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- 12 CFR Part 1221
- RIN: 2590-AA45
- Margin and Capital Requirements for Covered Swap Entities

Dear Mr. Pollard.

Thank you for giving us the opportunity to comment on your (reopening of comment period for) proposed rule: Margin and Capital Requirements for Covered Swap Entities. These comments are in addition to my earlier comments on the proposed rule.

The OCC, Board, FDIC, FCA, and FHFA (collectively, the Agencies) are reopening the comment period for the proposed rule to establish minimum margin and capital requirements for uncleared swaps and security-based swaps entered into by swap dealers, major swap participants, security-based swap dealers and major security-based swap participants for which one of the Agencies is the prudential regulator.

In principle I support two-way margining for uncleared swaps and security-based swaps. I also support that the requirements should not impose margin requirements on non-financial entities entering into uncleared swaps and security-based swaps that are used for hedging or mitigating commercial risk, given that such transactions pose little or no systemic risk.[1]

Universal two-way margins

I fully support the concept of universal two-way margining. In principle this would meet the requirements of a well-designed margin system, as explicitly recognised by, among others, the Commodity Futures Trading Commission (CFTC):

[1] For completeness I would add that such derivatives should not be used to hedge or mitigate the risk of other derivative positions, unless those other positions themselves are held for the purpose of hedging or mitigating commercial risk.

> Well-designed margin systems protect both parties to a trade as well as the overall financial system. They serve both as a check on risk-taking that might exceed a party's financial capacity and as a resource that can limit losses when there is a failure.[2]

However, a well-designed margin system should ensure the safety and soundness of covered swap entities, and be appropriate for the risks associated with uncleared swaps and security-based swaps. I would caution against the aggressive use of thresholds as a tool to manage the liquidity impact associated with margin requirements. Such thresholds are arbitrary, reduce market integrity and increase systemic risk.

Yours sincerely

C.R.B.

Chris Barnard

[2] See commentary in CFTC Notice of proposed rulemaking: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 28 April 2011.