ACLI
Financial Security for Life

January 16, 2024

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity [Docket No. R–1813, RIN 7100–AG64]

Dear Secretary Misback,

The American Council of Life Insurers (ACLI)[1] and its member companies appreciate the opportunity to provide comments to the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC)[2] regarding the proposed rulemaking ("Basel III Endgame proposal" or "proposal") that would substantially revise the capital requirements applicable to large banking organizations and to banking organizations with significant trading activity.

ACLI supports a robust regulatory framework that promotes financial stability, and we applaud banking regulators' commitment to create sound and stable markets. However, we are concerned that aspects of this proposal would not produce such results and would have unwarranted, harmful impacts on the life insurance industry and the customers we serve.

Specifically, we are concerned that the proposal: (1) includes a corporate exposures provision that would arbitrarily and baselessly discriminate against non-publicly traded life insurers; and (2) would unnecessarily lead to excessive bank capital requirements and increase costs for life insurance hedging transactions, which help insurers manage market-based risks in investment portfolios and products that deliver financial security to millions of Americans.

As explained in more detail below, all life insurers are highly regulated at the state level to ensure they are financially strong and able to fulfill their long-term promises to customers. While many publicly traded non-financial companies are not regulated for financial strength, all US life insurers (publicly

[1] The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. Ninety million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 95 percent of industry assets in the United States. Life insurers are significant end-users of derivatives for prudential asset-liability management. Derivatives allow life insurers to prudently manage the credit and market risk of their portfolios and to fulfill their long-dated obligations to policy and contract owners. As long-term hedgers, life insurers have a strong interest in a stable and robust global financial system, and we strongly encourage coordinated domestic and international approaches to derivatives regulation that will achieve desired stability of the global financial system.
[2] We refer to the collective US prudential regulators as the "banking regulators" throughout this letter.

traded and non-publicly traded) are subject to robust prudential regulation and stringent financial reporting requirements. **Accordingly, the Basel III Endgame proposal should be revised so that corporate exposures to all investment grade[3] life insurers[4] are treated the same regardless of corporate ownership structure and have no more than a 65% risk weighting. Additionally, the revised approaches to Credit Valuation Adjustment, Operational Risk and Market Risk capital requirements with respect to derivatives transactions should be either eliminated from the proposal or reconsidered and recalibrated in light of the broader regulatory context and with an eye toward preserving end users' ability to hedge their business risks. Further, the revised GSIB surcharge on clearing of client derivative trades should be revised to more appropriately capture the risk [mitigating benefits] of clearing services and continue to incentivize Futures Commission Merchants (FCMs) to provide the vital service of client clearing consistent with the policy goal of safer and more efficient markets.**

## Background

### I. Life Insurance Industry

Life insurers offer a wide range of products, such as life insurance, annuities, disability insurance, and paid family medical leave, which help families take care of what matters most through good times and bad. Consumers do not purchase life insurance products for use as immediate sources of liquidity, but rather for long-term financial protection. This focus on the long-term drives how life insurance companies manage their assets.

### II. Life Insurers' Business Model

Life insurers must hold a large portfolio of assets to back policyholder liabilities. The assets are accumulated through the collection of premiums and then invested to meet the insurers' policyholder obligations. As a result, the insurance industry is one of the largest institutional investors globally with over $44 trillion of assets under management.

Predictable aggregate liabilities and the continual flow of new premiums — even during periods of market volatility — allow insurers to invest in a wide range of assets including liquid assets, such as government and corporate bonds, and illiquid assets, such as property, infrastructure, and private equity. Because of the long-term nature of life insurers' liabilities—30 years or more for many products —derivatives transactions (e.g. swaps, futures, etc.) are a critical tool that allow insurers to

[3] The definition of investment grade directly addresses the credit quality of the exposure by requiring that the entity or reference entity have adequate capacity to meet financial commitments, which means that the risk of its default is low and the full and timely repayment of principal and interest is expected. A banking organization's investment grade analysis is dependent upon the banking organization's underwriting criteria, judgment, and assumptions. *See* Notice of Proposed Rulemaking, 88 Fed. Re. 64028, 64054 (Sept. 18, 2023).

[4] ACLI is not suggesting that the 65% risk charge for corporate exposures be available only to investment grade "life" insurers that are non-publicly traded and not to investment grade "property and casualty" insurers that are non-publicly traded and that are generally subject to the same level of robust state insurance department regulation and examination as described herein; however, this letter is written from the perspective of the life insurance industry.

hedge against market value fluctuations and deviations of asset values from product feature values to meet our policyholders' needs.

