sifma® Invested in America | asset management group

The European Securities and Markets Authority
CS 60747
103 rue de Grenelle
75345 Paris Cedex 07, France

European Banking Authority
One Canada Square (Floor 46)
Canary Wharf
London E14 5AA, UK

The European Insurance and the Occupational Pensions Authority
Westhafenplatz 1
60327 Frankfurt am Main, Germany

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Re: Response to Second Consultation Paper: Draft Regulatory Technical Standards on risk-mitigation techniques for OTC-derivative contracts not cleared by a CCP under Article 11(15) of Regulation (EU) No 648/2012 (the Consultation Paper)

1. Introduction and summary

The Asset Management Group (the **AMG**)[1] of the Securities Industry and Financial Markets Association (**SIFMA**) welcomes this opportunity to contribute to your consideration of risk-mitigation techniques for OTC-derivative contracts not cleared by a CCP under Article 11(15) of EMIR[2] as proposed in the draft regulatory technical standards (the **Draft RTS**) set out in the Consultation Paper (the **Margin Requirements**).

The AMG has not responded to each of the specific questions posed by the European Supervisory Authorities (the **ESAs**) in the Consultation Paper. Instead, the AMG's approach in this letter is to focus on the wider concerns relating to the application of the Margin Requirements, in particular:

(A) the issues created by the dual application of the Margin Requirements and the margin rules of another jurisdiction and the importance of equivalence decisions to avoid market disruption and to facilitate compliance;

(B) the calculation of the IM threshold in the context of clients managed by multiple asset managers;

(C) the use of third-party custody arrangements in respect of initial margin (**IM**) posted as cash;[3] and

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1 The AMG's members represent US asset management firms whose combined assets under management exceed $30 trillion. The clients of AMG member firms include, among others, registered investment companies, endowments, state and local government pension funds, private sector Employee Retirement Income Security Act of 1974 pension funds and private funds such as hedge funds and private equity funds.

2 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.

3 The AMG's response answers the ESAs's Question 7 of the Draft RTS.

(D) the treatment of FX Transactions (as defined below) in respect of (i) the calculation of the IM threshold and (ii) the application of the IM and variation margin (**VM**) requirements.

For the reasons detailed below, the AMG believes:

(1) equivalence decisions need to be made in good time prior to the implementation of the Margin Requirements so as to avoid the dual application of the Margin Requirements and the potentially conflicting rules of another jurisdiction and to achieve legal certainty for the market;

(2) in respect of clients managed by multiple asset managers, the IM threshold should be calculated in respect of those uncleared derivative transactions managed by each asset manager without aggregation, rather than on a legal entity (or legal entity group) basis;

(3) the ESAs should provide clarification that third-party custody arrangements in respect of cash posted as IM are acceptable by removing the requirement to protect against third-party custodian risk; and

(4) the exemption under Article 5 GEN of the Draft RTS in respect of FX Transactions from the IM requirement should be extended: (i) to exclude FX Transactions from the calculation of the IM threshold; and (ii) to exempt FX Transactions from the VM requirement.

2. Dual application of margin requirements

There are circumstances where a counterparty pair[4] may be subject to the Margin Requirements and the margin rules of a non-EU jurisdiction.[5] For example, where an uncleared OTC derivative contract is entered into between:

(a) *an EU FC which is also a Covered Swap Entity[6] under the PR Rules[7] and any other entity (which is an EU financial counterparty (**FC**), a non-financial counterparty which has exceeded the clearing threshold (**NFC+**) or a non-EU entity which would be a FC or NFC+ if it were established in the EU (a **TCE FC** or **TCE NFC+**, respectively)*: the Margin Requirements would apply (either under Article 1(3) GEN of the Draft RTS, where both counterparties are EU entities or Article 3 GEN of the Draft RTS where the other counterparty is a non-EU entity) and the Covered Swap Entity may[8] also be subject to margin requirements under the PR Rules;

(b) *an EU entity which is an FC or an NFC+ and a TCE FC or TCE NFC+*: the Margin Requirements would apply such that the counterparties must exchange IM and VM (see Article 3 GEN of the Draft RTS) and, to the extent the TCE FC or TCE NFC+ is subject to any margin rules under its jurisdiction, these rules would also apply; and

4 For the purpose of this paragraph 2, we have assumed that each counterparty has exceeded the relevant thresholds for the IM and VM requirements to apply under the Margin Requirements and the rules of the relevant non-EU jurisdiction.

