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21 May 2020

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

Re: Comment on RIN 3038-AE60: Amendments to the Real Time Public Reporting Requirements

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 participated actively 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).

We greatly appreciate the opportunity to share our views on the CFTC's above-captioned Request for Comment. We find the proposed changes to the Real Time Public Reporting Rules to be very helpful to the life insurance industry overall and welcome these reforms to better reflect the realities of marketplace activity. The ACLI has previously given input to the CFTC regarding the life insurance industry's use of block trades in its hedging activity and would like to reiterate those considerations, as well as articulate the need for a lengthier delay to the public delay of swap data reporting. We refer you to our letter dated September 29, 2017 submitted in response to the CFTC Project Kiss Request for Comment (attached).

Background

Life insurers are significant end-users of derivatives for prudential asset-liability management. Unlike many other financial institutions, life insurers have long-term liabilities (which in many cases exceed 30 years) 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.

One of the original policy goals of real-time public reporting was to level the playing field – in part to help those commercially hedging operate their businesses with less risk and less cost. These market participants may not have the same level of resources as dealers to obtain greater price transparency into the markets through other means. One of the unintended consequences of

the real time reporting rules is that, in certain portions of the derivatives markets, the rules have actually hurt companies that are commercially hedging and instead helped financial institutions, such as banks and hedge funds that are data mining to move prices in their favor.

Life insurers use the over-the counter swaps markets to off-set their risk with bespoke swaps to facilitate asset-liability management. These markets have limited liquidity compared to insurance company hedging needs, and swap dealers fear that they will not be able to off-set their own risks in these less liquid swap markets. The extensive amount and nature of transaction data reported to the Swap Data Repository provides an opportunity to market professionals, including sell side firms and speculators to use machine learning to deduce trading activity. Market participants use this information to their advantage, which makes swap dealers more defensive in their pricing and increases costs to our swap dealers which are passed along to insurance company hedgers. When life insurance companies need to execute a complex hedge that might be spread between different markets and dealers, a lengthier delay to reporting is required and block sizes need to be adjusted to reflect the complexity and bespoke nature of this hedging.

As explained in greater detail under "Block Trade Sizing", the minimum block sizes proposed by the Commission equate to substantially greater amounts of risk transfer than the equivalent notional amounts in the existing rules which were finalized in May 2013. In addition, this disparity is greater for longer tenor USD Interest Rate Swaps.

Price transparency for the sake of price transparency does not justify the significant impact these rules have to our hedging strategies. These markets do not have retail consumers, and the need for transparency is not as compelling for institutional counterparties. Ultimately, however, if our hedging strategies become more expensive as a result of public reporting requirements, the costs will need to be passed on to our retail consumers of life insurance and retirement products.

Lengthier Delay Required to Protect Life-Insurers and Other End-Users

We appreciate the CFTC's proposed revisions to Section 43.5 to lengthen the current 15-minute delay to 48 hours and feel strongly that the 48 hours will be directionally helpful to the life insurance industry. However, we believe that a lengthier delay is necessary to achieve fully the policy goals stated in the Notice for Proposed Rule Making. In particular, the Commission cites concerns from other commenters regarding impact to end-user hedging strategy:

> …with respect to block trades, fifteen minutes is too short a window within which to execute large hedging programs, ***which typically take several days or even weeks to execute,*** and current block trade reporting delays do not give end-users sufficient flexibility for creating efficient trade execution strategies without the risk of potentially revealing counterparty identities…market participants have reported repeated instances in which markets have moved away from them shortly after beginning to execute large transactions as part of a hedging strategy.

The life insurance industry has had similar experiences as those outlined by the above quoted commenter. We have previously provided the CFTC specific examples of trades where prices have moved against us. Though we recognize the need for market transparency and are supportive of any real time reporting requirements to regulators for monitoring purposes, we feel that the costs to end-users required to hedge their commercial and business risks outweigh any benefits to the marketplace, and we respectfully request the CFTC consider a lengthier delay to block trade reporting.

