

COMMENT LETTER

March 26, 2020

ICI Joins Letter to BCBS and IOSCO Requesting Suspension of UMR Compliance Dates (pdf)

1 March 25, 2020 Secretariat of the Basel Committee on Banking Supervision Bank for International Settlements Centralbahnplatz 2 CH-4002 Basel Switzerland Secretariat of the International Organization of Securities Commissions C/ Oquendo 12 28006 Madrid Spain Re: Margin Requirements for Non-Centrally Cleared Swaps Margin – Impact of COVID-19 on Initial Margin Phase-In To whom it may concern, The International Swaps and Derivatives Association (ISDA), the Securities Industry and Financial Markets Association (SIFMA), the Global Financial Markets Association (GFMA), the Global Foreign Exchange Division (GFXD) of GFMA, the Investment Adviser Association (IAA), the Australian Financial Markets Association (AFMA), the Alternative Investment Management Association (AIMA), European Fund and Asset Management Association (EFAMA), the Investment Company Institute (ICI), the American Council of Life Insurers (ACLI), the Institute of International Bankers (IIB), Managed Funds Association (MFA), the Asia Securities Industry and Financial Markets Association (ASIFMA), the Association for Financial Markets in Europe (AFME), SIFMA Asset Management Group (SIFMA AMG), the International Capital Market Association (ICMA), the Institute of International Finance (IIF), Insurance Europe, the European 2 Banking Federation (EBF), Commodity Markets Council Europe (CMCE) and the U.S. Chamber’s Center for Capital Markets Competitiveness (CCMC) (together, the Associations¹) appreciate the efforts of regulators towards developing and implementing margin requirements for non-centrally cleared derivatives. In accordance with the Basel Committee on Bank Supervision and International Organization of Securities Commissions (BCBS-IOSCO) Final Framework on Margin Requirements for Non-Centrally Cleared Derivatives (Final Framework)² regulators have established standards for margin requirements for non-centrally cleared derivatives (commonly referred to as “UMR”), to be phased in over time. In response to industry concerns and data which demonstrated the scale and difficulty of implementation³, BCBS and IOSCO issued statements and a revised timeline⁴ for the phase-in to UMR requirements. Global regulators have taken, and continue to take, actions to confirm and codify these recommendations. The Associations and our members are very appreciative of the steps taken by BCBS, IOSCO and global regulators to address the challenges of the final phases of UMR and market participants have been working diligently to meet these compliance dates. However, these efforts are being severely impacted by the global COVID-19 pandemic, and our members do not believe it is possible or practicable to meet documentation and operational requirements for the regulatory initial margin (IM) compliance dates on September 1, 2020 (Phase 5) and September 1, 2021 (Phase 6). We respectfully request that BCBS and IOSCO issue an immediate, public recommendation to

global regulators to suspend the compliance dates for Phase 5 and 6, and that global regulators act swiftly to provide corresponding reassurance in their jurisdictions while they work to address necessary rule amendments or other means to effect this decision. As the overall impact of COVID- 19 may not be known for some time, we suggest that decisions regarding a new timeline for the implementation of further phases of the IM requirements be delayed and reconsidered when relevant facts and circumstances are known. When markets are back to normal conditions and new Phase 5 and Phase 6 compliance dates are to be set, we kindly request that sufficient lead time be provided in order to complete implementation in a phased and reasonable period. While our members have robust business continuity plans in place that are generally functioning well, given the overwhelmingly disruptive nature of the current epidemic, our members' efforts to prepare for the final phases of regulatory IM have been severely impacted due to personnel, systems and other issues. Staff have been displaced and repurposed given the increased market volatility. Work from home is limiting access to legal and operational documentation and limiting abilities to communicate with counterparties. These challenges are expected to worsen as markets continue to fluctuate, lockdowns broaden, and staff are compromised by illness or need to care for family members. Due to market volatility, firms are avoiding infrastructure updates and may be unable to complete, deploy or test infrastructure needed to support regulatory IM requirements. 1 See Appendix for description of the Associations. 2 BCBS-IOSCO Final Framework on Margin Requirements for Non-Centrally Cleared Derivatives (July 2019), available at: <https://www.bis.org/bcbs/publ/d475.pdf>. 3 See joint trade association letter of September 12, 2018:

<https://www.isda.org/a/5evEE/Initial-Margin-Phase-In-Implementation-Joint-Trade-Association-Comments.pdf> 4 Available at:

https://www.bis.org/bcbs/publ/d475_summarytable.pdf 3 Although the next regulatory deadline is September 2020, there are critical near-term deadlines during Q2 – particularly in respect of custodial onboarding – which will be impacted and have a knock-on effect on the ability of Phase 5 firms to meet the September deadline. Additionally, while firms need to complete custodian documentation, the custodians are subject to the same strained working conditions as the firms coming into scope. We note that the ability of global custodians to facilitate client onboarding is already being impaired, extending further the lengthy process to establish compliant custodial accounts. Similar challenges are likely to affect the availability of vendors which provide services critical to IM implementation. Our members are also concerned about the electronic execution of agreements. Electronic execution is a means of signing virtually rather than by way of a usual ‘wet ink’ signature which is scanned and exchanged. Electronically-executed agreements may not be enforceable in every counterparty jurisdiction (as a matter of local company law) and would need to be diligenced on a case-by-case basis. Therefore, given the industry is almost entirely working from home at present, getting documents physically signed and scanned could pose an obstacle to the timely execution of regulatory IM documents by all contracting parties. In current circumstances, operational teams are working at full capacity to ensure proper business continuity. Run-the-institution activities have full priority over change-the-institution activities. On this basis, it will be very challenging for the industry to complete steps necessary to comply with UMR even prior to IM exchange, including average aggregate notional calculations and computation tools for margins. Without action by global regulators, it is almost certain that sections of the market would get shut out, increasing risk to investors. During this volatile period, our members are deeply focused on the management of market and credit risk. We believe that efforts to minimize losses from the current crisis should take precedence over preparations to address the potential risk of future exposure from small market participants. Moreover, we emphasize that, if during this historically volatile time, firms divert internal resources away from managing their risk and

portfolios and instead focus on implementation of UMR, investors may be adversely affected. In the meantime, the exchange of regulatory IM amongst the largest market participants will continue to mitigate systemically important derivatives market exposures⁵. We acknowledge and appreciate that global regulators have already taken steps to rapidly and proactively address the unprecedented market volatility and engage with the industry on its impact to their continued operations and ability to provide critical access to the financial markets, including the derivatives markets, for investment and risk mitigation. Without timely and, to the greatest extent possible, globally consistent regulatory action in respect of UMR, there will be insurmountable hurdles to implementation for many market participants, limiting access to the 5 Initial margin requirements already cover 97% of the U.S. portion of the global market. (See statement of CFTC Chairman Heath P. Tarbert in Support of Extending Relief for Initial Margin Requirements for Uncleared Swaps, on March 18, 2020: <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement031820>.) We further note that data from a quantitative study conducted by ISDA in 2018 shows that up to 78% of counterparty relationships subject to IM in the final phases are unlikely to be required to exchange any IM two years into their regulatory obligations. 4 derivatives market at a time when they are most greatly needed to hedge financial risk, including related market volatility. We thank you in advance for your consideration of this important matter and are happy to provide further information or engage in dialogue which would be helpful to this purpose. Sincerely, Scott O'Malia Chief Executive Officer ISDA James Kemp Managing Director Global Foreign Exchange Division, GFMA Kenneth E. Bentsen, Jr. CEO & President, SIFMA CEO of GFMA Jack Inglis Chief Executive Officer AIMA /s/ David Lynch Chief Executive Officer AFMA /s/ Gail C. Bernstein General Counsel Investment Adviser Association /s/ Bryan N. Corbett President and Chief Executive Officer Managed Funds Association /s/ Sarah A. Bessin Associate General Counsel Investment Company Institute Tanguy van de Werve Director General EFAMA Carl B. Wilkerson Carl B. Wilkerson Vice President & Chief Counsel-Securities American Council of Life Insurers 5 Rick Watson Managing Director, Head of Capital Markets, Membership and Events AFME Mark Austen Chief Executive Officer Asia Securities Industry & Financial Markets Association Timothy Adams President and CEO Institute of International Finance Timothy W. Cameron, Esq. Asset Management Group – Head and, Managing Director Securities Industry and Financial Markets Association Martin Scheck Chief Executive ICMA Chief Executive Officer Institute of International Bankers Michaela Koller Director General Insurance Europe Samina Anwar Chair, CMCE Executive Committee Tom Quaadman Executive Vice President Center for Capital Markets Competitiveness U.S. Chamber of Commerce Wim Mijs Chief Executive Officer European Banking Federation 6 cc: Authority Jurisdiction Australian Prudential Regulatory Authority Australia Australian Securities and Investments Commission Australia Autorité des Marchés Financiers France Autoriteit Financiële Markten Netherlands Autorité de Contrôle Prudentiel et de Résolution France Banco Central Do Brasil Brazil Banco de Mexico Mexico Bangko Sentral ng Pilipinas Philippines Bank Indonesia Indonesia Bank Negara Malaysia Malaysia Bank of England United Kingdom Bank of France France Bank of Italy Italy Bank of Japan Japan Bank of Korea Korea Bank of Spain Spain Bank of Thailand Thailand Board of Governors of the Federal Reserve System United States Canadian Securities Administrators Canada China Banking Regulatory Commission China Comisión Nacional de Valores Argentina De Nederlandsche Bank Netherlands Deutsche Bundesbank Germany Europäische Zentralbank Germany European Banking Authority Europe European Central Bank Europe European Commission Europe European Insurance & Occupational Pensions Authority Europe European Parliament Europe European Securities and Markets Authority Europe Farm Credit Administration United States Federal Deposit Insurance Corporation United States Federal Financial Supervisory Authority (BaFin) Germany Federal Housing Finance Agency United States Financial Conduct Authority United

