



September 18, 2023

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

Re: RIN 3038-AE59
Risk Management Programs

Dear Mr. Kirkpatrick,

NFA welcomes the opportunity to submit comments in response to the Commodity Futures Trading Commission's (Commission or CFTC) advance notice of proposed rulemaking (ANPRM) regarding potential amendments to the Commission's regulations governing risk management programs (RMP) for swap dealers (SDs), major swap participants and futures commission merchants (FCMs).

The ANPRM invites comments on four distinct areas of the CFTC's RMP Regulations—governance structure for risk management programs, the enumerated risks that must be monitored and managed, the specific risk considerations the program must take into account and SD and FCM periodic Risk Exposure Reports (RERs). The Commission raises important questions in each of these sections, and NFA encourages the Commission to carefully consider the comments of SDs and FCMs that monitor their risks pursuant to the Commission's current Regulations and that regularly prepare and use RERs. Since the CFTC's adoption of SD and enhancement of FCM RMP requirements over ten years ago, NFA believes that most, if not all, of the initial implementation uncertainty relating to the RMP Regulations has been resolved and SDs and FCMs have developed systems and processes to properly comply with the requirements. Therefore, we recommend that the Commission carefully consider the impact of any changes to the RMP Regulations on the current framework SDs and FCMs use to comply with the Regulations to ensure that the benefit of any changes clearly outweigh any burdens imposed on SDs and FCMs in modifying their systems and processes to comply with any new or modified requirements.

NFA does have direct experience with the RERs' effectiveness, which SDs and FCMs file quarterly with us. We offer the following comments on the Commission's request regarding these reports.

September 18, 2023

The RMP Regulations require SDs and FCMs to provide quarterly RERs to the CFTC within five business days of providing them to their senior management. As of September 30, 2014, NFA also began collecting RERs from SDs and FCMs for which NFA is the DSRO. Consistent with the Commission's comments in the ANPRM, NFA has observed significant variance among SD and FCM RERs in the timing of their submissions to us. While SDs and FCMs must provide RERs to the CFTC and NFA within five business days of providing them to their firm's senior management, the CFTC's RMP Regulations do not prescribe how soon after quarter-end an SD or FCM must provide its RER to senior management. While the vast majority of SDs and FCMs file their RERs with the CFTC and NFA within 60 days of quarter end, some may go as long as 80 days from quarter end.

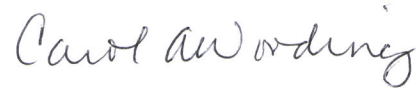
NFA staff use the RERs as a tool to collect information regarding a firm's business activities and risks since NFA's last examination. If NFA received the quarterly RERs in a regular, more timely manner, then we would have more current information to aid us in our regulatory oversight of SDs and FCMs and help us allocate resources appropriately. Because the SDs' filing of RERs is inconsistent after each quarter's end, we adopted a more prescriptive requirement in 2017 for SDs to file monthly risk data filings with us. SDs must submit the risk data filings each month by the last business day and have an as of date of the last business day of the previous month. These filings include meaningful insight into an SD's market and credit risk exposures that NFA staff use to identify trends and anomalies within firms and across firms in a timely manner. NFA encourages the CFTC to consider adopting a more prescriptive requirement for the submission of the quarterly RERs similar to NFA's requirement for the submission of NFA's risk data filings (*i.e.*, each quarterly RER is due by the last business day of the month following each calendar quarter end).

In response to questions posed in the Commission's ANPRM, NFA believes it may at the very least be appropriate for the Commission to align its RER content requirements, as applicable, to NFA's SD monthly risk data filings. In fact, since the Commission's Division of Market Participants has access to NFA's SD monthly risk data filings, we believe the Commission could further streamline the RERs' content to eliminate entirely certain metrics related to market and credit risk. At this time, NFA believes that the metrics we currently collect provide the necessary information for SD oversight, and that the burden on SDs related to imposing additional metrics would outweigh any marginal benefit NFA and CFTC might receive for oversight purposes.

September 18, 2023

NFA appreciates the opportunity to comment on the Commission's ANPRM. If you have any questions concerning this letter, please do not hesitate to contact Dale Spoljaric, Vice President, OTC Derivatives at dspoljaric@nfa.futures.org or Kathleen Clapper, Managing Director, Compliance at kclapper@nfa.futures.org.

Respectfully submitted,



Carol A. Wooding
Senior Vice President,
General Counsel and Secretary