

COMMENT LETTER

February 28, 2019

ICI Global Joins Letter Urging EU Recognition of UK Trading Venues in Preparation for Brexit (pdf)

33362-3-630-v8.2 - 1 - 70-20258076 Vice-President Valdis Dombrovskis Directorate-General for Financial Stability, Financial Services and Capital Markets Union European Commission 1049 Bruxelles/Brussels Belgium 28 February 2019 Dear Vice-President Dombrovskis Brexit – equivalence of UK derivatives trading venues under EMIR and MiFIR FIA, the International Swaps and Derivatives Association, the Alternative Investment Management Association, the Association for Financial Markets in Europe, Associazione Intermediari Mercati Finanziari - ASSOSIM, the European Banking Federation, the European Federation of Energy Traders, ICI Global, the Investment Association and the Securities Industry and Financial Markets Association's Asset Management Group (the Associations) welcomed the European Commission's Communication of 19 December 2018 on preparing for the withdrawal of the UK from the EU and, more specifically, the contingency measures taken by the European Commission (the Commission) to safeguard financial stability if the UK leaves the EU without concluding a withdrawal agreement providing for a transition period. In particular, the Associations welcomed the Commission's adoption of temporary equivalence decisions with respect to UK central counterparties (CCPs) and central securities depositories and the measures to facilitate novations of derivatives transactions from UK to EU27 counterparties. However, the Associations remain concerned about the disruptive impact on EU27 market participants and European derivatives markets if the Commission does not take urgent action 33362-3-630-v8.2 - 2 - 70-20258076 with respect to the recognition of UK derivatives trading venues under EMIR and MiFIR in a 'no-deal' scenario, i.e., where the UK leaves the EU without concluding a withdrawal agreement providing for a transition period. 1. UK exchange-traded derivatives will be reclassified as OTC derivatives In the absence of an equivalence decision by the Commission under Article 2a of EMIR with respect to UK regulated markets, UK exchange-traded derivatives (UK ETDs) will be considered OTC derivatives under EMIR after the UK leaves the EU in a 'no-deal' scenario. As a result, there would be a significant adverse impact on non-financial counterparties (NFCs) currently under the EMIR clearing threshold and financial counterparties (FCs) with smaller positions in OTC derivatives: • Impact on NFCs. EU27 NFCs and any third-country NFCs trading with EU27 counterparties would need to include their positions in UK ETDs (other than those entered into for risk-reduction purposes only) when determining whether they exceed the clearing threshold under EMIR. Exceeding the clearing threshold would significantly affect the ability of an NFC to risk manage its business because of the possible impact of collateral requirements on all its OTC derivatives transactions. Therefore, it may need to reduce or limit its positions in UK ETDs to ensure that it does not exceed the clearing threshold under