## III. State Regulation of Insurance

Insurance companies are subject to highly sophisticated, comprehensive, and stringent regulatory oversight at the state level. The state-based framework includes conservative capital and reserving requirements, and the framework has proven its effectiveness through multiple financial crises. It provides regulatory protection for insurance policyholders and regulatory stability for the insurance industry.

One of the fundamental objectives of state-based insurance regulation is to protect policyholders by regulating insurance companies so they are able to satisfy their obligations to policyholders in both the short-term and the long-term. To accomplish this goal, state regulation imposes stringent requirements on insurers regarding, among other things: mandatory minimum capital levels, permissible and prohibited investments and related investment management activities (including hedging and derivatives), affiliate transactions, reinsurance agreements, mandatory reporting of financial information, and mandatory examinations by regulators.

Like federal banking regulation, the state-based regulatory regime has continually improved and evolved, including with respect to the model used to determine asset, liability, and capital requirements. For example, the National Association of Insurance Commissioners ("NAIC") has advanced major enhancements to its regulatory approach since the financial crisis, through its Solvency Modernization Initiative ("SMI") starting in June 2008,[5] and since 2017, through its Macroprudential Initiative ("MPI")[6]. More broadly and as described in further detail below, state regulators also work diligently to respond to emerging concerns and risks, including their current work regarding a holistic regulatory framework for insurer investments.

Although insurance companies are regulated by each state in which they do business, insurers are assigned either a "lead state" or "group-wide" supervisor to coordinate oversight of the insurance entities within an insurance holding company system. Every state has adopted the NAIC's Insurance Holding Company System Regulatory Act, granting the insurance commissioner group-wide supervisory authority over insurance holding companies, providing the ability to assess and address enterprise-wide risk.[7, 8] This comprehensive state-based regime employs a wide array of tools to regulate for solvency, including limitations on the type and concentration of invested assets; conservative risk-based capital and reserving requirements focused on early intervention in times of distress; review of filed derivative use plans; prior approval of intercompany transactions; prior approval of new policy types, rates, and lines of business; annual and quarterly financial reporting; statutory accounting requirements that are more conservative than generally accepted accounting

[5] *See* Solvency Modernization Initiative: An NAIC Issues Brief, https://content.naic.org/sites/default/files/legacy/documents/smi_overview.pdf

[6] *See* NAIC Macroprudential Initiative, available at https://content.naic.org/cipr-topics/macroprudential-supervision.

[7] *See* NAIC Insurance Holding Company System Regulatory Act, state chart, available at https://content.naic.org/sites/default/files/model-law-state-page-440.pdf

[8] Supervisory Colleges, CIPR Topics, https://content.naic.org/cipr-topics/supervisory-colleges

principles; and constant and ongoing supervision and examination. Thus, through various mechanisms, state regulation works to prevent an insurance company from reaching a point of material financial distress, to cabin any distress from spreading within an insurance holding company system, and to mitigate the broader repercussions if a life insurer were to fail.

## IV. Capital and Reserving Requirements

Risk-based capital ("RBC") requirements are a key element of state regulation. Under RBC principles, using a formula established by the NAIC, state regulators determine the minimum amount of capital that a life insurer is required to maintain to avoid regulatory action. RBC requirements also serve as early warning tools designed to signal when a life insurer may be facing financial distress, and thus in need of regulatory intervention. RBC is a method of measuring the minimum amount of capital appropriate for a reporting entity to support its overall business operations and its liabilities in consideration of its size and risk profile. RBC rests on very conservative assumptions set by insurance regulators, requiring a higher amount of capital as the risk profile of the company increases. This provides a cushion to a company to guard against insolvency. RBC is intended to be a minimum regulatory capital standard and not necessarily the full amount of capital that an insurer may elect to hold to meet its own safety and competitiveness objectives.

These RBC requirements are built on top of the conservative reserving methodologies. Reserves, or policyholder liabilities, are in place so that companies have adequate funds to meet long-term claims. Insurers perform asset adequacy analysis regularly to assess the adequacy of reserves and other liabilities under moderately adverse conditions. State regulators recently adopted principle-based reserving for life insurance and variable annuity products to ensure reserving holdings are dynamic, responding to evolving economic and mortality risks for populations as well as product designs.

