May 21, 2018

Office of the Comptroller of the Currency (“OCC”)

Legislative and Regulatory Activities Division

400 7th Street SW, Suite 3E-218, Washington DC 20219

(submitted by email: regs.comments@occ.treas.gov)

Board of Governors of the Federal Reserve System (“Board”)

20th Street and Constitution Avenue NW, Washington DC, 20551

(submitted by email: regs.comments@federalreserve.gov)

Response to joint notice of proposed rulemaking: Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Certain of Their Subsidiary Insured Depository Institutions; Total Loss-Absorbing Capacity Requirements for U.S. Global Systemically Important Bank Holding Companies

Dear Board Members,

This letter contains the response of the Global Association of Central Counterparties (**CCP12**) to the joint notice of proposed rulemaking *Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Certain of Their Subsidiary Insured Depository Institutions* (the **Consultation**) by the OCC and Board (the **Agencies)** issued for comment on 19 April 2018.

CCP12 is a global association of 36 members who operate more than 50 individual central counterparties (**CCPs**) globally across the Americas, EMEA and the Asia-Pacific region. CCP12 aims to promote effective, practical and appropriate risk management and operational standards for CCPs to ensure the safety and efficiency of the financial markets it represents. CCP12 leads and assesses global regulatory and industry initiatives that concern CCPs to form consensus views and seeks to actively engage with regulatory agencies and industry constituents through consultation responses, forum discussions and position papers.

While we support the Agencies initiative to modify the enhanced supplementary leverage ratio (“**eSLR**”) to better serve as a backstop to risk-based capital requirements, we remain significantly concerned that despite positive references to better calibrating the eSLR to decrease disincentives for the continued adoption of central clearing, the Agencies have not yet directly addressed the issue nor considered recommendations provided by the industry and regulatory community. **In effect, the leverage ratio has become the ‘binding constraint’ for many banks participating in the cleared derivatives market that will continue to disincentivize central clearing, specifically on behalf of clients, in direct contrast to commitments agreed at the G20 2009 Summit, which may act to inhibit market transparency, liquidity and efficiency.**

CCP12 supports comments raised in the US Department of Treasury's report *A Financial System That Creates Economic Opportunities, Capital Markets* published in October 2017 that advocated for more analysis on the impact of the current leverage ratio framework to the continued adoption of central clearing. We further support comments consistently raised by the CFTC, including, for example, Chairman J. Christopher Giancarlo, to modify the leverage ratio framework to better reflect the cleared derivatives markets (notably, his articulation of the issue at the International Swaps and Derivatives Association meeting in May 2017).[i]

The Basel Committee on Banking Supervision (**BCBS**) issued a consultation in July 2016 that acknowledged industry concerns on the leverage ratio's impact to clearing, stating that **"… further evidence and data on the impact of the Basel III leverage ratio on client clearing and on [clearing members'] business models should be collected…"**. In December 2017, the BCBS published their report *Basel III: Finalising post-crisis reforms* that states **"…the Committee will continue to monitor the impact of the leverage ratio's treatment of client cleared derivative transactions and, within two years after this publication of this document, conclude a review of the impact of the leverage ratio on banks' provision of clearing services and any consequent impact on the resilience of central counterparty clearing."**[ii] In support of the BCBS commitment, a joint regulatory effort has been launched to assess incentives to centrally clear derivatives.[iii]

CCP12 respectfully requests that the Agencies also commit to reviewing the impact of the leverage ratio in concert with commitments from the BCBS (and other international regulatory agencies) as well as other jurisdictions, such as the European Union, that have also stated their commitment to meaningfully review.

Attached please find the CCP12 response to the BCBS consultation that provides further discussion on how the current leverage ratio framework negatively impacts central clearing, specifically due to (1) the inability to recognize margin posted on behalf of clients, leading to increased systemic risk in the event of default management (due to decreased potential for successful porting of client portfolios) and (2) the inability to assign the appropriate margin period of risk for cleared positions.

CCP12 appreciates the opportunity to share these comments and would be interested to further discuss the concerns expressed on this issue. If you require any additional information, please contact the undersigned.

Sincerely,

Lee Betsill
CCP12 Chair Americas
CME Group

Marcus Zickwolff
CCP12 Chief Executive Officer
Global Association of Central Counterparties

Attachments

CCP12 and EACH joint response to Basel Committee on Banking Supervision Consultation (6 July 2016)

CCP12 response to Hong Kong Monetary Authority Consultation paper Implementation of Basel III Leverage Ratio Framework (13 April 2017)

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[i] https://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-22

[ii] https://www.bis.org/bcbs/publ/d424.pdf

[iii] http://www.fsb.org/2017/12/international-standard-setting-bodies-launch-surveys-on-incentives-to-centrally-clear-otc-derivatives-trades