

January 24, 2017

Via Email

Board of Governors of the Federal Reserve System
Commodity Futures Trading Commission
European Banking Authority
European Commission
European Insurance and Occupational Pensions Authority
European Securities and Markets Authority
Farm Credit Administration
Federal Deposit Insurance Corporation
Federal Housing Finance Agency
Japan Financial Services Agency
Office of the Comptroller of the Currency
UK Financial Conduct Authority

Re: Uncleared Swap Margin Requirements – Request for Transitional Relief from March 1, 2017 Variation Margin Implementation

Dear Sirs and Madams:

The Securities Industry and Financial Markets Association’s Asset Management Group (**SIFMA AMG** or **AMG**) and the Investment Adviser Association (**IAA**) (AMG and IAA, collectively as the **Associations**)¹ submit this letter to provide additional information in support of AMG’s December 16, 2016 letter requesting six-month transitional relief from the March 1 variation margin requirements and additional transitional relief for foreign exchange (**FX**) clients.²

The Associations believe that relief is urgently required to protect asset managers’ clients given that implementation efforts will not cover investors’ needs by either March 1 or, as discussed below, the early February deadline imposed to operationalize changes to ISDA Credit Support Annexes (**CSAs**). The drivers of this outcome are detailed in the December 16th Letter and persist today. Asset managers, as fiduciaries serving these investors, continue to have concerns about their

¹ For information regarding AMG and IAA, please see descriptions at the end of this letter.

² SIFMA AMG’s December 16, 2016 letter (the **December 16th Letter**) is available at <http://www.sifma.org/issues/item.aspx?id=8589963951>.

ability to hedge, manage investment risks, implement investment strategies, and achieve best execution on behalf of their clients.

The need for more time to complete variation margin implementation is demonstrated by data collected by the Associations from member firms who were asked to: (1) quantify the number of new or amended CSAs that conform with the March 1 variation margin requirements (**Reg-Compliant CSAs**); (2) estimate the remaining number of Reg-Compliant CSAs that are still needed to cover existing trading relationships; and (3) provide feedback on specific challenges that they are facing. The Associations received responses from 42 member firms; AMG received responses from nearly all firms surveyed (38 of the 41 asset management firms on AMG's Uncleared Swaps Margin Working Group), many of whom are joint IAA members, and IAA received an additional 4 responses.

The data reveals that, both as measured by the percentage of work completed and volume yet to be completed, the task remaining for asset managers is massive. Specifically:

- Of the 42 buy side firms providing data, 39 firms (92%) have completed 10 or fewer Reg-Compliant CSAs, of which 28 firms (67%) have completed no (zero) Reg-Compliant CSAs.³
- In aggregate across the 42 responding firms, approximately 250 (roughly 8%) of the Reg-Compliant CSAs needed have been put in place. Approximately 200 of these Reg-Compliant CSAs were completed by 3 buy side firms.
- At least 2,800 Reg-Compliant CSAs must still be completed to cover existing trading relationships, of which more than half (approximately 1,800) are multi-client “umbrella” agreements that often are used to cover anywhere from 10 to 100 clients each.
- The umbrella agreements not yet completed are needed for thousands of client accounts and involve all client types (U.S. registered funds, UCITS, public and private pension funds, hedge funds, private equity funds, and other institutional clients).

The large volume of work described above cannot be completed by the early February deadline imposed to operationalize CSAs. The Associations understand that dealers will not be able to continue trading after March 1 for clients that do not have documents completed by early February. This deadline is due to the work needed to operationalize CSA terms, an issue raised in

³ The number of agreements completed includes those that are about to be executed but have not been signed.

the December 16th Letter and impacting both buy side firms and dealers. Regardless of whether the operative deadline is March 1 (24 business days from now) or early February (10-14 business days from now), the large volume remaining cannot be completed in time and represents only a portion of market participants that dealers are trying to fit within the limited dealer bandwidth.

Asset managers have identified a number of common drivers behind the slow progress in completing Reg-Compliant CSAs and other implementation requirements, none of which can be remedied quickly under the current set of uncleared swap margin requirements. These issues include:

- 1. ISDA 2016 Variation Margin Protocol (CSA Protocol) not being used due to the complexity created by overlapping application of jurisdictions' requirements.** For the reasons explained in the December 16th Letter, steps to amend and execute Reg-Compliant CSAs continues to proceed on a bilateral basis. The bilateral route is being used to complete CSAs for minor changes needed, CSAs requiring major changes and CSAs needed to cover historically uncollateralized trading (mostly FX transactions).
- 2. Variances needed within each multi-client "umbrella" agreement.** The uncleared swap margin rules, as applied on a cross-jurisdictional and intra-jurisdictional basis, have varying impacts on clients. These differences have strained the process for amending umbrella agreements, resulting in the need to have a series of sub-level negotiations to generate schedules for certain terms, including minimum transfer amounts for multi-manager clients, designations of permissible non-cash collateral and adjustments for non-netting clients, among others.
- 3. Difficulty in working through issues relating to non-netting accounts.** The uncleared swap margin rules require determinations as to whether netting will be respected for the counterparty. Although this issue pertains to a small percentage of work underway, the vetting of potential non-netting clients and agreement on terms have been time-consuming. Identification and validation of non-netting accounts is a client-by-client process. Only after those clients are validated can the agreement of non-standardized terms proceed for those clients determined to be non-nettable.
- 4. Additional time needed for new credit reviews of existing clients.** FX clients with longstanding trading relationships with dealers are undergoing credit reviews before being covered by Reg-Compliant CSAs. This process must be done on an individualized basis for each client with each dealer.
- 5. Slow response to drafts and substantive issues.** Due to the time constraints imposed by the March 1st deadline and the persisting complexities described in the December 16th Letter, many dealers have had no choice but to outsource the documentation work to third parties, including law firms and consultants. These third parties typically do not have the full history of the relationship. They, likewise, may not have authority to agree upon terms or provide substantive responses to questions and issues that arise. In addition, the sheer volume of complex, substantive questions that need to be addressed between asset managers and their dealer counterparties often requires consultation

- across a dealer's representatives from legal, operations, credit/risk and the front offices, resulting in further delays.
6. **For some asset managers, no substantive response from dealers viewed to be critical.** Because of the above and due to time pressure, some dealers have been forced into difficult prioritization decisions. This prioritization has particularly disadvantaged smaller asset managers or those not affiliated with larger institutions. Many of them are still waiting for critical dealers to provide substantive responses on drafts and other issues. Even larger asset managers have identified that one or two of their critical dealers have not been able to respond due to the limited bandwidth.
 7. **Slow response for client-negotiated documents.** Although the majority of an asset manager's trading is covered by their negotiated ISDA master agreements and CSAs, some clients have used their own negotiated agreements. These clients are not part of the asset managers' broader dealer outreach and must be addressed separately.
 8. **Inability to onboard clients onto existing umbrella agreements.** Some asset managers have been trying to move clients onto existing umbrella agreements. However, this process has stalled, and those clients will not be covered by the documents being completed. The affected clients are largely those that use derivatives for FX products, primarily for hedging.
 9. **Inability to advance review of new account control agreements required for certain types of funds.** As explained in the December 16th Letter, certain types of funds can only post margin to a segregated account. Without completion of the account control agreement, which requires active negotiation among the fund, the dealer and the custodian, the segregated account cannot be established. With all of the other work taking up the limited bandwidth on both the buy and sell sides, these drafts are not progressing, leading to concerns that the accounts will not be established by March 1st.
 10. **Challenges in addressing clients whose accounts are traded in multiple countries across multiple master netting agreements.** As noted in the December 16th Letter, asset managers have been working through challenges in documentation for clients whose accounts are traded in multiple countries with multiple master netting agreements. This process has resulted in significant delays because of the required analysis of the requirements applicable to relationships in various jurisdictions.
 11. **Complex internal coding to block dealers if completion across all clients and dealers is not achieved by March 1.** If asset managers are not ready to trade all existing trading relationships for all clients by March 1st, buy side firms will need to code their trade routing systems to send trades only to dealers with complete documentation and block dealers for which documentation is not complete. Such coding may need to be completed at a client level as well if some but not all clients are set up with a dealer. These limits impact the ability to transact block trades on behalf of a group of clients and lead operational complexity.

The Associations request that regulators provide a six-month transition period beginning on March 1, 2017 for all counterparties not covered by phase 1 implementation and provide an additional transition period for FX clients. Currently, asset managers and dealers are working toward completion of the work remaining and would continue to do so if transitional relief is granted. In addition, a transitional period does not need to change the scope of swaps covered by the uncleared swap margin requirements.⁴

We further continue to request that regulators consider the cross-border policies that have resulted in the regulatory complexity underlying the challenges that need to be overcome.

If you have any questions, please do not hesitate to contact Tim Cameron (202-962-7447 or tcameron@sifma.org), Laura Martin (212-313-1176 or lmartin@sifma.org), Robert Grohowski (202-507-7209 or Robert.grohowski@investmentadviser.org) or Monique Botkin (202-507-7207 or monique.botkin@investmentadviser.org)

Respectfully submitted,

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SIFMA AMG’s members represent U.S. and multi-jurisdictional asset management firms whose combined global assets under management exceed \$34 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds.

The IAA is a not-for-profit association that represents the interests of investment adviser firms that are registered with the U.S. Securities and Exchange Commission (“SEC”). The IAA’s membership

⁴ Although the December 16th Letter requested no backloading during the transition period (*i.e.*, no retroactive application to March 1 for counterparties transitioned after March 1), we withdraw that portion of our request after further review.

If regulators believe other conditions are required to grant a transitional period, we would request that the regulators discuss those conditions with relevant market participants to ensure that the relief can be used.

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consists of more than 600 firms that collectively manage approximately \$20 trillion for a wide variety of individual and institutional investors, including pension plans, trusts, investment companies, private funds, endowments, foundations, and corporations. For more information about the IAA, visit www.investmentadviser.org.