EMIR after Brexit and become subject to clearing, margin and other requirements under EMIR. This may have a significant impact on its business model. • Impact on small FCs. EU27 FCs and any third-country FCs trading with EU27 counterparties would have to aggregate their group's positions in UK ETDs when determining whether they are 'small financial counterparties' that are exempt from the clearing obligation under EMIR REFIT after it enters into force. Therefore, they may need to reduce or limit their positions in UK ETDs to ensure that they do not exceed the clearing threshold under EMIR after Brexit and become subject to the clearing obligation under EMIR. This may significantly restrict an FC's ability to invest or risk manage its activities. 2. EU27 counterparties will not be able to satisfy the derivatives trading obligation by trading on UK venues MiFIR requires FCs and NFCs over the clearing threshold (NFC+s) to conclude their transactions in OTC derivatives subject to the trading obligation either on an EU trading venue or on a third-country trading venue from a jurisdiction deemed equivalent by the Commission. In the absence of an equivalence decision by the Commission under Article 28(4) of MiFIR with respect to UK multilateral trading facilities (MTFs) and organised trading facilities (OTFs), EU27 FCs and NFC+s would, after the UK leaves the EU in a 'no-deal' scenario, cease to be able to execute transactions in OTC derivatives subject to the trading obligation under MiFIR on those venues. As a result: • EU27 clients would lose access to important sources of liquidity available on UK venues even when they provide the best available prices or liquidity in the relevant instruments; 33362-3-630-v8.2 - 3 - 70-20258076 • EU27 banks and investment firms would not be able to access those UK venues to service their clients or to risk manage their own positions; • Transactions between EU27 and UK counterparties subject to their respective trading obligations may be subject to conflicting requirements, unless the UK recognises EU trading venues. • Global liquidity would be fragmented across multiple venues. 3. The UK will meet the criteria for equivalence under EMIR and MiFIR There should be no obstacle to the Commission making a determination as to the equivalence of the UK's legal, supervisory and enforcement regime with respect to UK trading venues under EMIR and MiFIR. Under the UK European Union (Withdrawal) Act 2018, the regulatory requirements currently applicable to UK trading venues will continue to apply after the UK leaves the EU in a 'no-deal' scenario, with necessary modifications to reflect the UK's status outside the EU. 4. The Commission should act to adopt equivalence decisions with respect to UK trading venues Therefore, we urge the Commission to prepare the necessary implementing acts to recognise the equivalence of UK derivatives trading venues under Article 2a of EMIR and Article 28(4) of MiFIR with a view to those acts taking effect at or very shortly after the UK leaves the EU without concluding a withdrawal agreement providing for a transition period. If necessary, the Commission could consider a temporary or limited equivalence decision such as that made with respect to UK CCPs and central securities depositories. It is important that the Commission indicates the approach that it intends to take as soon as possible in order to enable EU27 clients and counterparties to take appropriate action and to reduce uncertainty and to avoid disruption of financial markets. Annex 1 to this letter sets out more detail on the issues discussed above. Annex 2 to this letter sets out information on the Associations. We hope that this letter is helpful to your consideration of these issues. Please contact the undersigned if you would like to discuss the matters set out in this letter. 33362-3-630-v8.2 - 4 - 70-20258076 Yours sincerely, Walt Lukken President and CEO, FIA Scott O'Malia, CEO International Swaps and Derivatives Association Jiří Król, Deputy CEO, Global Head of Government Affairs Alternative Investment Management Association Simon Lewis, Chief Executive Officer The Association for Financial Markets in Europe Mr. Gianluigi Gugliotta, Secretary General Associazione Intermediari Mercati Finanziari - ASSOSIM 33362-3-630-v8.2 - 5 - 70-20258076 Wim Mijs, CEO European Banking Federation Mr Jan van Aken, Secretary General European Federation of Energy Traders /s/ Jennifer S. Choi, Jennifer S. Choi, Chief Counsel ICI Global Galina

