Statement by
FDIC Chairman Martin J. Gruenberg
On
Final Rule and Interim Final Rule
on Margin and Capital
Requirements for Covered Swap Entities
October 22, 2015

I support the publication of the Final Rule, which establishes minimum margin requirements for swaps of insured depository institutions that are not cleared through a clearinghouse. I also support the publication of the Interim Final Rule, which makes it clear that the agencies' minimum margin requirements do not apply to swaps entered into by certain commercial end users and small financial institutions for hedging purposes. Like the prior notice of proposed rulemaking, the final rules will be issued jointly by the FDIC along with the OCC, the Federal Reserve, the Farm Credit Administration, and the Federal Housing Finance Agency.

The final rule requires insured depository institutions that are covered swaps entities – the large dealers subject to the rule – to post and collect initial margin on non-cleared swaps entered into with other dealers, and with financial end users that have at least $8 billion, notional, in non-cleared swaps. In addition, the interim final rule exempts swaps with a financial institution that has total assets of $10 billion or less provided that the institution uses the swaps to hedge commercial risk.

Establishing margin requirements for non-cleared swaps is one of the most important reforms of the Dodd-Frank Act. Before the crisis, some insured depository institutions entered into large, non-cleared swaps positions without the prudent exchange of collateral—or margin—to support those positions. As a result, there was a large buildup of leverage that exposed the financial system to significant risk. Going forward, covered swaps entities must post and collect initial margin, which is collateral intended to ensure the ability of both parties to perform on the swaps contract. They must also post and collect variation margin, which is collateral collected from counterparties to offset credit exposures created by changes in the value of their swaps contracts. These margining practices will promote financial stability by reducing systemic leverage in the swaps marketplace, and promote the safety and soundness of banks by discouraging the excessive growth of risky non-cleared swaps positions.

International consistency of margin requirements has been an important concern for the regulatory community as well as the industry. The final rule is consistent with an international agreement published in September 2013 by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions. Jurisdictions around the world have issued similar proposals and I strongly support their expeditious completion.

The agencies are mindful of the costs associated with implementing new rules and regulations. Like the proposed rule, the margin requirements of the final rule will apply to new, non-cleared swaps entered into after the rule's effective dates. The rule will not be applied retroactively. In addition, the threshold for financial end users impacted by the rule was increased from $3 billion of notional derivatives exposure in the proposal to $8 billion in the final rule.

Further, in response to concerns raised by commenters, the final rule includes specific rules for swaps between a covered swap entity and larger affiliates. For such swaps, a covered swap entity is required to collect initial margin. While a covered swap entity would not be required to post initial margin, it must calculate the amount of initial margin it would have been required to post to its affiliate under the rule and provide documentation of such amount to each affiliate on a daily basis.

In conclusion, I would like to thank members of the staff for their hard work. This final rule, and the accompanying interim final rule, is an important step toward implementing essential reforms for non-cleared swaps activities and limiting risk in the financial system.

Press Release: FDIC Board Approves Joint Final Rule on Swap Margin Requirements

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