ACLI
Financial Security for Life

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23 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-AF05, 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 on the subject of Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants on multiple occasions.[1]

The Commission has 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 and we believe that the adoption of this rule proposal by the Commission would further that goal even in the absence of similar action by the prudential regulators.

We greatly appreciate the opportunity to share our views on the CFTC's above-captioned Request for Comment. The proposed changes to the Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (the "Margin Rules") are helpful to the

[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);

life insurance industry overall and we welcome these reforms to better reflect the realities of marketplace activity and further align U.S. regulations with those of global regulators.

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 alignment of the material swaps exposure ("Material Swaps Exposure") calculation and methodology with the BCBS-IOSCO framework. We view this proposal as a practical approach to ease the operational burden of compliance with the Margin Rules and as a further important step toward greater global harmonization of the regulation of derivatives.

Amendment to the Calculation of Material Swaps Exposure

The Commission proposes to amend the definition of Material Swaps Exposure to align the timing and methodology for calculating the average aggregate notional amount ("AANA") with the methodology laid out in the BCBS-IOSCO framework and adopted by many other global regulators. The proposal would also adjust the timing of post phase-in compliance periods as a further step toward greater global harmonization. Life insurers trade with counterparties that are subject to regulations in multiple jurisdictions. Because global regulators have adopted different approaches to measuring AANA and determining phase-in dates, life insurers perform multiple different calculations across jurisdictions. Aligning the approach to calculation and the phase-in dates would ease life insurers' compliance burden and would be of particular benefit to smaller companies that encounter significant effort, cost and compliance burdens from monitoring different regulatory requirements across multiple global jurisdictions.

We appreciate the proposal's concern that moving from a daily average calculation of AANA to a month-end calculation might lead market participants to "window dress" their exposures to avoid application of the margin requirements. As long-term hedgers subject to significant state regulation of our derivatives activities, we believe the proposed changes to calculating AANA would be unlikely to change life insurers' market behavior but would have the benefit of decreasing the operational costs of compliance.

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.

Sincerely,

THE AMERICAN COUNCIL OF LIFE INSURERS

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