We have previously requested a 30-day delay in the reporting of block trades. The nature of life-insurers hedging programs require a significant period of time to execute given their size and complexity that cannot be entirely satisfied with the current 48-hour proposal. Life insurance companies would not be able to fully execute a strategy of any significant size without the market moving against us within a 48-hour time frame. Our anonymity would be compromised. Section 2(a)(13)(C)(iii) of the *Commodity Exchange Act*, as amended by Dodd Frank, specifically states that the CFTC may take into account anonymity in its rulemaking. In addition, the CFTC recognized in the *Southwest Airlines No-Action Relief Letter 14-134* dated November 6, 2014 (the "Southwest Letter") the importance of the ability of end-users to maintain anonymity when hedging activity may result in disclosure of identity and market positions. In the Southwest Letter, the CFTC granted a 15-day delay to the reporting of the relevant trades.

We understand the strong interests in price transparency for other market participants and the need to balance the interests of stakeholders in the derivatives markets. We would, therefore, welcome a 15-day delay to all block trades. Though our preferred option would be a 15-day delay applicable to all block trades, we would also welcome relief tailored to products where greater illiquidity or complex risk requires lengthier delays. Because these products can be illiquid or complex, and the data provided to the SDR is extensive, our anonymity is more easily compromised, reducing our ability to efficiently hedge risk and increasing our cost of hedging.

Block Trade Sizing

Changes to the block trade categories in Section 43.6 and application of minimum block trade methodology which increases minimum block sizes have significant negative impacts to the life insurance industry. The increase in the notional amount of block trade sizing combined with the increased risk associated with interest rate hedging in a low interest rate environment negatively impacts life insurers by reducing anonymity for bespoke hedging trades, which is most pronounced for long-dated (10 years and greater) interest swaps, where block sizes are significantly increasing on a notional and risk-weighted basis. In particular, the increase in long-dated interest swaps block sizes means that life insurers may not be able to access the protection that the 48-hour delay might afford our industry, and in some cases, put us in a strategic position that is significantly less advantageous to where we are now (i.e., we would not have the benefit of the existing 15-minute delay).

Life insurers are facing a different interest rate environment than 2013, when the block size requirements were initially mandated. USD interest rates have significantly declined since May 2013. Low USD interest rates have the effect of increasing the amount of risk transfer for a given amount of notional. While this predominantly impacts longer tenors (10 years and greater), the effect on 30-year interest rate swaps is particularly pronounced. In May 2013, the sensitivity of a 1bp move in USD interest rates ('DV01') for $120mm 30-year swaps was $0.246mm. For the same $120mm 30-year interest rate swaps today, the DV01 is $0.332mm, a 37% increase. The DV01 for the new proposed block size of $160mm of 30-year interest rate swaps is $0.443mm. Thus, the increase in the block size for 30-year swaps would be 82% higher in risk terms than the level that was set in May 2013.

There is also an inconsistency in the proposed block sizes when we look at the amount of DV01 a block trade represents at each tenor. Again, the amount of risk transfer required for block treatment for 30yr swap is disproportionately higher than for other tenors:

Tenor	Notional	DV01	DV01 relative to 2yr
2yr	$1,300mm	$0.260mm	100%
5yr	$550mm	$0.275mm	106%
7yr	$310mm	$0.216mm	83%
10yr	$310mm	$0.307mm	118%
20yr	$160mm	$0.306mm	118%
30yr	$160mm	$0.444mm	171%

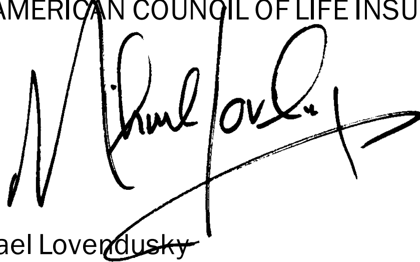
In addition, the changes to the block trade categories in Section 43.6, and application of minimum block trade methodology thereto, have significant negative impacts to the life insurance industry. Block trade sizing is increasing in areas where insurers need the greatest protection of institutional identity.

We request a reduced block size requirement for interest rate products with a tenor of 10 years and greater. We would welcome the Commission to engage in more in-depth conversations with market participants and, in particular, with end-users that are commercially hedging, to tailor how block trades should be sized and avoid unintended, negative consequences.

Thank you for your consideration. Please know that the ACLI will seek an opportunity to answer your questions and discuss these matters further with the Commissioners and staff.

Sincerely,

THE AMERICAN COUNCIL OF LIFE INSURERS



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Attachment: Letter of ACLI to CFTC re Project Kiss (September 29, 2017)