Dimitrova, Director, Investment and Capital Markets The Investment Association Timothy W. Cameron Asset Management Group Head and Managing Director The Securities Industry and Financial Markets Association's Asset Management Group 33362-3-630-v8.2 - 6 - 70-20258076 ANNEX 1 Brexit –equivalence of UK derivatives trading venues under EMIR and MiFIR The Associations are concerned about the disruptive impact on EU27 market participants and European derivatives markets if the Commission does not take urgent action with respect to the recognition of UK derivatives trading venues under EMIR 1 and MiFIR 2 in a 'no-deal' scenario, i.e., where the UK leaves the EU without concluding a withdrawal agreement providing for a transition period. 1. UK exchange-traded derivatives will be reclassified as OTC derivatives Article 2(7) of EMIR defines OTC derivatives to mean derivatives not executed on an EU regulated market or a third-country market considered to be equivalent to a regulated market under Article 2a of EMIR. Under Article 2a of EMIR a third-country market is considered to be equivalent to an EU regulated market if the Commission has adopted an implementing act determining that the market complies with legally binding requirements which are equivalent to the requirements laid down in Title III of MiFID23 for regulated markets and it is subject to effective supervision and enforcement in that third country on an ongoing basis. Therefore, from the date the UK leaves the EU in a 'no-deal' scenario, UK exchange-traded derivatives (UK ETDs) will be regarded as 'OTC derivatives' for the purposes of EMIR unless the Commission adopts implementing acts under EMIR on the equivalence of the UK regulatory and supervisory regime applicable to UK regulated markets. UK regulated markets offer for trading a broad range of exchange-traded derivatives that are widely used for risk-management purposes by market participants in the EU27 and elsewhere. See the table below for examples of the types of exchange-traded derivative products that would be reclassified as OTC derivatives after Brexit in the absence of an equivalence decision. In many cases, UK regulated markets provide market users with uniquely deep and liquid markets and there is no direct substitute for UK ETDs on regulated markets elsewhere in the EU or in other third countries. For example, many of the contracts traded on the London Metal Exchange are unique to that exchange, there is no widely-used substitute on other exchanges for ICE Futures Europe's the Gilt Futures and Short Sterling Futures and trading on ICE Futures Europe in the global crude oil benchmark – Brent Futures – and the leading global benchmark for refined oil - Low Sulphur Gasoil Futures – accounted for 90% and 99.7% respectively of global trading volume in Q4 2018. EU27 firms are also major users of these markets. For example, in 2018 the total value of trades by EU27 clients on the London Metal Exchange exceeded US\$560 bn. 1 Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR). 2 Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFIR). 3 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID2). 33362-3-630-v8.2 - 7 - 70-20258076 Examples of derivatives products traded on UK regulated markets Futures, options or other derivatives on: ICE Futures Europe Interest rates (e.g., Gilts, Sterling, SONIA, Euribor) Crude oil (e.g., Brent crude) Coal, natural gas, power (e.g, UK electricity) Emissions (e.g., EUA, CER) Soft commodities (e.g., coffee, cocoa, sugar) Equities (e.g., FTSE 100, FTSE 250) London Metal Exchange Non-ferrous metals (e.g, aluminium, copper, tin, nickel) Ferrous metals (steel rebar and steel scrap) Minor metals (cobalt, molybdenum) Precious metals (gold, silver) London Stock Exchange Derivatives Market Short-term interest rates (Euribor, sterling, Sonia) Medium and long-term interest rates (Schatz, Bobl, Bund, Gilt) Non-UK equities: Russian depository receipts, Norwegian equities (linked order book with Oslo Børs) The reclassification of UK ETDs as OTC derivatives under EMIR would have a significant adverse impact on both non-financial counterparties (NFCs) currently under the clearing threshold and on financial counterparties

(FCs) with smaller positions in OTC derivatives where they trade in UK ETDs. a. Impact on non-financial counterparties Under Article 10(3) of EMIR, NFCs must include all OTC derivatives entered into by them and the non-financial entities in their group (excluding those entered into for risk-reduction purposes only) when determining whether their positions in OTC derivatives exceed the clearing threshold (i.e., whether they become NFC+s). Where NFCs become NFC+s their transactions may be subject to the clearing obligation and to additional reporting and risk mitigation obligations under EMIR, including the obligation to exchange collateral, and to the trading obligation under MiFIR. Treating UK ETDs as OTC derivatives under EMIR would have a significant adverse impact on EU27 market participants because EU27 NFCs may have to include their group-wide positions in UK ETDs when determining whether they exceed the clearing threshold under EMIR.