## V. Escalating Stages of Regulatory Intervention

Based in part on a life insurer's RBC level, state regulators have various authorities as well as mandates to intervene to remedy an insurance company facing potential material distress. Those options include supervision, conservation or rehabilitation, and liquidation. While rarely used due to the sound and prudent manner in which life insurance companies generally operate, state regulators have the authority to issue moratoriums or stays on policyholder surrenders to reduce the impacts of excess withdrawals on an insurance company. The NAIC's financial accreditation program and financial examinations are additional facets of a risk-based approach to solvency. This mix of regulatory tools equips state regulators with flexibility to respond effectively and promptly to financial concerns, often well before such concerns ever materialize.

## VI. Risk Management and Own Risk and Solvency Assessment ("ORSA")

In 2012, the NAIC adopted the Risk Management and Own Risk and Solvency Assessment Model Act, which every state has enacted. This requires most insurers and insurance groups to maintain a risk management framework and perform an ORSA, which is an internal assessment of material and relevant risks associated with the insurer's current business plan, and the sufficiency of capital resources to support those risks. An ORSA requires an insurer to analyze all reasonably foreseeable material risks that could impact its ability to meet policyholder obligations, including credit, market, liquidity, underwriting, and operational risks. It also requires an insurer to prepare a comprehensive report as to how the risks are addressed by the group.

The ORSA requirement applies to insurers and their insurance groups meeting certain annual premium thresholds. In addition, ORSAs are constantly evolving. Regulators may require reports of a company of any size based on unique circumstances including the type and volume of business written, ownership and organizational structure, federal agency requests, international supervisor requests, or when the insurer has triggered an RBC level for a company action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer. Further, the NAIC periodically considers whether updates to the ORSA are needed to capture emerging risks.

### VII. Additional Group Solvency and Macroprudential Regulatory Tools

In recent years the NAIC has continually prioritized efforts to evolve and to develop additional tools to protect the solvency and financial strength of the life insurance industry. These include a Group Capital Calculation ("GCC"), designed to assess capital sufficiency at the group level, and a Liquidity Stress Test ("LST") framework, designed to assess the macroprudential impact of a liquidity stress event impacting a large number of life insurers simultaneously to understand potential impacts such an event may have on the sector and to the broader financial system. The NAIC has also developed a macroprudential risk assessment program that includes regulator dashboards and semi-annual public reports that are based on the collective review of risk exposures at both macro and micro levels by state regulators across the U.S. through the NAIC. To date, the LST results have strongly suggested that the life insurance sector, if faced with a significant financial stress, would not have a material impact on the larger U.S. economy. Additionally, the LST scenarios, which include a severe interest rate spike, provided insight for regulators into how insurers were well-positioned to weather recent economic stresses.

### VIII. Financial Disclosures

Similar to publicly traded companies, all insurance companies – regardless of ownership structure – are required to submit audited financial statements to their state regulators on a periodic basis. This information is not only critical to the regulators, but it is also accessible to the public. As such, these financial statements can be considered by banks and other life insurance consumers as they weigh their options in the marketplace.

## The Proposal's Harmful Impact to Life Insurers and the Banking System

### I. Discrimination Against Non-Public Life Insurers and Impact on Insurance Market and Large Banks

We are concerned about the proposal's disparate treatment for corporate exposures to publicly traded versus non-publicly traded life insurance companies- an approach that has not been adopted by the European Union or other foreign jurisdictions. As written, the risk weight for corporate exposures to non-public life insurers would be more than 50% higher than the risk weight for corporate exposures to investment-grade publicly traded life insurers (i.e., 100% vs. 65%), regardless of the non-public insurers' financial strength.[9] The proposal's reasoning for this distinction is that publicly traded companies "are subject to enhanced transparency and market discipline as a result of being listed publicly on an exchange." Such logic, however, does not reflect reality and disregards the highly regulated environment in which life insurers operate.

As described above, all life insurers (publicly traded or otherwise) are subject to comprehensive, significant and effective prudential regulation focused on guarding company solvency in order to protect policyholders. All life insurers also are regulatorily required to submit audited financial statements reflecting their financial position in accordance with NAIC's conservative valuation and capital standards. Since these financial statements are publicly available and help inform consumers about their options in the marketplace, the proposal's "enhanced transparency" rationale for discriminating against non-publicly traded life insurers is without merit.