Kingdom Financial Services Commission Korea Financial Supervisory Service Korea Her Majesty's Treasury United Kingdom Hong Kong Monetary Authority Hong Kong Japan Financial Services Agency Japan Monetary Authority of Singapore Singapore National Futures Association United States Office of the Superintendent of Financial Institutions Canada 7 Reserve Bank of Australia Australia Reserve Bank of India India Reserve Bank of New Zealand New Zealand Securities and Exchange Board of India India Securities and Futures Commission of Hong Kong Hong Kong Securities Commission Malaysia Malaysia South African Reserve Bank Prudential Authority South Africa Swiss Financial Market Supervisory Authority (FINMA) Switzerland The Central Bank of the Russian Federation Russia The People's Bank of China China Trésor Public France U.S. Commodity Futures Trading Commission United States U.S. Department of the Treasury United States U.S. Securities and Exchange Commission United States 8

APPENDIX: About the Associations

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 900 member institutions from 73 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter @ISDA.

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate on legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

GFMA represents the common interests of the world's leading financial and capital market participants, to provide a collective voice on matters that support global capital markets. We advocate on policies to address risks that have no borders, regional market developments that impact global capital markets, and policies that promote efficient cross-border capital flows to end users by efficiently connecting savers and borrowers, benefiting broader global economic growth. The Association for Financial Markets in Europe (AFME) in London, Brussels and Frankfurt, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA. The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 25 global foreign exchange market participants, collectively representing a significant portion of the FX inter-dealer market. Both the GFXD and its members are committed to ensuring a robust, open and fair FX marketplace and welcome the opportunity for continued dialogue with global regulators. Learn more about the GFXD at: www.gfma.org/foreign-exchange/

The IAA is the largest organization dedicated to advancing the interests of investment advisers registered with the Securities and Exchange Commission. For more than 80 years, the IAA has been advocating for advisers before Congress and U.S. and global regulators, promoting best practices and providing education and resources to empower advisers to effectively serve