5 For the purposes of this response we have considered certain aspects of the PR Rules (as defined below) and CFTC Rules (as defined below) but there will be other jurisdictions where similar conflicts apply.

6 **Covered Swap Entity** means a Swap Entity that is prudentially regulated by one of the Prudential Regulators.
Prudential Regulators means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration or the Federal Housing Finance Agency.
Swap Entity means a security-based swap dealer (as defined in the Securities Exchange Act of 1934 (the **Exchange Act**)), a major security based swap participant (as defined in the Exchange Act), a swap dealer (as defined in the Commodity Exchange Act of 1934 (the **CEA**)) or a major swap participant (as defined in the CEA).

7 The Prudential Regulators' Proposed Margin and Capital Requirements for Covered Swap Entities, 79 Fed. Reg. 57348 (Sept. 24, 2014) (the **PR Rules**).

8 Whether the Covered Swap Entity will ultimately have to comply with the PR Rules will depend on its classification and the classification of its counterparty under the PR Rules (which may cause it to benefit from a total exclusion when trading with that counterparty) or, to the extent substituted compliance is available to the counterparty pair, if a substituted compliance determination has been made by the Prudential Regulators in respect of the Margin Requirements.

(c) *(i) two TCE FCs through their EU branches or (ii) two third country entities where one entity has a guarantee which meets the requirements of Article 2 of the DSFE RTS[9] from an EU FC*: the Margin Requirements would apply due to the application of the DSFE RTS and, to the extent one or both of the counterparties are subject to the rules of their jurisdiction, these rules would also apply.

If the CFTC Rules[10] are applicable, the definition of U.S. person is broad enough to capture certain entities subject to the Margin Requirements: for example, a fund may be domiciled within the EU but be deemed to have its principal place of business in the United States under the CFTC rules. Such fund might therefore constitute an FC or an NFC+, while its principal place of business determination would simultaneously establish it as a U.S. person. It could therefore be equally subject to the mandatory margin requirements under both the CFTC Rules and EMIR.

Moreover, to the extent the CFTC Rules apply and the transaction is conducted on a cross border basis, the problems highlighted above will be exacerbated. Indeed, the CFTC Rules' recently proposed cross border standards limit substituted compliance and contemplate having multiple jurisdictions' margin requirements apply to the same transaction.[11]

Based on the above examples, it is clear that a variety of entities could be subject to the Margin Requirements and the margin rules of another jurisdiction. In the absence of an equivalence decision under Article 13(2) of EMIR (or such similar decision under the rules of the other jurisdiction), it is not clear how the counterparty pair should comply with these parallel and potentially conflicting obligations. Overlapping or conflicting requirements may lead to significant regulatory uncertainty as market participants will be required to assess how to comply with duplicative and/or inconsistent provisions in a manner that avoids confusion and mitigates economic impact.

2.1 Impossibility / impracticality of dual compliance

Although the Margin Requirements and the margin rules of other non-EU jurisdictions have been largely based on international standards[12], there are variances in the detail between rules of different jurisdictions. This will make compliance with the rules of both jurisdictions impracticable, if not impossible. For example:

- ***IM thresholds***: under the Margin Requirements the threshold for the collection of IM is an aggregate month-end average notional amount of non-centrally cleared derivatives for the months June, July and August of the relevant year of EUR 8 billion.[13] In contrast, both the CFTC and the Prudential Regulators have proposed a USD 3 billion IM threshold. By way of example on how this is problematic:
    - *EU FC which is also a Covered Swap Entity under the PR Rules*: in these circumstances *both* the Margin Requirements and the PR Rules will apply to the EU FC / Covered Swap Entity. This leaves the EU FC / Covered Swap Entity in the

9 Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations (the **DSFE RTS**).

10 The Commodity Futures Trading Commission's (**CFTC**) proposed rule on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (79 Fed. Reg. 59898 (Oct. 3, 2014), available at: http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2014-22962a.pdf, and the CFTC's proposed rule on Cross-Border Application of the Margin Requirements, to be published, available at http://www.cftc.gov/PressRoom/PressReleases/pr7192-15 (the **CFTC Rules**).

11 CFTC's proposed rule on Cross-Border Application of the Margin Requirements, to be published, available at http://www.cftc.gov/PressRoom/PressReleases/pr7192-15.