Moreover, it is worth noting that non-publicly traded life insurers currently underwrite most of the bank-owned life insurance (BOLI) policies in the market. The proposal's corporate exposures provision, in its current form, would make BOLI offerings, including those BOLI policies currently owned by large banks, from non-publicly traded insurers totally undesirable due to the significant disparity in risk weights vis-à-vis publicly traded life insurers. Such an outcome would be highly disruptive to the BOLI market, lead to an exodus of in-force BOLI policies from non-publicly traded life insurers, undercut the ability of large banks to diversify their BOLI holdings and obtain policies from life insurers with top notch financial strength ratings, and thereby increase BOLI market concentration. These negative impacts would make it more challenging for large banks to prudently use BOLI policies for various business purposes, including employee compensation and benefit plans. Additionally, large banks which already have acquired BOLI policies from non-publicly traded life insurers would be particularly and unfairly disadvantaged since the proposal would unexpectedly assign a higher risk weighting for these long-duration contracts than if they had acquired these policies from a publicly traded life insurer.

## II. Impact to Life Insurer Hedging Activities

The long-term nature of the industry's life and retirement products requires insurers to match long-term obligations with assets of a longer duration than most other financial institutions.[10] Life Insurers rely on derivative instruments, both OTC and cleared, to hedge and alleviate various commercial risks, such as interest rate fluctuations and foreign currency exposures.[11] Under the state regulatory framework, life insurers are subject to robust risk management requirements for engaging in hedging

[9] *See* Proposal at p. 64053, Question 37h.

[10] *See* ACLI Fact Book on Life Insurer's Assets (2019), available here: https://www.acli.com/-/media/acli/files/fact-books-public/02fb19fchap2assets.pdf. In addition to bonds, the long-dated assets life insurers use to hedge risks include 30-year interest rate swaps, bond forwards, swaptions, cross-currency swaps, and other derivative hedges.

[11] In addition, life insurers are subject to mandatory clearing designations of the Commodities Futures Trading Commission (CFTC). Under these mandates, life insurers will utilize cleared derivatives, including interest rate swaps as a part of hedging programs. These trades would be cleared through a Futures Commission Merchant (FCM).

transactions, including RBC requirements. The ability of life insurance companies to effectively hedge and manage commercial risks is integral to sound risk management of our business and, by extension, for our policyholders. Imposing excessive capital requirements on dealer counterparties that are not aligned with underlying risks would have a negative impact on life insurers' ability to hedge risks.

Banking institutions operate as pivotal counterparties for life insurance companies in executing derivatives transactions. Public statements from the heads of banking agencies indicated that the Proposal may substantially elevate capital requirements for major U.S. and non-U.S. banks.[12] We understand that these elevated capital requirements – which are significantly higher than similar capital requirements enacted in other jurisdictions that have implemented Basel III capital rules, could substantially increase life insurers' hedging costs, thus discouraging sound risk management. Consequently, we have serious concerns that the Basel III Endgame reforms will substantially impact:

1. The accessibility, availability, and competitive landscape in the derivatives market;
2. Negatively affect risk mitigation strategies taken by life insurers, increasing solvency risks; and
3. Run counterproductive to the G-10 reforms put in place post-financial crisis to curtail counterparty credit risk of derivatives, ultimately harming consumers.

We believe the effects on derivatives trading activities resulting from the proposed revised approaches to Credit Valuation Adjustment, Operational Risk and Market Risk of the Basel III Endgame reforms will disincentivize prudent hedging activities, increase costs to trade derivatives, and diminish liquidity in the derivatives market.

With respect to Credit Valuation Adjustment (CVA) risk-capital requirements, we request deference for highly regulated entities like life insurers. For OTC bilateral derivatives, the CVA charge should be eliminated on the client-facing leg of a trade cleared through a CCP where the banking organization is acting as the clearing member. We have significant concerns that the proposed incremental charges for cleared and OTC derivatives are highest for long-dated derivatives, specifically those

