ACLI
Financial Security for Life

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22 October 2020

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

Re: RIN 3038-AE77, Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

Dear Mr. Kirkpatrick:

The American Council of Life Insurers (ACLI) is a national trade association with 280 member companies that represent 95 percent of industry assets, 92 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Our members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance that 75 million American families rely on for financial and retirement security.

Life insurers have actively participated in the dialogue surrounding the regulation of domestic and international financial markets, and have provided constructive input on a myriad of proposed rulemaking, including the implementation of Title VII of the Dodd Frank Wall Street Reform and Consumer Protection Act (the "Dodd Frank Act" or DFA). More specifically, we have commented about Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants on multiple occasions.[1]

We appreciate the opportunity to share our views on the CFTC's above-captioned Request for Comment. We find the proposed changes to the Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (the "Margin Rules") very helpful to the life insurance industry overall and welcome these reforms to better reflect the realities of marketplace activity and further align U.S. regulations with those of global regulators.

The Commission asked for comment on whether it should proceed to adopt these proposed amendments if the prudential regulators do not also adopt similar regulatory changes. We support the Commission's adoption of these amendments even in the absence of parallel action by the prudential regulators. As participants in a global marketplace, life insurers transact with counterparties that are subject to multiple rule sets. We encourage all regulators to aim for global consistency but also encourage regulatory adjustments that recognize the practical costs of compliance.

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[1] *See* ACLI Submission on CFTC Request for Supplemental Comment on Proposed Rule Governing Margin and Collateral for Uncleared Swap Transactions (September 14, 2012; RIN 3038-AC97); CFTC Request for Comment on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (December 2, 2014; 79 Fed. Reg. 59898); CFTC Request for Comment on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants Cross-Border Application of the Margin Requirements (September 14, 2015; 80 Fed. Reg. 134); CFTC Request for Comment on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (October 25, 2019; 84 Fed. Reg. 206 at 56950);

Background

Life insurers are significant end-users of derivatives for prudential asset-liability management. Unlike many other financial institutions, life insurers have unusually long-term liabilities that must be matched with assets of equivalent duration. Derivatives allow life insurers to prudently manage the credit and market risk of their portfolios and to fulfill their long-dated obligations to policy and contract owners. As long-term hedgers, life insurers have a strong interest in a stable and robust global financial system and we strongly encourage coordinated domestic and international approaches to derivatives regulation that will achieve desired stability of the global financial system while enabling cost-effective compliance and discouraging regulatory arbitrage.

We support the Commission's proposal to (i) create a separate $50,000 Minimum Transfer Amount for Separately Managed Accounts and (ii) codify the relief in Letter 19-25 by allowing separate Minimum Transfer Amounts for Initial Margin and Variation Margin. Both of these proposals represent practical approaches that ease the operational burden of compliance with the Margin Rules.

Separate Minimum Transfer Amount for Initial Margin and Variation Margin

Life insurers are particularly supportive of the CFTC's proposal to codify Letter 19-25 by allowing for separate minimum transfer amounts for initial margin and variation margin, provided that the combined minimum transfer amounts do not exceed the $500,000 threshold. The approach of establishing separate minimum transfer amounts for initial margin and variation margin is consistent with current market practice. Requiring a single, combined minimum transfer amount would require significant changes to documentation and operational processes. We do not believe that these changes would lead to a significant benefit in reducing systemic risk. As the cost-benefit analysis in the rule proposal notes, the creation of separate minimum transfer amounts for initial margin and variation margin is just as likely to result in the exchange of higher amounts of margin overall rather than lower amounts. Moreover, the aggregate limit remains low. Finally, we support this common-sense amendment of the Margin Rules for swap dealers as a further step toward global harmonization.

Conclusion and Request for Further Consideration of the GMAC Report

In conclusion, we would like to take this opportunity to express our appreciation for the Commission's continued willingness to review the Margin Rules for common-sense adjustments where the practical costs of compliance outweigh the marginal benefits. In that spirit, we encourage the Commission to consider addressing additional recommendations made to the CFTC's Global Markets Advisory Committee in the *Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps*[2](the "GMAC Report"), including the relief described therein for certain seeded funds. Such relief would reflect the same principles of easing the operational burden on Phase 5 and Phase 6 end users without increasing systemic risk and would also more closely align the Margin Rules with international regulatory standards.

Thank you for your consideration.

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[2] https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download

Sincerely,

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