MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

June 4, 2018

Via E-Mail:
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Supplemental Comments in Response to Federal Reserve Staff Questions on Managed Funds Association Regulatory Priorities

Dear Ladies and Gentlemen:

Managed Funds Association ("**MFA**")[1] is providing the Board of Governors of the Federal Reserve (the "**Federal Reserve**" or the "**Board**") with additional comments to supplement MFA's comment letter dated September 1, 2017 ("**MFA September Letter**"),[2] and MFA's November 30, 2017 meeting ("**MFA November Meeting**") with Mark Van Der Weide, General Counsel, Legal Division of the Federal Reserve, and three senior Federal Reserve Staff members: Mark Buresh, Elizabeth MacDonald, and Dafina Stewart. The MFA September Letter asked the Federal Reserve to revise several proposed and final rules to minimize unintended harms on banks' clients such as our members. In the MFA November meeting, we discussed MFA's concerns with certain aspects of the proposed net stable funding ratio rules, the final supplementary leverage ratio rules (the "**SLR**"), and the final initial margin ("**IM**") requirements for uncleared swaps. In response to our concerns, Federal Reserve Staff asked several detailed questions that relate to the practical implications of these rules. After raising the Staff's questions in follow-up discussions with our members, MFA is submitting this letter to respond to these questions.

[1] 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. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, the Americas, Australia and many other regions where MFA members are market participants.

[2] *See* MFA September Letter, available at: https://www.managedfunds.org/wp-content/uploads/2017/09/MFA-Letter-to-Federal-Reserve-on-Regulatory-Priorities.pdf.

1. Supplementary Leverage Ratio (SLR)

Federal Reserve Staff asked about the flow-through impacts of the SLR on the buy-side's use of centrally cleared derivatives. Staff was interested to know whether these impacts shift from strategy to strategy, or by size or asset class.

In response, our members note that at present the SLR is having a more direct impact on banks than on them, citing cases in which certain banks have exited the clearing business altogether,[3] or have reduced client clearing services. Our members also have reported that some bank-affiliated dealers are "rationing" their client clearing services by asset size, particularly non-U.S. banks that are subject to the SLR as a binding minimum capital constraint. For smaller client firms with less active and less profitable trading volume, certain clearing members of central counterparties ("**CCPs**") are scaling back or terminating their clearing services to reduce their balance sheets. Of course, banking organizations allocate capital to business lines based on expected returns. As such, an organization will use its balance sheet to fund businesses that can meet return-on-equity ("**ROE**") targets given the amount of capital required to be held against the activities of each business. This explains why many of the larger client firms with active trading strategies that are more profitable for dealers in meeting their ROE targets have not yet been adversely affected by the SLR. However, as this "rationing" trend continues, our members are concerned that there will be fewer competitors and increasing pricing pressure on client clearing services. That pricing pressure will intensify as regulators in different jurisdictions fully implement their respective mandatory clearing initiatives.[4] To ensure that customers have fair and equal access to CCPs, MFA believes it is critical that customer clearing services remain available at an affordable price.

As the MFA September Letter explained, the SLR's current failure to recognize the purpose of client IM poses a threat to the use of cleared derivatives by customers. Because of the lack of offset for client IM, clearing members will incur large leverage ratio exposures, which will likely result in higher fees for customer clearing and needlessly reduce the ability of customers to hedge their economic risks.

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[3] *See* Deutsche Bank Walks Away From US Swaps Clearing, Financial Times (Feb. 9, 2017), *available at* https://www.ft.com/content/2392bc42-ee47-11e6-930f-061b01e23655; State Street Exiting Swaps Clearing Business, Citing New Rules, Bloomberg (Dec. 4, 2014), *available at* https://www.bloomberg.com/news/articles/2014-12-04/state-street-exiting-swaps-clearing-business-citing-new-rules; RBS to Wind Down Swaps Clearing Units, Reuters (May 19, 2014), *available at* http://uk.reuters.com/article/uk-rbs-primeservices-divestiture-idUKKBN0DY0PU20140519; BNY Mellon Closes U.S. Derivatives Clearing Business, Pension & Investments (Dec. 20, 2013), *available at* http://www.pionline.com/article/20131210/ONLINE/131219993/bny-mellon-closes-us-derivatives-clearing-business.

