by the Basel Committee on Bank Supervision (BCBS) and the International Organization of Securities

We offer comments below that highlight challenges confronting life insurers following the adoption of rules implementing the Dodd-Frank Act. While we appreciate and support many of the legislative purposes of Title VII of the Dodd-Frank Act, the confluence of regulations and practices in the marketplace have underscored the need for reasonable relief.

### **Life Insurers Should not be Subject to Punitive Initial Margin Requirements on Uncleared Swaps**

Rules implementing Title VII of the Dodd-Frank Act will require life insurers to post initial margin on uncleared swaps beginning in 2020. Given that there are existing variation margin requirements for uncleared swaps, these rules should be amended to ensure that calculation methods used for initial margin are appropriately calibrated to the risk associated with the trading activity and credit quality of life insurers. Initial margin rules should not result in the imposition of overly punitive initial margin requirements on life insurers. Life insurers' estimates of the future required initial margin amounts, compared to current clearinghouse requirements, indicate that these requirements will be outsized to the nature and risk of trades implicated.

We greatly appreciate your attention to our views. If any questions develop, please let me know.

Sincerely,

*Carl B. Wilkerson*

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Commissions (IOSCO) (May 2012) ("BCBS-IOSCO Consultative Paper") [<http://www.bis.org/publ/bcbs226/acoli.pdf>] [BCBS-IOSCO], and the BCBS-IOSCO Second Consultative Document on Margin Requirements for Non-Centrally Cleared Derivatives (Feb. 2013) ("Second BCBS-IOSCO Consultative Paper") [<http://www.bis.org/publ/bcbs242.pdf>].

On August 4, 2015, ACLI filed [comments](#) on the Prudential Regulators' net stable funding ratio proposal, finalized by the Basel Committee on Banking Supervision as part of Basel III, as Regulatory Agencies were considering a similar proposal for entities under their authority.

On July 5, 2016, ACLI filed [comments](#) on the BCBS Revised Basel III Leverage Ratio Framework-Consultative Document published April 25, 2016. The submission explained that life insurers are among the financial end users affected by the leverage ratios under consideration in the Consultative Document. ACLI previously filed a [submission](#) dated September 20, 2013, with the Basel Committee on Banking Supervision (BCBS) on its initial consultative document that proposed a revised Basel III leverage ratio framework through a supplementary measure of the Risk Based Capital ("RBC") requirements for Banks.

ACLI filed comments on a draft ISDA Variation Margin Protocol on July 29, 2016. ACLI suggested that parties adhering to the VM Protocol should be given additional options for items such as Notification Time, Independent Amount, Transfer Timing and Collateral Eligibility, among other things.