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Giancarlo Releases Letter to Quarles on Phase Five Implementation

Washington, DC — Commodity Futures Trading Commission (CFTC) Chairman J. Christopher Giancarlo sent a letter to Federal Reserve Board Vice Chairman Randal K. Quarles concerning "Phase Five" implementation requirements for initial margin on uncleared swaps, scheduled for September 2020.

"As market participants prepare for Phase Five, many of the smaller entities are realizing that, while their notional amounts exceed $8 billion, their calculated margin amounts are less than $50 million," Giancarlo writes in the letter. "In other words, they will soon be required to incur the time and expense of preparing to exchange initial margin even though they will not be required to exchange margin."

Giancarlo explains that in balancing the costs of regulation against the benefits of mitigating systemic risk, the current uncleared margin rules provide two forms of relief to small swap market participants: entities do not have to exchange initial margin unless the calculated amount exceeds $50 million, and entities with a notional amount of swaps less than $8 billion are out of scope of the rules and, consequently, do not have to establish custodial services, document margin relationships, or operationalize margin exchange.

The CFTC's Office of Chief Economist (OCE) has analyzed market data in response to domestic and international concerns that many small market participants will be brought into scope in the Phase Five implementation, and based on OCE and CFTC Division of Swap Dealer and Intermediary Oversight (DSIO) staff analysis, Chairman Giancarlo makes the following recommendations in the letter:

- US regulators issue guidance clarifying that an entity need not make any preparations to exchange initial margin on uncleared swaps so long as its calculated margin amount is less than the current initial margin threshold of $50 million; and
- Global regulators further engage with the Basel Committee on Banking Supervision (BCBS) and International Organization of Securities Commissions (IOSCO) to reflect in global principles its recent, similarly motivated statement.

"These recommended actions will not reduce the actual amount of margin required from market participants," Giancarlo writes. "They would, however, significantly reduce the compliance burden of entities that would not, in any case, be required to post initial margin."