



Futures Industry Association

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By Commission Website

October 22, 2012

Office of the Comptroller of the Currency
250 E Street SW
Washington DC 20219

Ms. Jennifer J. Johnson
Secretary
Boards of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington DC 20551

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC 20429

**Re: OCC RIN 1557-AD46; FRB RIN 7100-AD87; FDIC RIN 3064-AD96:
Regulatory Capital Rules; Standardized Approach for Risk-Weighted
Assets; Market Discipline and Disclosure Requirements, 77 Fed.Reg. 52888
(August 30, 2012).**

Ladies and Gentlemen:

The Futures Industry Association (“FIA”) is pleased to submit this letter regarding the above-referenced notice of proposed rulemaking. FIA is the leading trade organization for the futures, options and over the counter (“OTC”) cleared derivatives markets. It is the only association representative of all organizations that have an interest in the listed derivatives markets. Its membership includes the world’s largest derivatives clearing firms as well as leading derivatives exchanges and clearing organizations from more than 20 countries. As the principal members of the derivatives clearing organizations (“DCOs”), our member firms play a critical role in the reduction of systemic risk in the financial markets. They provide the majority of the funds that support these clearing organizations and commit a substantial amount of their own capital to guarantee customer transactions.

FIA's core constituency consists of futures commission merchants ("FCMs") registered with the Commodity Futures Trading Commission ("Commission"), and the primary focus of the association is the global use of exchanges, trading systems and clearinghouses for derivatives transactions. FIA's regular members, which act as the majority clearing members of the US exchanges, handle more than 90 percent of the customer funds held for trading on US futures exchanges.

FIA has had an opportunity to review the comment letters that the CME Group Inc. ("CME") and the International Swaps and Derivatives Association, Inc. ("ISDA") have submitted to the several bank regulatory agencies ("Agencies") in connection with this proposed rulemaking. Among other matters, both comment letters address the proposed risk-based capital requirements for derivatives transactions that are cleared through a central counterparty ("CCP") and recommend that the proposed rules be further revised to take into account the acknowledged differences in close-out periods for certain products. In particular, the Commission has recognized a one-day close-out period for exchange-traded futures and options on futures and cleared swaps on certain physical commodities, while setting a five-day close-out period for other cleared derivatives.¹

FIA shares the views of the CME and ISDA in this regard. We do not disagree that, "as more transactions move to central clearing, the potential for risk concentration and systemic risk increases."² Nonetheless, we are concerned that the proposed capital rules may have the unintended consequence of "creat[ing] a disincentive for banking organizations to act as intermediaries and provide access to CCPs for clients."³ Recognizing different close-out periods for certain products will assist the Agencies in striking the proper balance between these competing interests.

* * *

¹ In proposing a one-day close-out period for futures and options on futures, the Commission observed that a "minimum of one business day is the current standard that DCOs generally apply to futures and options on futures contracts." 76 Fed.Reg. 3698, 3704 (January 20, 2011). The Commission did not question this well-established standard.

In extending the one-day close-out to cleared swaps on certain physical commodities and setting a five-day close-out period for other cleared derivatives, the Commission noted: "This distinction is based on the differing risk characteristics of these product groups and is consistent with existing requirements that reflect the risk assessments DCOs have made over the course of their experience clearing these types of swaps." 76 Fed.Reg. 69334, 69367 (November 8, 2011).

² 77 Fed.Reg. 52888, 52904 (August 30, 2012).

³ *Id.*, at 52095.

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FIA appreciates the opportunity to submit these comments regarding the proposed regulatory capital rules and looks forward to working with the Agencies as they consider these important issues. If the Agencies have any questions concerning the matters discussed in this letter, please contact Barbara Wierzynski, FIA's Executive Vice President and General Counsel.

Sincerely,

A handwritten signature in cursive script that reads "Walt L. Lukken".

Walt L. Lukken
President and Chief Executive Officer