[4] For example, mandatory central clearing of certain OTC derivatives began in the EU in mid-2016. In addition, central clearing has already begun in Australia and Mexico, and is expected to begin soon in other countries, including Canada, Hong Kong, Singapore, and Switzerland. Notably, in light of these global developments, the CFTC has finalized rules that will expand the central clearing requirement in the U.S. to harmonize with these foreign jurisdictions. *See* CFTC final rule on "Clearing Requirement Determination under Section 2(h) of the CEA for Interest Rate Swaps", available at: http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2016-23983a.pdf.

MFA members believe that the SLR has a disproportionate adverse impact on certain asset classes of derivatives under the calculation methodology for the Current Exposure Method ("**CEM**"). Specifically, portfolios with large notional amounts of commodities and equity derivatives are subject to relatively high conversion factors under the CEM's standardized matrix approach, as set forth below:

Tenor	Interest Rate	FX and Gold	IG Credit	NIG Credit	Equity	Prec. Metals (Non-gold)	Commodity/Other
<=1 yr	0.0%	1.0%	5.0%	10.0%	6.0%	7.0%	10.0%
<=5 yr	0.5%	5.0%	5.0%	10.0%	8.0%	7.0%	12.0%
>5 yr	1.5%	7.5%	5.0%	10.0%	10.0%	8.0%	15.0%

Source: 12 C.F.R. sec. 217.34, Table 1 (standardized approach) (Federal Reserve rules); 12 C.F.R. sec. 217.132, Table 2 (advanced approaches) (Federal Reserve rules) (footnotes omitted).

MFA encourages the Federal Reserve and other banking regulators to move away from the current CEM-based calculation of credit exposure to a more thoughtful calibration of the Standardized Approach for Measuring Counterparty Credit Risk Exposures ("**SA-CCR**"). SA-CCR offers more risk sensitivity than the CEM by reflecting the exposure of interest rate derivatives through duration adjustments, reflecting netting of exchange-traded derivatives, and allowing for delta adjustments for options contracts.[5] MFA supports the Treasury Department's recommendation in its Capital Markets Report to transition regulatory capital requirements from the CEM to an adjusted SA-CCR method, with offsets for client IM, to more accurately capture exposures that clearing members face when providing clearing services to clients.[6]

In MFA's view, prudential requirements that inflate the economic risk of derivatives, particularly the SLR, impose artificial barriers for clients to access cleared derivatives and work at cross-purposes with mandates to clear. Recognizing these effects, then Board Governor and current Board Chairman Jerome H. Powell recently stated that "[g]lobal authorities . . . have a responsibility to ensure that bank capital standards and other policies do not unnecessarily discourage central clearing."[7] Legislators are also taking action to avoid these effects by proposing a specific bill that would adjust the SLR. On March 21, 2018, the House Financial Services Committee voted to advance a group of financial services bills, including H.R. 4659, a bipartisan measure that would require the appropriate Federal banking agencies to recognize the exposure-reducing nature of client IM for cleared derivatives.[8]

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[5] *See* Basel Committee on Banking Supervision, The Standardised Approach for Measuring Counterparty Credit Risk Exposures (March 2014; rev. April 2014), available at: https://www.bis.org/publ/bcbs279.htm.

[6] *See* U.S. Department of the Treasury Report to President Donald J. Trump in response to Executive Order 13772 on Core Principles for Regulating the United States Financial System, "A Financial System That Creates Economic Opportunities, Capital Markets", October 2017, at pp. 138 and 215, available at : https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf.

[7] Remarks by Governor Jerome H. Powell at the Federal Reserve Bank of Chicago Symposium on Central Clearing, Central Clearing and Liquidity, at p. 4 (June 23, 2017), available at https://www.federalreserve.gov/newsevents/speech/files/powell20170623a.pdf.

[8] H.R. 4659 was introduced by Representatives Blaine Luetkemeyer (R-MO), Frank Lucas (R-OK), David Scott (D-GA), and others concerning the SLR. The House Financial Services Committee voted 45-15 to advance the bill, with 11 Democrats joining the Republicans in voting for the bill.

