



Invested in America

| asset management group

March 24, 2016

Chairman Timothy G. Massad
Commissioner Sharon Y. Bowen
Commissioner J. Christopher Giancarlo
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Comptroller of the Currency Thomas J. Curry
Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219

Chair Janet L. Yellen
Board of Governors of the Federal Reserve
System 20th Street and Constitution Avenue,
NW Washington, DC 20551

Chairman and CEO Kenneth A. Spearman
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Director Melvin L. Watt
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street, SW
Washington, DC 20024

Chairman Martin J. Gruenberg
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Final Margin Rules for Uncleared Swaps Transactions¹

To Whom It May Concern:

The Asset Management Group of the Securities Industry and Financial Markets Association (“SIFMA AMG” or “AMG”)² writes to supplement our January 19, 2016 request for relief³ from

¹ Department of the Treasury Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration and Federal Housing Finance Agency, Margin and Capital Requirements for Covered Swap Entities; Final Rule, 80 Fed. Reg. 74840 (Nov. 30, 2015); Commodity Futures Trading Commission, Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Final Rule, 81 Fed. Reg. 636 (January 6, 2016).

² SIFMA AMG’s members represent U.S. asset management firms whose combined global assets under management exceed \$34 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds.

³ See SIFMA AMG’s letter dated January 19, 2016 re: Final Margin Rules for Uncleared Swaps Transactions, available at: <http://www.sifma.org/issues/item.aspx?id=8589958403>

New York | Washington

120 Broadway, 35th Floor | New York, NY 10271-0080 | P: 212.313.1200 | F: 212.313.1301

www.sifma.org | www.investedinamerica.org

the requirement to consolidate seeded investment funds⁴ as “affiliates” for threshold calculations under the final margin rules for uncleared swaps transactions (“Final Margin Rules”).⁵

Since submitting our January 19th request, both the European Union and Canada have released uncleared swap margin requirements that exclude seeded investment funds from consolidated margin calculations, permitting separate calculations for any fund that is not guaranteed or receiving other credit support from another entity. The Canadian requirements, released on February 29, 2016,⁶ impose calculations of exposure at the consolidated group level; however, “[i]nvestment funds that are managed by an investment advisor are considered distinct entities that are treated separately when applying the threshold as long as the funds are distinct legal entities that are not collateralised by or are otherwise guaranteed or supported by other investment funds or the investment advisor in the event of fund insolvency or bankruptcy.”⁷ Likewise, the European Supervisory Authorities released the final draft Regulatory Technical Standards for non-cleared swaps on March 8, 2016,⁸ which similarly calculates amounts for threshold purposes at the consolidated group level but exclude non-guaranteed investment funds: “[i]nvestment funds may be considered distinct entities and treated separately when applying the thresholds ... only where the funds are distinct segregated pools of assets for the purposes of the fund’s insolvency or bankruptcy that are not collateralised, guaranteed or supported by other investment funds or the investment managers.”⁹

In adopting this approach, both Europe and Canada have followed the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions’ (“BCBS/IOSCO”) framework while the U.S. has diverged.¹⁰ A seeded investment fund operating without a guarantee or other credit support will calculate its swaps exposure on a separate basis in Europe and Canada but on a consolidated basis in the U.S. if the fund is consolidated on the

⁴ By the term “seeded investment funds,” we are referring to investment funds initially funded with seed capital by a sponsor and consolidated on the sponsor’s or the sponsor’s group’s financial statements.

⁵ See SIFMA AMG Submits Comments to Multiple Regulators on Final Margin Rules for Uncleared Swaps Transactions, *available at*: <http://www.sifma.org/issues/item.aspx?id=8589958403>.

⁶ See Office of the Superintendent of Financial Institutions issues final Guideline E-22 Margin Requirements for Non-Centrally Cleared Derivatives, *available at*: http://www.osfi-bsif.gc.ca/Eng/osfi-bsif/med/Pages/e22_nr_0216.aspx

⁷ *Id.* at note 2.

⁸ See ESAs publish final draft technical standards on margin requirements for non-centrally cleared OTC derivatives, *available at*: <http://www.eba.europa.eu/-/esas-publish-final-draft-technical-standards-on-margin-requirements-for-non-centrally-cleared-derivatives>.

⁹ *Id.* at paragraph 14; see also *id.* at Art. 8 (3) (“Investment funds may be considered distinct entities and treated separately when applying the thresholds referred to in paragraph 1, only where the funds are distinct segregated pools of assets for the purposes of the fund’s insolvency or bankruptcy that are not collateralised, guaranteed or supported by other investment funds or the investment managers.

¹⁰ See BCBS/IOSCO Margin requirements for non-centrally cleared derivatives, *available at*: <http://www.bis.org/bcbs/publ/d317.htm>, Commentary at 2(ii) and Requirement 2 n.10. (March 2015).

sponsor's financial statements (i.e., a 51 percent interests for some funds while as little as 5 percent for trusts or collective investment schemes and 10 percent for certain international series funds).

AMG urges the Prudential Regulators and the Commission to address this issue by providing a temporary exclusion of seeded investment funds from consolidated margin calculations well in advance of the September 2016 implementation date followed by a permanent change to exclude seeded investment funds. AMG believes that this change is a small but important adjustment to the final rules.

We stand ready to provide any additional information or assistance that the Prudential Regulators or the Commission might find useful. Should you have any questions, please do not hesitate to contact Tim Cameron at 202-962-7447 / tcameron@sifma.org or Laura Martin at 212-313-1176 / lmartin@sifma.org.

Respectfully submitted,



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



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

cc: Governor Daniel Tarullo
Scott Alvarez, General Counsel
Mr. Michael Gibson, Director, Division of Banking
Supervision and Regulation
Mr. Mark Van Der Weide, Deputy Director,
Division of Banking Supervision and Regulation
Mr. Felton Booker, Senior Advisor, Division of
Banking Supervision and Regulation
Board of Governors of the Federal Reserve System

Mr. Paul Nash, Senior Deputy Comptroller and Chief of Staff
Ms. Amy Friend, Senior Deputy Comptroller and Chief Counsel
Office of the Comptroller of the Currency

Mr. Bobby Bean, Associate Director, Capital Markets Branch
Federal Deposit Insurance Corporation

Mr. Jeffrey Bandman

Commodity Futures Trading Commission