FIA Principal Traders Group
2001 Pennsylvania Avenue NW
Suite 600 | Washington, DC 20006

T 202 466 5460
F 202 296 3184

ptg.fia.org

March 3, 2020

Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: RIN 3038-AD54: Capital Requirements for Swap Dealers and Major Swap Participants

Dear Mr. Kirkpatrick:

The FIA Principal Traders Group ("FIA PTG")[1] appreciates the opportunity to comment again on the Commodity Futures Trading Commission's ("Commission") Notice of Proposed Rulemaking on Capital Requirements for Swap Dealers and Major Swap Participants ("Proposed Rulemaking"). Further to our original comment letter,[2] FIA PTG members generally support the changes to swaps markets envisioned by the Dodd-Frank Act, especially those that sought to provide additional sources of liquidity and price discovery as well as diversification in the number and types of counterparties. Accordingly, we welcome the finalization of the capital requirements for Swap Dealers with the modifications for non-bank Swap Dealers suggested below in order to provide greater regulatory certainty to prospective Swap Dealers.

The requirement that non-bank Swap Dealers maintain net capital in excess of eight percent of initial margin is applied too broadly. FIA PTG opposes the provisions of proposed Rule 23.101, which would require Swap Dealers to carry a minimum amount of net capital equal to eight percent of the total amount of a Swap Dealer's uncleared swap margin, uncleared security-based swap margin and initial margin required for its cleared

[1] FIA PTG is an association of firms who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy.

[2] *See* FIA PTG Comment Letter on Capital Requirements for Swap Dealers and Major Swap Participants, May 24, 2017.

positions. Including the initial margin of cleared proprietary positions (both futures and swaps) in this calculation fails to recognize the risk mitigating nature of centralized clearing. In addition, the U.S. Securities and Exchange Commission's ("SEC") final capital rules for security-based swap dealers and the Commission's current capital requirements for Futures Commission Merchants ("FCM") do not include cleared proprietary positions. This is because including these positions in the eight percent calculation would result in double-counting, as market risk and credit risk charges are separately applied. We urge the Commission to exclude cleared proprietary positions from any minimum capital requirement based on initial margin amounts.

In addition to cleared derivatives, we also suggest that FX forwards and swaps be excluded from the eight percent calculation. Congress gave Treasury the authority over these products, accordingly they should not be included here. Finally, in addition to the product exclusions, we encourage the Commission to harmonize the initial margin multiplier with the recently finalized SEC requirement of two percent – at least to start.

Standardized market and credit risk charges should be reviewed and harmonized. Swap Dealers may choose to use the standardized method for calculating market risk and credit risk charges, in which case it is important that the charges reflect the underlying risk of the product. Further to this, we believe that the proposed standardized market risk charges for uncleared FX derivatives should be revised. The Proposed Rulemaking sets the standardized market risk charge for uncleared FX derivatives at 20 percent of notional. We believe this is far too high for a product that is highly liquid and encourage the Commission to consider harmonizing the charge with the standardized initial margin requirements for uncleared FX derivatives which is currently set at six percent of notional.

In addition, the Proposed Rulemaking would require a Swap Dealer utilizing the net liquid assets capital approach to take a capital charge for market risk on cleared positions, both futures and swaps, of either 100 percent or 150 percent of the maintenance margin depending on their clearing status.[3] The 100 percent charge would apply to a member of a clearinghouse and the 150 percent charge would apply to all others.[4] FIA PTG sees no justification for assessing Swap Dealers that are non-clearing members an inflated 150 percent charge and feels that by doing so the Commission is placing them at an unnecessary competitive disadvantage. All Swap Dealers should be able to take a standardized market risk charge equal to the clearinghouses' margin requirement.

Firms submitting internal models for the first time must be allowed enough time for their models to be approved. We expect that most FIA PTG members, should they register as Swap Dealers, would utilize the net liquid assets capital approach and may use internal models to compute their market risk and credit charges. Unlike other types of registrants who may already have approved internal models, FIA PTG members will most likely be submitting their models for the first time and must be allowed ample time to work through the model approval process. Accordingly, we encourage the Commission to ensure

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[3] Proposed Rule 1.17(c)(5)(x)(B)
[4] *Id*.

that any Swap Dealer submitting a model for approval be permitted to continue operating in the market as a Swap Dealer pending approval of that model.

In summary we respectfully suggest the Commission do the following:

- Remove proprietary cleared derivatives from the eight percent initial margin capital requirement;
- Lower the eight percent initial margin capital requirement to two percent;
- Reduce standardized market risk charges for uncleared FX derivatives from 20 percent to six percent;
- Eliminate the 150 percent capital charge for non-clearing member Swap Dealers; and
- Allow enough time for new models to be approved.

If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact Joanna Mallers (jmallers@fia.org).

Respectfully,

FIA Principal Traders Group

Joanna Mallers
Secretary

cc: Chairman Heath P. Tarbert
Commissioner Brian D. Quintenz
Commissioner Rostin Behnam
Commissioner Dan M. Berkovitz