33362-3-630-v8.2 - 8 - 70-20258076 If an EU27 NFC exceeds the clearing threshold, it will become subject to the clearing obligation and must prepare to clear transactions subject to that obligation (although, under EMIR REFIT4, this will be limited to transactions in the asset class in which the NFC exceeds the clearing threshold). It will also become subject to the derivatives trading obligation under MiFIR in derivatives contracts subject to that obligation. Perhaps more importantly here, if an EU27 NFC exceeds the clearing threshold, it will become subject to the obligation to exchange collateral on all its uncleared derivatives contracts with FCs or other NFC+s, even those in a different asset class. For example, in the absence of an equivalence decision, an EU27 NFC that exceeds the clearing threshold in the commodity derivatives asset class as a result of positions in commodities derivatives taken on ICE Futures Europe or the London Metal Exchange as part of its business would become subject to the obligation to exchange collateral on all its interest rate and foreign exchange derivatives contracts with FCs, including those used for risk management purposes. A corporate's liquidity requirements for collateralising these contracts can be in the order of several billion euros.⁵ This will drive up the cost of risk-management and thus the cost of providing goods and services and, in the end, it will raise the prices of those goods and services for consumers. The liquidity used as collateral also cannot be used for investment in the business. In addition, the NFC must immediately comply with these requirements to exchange collateral, at least for all new transactions. EMIR does not provide a period within which an NFC that exceeds the clearing threshold can prepare for compliance with its obligations to exchange collateral (or to comply with the additional operational risk-mitigation obligations under EMIR that apply to NFC+s). This creates a 'cliff-edge' risk for corporates that is difficult to manage. If UK ETDs are treated as OTC derivatives under EMIR, EU27 NFCs may have to reduce or limit their group-wide positions in UK ETDs to avoid becoming NFC+s. In some cases, NFCs or non-financial entities in their world-wide group may trade on UK regulated markets in order to take positions as an integral part of their business model (in particular in commodity markets) and not for risk-reduction purposes. Restricting the ability of EU27 NFCs to trade on UK regulated markets would restrict their access to the principal sources of liquidity and the best prices for many important products. This may disrupt their business model and adversely affect their ability to manage their business. In addition, EU27 FCs and NFC+s trading in OTC derivatives with third-country entities would need to ensure that those third-country entities are not treated as third-country entities that would be NFC+s if they were established in the EU as a result of those entities having positions in UK ETDs. Otherwise, the EU27 counterparty may need to impose clearing or margining requirements on their transactions with these third-country entities (and, where the EU27 counterparty is subject to CRR to hold additional regulatory capital for CVA risk against those 4 Proposal for Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the

registration and supervision of trade repositories and the requirements for trade repositories (EMIR REFIT). 5 See Deutsches Aktieninstitut, Corporate data regarding EMIR: Likely liquidity drain because of the clearing obligation – administrative burden of EMIR-reporting (20 December 2016), available at this link. 33362-3-630-v8.2 - 9 - 70-20258076 exposures). Therefore, these third-country entities may also need to reduce or limit their group-wide positions in UK ETDs and/or cease trading with EU27 counterparties. Under Article 10(1)(b) of EMIR, NFCs will become NFC+s if the rolling average of their relevant positions exceeds the clearing threshold over a 30-working day period. In the absence of an equivalence decision, they will have to take into account any positions arising from transactions in UK ETDs entered into after Brexit. Therefore, in the absence of such a decision, they will need to take immediate action to limit their trading in UK ETDs. EU27 counterparties trading with EU27 NFCs and third-country NFCs typically will have obtained continuing representations from those NFCs that their positions in OTC derivatives are below (or above) the clearing threshold. They obtain these representations in order to ensure their own compliance with their obligations under EMIR and, where relevant, their verification obligations under CRR.⁶ Therefore, NFCs currently below the clearing threshold will need to check whether to update the representations given to their counterparties with respect to their status under EMIR and, where they exceed the clearing threshold, prepare to clear trades, to post and collect collateral and to comply with enhanced reporting requirements and the trading obligation. EU NFCs that exceed the clearing threshold will also have to notify ESMA and the competent authorities.

b. Impact on small financial counterparties In addition, EMIR REFIT envisages the creation of a new category of 'small financial counterparties (SFCs)' that will be exempted from the clearing obligation under EMIR if the aggregate positions of their group in 'OTC derivatives' do not exceed the clearing threshold. Therefore, if UK ETDs are treated as 'OTC derivatives' under EMIR, FCs will have to aggregate all the positions in UK ETDs of their group when determining whether they are subject to the clearing obligation (even if the UK ETDs are used for risk-reduction purposes). The reclassification of UK ETDs as OTC derivatives would mean that, after EMIR REFIT enters into force, smaller EU27 FCs may either have to comply with the clearing obligation or reduce or limit their positions in UK ETDs, thus adversely affecting their ability to use UK ETDs for risk management or investment purposes. The impact of these restrictions will be particularly marked where there are no or limited substitutes for UK ETDs or where UK regulated markets provide the principal source of liquidity and best prices for particular products. This reclassification would be especially important for financial counterparties currently treated as 'Category 3' counterparties for the purposes of the regulatory technical standards on clearing under EMIR. The clearing start date for these counterparties is 21 June 2019 and, where possible, they will wish to establish that they can be treated as SFCs as soon as possible after EMIR REFIT enters into force in order to reduce the burden of clearing. Being required to include UK ETDs in their calculations may prevent them from staying below the relevant threshold for SFC status.