their clients, the capital markets, and the U.S. economy. The IAA's member firms manage more than \$25 trillion in assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information, please visit www.investmentadviser.org. The Australian Financial Markets Association (AFMA) represents the interests of over 110 participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign-owned banks, securities companies, treasury corporations, traders across a wide range of markets and industry service providers. Our members are the major providers of services to Australian businesses and retail investors who use the financial markets. AIMA is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than \$2 trillion in assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programs and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. 9 EFAMA is the voice of the European investment management industry, representing 28 member associations and 59 corporate members. At end 2019, total net assets of European investment funds reached EUR 17.8 trillion. These assets were managed by close to 34,200 UCITS (Undertakings for Collective Investments in Transferable Securities) and 29,000 AIFs (Alternative Investment Funds). More information available at www.efama.org. The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's members manage total assets of US\$25.2 trillion in the United States, serving more than 100 million US shareholders, and US\$7.7 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC. The American Council of Life Insurers (ACLI) advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 94 percent of industry assets in the United States. The Institute of International Bankers (IIB) is the only national association devoted exclusively to representing and advancing the interests of the international banking community in the United States. Its membership is comprised of internationally headquartered banking and financial institutions from over 35 countries around the world doing business in the United States. The IIB's mission is to help resolve the many special legislative, regulatory, tax and compliance issues confronting internationally headquartered institutions that engage in banking, securities and other financial activities in the United States. Through its advocacy efforts the IIB seeks results that are consistent with the U.S. policy of national treatment and appropriately limit the extraterritorial application of U.S. laws to the global operations of its member institutions. Further information is available at www.iib.org. Managed Funds Association (MFA) represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best

practices and learn from peers, and communicate the industry's contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk and generate attractive returns over time. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants. ASIFMA is an independent, regional trade association with over 125 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region. AFME (Association for Financial Markets in Europe) advocates for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. AFME is the voice of all Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. AFME aims to act as a bridge between market participants and policy makers across Europe, drawing on its strong and long-standing relationships, its technical knowledge and fact-based work. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) through the GFMA (Global Financial Markets Association). For more information please visit the AFME website: www.afme.eu. Follow us on Twitter @AFME_EU SIFMA AMG's members represent U.S. asset management firms whose combined global assets under management exceed \$45 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 International Capital Market Association (ICMA) is the trade association for the international capital market with over 580 member firms from 62 countries, including issuers, banks, asset managers, central banks, infrastructure providers and law firms. It performs a crucial central role in the market by providing industry-driven standards and recommendations for issuance, trading and settlement in international fixed income and related instruments. ICMA liaises closely with regulatory and governmental authorities, both at the national and supranational level, to help to ensure that financial regulation promotes the efficiency and cost effectiveness of the capital market. www.icmagroup.org @ICMAGroup The Institute of International Finance is the global association of the financial industry, with more than 450 members from more than 70 countries. Its mission is to support the financial industry in the prudent management of risks; to develop sound industry practices; and to advocate for regulatory, financial and economic policies that are in the broad interests of its members and foster global financial stability and sustainable economic growth. IIF members include commercial and investment banks, asset managers, insurance companies, sovereign wealth funds, hedge funds, central banks and development banks. Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the

national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers pay out almost €1 100bn annually — or €2.9bn a day — in claims, directly employ over 900 000 people and invest nearly €10 200bn in the economy. The European Banking Federation is the voice of the European banking sector, bringing together 32 national banking associations in Europe that together represent a significant majority of all banking assets in Europe, with 3,500 banks - large and small, wholesale and retail, local and international - while employing approximately two million people. EBF members represent banks that make available loans to the European economy in excess of €20 trillion and that reliably handle more than 400 million payment transactions per day. Launched in 1960, the EBF is committed to a single market for financial services in the European Union and to supporting policies that foster economic growth. Commodity Markets Council Europe (CMCE) is the only association in Europe representing the range of commodity market participants - agriculture, energy, metals and other commodity market participants, benchmark providers, price reporting agencies, and trading venues operating in the EU, EEA, Switzerland and neighbouring countries. The majority of CMCE members use commodity derivative markets to hedge the risks related to their physical activities and assets. CMCE's key purpose is to engage with policymakers and regulators to promote liquid and well-functioning commodity derivative markets in Europe. The U.S. Chamber's Center for Capital Markets Competitiveness's (CCMC) mission is to advance America's global leadership in capital formation by supporting diverse capital markets that are the most fair, transparent, efficient, and innovative in the world. CCMC advocates on behalf of American businesses to ensure that legislation and regulation strengthen our capital markets allowing businesses—from the local flower shop to a multinational manufacturer—to mitigate risks, manage liquidity, access credit, and raise capital.