12 Basel Committee on Banking Supervision and Board of International Organization of Securities Commissions's (**BCBS-IOSCO**) report "Margin requirements for non-centrally cleared derivatives" dated September 2013 (http://www.bis.org/publ/bcbs261.pdf) and March 2015 (http://www.bis.org/bcbs/publ/d317.pdf).

13 Article 7(1) GEN of the Draft RTS.

conflicted position where it is subject to both the EUR 8 billion IM threshold (under the Margin Requirements) and the USD 3 billion IM threshold (under the PR Rules).

  - *EU counterparty (which is subject to the Margin Requirements) trades with US counterparty (which is subject to the PR Rules)*: the counterparty pair will have to satisfy *both* the Margin Requirements and the requirements of the PR Rules as otherwise one entity will be non-compliant with its applicable rules. It is unclear how the IM threshold could be applied in these circumstances as each counterparty is required to exchange IM based on a different threshold amount.

- ***Eligible collateral for VM***: under the Margin Requirements eligible collateral is cash in any currency and any of the assets listed in Article 1 LEC of the Draft RTS. In contrast, the PR Rules are much narrower, only permitting USD cash or cash in the currency in which payment obligations under the swap are required to be settled as eligible collateral for VM. Similar to the examples in respect of the IM thresholds above, this is problematic both for any entity which is subject to *both* the Margin Requirements and the PR Rules and any counterparty pair which is subject to *both* the Margin Requirements and the PR Rules.

- ***Application of margin requirements to FX Transactions***: as discussed in more detail in paragraph 5 below, under the Margin Requirements, FX Transactions are only exempted from the IM requirement. In contrast, the PR Rules and CFTC Rules exempt physically settled foreign exchange forwards and foreign exchange swaps from both the VM and IM requirements. Where transactions are subject to the Margin Requirements and the PR Rules or CFTC Rules, there is a conflict between the exemption from the VM requirement under the PR Rules or CFTC Rules and the requirement to exchange VM under the Margin Requirements.

In any of the above examples, the relevant entity or counterparty pair (as applicable) is left in the impossible position where it is subject to conflicting obligations under the Margin Requirements and the PR Rules or CFTC Rules (as applicable). It is highly likely that this type of conflict will also arise in relation to the margin rules of other jurisdictions.

Given the irreconcilable nature of these conflicting requirements, the only feasible solution is for the parties to revert to the "lowest common denominator"; in other words, the strictest rules will need to be applied (causing over-compliance with the rules of the other jurisdiction). In the examples above, this will mean that: the USD 3 billion IM threshold will be used (i.e. the PR Rules apply); cash will be the only eligible asset exchanged as VM (i.e. the PR Rules apply); and the counterparties will need to exchange VM in relation to their FX Transactions (i.e. the Margin Requirements apply). This will cause an un-level playing field and create regulatory arbitrage. Entities may cease trading with counterparties in "problematic" jurisdictions causing sections of the global market to be cut off, decreasing competition, increasing risk of concentration, unattractive pricing/additional expense and enhancing the risk of leaving exposures unhedged. At a market level, the consequences could include market fragmentation and loss of liquidity.

2.2 Legal certainty

The AMG believes that it is critical that market participants have complete legal certainty as to which margin regime they will face in a particular transaction with a particular counterparty. While one of the goals of the Margin Requirements is to reduce systemic risk, we note that legal uncertainty itself can give rise to an increase in systemic risk. As discussed in paragraphs 2 and 2.1 above, the dual application of different margin regimes may create serious problems for counterparties. The AMG believes that the best way to achieve legal certainty and eliminate these risks is to ensure that both counterparties are subject to the same margin requirements.

2.3 Equivalence

In the AMG's view, as long as both counterparties' jurisdictions' margin requirements are consistent with international standards and each recognizes the other as sufficiently equivalent, the two counterparties should be able jointly to choose at the outset of the transaction which of their jurisdictions' law applies for margin purposes.

For this reason, it is crucial that equivalence decisions under Article 13(2) of EMIR in respect of the mandatory exchange of margin for uncleared derivatives of third countries are made in good time before the application of the Margin Requirements to any counterparty pair. This will give entities certainty as to what margin requirements and which regimes will apply (essential for all entities but particularly so for entities such as certain asset managers which need to determine the scope of impacted clients, client documentation and process changes and any related client outreach) and should help prevent certain entities becoming subject to potentially conflicting margin requirements in multiple jurisdictions.