Compounding the adverse effects of the current formulation of the SLR and the risk insensitivity of the CEM methodology, the Board's proposal to amend the FR-Y-15 reporting instructions for U.S. systemically important banks ("**G-SIBs**")[9] is another prudential requirement that MFA believes would have a material adverse effect on the availability and affordability of client clearing services for derivatives. We encourage the Federal Reserve to withdraw this proposal. To the extent that a capital requirement requires a greater amount of capital to be maintained for a G-SIB to engage in a low-return business like derivatives clearing than is warranted by the low risk of such business, G-SIBs will unable to meet ROE targets without substantially raising prices. As we explained in our comment letter in response to the G-SIB Proposal, given the low-risk nature of derivatives clearing and the inclusion of client performance guarantees within the Size Indicator, increasing the G-SIB Surcharge by also including these guarantees in the Interconnectedness and Complexity Indicators would result in a significant overstatement of risk.[10] This overstatement of risk would disproportionately discourage G-SIBs from providing derivatives clearing services to their clients.

To avoid materially adverse flow-through impacts on the buy-side's derivatives clearing activity, MFA encourages the Federal Reserve and other banking regulators to focus their recalibration efforts on three actions: 1) authorize an IM offset in the SLR; 2) transition from the CEM to an adjusted SA-CCR method, with offsets for client IM; and 3) withdraw the G-SIB Proposal.

2. New Initial Margin (IM) Requirements for Uncleared Derivatives

In response to our request to recalibrate IM requirements for certain uncleared swaps that our members fear will become over-collateralized under the final IM requirements, Federal Reserve Staff pointed out that the higher margin requirements for uncleared swaps in the final rule were intended to offset the greater risk to banks and the financial system arising from uncleared swaps, not solely to incentivize clearing. Given this policy objective, Staff asked how our request would meet that objective.

We believe that current margin practices between hedge funds and their bank dealer counterparties amply protect bank dealers from any greater risk presented by uncleared swaps. By way of background, MFA members have been posting IM to their bank dealer counterparties to collateralize their bilateral, uncleared swaps for more than two decades, so well before the financial crisis and continuing to this day. According to a recent margin survey conducted by the International Swaps and Derivatives Association, Inc. (ISDA), at year-end 2017, approximately $56.9 billion of IM collected by phase-one firms under the phase-in schedule for the new rules was discretionary IM, and was collected under existing

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[9] 82 Fed. Reg. 40,154 (Aug. 24, 2017), referred to herein as the "G-SIB Proposal."

[10] *See* MFA and SIFMA AMG Letter on Proposed Changes to G-SIB Surcharge Calculation (FR Y-15; OMB Control Number: 7100-0352), dated Oct. 20, 2017, available at: https://www.managedfunds.org/wp-content/uploads/2017/10/SIFMA-AMG_MFA-Comment_on_GSIB_Surcharge_Change_FINAL.pdf.

collateral agreements from counterparties not currently in scope of the margin rules (such as MFA members).[11] In our members' collective experience, bank dealers' models establish appropriately high IM levels to address counterparty credit risk, taking into account factors such as overall net market exposure, concentrations by industry or country, the concentration or diversification of the portfolio, the size of individual positions relative to the average daily trading volume of a particular security, among others. For example, a hedge fund typically would be required to post relatively more IM for a swap where the underlying asset is a single, large (in terms of average daily trading volume) equity position compared to the IM required for a diverse portfolio of smaller equity positions with low net market exposure. Based on historical evidence, our members believe that IM models for swaps have been adequate to protect bank dealer counterparties when there have been hedge fund failures. We respectfully suggest that the Federal Reserve review historical data on the overall adequacy of margin levels for uncleared swaps from the banks under its supervision to test our understanding.

In September 2020, the required posting of IM under the new rules by firms that use uncleared swaps will apply to a broader spectrum of financial end users with material swaps exposure (*i.e.*, $8 billion gross notional).[12] This new, significantly lower threshold will bring many more firms within the scope of the new rules, and greatly complicate the longstanding IM arrangements that MFA members have with their counterparties. Given the potential for higher IM levels that will apply to many MFA members under the new IM requirements,[13] MFA requests that the Federal Reserve coordinate with its fellow prudential regulators to calibrate the new IM requirements to reflect more accurately the actual risk of the uncleared swap in question.

We discuss below several areas in need of calibration by coordinated regulatory amendments. Without amendments that achieve sufficient tailoring to the risk and liquidity profiles of the underlying assets for uncleared swaps, we anticipate that the new IM requirements would have a punitive and disproportionate effect on many buy-side market participants.

