Financial Security...for Life.

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

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

By Electronic Submission

Re: Implementation of New CME, CBOT, NYMEX, and COMEX Rules 830.C., 900.C., 902.B., 912.A., and 912.B.; Amendments to CME, CBOT, NYMEX, and COMEX Rule 820 and CME Rule 8G831; and Implementation of New CME Rule 8G912 to Create Direct Funding Participant Clearing Membership

Dear Mr. Kirkpatrick:

The American Council of Life Insurers ("ACLI") greatly appreciates the opportunity to share its views on the CFTC's request for comment on the proposed Direct Funding Participant Clearing Membership Rule Proposals ("DFP Rules")[1]. According to the initiative, the DFP Rules will create a new type of direct clearing membership at the four exchanges[2], which will enable a firm to clear trades solely for its own account provided that the obligations to the Clearing House arising from the firm's DFP activity are guaranteed by at least one other clearing member that is registered with the CFTC as a futures commission merchant and entitled to directly clear the relevant products at the Exchanges.

ACLI is a national trade association that 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.[3]

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[1] *See* http://www.cftc.gov/filings/orgrules/rule082817cmedco001.pdf [last visited Jan. 12, 2018].
[2] Chicago Mercantile Exchange Inc. ("CME"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX")
[3] 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] [Prudential Regulators];

American Council of Life Insurers
101 Constitution Avenue, NW, Washington, DC 20001-2133
(202) 624-2118 t (866) 953-4096 f carlwilkerson@acli.com
www.acli.com

ACLI' members are large, end-user, participants in the financial futures markets and cleared swaps facilities provided by the CME Group and its affiliates. In fact, because life insurers are deemed "financial entities" under the relevant provisions of the Commodity Exchange Act, they are compelled to clear their interest rate and credit default swaps. As compulsory participants, life insurers have a unique interest in swap clearing processes offered by the CME and other similar clearinghouses. Life insurers, therefore, have followed with interest the initiatives recently undertaken by clearing houses to provide direct participant access to clearing without the intermediation of a futures commission merchant.

We understand that the proposed DFP Rules are intended to lower the costs of clearing by reducing the capital and other costs imposed on FCMs that intermediate (as well as guaranty) their customers' cleared swaps and futures. Under the proposed DFP Rules, if a life insurer chose to become a DFP, its FCM would be responsible only for a guaranty and it would therefore obtain balance sheet relief because the life insurer's margin does not pass through that FCM but instead, goes directly to the clearinghouse.

ACLI supports the development of alternative structures to eliminate the mutualization of customer risk and improve the availability of clearing services to end-users. The DFP Rules seek to accomplish this by providing a direct relationship between the end user and the Clearinghouse. An end user that becomes a DFP will be subject to significant new liquidity and operational demands including the Clearinghouse's daily settlement cycle, and intra-day call authority. CME recognizes this increased operational burden and, as a result, requires operational and risk management reviews of end users petitioning to become DFPs. End-user DFPs will (1) incur FCM Guaranty Fees and increased margin requirements, (2) be required to hold additional/excess liquidity to meet intra-day margin calls, and

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- 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 Retroposed 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].

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 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.

(3) establish a relationship with a settlement bank, each of which will increase the cost of clearing for end users.

Because of these costs and demands, the DFP model would only be viable for a limited number of highly sophisticated end users willing to incur increased costs to avoid mutualization of customer risk. We are concerned that the emergence of the DFP model could also potentially reduce the availability of traditional FCM services, particularly for smaller and medium sized insurance company end-users. This would likely limit the expansion of clearing services (which the DFP Rules seek to promote) and potentially reduce the availability of clearing services to certain end users. We would encourage the CFTC to continue its efforts to expand clearing availability to end users, and monitor the overall effect that the DFP program has on clearing costs and accessibility.

Thank you for your attention to our views. If any questions develop, please let me know.

Sincerely,

Carl B. Wilkerson

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