6 Under Article 2 of Commission Delegated Regulation (EU) 2018/728 of 24 January 2018 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirement for credit valuation adjustment risk 33362-3-630-v8.2 - 10 - 70-20258076 In addition, EU27 FCs and NFC+s trading in OTC derivatives with third-country FCs will need to determine whether those third-country FCs would be SFCs if they were established in the EU as a result of those entities having positions in UK ETDs. If not, the EU27 counterparty may need to impose clearing requirements on its transactions with these third-country FCs. Therefore, these third-country FCs may also need to reduce or limit their group-wide positions in UK ETDs and/or cease trading with EU27 counterparties.

2. EU27 counterparties will not be

able to satisfy the derivatives trading obligation by trading on UK venues Article 28(1) of MiFIR requires EU FCs and NFC+s to conclude their transactions in OTC derivatives subject to the trading obligation either on an EU trading venue or on a third-country trading venue, where:

- the Commission has adopted an equivalence decision under Article 28(4) of MiFIR;
- and
- the third country in question has an effective equivalent system for the recognition of EU trading venues to admit to trading or trade derivatives subject to the trading obligation in the third country on a non-exclusive basis.

Under Article 28(4) of MiFIR, the Commission may adopt an implementing act determining that the legal and supervisory framework of a third country ensures that a trading venue in that third country complies with legally binding requirements equivalent to the requirements for EU trading venues resulting from MiFIR, MiFID2 and MAR7 and are subject to effective supervision and enforcement in that third country. There are a significant number of UK MTFs and OTFs that are currently authorised to trade OTC derivatives subject to the trading obligation. From the date the UK leaves the EU in a 'no- deal' scenario, EU27 FCs and NFC+s will no longer be able to satisfy their trading obligation by trading on those venues. EU27 FCs and NFC+s would only be able to continue to meet their trading obligation by trading on EU27 MTFs and OTFs, including those duplicate venues set up in an EU27 country by affiliates of the operators of UK venues. However, it is likely that the membership of those duplicate venues will be more restricted as many UK and other third-country firms will not become direct participants on those EU27 venues, as the primary liquidity is likely to remain on UK venues. There is also a risk that transactions between EU27 counterparties and UK counterparties will be subject to conflicting trading obligations. EU FCs and NFC+s must ensure compliance with the derivatives trading obligation when trading with third-country counterparties that would be subject to that obligation if they were established in the EU. After Brexit, counterparties established in the UK that are subject to the corresponding derivatives trading obligation under UK law must also ensure compliance with that corresponding obligation when trading with EU FCs and NFC+s. These counterparties would be prevented from trading with each other if the 7 Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (MAR). 33362-3-630-v8.2 - 11 - 70-20258076

EU and the UK do not recognise the same trading venues as permitted execution venues for the purposes of their respective derivatives trading obligations. In the absence of equivalence decisions under MiFIR in respect of UK trading venues:

- EU27 clients would lose access to important sources of liquidity available on UK venues even when they provide best available prices or liquidity in the relevant instruments. EU27 asset managers, insurance companies, banks and corporates subject to the trading obligation depend on the ability to source liquidity from a wide variety of international sources, especially for derivatives denominated in currencies other than the euro.
- EU27 banks and investment firms would not be able to access those UK venues to service their clients or to risk manage their own positions, disadvantaging their clients and putting those banks and investment firms at a competitive disadvantage. EU27 sovereigns, corporates and other end-users not subject to the trading obligation depend on the ability of intermediaries that are subject to the trading obligation to access international inter-dealer liquidity sources in order to manage interest rate and credit risks arising from a broad range of financial market activities, including debt issuance, provision of secondary bond liquidity and end-user hedging activity using derivatives.
- EU27 and UK counterparties may be subject to conflicting trading obligations when trading with each other, unless the UK makes an equivalence decision in respect of EU27 trading venues. Those counterparties might have to use a third-country trading venue that has been recognised as equivalent in both the EU and the UK in order to trade with each other. However, third-country trading venues may