The AMG notes that the phase-in for the implementation of the Margin Requirements[14] is set to correspond with the recommendations of BCBS-IOSCO in the March 2015 report. Other jurisdictions have also adopted the same schedule to implementation. However, as highlighted above, the considerable difficulties in complying with margin requirements under multiple jurisdictions and the legal uncertainty that would ensue means equivalence should be established in good time prior to implementation.

To the extent it will not be possible to make such equivalence decisions in good time prior to implementation of the Margin Requirements, the AMG encourages international regulators to keep in mind practical considerations, as well as principles of comity.

2.4 Further considerations in respect of equivalence

As discussed in paragraph 2.1 above, there are divergences between the margin requirements under different jurisdictions. The AMG is concerned that there is a real risk that equivalence decisions in respect of certain jurisdictions will inadvertently lead to the application of a stricter regime than that proposed under EMIR. Article 13(3) of EMIR implies that where a counterparty pair can rely on an equivalence decision, that counterparty pair will be deemed to have satisfied their EMIR obligations through their compliance with the rules of that third country jurisdiction. For example, if a positive equivalence decision was made in respect of the PR Rules (provided one of the counterparties is established in the US), a counterparty pair subject to both the Margin Requirements and PR Rules would need to comply with the PR Rules in order to satisfy its obligations under the Margin Requirements.[15]

Considering certain examples discussed at paragraph 2.1 above, this would mean:

- *in respect of the IM threshold*: the threshold of USD 3 billion would apply; and
- *in respect of VM eligible collateral*: only USD cash or cash in the currency in which payment obligations under the swap are required to be settled would constitute VM eligible collateral. This is of particular concern for the AMG as it is likely that clients will want to be able to post securities (and other assets) rather than cash as VM as these are the assets they already own.

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14 See Article 1(3) FP of the Draft RTS in respect of IM and Article 1(6) FP of the Draft RTS in respect of VM.

15 We assume that there is no substituted compliance (or other similar "equivalence" decision) in respect of the Margin Requirements by the third country jurisdiction.

The AMG therefore strongly encourages the ESAs to continue dialogue with the Prudential Regulators and regulators of other jurisdictions implementing margin rules to ensure global harmony and consistency in approach with the BCBS-IOSCO framework. In relation to the IM threshold and VM eligible collateral, in particular, the AMG's view is that the EU approach is the correct approach and counterparties should not be forced to comply with more onerous requirements of other jurisdictions as a result of equivalence decisions.

In addition, the AMG wishes to highlight that equivalence decisions may not provide a full solution to the problem of duplicative and conflicting obligations under the Margin Requirements and the rules of another jurisdiction. For example, as discussed, where an EU FC which is also a Covered Swap Entity transacts with a third country entity not established in the US, the Margin Requirements and the PR Rules will apply. However, a positive equivalence decision will not help in these circumstances as neither counterparty is *established in that third country* (i.e. the US). While we assume that a substituted compliance determination (or similar "equivalence" decision) by the Prudential Regulators would permit the Margin Requirements to apply in these circumstances, the AMG encourages the ESAs to continue dialogue with the Prudential Regulators and other regulators to ensure these issues are overcome.

3. Calculating the IM threshold in the context of the asset management industry

3.1 IM threshold

Article 1(3) FP provides for a phased implementation of the IM requirement. If and when counterparties become subject to the IM requirements depends on whether both counterparties have or belong to groups, each of which has, an aggregate average notional amount of non-centrally cleared derivatives which exceeds a certain IM threshold.

The "aggregate average notional amount" shall be calculated as the average of the total gross notional amount: (a) recorded in the last business day of the relevant months; (b) including all entities of the group; and (c) including all the non-centrally cleared OTC derivative contracts of the group.

There is a discrepancy between the months listed for the purpose of determining the IM threshold in Article 7 GEN of the Draft RTS (June, July and August) and Article 1(3) FP of the Draft RTS (March, April and May). To avoid: (i) the inconsistent application of the IM threshold in the year where the provisions of Article 1(3) FP of the Draft RTS are overtaken by Article 7 GEN of the Draft RTS; and (ii) the need to conduct two assessments in one year, the AMG believes the months should be aligned so that Article 7 GEN of the Draft RTS refers to "March, April and May".

