

Public Statements & Remarks

Supporting Statement of Commissioner Dan M. Berkovitz on Margin Requirements for Security Futures, Final Rule

October 22, 2020

I support today's final rule on customer margin requirements for security futures (Final Rule), issued jointly with the Securities and Exchange Commission (SEC). The Final Rule ensures that margin requirements for unhedged security futures will be consistent regardless of the type of customer account in which they are held. The Final Rule presents no new risks to the financial system, and is an overdue effort to align margin requirements for security futures.^[1]

Unhedged security futures held in a "portfolio margin" account have been subject to a 15 percent minimum margin amount since certain securities self-regulatory organizations (SROs) launched portfolio margining pilot programs starting in 2007.^[2] In contrast, prior to this Final Rule, such unhedged security futures held in a futures account or in a securities customer account that is not subject to portfolio margining were subject to a 20 percent margin requirement. This structure produced disparate treatment of security futures based solely on the customer account class in which they were held.

The Final Rule addresses this disparate treatment with no increased risks to the financial system. It brings all unhedged security futures to the same 15 percent margin requirement, consistent with existing margin requirements for security futures and equity options held in portfolio margin accounts that have been in place for over a decade.

I support the two Commissions' efforts in today's Final Rule to address one aspect of trading in security futures, consistent with the CFMA's statutory requirements. Unfortunately, these efforts are too late to be of any near-term benefit. Notably, the only U.S. derivatives exchange that offered security futures products discontinued trading in September, 2020.

I look forward to continuing to work with staff and my fellow Commissioners at both the CFTC and the SEC on a viable margin regime for security futures going forward.

I thank my fellow Commissioners at the CFTC and the SEC, as well as staff of the two agencies, for their work on this Final Rule.

^[1] Congress established a framework for the trading and joint regulation of security futures in the Commodity Futures Modernization Act of 2000 (CFMA). Among other requirements, the CFMA specified that customer margin requirements for security futures products must be consistent with the margin requirements for comparable options traded on a registered securities exchange, and that the initial and maintenance margin levels must not be lower than the lowest level of margin, exclusive of premium, required for any comparable exchange-traded options.

^[2] Portfolio margining allows a broker-dealer to combine certain of a customer's securities and security futures positions held in a securities account for purposes of determining the margin requirements for those positions. Such portfolio margining began with a 2007 pilot program pursuant to the rules of CBOE Exchange. The program became permanent in 2008. FINRA adopted its own portfolio margining rules in 2010. Portfolio margining for security futures is not available in a futures customer account. Thus, prior to this Final Rule, the 15 percent treatment available to security futures held in a portfolio margined account was unavailable to security futures held in a futures account.

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