[12] Federal Reserve Governor, Michelle W. Bowman, stated that the Proposal would impose significant "costs on banks, their customers, and the economy without commensurate benefits to safety and soundness or financial stability. The costs of this proposal, if implemented in its current form, would be substantial. As the proposal describes, these changes are estimated to result in an aggregate 20 percent increase in total risk-weighted assets across bank holding companies subject to the rule. … Ultimately, bank customers will bear the cost of these capital requirement increases." Statement by Federal Reserve Governor Michelle W. Bowman (July 27, 2023), available here: https://www.federalreserve.gov/aboutthefed/boardmeetings/bowman-statement-20230727.pdf. Federal Reserve Chair Jerome H. Powell cautioned that "the proposed very large increase in risk-weighted assets for market risk overall requires us to assess the risk that large U.S. banks could reduce their activities in this area, threatening a decline in liquidity in critical markets and a movement of some of these activities into the shadow banking sector." Statement by Federal Reserve Chair Jerome H. Powell (July 27, 2023), available here: https://www.federalreserve.gov/aboutthefed/boardmeetings/powell-statement-20230727.pdf. Federal Reserve Governor Waller questioned during the Open Meeting on this proposal, that "it is not clear to me why our large banks should face a further roughly 70 percent hike in market risk capital requirements, on top of the existing post-crisis requirements to address risks in the trading book, including market risk capital requirements plus the stress test. And I worry that doing so could discourage those banks from engaging in certain market making activities, which could impede market functioning" Statement by Federal Reserve Governor, Christopher J. Waller (July 27, 2023), available here: https://www.federalreserve.gov/newsevents/pressreleases/waller-statement-20230727.htm.

instruments that life insurers utilize most frequently to mitigate risks on their balance sheets. While it is difficult for end-users to estimate the impact on bank capital, the Proposal itself, the Federal Reserve, large banks, and Oliver Wyman have highlighted large increases in bank capital requirements on these hedging transactions.[13] Of note, life insurers' asset management is closely tied to the liquidity of the corporate bond market, and we are concerned the Proposal would negatively impact liquidity in that market.[14] It is notable that these additional charges are proposed at a time when an increasing number of financial end-users are subject to the mandatory exchange of initial margin under the Uncleared Margin Rules promulgated by the Prudential Regulators.[15] Initial margin exchange reduces the counterparty credit risk associated with OTC bilateral derivative trades by margining for the period from when a counterparty is in default, to the point when the positions can be closed out by the non-defaulting party. Derivative counterparties must also post variation margin, which transfers cash or eligible securities to fully collateralize the prior day's market movements. Since the global financial crisis, it has become the norm for a derivatives counterparty relationship's governing documents to have a zero threshold, meaning that there is no market movement that is not collateralized. This practice substantially reduces risks to both the bank counterparty and to the insurer doing the hedging.

With respect to Operational Risk and Market Risk capital requirements, the proposal is excessive given that the existing capital adequacy framework, which includes provisions for counterparty credit risk and stress testing, is already thorough in identifying and mitigating potential loss exposure. Federal Reserve Governor Waller has stated that the increase in the capital required for operational and market risks are "risks that [the Federal Reserve has] already been capturing in [its] stress testing for the past decade" and that the proposed revisions to the market risk framework would "capture certain risks already accounted for in the [Federal Reserve's] stress test," including the "market shock

[13] The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation have estimated that the "increase that RWA associated with trading activity (market risk RWA, CVA risk RWA, and attributable operational risk RWA) would be around $880 billion for large holding companies." See Proposal at 64170. The largest banks publicly disclosed that they would have to hold more than 30% more capital, much higher than regulators' 19% estimate. Andrew Akerman, Plan to Strengthen Bank-Capital Requirements Would Hit Harder Than Estimated, Lenders Say, Wall Street Journal (Dec. 22, 2023) (Citing Financial Services Forum data on Proposal), available here: https://www.wsj.com/livecoverage/stock-market-today-dow-jones-12-22-2023/card/plan-to-strengthen-bank-capital-requirements-would-hit-harder-than-estimated-lenders-say-E6EpJANyHs6gebJlUi33?mod=lctimeline_finance. Oliver Wyman's analysis shows that that the Proposal would negatively impact availability and pricing of derivatives transactions, and the divergence in rules from the EU would negatively impact U.S. institutions. *See generally*, Oliver Wyman Blue Paper (Nov. 18, 2023), available here: https://www.oliverwyman.com/content/dam/oliver-wyman/v2/publications/2023/nov/Morgan-Stanley-Oliver-Wyman-Wholesale-Banking-Report-2023.pdf.

[14] The vast majority of a life insurer's investment portfolio is tied to corporate bonds, both public and private. As of the end of Quarter 3 2023, the total market value of US corporate bonds totaled $13.6 trillion and life insurers owned $3.2 trillion or 23% of the market share. *See* CreditSights utilizing Federal Reserve System Data. (Dec. 7, 2023) available here: https://www.federalreserve.gov/releases/z1/20231207/z1.pdf.

[15] *See* Federal Reserve Press Release on Finalized Swap Margin Rules (2015), available here: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20151030b.htm

component of the stress test."[16] The historical work to ensure capital requirements reflect operational and market risks renders the proposed changes unnecessary in the current regulatory context.