not have the same range of participants or offer the same liquidity as EU27 or UK venues. • Global liquidity would be fragmented across multiple venues, increasing costs, reducing the efficiency of price formation and introducing additional fragilities in these important markets. The duplication of UK venues in the EU27 does not resolve the issues arising from fragmentation, rather it exacerbates them. Fragmentation will also be increased if EU counterparties are limited to trading on EU27 trading venues (and a small group of recognised third-country venues - but excluding those in the UK) and UK counterparties are limited to trading on UK trading venues (and a small group of recognised third-country venues - but excluding those in the EU27).

3. The UK will meet the criteria for equivalence under EMIR and MiFIR. As the Commission is aware, the European Union (Withdrawal) Act 2018 (EUWA) ensures that EU-related domestic law and EU regulations and decisions continue to have effect in the UK after the UK leaves the EU in a 'no-deal' scenario, subject to the amendments made under the powers conferred by the EUWA to ensure that they continue to work effectively. Under the EUWA, EMIR, MiFID2, MiFIR and MAR, the UK domestic law implementing EMIR, MiFID2, MiFIR and MAR, and the Level 2 measures adopted under that legislation will continue to apply in the UK after the UK leaves the EU in a 'no-deal' scenario (in the case of regulations and decisions to the extent that they are applicable in the UK at the date the UK leaves the EU). The UK Government is adopting a number of statutory instruments to ensure 33362-3-630-v8.2 - 12 - 70-20258076 that these will continue to work effectively in the UK.⁸ The UK regulators are also adopting a number of instruments under their delegated powers to ensure that their rulebooks and the technical standards under EMIR work effectively. Therefore, there should be no obstacle to the Commission making a determination as to the equivalence of the UK's legal, supervisory and enforcement regime with respect to UK trading venues under each of Article 2a of EMIR and Article 28(4) of MiFIR, as the regulatory requirements currently applicable to UK trading venues will continue to apply with necessary modifications to reflect the UK's status outside the EU. In addition, the UK should be regarded as having an effective equivalent system for the recognition of EU trading venues in relation to derivatives subject to the trading obligation in the UK for the purposes of Article 28(1)(d) of MiFIR. Article 28(1) of MiFIR will continue to apply in the UK, subject to amendments that ensure that UK FCs and NFC+s subject to the trading obligation under that Article (as it applies in the UK) will be able to execute trades in derivatives subject to that obligation on EU trading venues if HM Treasury makes regulations recognising the equivalence of the EU regime (and the EU continues to have an effective equivalent system for recognising UK trading venues). The UK Government is also making regulations to allow HM Treasury to make the equivalence decisions for this purpose by direction in advance of Brexit.⁹ However, as discussed above, unless both the EU and the UK make equivalence decisions with respect to each other's trading venues, there is a risk that EU27 and UK counterparties may be subject to conflicting trading obligations when trading with each other.

4. The Commission should act to adopt equivalence decisions with respect to UK trading venues. Therefore, the Associations consider that the Commission should prepare the necessary implementing acts to recognise the equivalence of UK derivatives trading venues under Article 2a of EMIR and Article 28(4) of MiFIR with a view to those acts taking effect at or very shortly after the UK leaves the EU without concluding a withdrawal agreement providing for a transition period. It will be particularly important that a decision under Article 2a of EMIR with respect to UK regulated markets at least takes effect within the 30 working days after the UK leaves the EU in a 'no-deal' scenario so as to minimise (if not eliminate) the risk of a change of status of EU or third-country NFCs under EMIR and to minimise the impact on FCs seeking to qualify as SFCs. It will also be important to ensure that a decision under Article 28(4) of MiFIR takes effect at or as soon as possible after the UK leaves the EU in a 'no-deal' scenario to reduce the

⁸ The Markets in Financial Instruments (Amendment) (EU Exit)

Regulations 2018 (2018/1403), the Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (2018/1318), the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (2018/1184), the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (awaiting Parliamentary approval) and the Market Abuse (Amendment) (EU Exit) Regulations 2018 (awaiting Parliamentary approval). 9 The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 (awaiting Parliamentary approval). 33362-3-630-v8.2 - 13 - 70-20258076 impact of the fragmentation of liquidity for OTC derivatives resulting from non-recognition of UK MTFs or OTFs. If necessary, the Commission could consider a temporary or limited equivalence decision such as that made with respect to UK central counterparties and central securities depositories.¹⁰ It is important that the Commission indicates the approach that it intends to take as soon as possible in order to enable EU27 clients and counterparties to take appropriate action and to reduce uncertainty and to avoid disruption of financial markets.