<u>Equity TRS</u>. A specific area for further calibration relates to the expected IM levels for non-clearable total return swaps[14] for complex equity trades and other equity derivatives that provide synthetic exposure to physical equities. Given the bespoke terms of such non-clearable equity TRS, it is unlikely that the financial end users who trade them will be able to clear these derivatives for the foreseeable future. Such equity derivatives trading is basically a form of collateralized lending that prime brokerage firms arrange with many of our members. MFA members report that prime brokerage firms rely on well-established loan to

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[11] *See* ISDA Research Study, "ISDA Margin Survey Full Year 2017", published on ISDA's website(www.isda.org) on April 25, 2018.

[12] *See* Final Rule, "Margin and Capital Requirements for Covered Swap Entities", 80 Fed. Reg. 74,840, 74,899 at sec. __.1(e)(5) and (6) (Nov. 30, 2015).

[13] *See id.,* 74,905 at sec. __8.

[14] Portfolio swaps or total return swaps ("**TRS**") are a common type of uncleared swap used by the hedge fund industry.

collateral ratios to determine appropriate margin levels for such synthetic financing trades that are documented under standard bilateral documentation published by ISDA. This documentation offers certainty of close-out and other contractual protections that benefit both counterparties to an uncleared swap, and our members gravitated towards these standardized legal contracts to reduce risk. MFA members are very concerned that the new IM requirements that will come into effect for their trades in September 2019 or 2020 will cause an unjustified dislocation of established margin norms for such synthetic financing trades. For these reasons, we believe it would be appropriate for regulators to consider a more tailored margin regime for non-clearable equity TRS. Otherwise, MFA members who trade non-clearable equity TRS anticipate significant disruption to existing market practice that will needlessly increase trading costs.

Liquidation Periods. A second area for recalibration is the arbitrary requirement for IM models to use a minimum ten-day liquidation period for *all* uncleared swaps.

Under the new rules, bank dealers' models are required to set IM equal to a model's calculation of the potential future exposure of the uncleared swap consistent with a one-tailed 99 percent confidence level over a ten-business day close-out period.[15] This ten-day minimum close-out period stands in stark contrast to the five-day liquidation time period for cleared financial swaps and a one-day liquidation time period for futures that apply to registered derivatives clearing organizations.[16] However, in our members' experience, this product-level disparity in liquidation time periods among uncleared swaps, cleared swaps and futures contracts is arbitrary and unjustified.

For uncleared swaps, MFA believes that the ten-day liquidation period is particularly inappropriate because it fails to account for different risk profiles and liquidity characteristics posed by certain asset classes and product types and sizes, or the diversification inherent in many swap portfolios. MFA believes that the same arbitrary designation of a five-day liquidation period holds true for certain cleared swaps.

Although the uncleared derivatives markets may be less liquid than the cleared swaps markets for certain product types and asset classes, given that liquidation of an uncleared swap is permitted by immediate termination followed by valuation of gains/losses without the need to ensure an offsetting transaction, it does not necessarily follow that liquidation of *every* uncleared swap will require more time than liquidating a position in a cleared swap.

More specifically, it is market practice to allow a dealer to terminate an uncleared swap immediately. Under market standard bilateral contractual arrangements published by

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[15] *See* Final Rule, "Margin and Capital Requirements for Covered Swap Entities", 80 Fed. Reg. 74,840, 74,906 at sec. __.8(d)(1). MFA notes that the final margin rules contained the following explanation of the 10-day liquidation period for uncleared swap IM: "Moreover, the required 10-day close-out period assumption is consistent with counterparty credit risk capital requirements for banks. Accordingly, to the extent that noncleared swaps are expected to be less liquid than cleared swaps and to the extent that related capital rules which also mitigate counterparty credit risk similarly require a 10-day close-out period assumption, the Agencies' view is that a 10-day close-out period assumption for margin purposes is appropriate." *Id.* at 74,877.

[16] *See* CFTC Final Rule, "Derivatives Clearing Organization General Provisions and Core Principles", 76 Fed. Reg. 69,334, 69,438 (Nov. 8, 2011).