3.2 Application of IM threshold to clients[16] under management

The AMG welcomes the clarification in Recital (13) of the Draft RTS that investment funds should be treated as a special case, and should not be considered as part of the same "group" where the funds are distinct segregated pool of assets and are not collateralised, guaranteed or supported by other investment funds or the investment advisor itself.

However, there will still be considerable difficulties in determining the classification of funds for the purpose of determining the relevant IM phase-in date where the fund has multiple asset managers. More widely, the difficulties regarding classification of funds will apply across the majority of clients under management.

[16] Note that clients may include a diverse range of entities, including: registered investment companies, endowments, state and local government pension funds, private sector Employee Retirement Income Security Act of 1974 pension funds and private funds such as hedge funds and private equity funds

First, it can be problematic for clients to ascertain the parameters of the IM threshold calculation. There are still difficulties in applying the "group" definition and an entity in a "group" may not have access to the relevant data of other "group" members to feed in to its IM threshold calculation.

Secondly, as the calculation of the IM threshold is carried out at an entity and entity-group level, asset managers will need to rely on their clients to confirm whether or not the relevant IM threshold has been exceeded. From a practical perspective, where a single client has a number of separate accounts with different asset managers, the multiple asset managers may not know of each other's existence and would not have the ability to act in concert or manage the derivatives positions of the client on a group basis. Any concerted effort or shared communications would likely violate the managers' contractual or fiduciary obligations. Therefore, in order to carry out the IM threshold calculation, clients will need to collect data, taking into account their positions relating to each asset manager, and consider their position on a group basis (although see above for the difficulties regarding "group"). In addition, each asset manager will need to undertake a client outreach (of an asset manager's own clients) to obtain the relevant data. The difficulty of this process will be exacerbated where the clients are non-EU entities and are not themselves directly subject to EMIR or the Margin Requirements.

The AMG believes that the issues highlighted above could be easily addressed by amending the calculation of the IM threshold in respect of clients under management. Rather than looking to the client on an entity (or entity-group basis), the test should be applied to a client based on the aggregate average notional amount of non-centrally cleared derivatives for the relevant months entered into and managed by each asset manager.

By way of context, the use of separate asset managers and the separation of portfolios are part of long-standing business practices in the asset management industry. These long-standing business practices are often memorialized in client and trading documentation. The client and an asset manager enter into an investment management agreement (**IMA**) under which the asset manager is given sole responsibility and authority for the management of the specified portfolio, including investments in uncleared swaps. Such IMAs often contain limited recourse provisions, which provide that the asset manager will limit any liability arising from its investments to the assets in that portfolio. The purpose of such provisions is to protect the beneficial owners and, ultimately, the investors as applicable (e.g., investors in a fund or beneficiaries in a pension plan), by allowing the asset manager to manage risk exposure through use of separate pools of assets for different strategies.

While those portfolios relate to the same "beneficial owner," which is the fund or pension fund itself, the portfolios are separate and distinct pools of assets with limited liability in these cases. As the assets and liabilities of these portfolios are contractually and legally separate, the portfolios are also separately margined without netting across portfolios. Such contractual agreements should be recognized and respected in the calculation of the IM threshold for particular investments managed by asset managers where there is separate recourse. For example, where positions in different portfolios within the same series trust are subject to limited recourse and are managed separately, in accordance with well-established market practice, there is generally no risk of evasion of margin requirements. As a result, the AMG believes that the limited recourse provisions which have been negotiated with counterparties should be respected and therefore the positions in these separate portfolios should not be aggregated together in determining whether the IM threshold has been exceeded.

For example, to the extent client X has three investment managers with the following aggregate average notional amount of non-centrally cleared derivatives for the relevant months:

- Asset manager 1: EUR 1 billion;

- Asset manager 2: EUR 9 billion; and

- Asset manager 3: EUR 3 billion,

so long as there is adequate separation and limited recourse in respect of the assets managed by each asset manager (as described above), the amounts should not be aggregated across asset managers. Instead, the uncleared OTC derivative contracts entered into by asset managers 1 and 3 would not be subject to the IM requirements as the value of the uncleared derivatives they have entered into in respect of client X have not exceeded the IM threshold. Conversely, as the value of uncleared derivatives entered into by asset manager 2 in respect of client X have exceeded the IM threshold, IM would need to be posted from 1 September 2020.

The calculation of the VM threshold under Article 1(6) FP of the Draft RTS should also be carried out by reference to value of a client's assets under management in accordance with the considerations set out regarding the IM threshold above.

