



AMERICAN BENEFITS
COUNCIL

February 7, 2017

Mr. Robert deV. Frierson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Mr. Barry F. Mardock
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
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Mr. Alfred M. Pollard
General Counsel
Federal Housing Financing Agency
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Legislative and Regulatory Activities
Division
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400 7th Street SW
Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

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

Re: Uncleared Swap Margin Requirements - Request for a Delay of the March 1, 2017 Variation Margin Compliance Date

Dear All:

On behalf of the American Benefits Council (“the Council”), I am writing today to request at least a six-month delay of the March 1, 2017 compliance date for variation margin requirements for uncleared swaps (the “Margin Rules”).

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council’s members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

The Margin Rules generally require swap dealers and certain other swap entities to post and collect initial and variation margin for uncleared swap transactions. The compliance date for initial and variation margin requirements for counterparties that have an average daily aggregate notional amount of swaps that exceeds \$3 trillion was September 2016. The next significant compliance date for the margin rules is March 1, 2017, when swap dealers must exchange variation margin with other entities, including financial end users. It is this March 1 date that is causing great concern.

IMPORTANCE OF UNCLEARED SWAPS TO RETIREMENT PLANS

Our members include both buy-side and sell-side firms. But our mission is to serve and promote our nation's employer-based plans, i.e., the retirement plan component of the buy-side. The Margin Rules necessitate that swap dealers amend their existing swap documentation with their counterparties, such as retirement plans, to provide terms that comply with such Rules. Retirement plans that utilize derivatives and their asset managers, accordingly, have been working diligently to so amend their documentation. Unfortunately, due to limited resources at dealers and other factors noted below, most retirement plans have been unable to get all their swap documentation amended to date. In this context, we are very concerned that without at least a six-month delay in the March 1, 2017 compliance date, many of our members' retirement plans could be unable to access the uncleared swap markets, or could find such access to be severely limited.

Such reduced access could have very adverse effects on our members' plans, many of which use swaps to manage and control risk. Swaps play a critical role for our members' plans. ERISA plans use uncleared swaps principally to hedge their exposure to currencies and the financial default of issuers and to gain exposure to markets. ERISA plans also use swaps to manage risk and to reduce the volatility of the funded status of the plans. Reducing the volatility of the funded status of a pension plan can help protect the retirement assets of these plans.

DEADLINE COULD THREATEN PLANS' ABILITY TO MANAGE RISK

According to our current information, the vast majority of market participants (including most retirement plans) will not have completed all the required documentation for their uncleared swaps in place prior to the imposed time-frame.

Despite significant efforts to comply with the variation margin requirements by March 1, many of our affected members are struggling to ensure that proper documentation is in place before that date, due to factors outside their control. These challenges include:

- The volume of derivatives agreements that funds have to enter into or amend;
- Counterparties setting priorities on contractual reviews due to the limited time and resources available at legal and operation level; and
- The absence of satisfactory and available protocols for non-bank derivatives market participants.

In this context, we are very concerned that in the absence of proper documentation, our retirement plans' access to uncleared swaps will be severely restricted, leading to adverse effects on plans' ability to manage risk. Higher risks pose dangers for the millions of participants who rely on private pensions for their retirement security.

Given the volume of documentation that still must be completed despite good faith efforts, **we strongly recommend a delay of at least six months** of the current compliance date of March 1, 2017, as already implemented in several jurisdictions¹. This will allow funds and their counterparties to complete the documentation that complies with the new requirements and make reasonable and continuous progress towards fully implementing the variation margin rules.

Thank you for your consideration of this issue. If we can help in any way, please feel free to contact me at ldudley@abcstaff.org or 202-289-6700.

Sincerely,



Lynn D. Dudley
Senior Vice President,
Global Retirement and Compensation Policy

cc: The Honorable J. Christopher Giancarlo
The Honorable Sharon Y. Bowen
The Honorable Timothy G. Massa

¹ Australia, Hong Kong, and Singapore all have announced their implementation timetables. Each jurisdiction has included a 6-month transitional period for VM implementation, beginning on March 1, 2017, and ending on August 31, 2017.