10 Commission implementing decision (EU) 2018/2031 of 19 December 2018 determining, for a limited period of time, that the regulatory framework applicable to central counterparties in the United Kingdom of Great Britain and Northern Ireland is equivalent, in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council and Commission Implementing Decision (EU) 2018/2030 of 19 December 2018 determining, for a limited period of time, that the regulatory framework applicable to central securities depositories of the United Kingdom of Great Britain and Northern Ireland is equivalent in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council. 33362-3-630-v8.2 - 14 - 70-20258076

ANNEX 2 The Associations

About FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from more than 48 countries as well as technology vendors, lawyers and other professionals serving the industry. FIA's mission is to: ■ support open, transparent and competitive markets, ■ protect and enhance the integrity of the financial system, and ■ promote high standards of professional conduct. As the leading global trade association for the futures, options and centrally cleared derivatives markets, FIA represents all sectors of the industry, including clearing firms, exchanges, clearing houses, trading firms and commodities specialists from more than 48 countries, as well as technology vendors, lawyers and other professionals serving the industry.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 900 member institutions from 69 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.

About AIMA

The Alternative Investment Management Association (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 hedge fund and private credit 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 33362-3-630-v8.2 - 15 - 70-20258076 programmes and sound practice guides. AIMA works to raise media and

public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 100 members that manage \$350 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors).

About AFME The Association for Financial Markets in Europe (AFME) is the voice of all Europe’s wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent the leading global and European banks and other significant capital market players. We advocate for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. We aim to act as a bridge between market participants and policy makers across Europe, drawing on our strong and long-standing relationships, our technical knowledge and fact-based work.

About Associazione Intermediari Mercati Finanziari – ASSOSIM ASSOSIM represents the interests of the intermediaries active on the Italian financial markets, namely, Italian investment firms, investment banks and subsidiaries of foreign investment services providers. Its members account for nearly the entire amount of the transactions carried out on the Italian stock markets as from Italy, and more than 80% when considering cross border transactions.

About the EBF The European Banking Federation is the voice of the European banking sector, bringing together national banking associations from 45 countries. The EBF is committed to a thriving European economy that is underpinned by a stable, secure and inclusive financial ecosystem, and to a flourishing society where financing is available to fund the dreams of citizens, businesses and innovators everywhere. Website: www.ebf.eu Twitter: @EBFeu.

About EFET The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org.

33362-3-630-v8.2 - 16 - 70-20258076

About ICI Global ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated funds globally. ICI’s membership includes regulated funds publicly offered to investors in jurisdictions worldwide, with total assets of US\$27.7 trillion. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of regulated investment funds, their managers, and investors. ICI Global has offices in London, Hong Kong, and Washington, DC.

About the Investment Association The Investment Association is the trade body that represents investment managers based in the UK, whose 255 members collectively manage over GBP 7.7 trillion on behalf of clients. The UK is the second largest investment management centre in the world and manages 35% of European assets. Our purpose is to ensure investment managers are in the best possible position to:

- Build people’s resilience to financial adversity
- Help people achieve their financial aspirations
- Enable people to maintain a decent standard of living as they grow older
- Contribute to economic growth through the efficient allocation of capital

The money our members manage is in a wide variety of investment vehicles including authorised investment funds and pension funds. The asset management industry employs approximately 38,000 people. More information can be viewed on our website.

About the Securities Industry and Financial Markets Association’s Asset Management Group The Securities Industry and Financial Markets Association’s Asset Management Group (SIFMA AMG) brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG’s members represent U.S. and global asset management firms whose

combined 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.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.