The AMG would also welcome the assessment of the clearing categories for the purposes of the clearing obligation under Article 4 of EMIR to be done by reference to a client's assets under management in accordance with the considerations set out regarding the IM threshold above. However, the AMG considers the consequences of applying this calculation method for clients under management in the context of the Margin Requirements to be much greater. Under the Clearing Proposal[17], the calculation in respect of each client only needs to occur if the entity is either classified as an FC or alternative investment fund (as defined in Article 4(1)(a) of Directive 2011/61/EU) that is an NFC and must only be assessed once (to determine if the entity is a Category 2 or Category 3 entity).[18] In contrast, under the Margin Requirements, the calculation would need to occur each year. This would amount to a considerable compliance burden both for the clients and their asset managers.

4. Treatment of cash

The AMG has concerns that the treatment of cash accounts under the Draft RTS may inadvertently prohibit counterparties from availing themselves of the protections offered by third-party custody arrangements. The combined effect of the proposed segregation and reuse provision[19] appears to essentially prohibit placing cash on deposit with the custody bank, which is the standard practice for all custody arrangements, both for cash collateral posted and for any cash flows related to the holding of securities (such as dividends, distributions, redemption/maturity proceeds, cash generated from reinvestment, etc.). Without the ability to place such cash on deposit with the custodian, the use of third-party custody arrangements will be impossible under the Margin Requirements.

Cash on deposit with a custodian (or any bank) necessarily creates credit risk to the custodian, which should, of course, be monitored and managed. Bank custodians are, of course, subject to a wide range of prudential standards, including leverage and risk based capital, liquidity, resolution planning, stress testing, and large exposures/credit concentration requirements which are specifically designed to protect the solvency of the bank and protect depositors. In addition, the cash reinvestment provision added in the draft RTS under Article 1(2) REU will provide an effective tool for counterparties to manage such credit exposure.

The ability to place cash on deposit with the custodian is an essential element of a third-party custody arrangement, and will only be feasible under the Margin Requirements if the ESAs provide additional clarification that such deposits arrangements are permissible.

[17] Draft clearing obligation regulatory technical standards set out in ESMA's Consultation Paper: Clearing Obligation under EMIR (no. 4) (11 May 2015) (the **Clearing Proposal**).
[18] Article 2 of the Clearing Proposal.
[19] Article 1 SEG and Article 1 REU of the Draft RTS.

5. Exemption for FX contracts

The AMG welcomes the provisions of Article 5 GEN of the Draft RTS in relation to the exemption of physically settled foreign exchange forwards, foreign exchange swaps and currency swaps (together, **FX Transactions**) from the IM requirements under the Margin Requirements. However, the AMG's view is that this exemption does not go far enough, and, as a result, could lead to regulatory arbitrage.

First, FX Transactions should be excluded from the calculation of the IM threshold (under Article 7 GEN of the Draft RTS and Article 1(3) FP of the Draft RTS). The AMG believes that there is no benefit to including FX Transactions in the calculation of IM threshold as their inclusion would have adverse consequences to certain market participants. For example, funds and other end users that are heavy users of such products but otherwise use few derivatives would face increased IM obligations for transactions other than FX Transactions. As a result, such funds would incur additional costs with respect to their limited swaps activities with no corollary benefit in terms of reduction of systemic risk.

Secondly, the AMG advocates that FX Transactions should also be excluded from the VM requirements. This is consistent with the PR Rules and CFTC Rules which exempt physically settled foreign exchange forwards and foreign exchange swaps from both the IM and VM requirements. Therefore, in order to achieve a level playing field across jurisdictions, both to maintain the competitiveness of entities subject to the Margin Requirements and to avoid the jurisdictional conflicts highlighted in paragraph 2 above, the AMG proposes that FX Transactions should be exempt from both IM and VM requirements under the Margin Requirements.

We appreciate your consideration of our response and stand ready to provide any additional information or assistance that you might find useful. Should you have any questions, please do not hesitate to contact Tim Cameron at +1-202-962-7447 or tcameron@sifma.org or Laura Martin at +1-212-313-1176 or lmartin@sifma.org.

Sincerely,

Timothy W. Cameron, Esq.
Managing Director, Asset Management Group – Head
Securities Industry and Financial Markets Association

Laura Martin
Managing Director and Associate General Counsel
Asset Management Group
Securities Industry and Financial Markets Association