We are also concerned that the Federal Reserve's proposed rule on GSIB capital charges[17] on client cleared trades would increase capital charges on US GSIBs for client trades, even though the GSIBs do not face principal risk on these transactions. This charge does not align with the underlying risk, increases costs to end-users, undermines incentives for clearing and works at cross-purposes with policy mandates to clear. We have seen continued consolidation in the client clearing business, most recently as a result of Credit Suisse electing to exit this business in 2022.[18] We are concerned that the increased capital charges associated with client clearing could push additional FCMs to exit the business, further concentrating cleared exposure and potentially exacerbating systemic risk in cleared derivatives if there was a GSIB bank failure.[19] Porting cleared customer positions to alternative FCMs, rather than terminating them, is an essential tool to minimize market disruption in the event of an FCM failure. The increase in the GSIB capital charges for cleared client trades will act as a clear disincentive for non-defaulting FCMs to accept new trades in a period of potential market turmoil when quick and efficient movement of positions and collateral is essential. In addition, to the extent the revisions to the methodology for calculating GSIB capital charges impacts OTC derivatives trades, we are concerned that banks would pass increased pricing through to life insurers, discouraging prudent hedging activities and diminishing liquidity in the derivatives market.

The changes to this regulatory landscape will contribute to less innovative, affordable, or beneficial offerings for consumers who rely on life insurance products for future financial stability. The back-end expense and changes in trading due to the incentives the proposal creates would not be beneficial for consumers[20], regulators, or solvency. Additionally, many of these proposed changes exceed the Basel standards and the rules as enacted in Europe, resulting in "gold-plated" rules that may make US firms less competitive than their global peers. Rather, the proposal should encourage efficient and effective economic hedging that would ultimately reduce economic risk on the global economy while promoting reasonably priced financial protection products for consumers.

[16] Statement by Federal Reserve Governor Christopher J. Waller (July 27, 2023), available here: https://www.federalreserve.gov/newsevents/pressreleases/waller-statement-20230727.htm.

[17] Federal Reserve, Regulatory Capital Rule: Risk-Based Surcharges for Globally Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), available here: https://www.federalreserve.gov/aboutthefed/boardmeetings/frn-gsib-20230727.pdf.

[18] *See* Press Release, Credit Suisse, Credit Suisse announces referral arrangement for Prime Services customers with BNP Paribas (Nov. 8, 2021), available here: https://www.credit-suisse.com/about-us-news/en/articles/media-releases/credit-suisse-referral-arrangement-prime-services-bnp-paribas-202111.html.

[19] Further, the CFTC's Market Risk Advisory Dec. 11, 2023 Meeting panelists echoed similar concerns about the risks of increased dependency and further concentration of contractual relationships with FCMs. One panelist noted, "FCM concentration coupled with new capital rules may make the possibility of porting more challenging […]The regulators and industry should be concerned about how likely is it that another clearing member will step forward to take on all those clients if that member is already at capacity with the proposed capital rules." *See* Webcast beginning at 1:35:00, available here: https://youtube.com/live/-46-Ooz42PQ.

[20] Life insurers manage funds for not only purchasers of products but also U.S. pension funds contributing to the financial security of pensioners.

## Conclusion

All life insurers are highly regulated at the state level for financial strength and ability to fulfill their long-term promises to customers. State insurance regulation works effectively to protect policyholders by helping U.S. insurers and the U.S. life insurance industry remain in a strong solvent financial position.

Unlike other industries that are not regulated for financial strength, all US life insurers (publicly traded and non-publicly traded) are heavily prudentially regulated and all are required to provide publicly available financial reports reflecting their financial strength measured on the NAIC's conservative valuation and capital standards. **Accordingly, the Basel III Endgame proposal should be revised so that all investment grade life insurer corporate exposures are treated the same regardless of corporate ownership structure and should have no more than a 65% risk weight. In addition, the revised approaches to CVA, Operational Risk and Market Risk capital requirements with respect to derivatives transactions should either be eliminated from the Proposal or substantially recalibrated to take into account the current regulatory context and to minimize their impact on end users' ability to hedge their business risks. Finally, the GSIB surcharge for clearing client derivatives trades should be revised to reflect the lower risk of these services and continue to incentivize FCMs to provide the vital service of client clearing consistent with the policy goal of safer and more efficient markets.**

Please let us know if you have any questions or would like to discuss these comments further.

Many thanks,

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