ISDA, a dealer can typically use market quotations to calculate amounts owed to it in connection with such termination and, where the dealer cannot obtain market quotations, it is usually possible to use a mark obtained from an alternative pricing source or an internal model. As such market practice allows for simple termination and valuation of losses rather than requiring a replacement transaction, liquidating a position in an uncleared swap based on the mark obtained may be completed relatively quickly, without material delay.

The Capital Markets Report issued by the U.S. Department of the Treasury ("**Treasury**") in October 2017 highlighted the ten-day liquidation period as a candidate for right-sizing. In its report, Treasury recommended that the U.S. banking regulators and the Commodity Futures Trading Commission ("**CFTC**") "should work with their international counterparts to amend the uncleared margin framework so it is more appropriately tailored to the relevant risks."[17] Treasury's recommendation was informed by market participants' comments that certain uncleared swaps, such as equity index TRS, "could easily be liquidated well within a 10-day window"; thus the 10-day window is "arbitrary and not well tailored to the risk of specific products and counterparties".[18] In a recent CFTC White Paper, Chairman Christopher Giancarlo and Chief Economist Bruce Tuckman also took issue with the "remarkably coarse" ten-day liquidation period for uncleared swaps that is "not up to industry standards".[19] Their White Paper suggests an alternative, portfolio-specific approach that would "calculate market risk for a waiting period appropriate for that portfolio, add an assumed market impact cost for hedging the portfolio at that time, and then assume a gradual liquidation and lifting of the hedge without further market impact."[20]

For all of these reasons, we suggest that the Federal Reserve work with the Working Group on Margining Requirements of the Basel Committee on Banking Supervision and the International Organization of Securities Commissions; its fellow prudential regulators; the CFTC; and the Securities and Exchange Commission to re-examine market practice and historical data to more closely calibrate liquidation periods based on the liquidity profile of the contract in question rather than setting risk-insensitive liquidation time periods based on broad categories of product types (*i.e.*, uncleared swaps, cleared swaps, or futures contracts).

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[17] *See* U.S. Treasury Report to President Donald J. Trump, "A Financial System That Creates Economic Opportunities, Capital Markets", October 2017, in response to Executive Order13772 on Core Principles for Regulating the United States Financial System, at pp. 129-130.

[18] *Id.* at p. 129.

[19] White Paper, "Swaps Regulation Version 2.0: An Assessment of the Current Implementation of Reform and Proposals for Next Steps," co-authored by J. Christopher Giancarlo, CFTC Chairman, and Bruce Tuckman, CFTC Chief Economist, dated April 26, 2018 (the "**Giancarlo-Tuckman White Paper**"), at pp. 884-85; available at: Swaps Regulation Version 2.0: An Assessment of the Current Implementation of Reform and Proposals for Next Steps.

[20] *Id.* at p. 85. Citing similar shortcomings with a ten-day liquidation period, a recent ISDA research study paper argues for an alternative approach. This approach calls for "specifying a minimum liquidation horizon for each asset class associated with an asset-specific size threshold, and scaling the liquidation horizon linearly with position size beyond this threshold". For a full discussion of this approach, *see* ISDA Research Study, "Margin Requirements for Non-cleared Derivatives," by Professor Rama Cont, Chair of Mathematical Finance at Imperial College London, published on ISDA's website on April 25, 2018, available at: https://www.isda.org/2018/04/25/isda-publishes-new-academic-paper-on-non-cleared-margin/.

Based on a collective re-assessment by regulators, MFA requests that the regulators move from the current "10-day VaR" approach for model-based IM to a model that better reflects the relative liquidity of the underlying assets or hedges.

Enhanced Portfolio Margining in IM Models. The new rules authorize netting of uncleared swaps and uncleared security-based swaps under the same eligible master netting agreement for model-based calculations of required IM.[21] To enhance the recognition of mutually offsetting transactions, MFA believes that the regulators should authorize IM models to account for risk offsets across suitably correlated cleared and uncleared swap products and non-swap products within the same broad risk category pursuant to a single cross-product master netting agreement. For example, a cross-product master netting agreement might include different products in the foreign exchange (FX)/interest rate category, including U.S. Treasury futures, Eurodollar futures, cleared interest rate swaps, uncleared FX options, and repurchase agreements. Such cross-product portfolio margining arrangements account adequately for risks of a portfolio, while avoiding the capital inefficiencies of over-collateralization by reducing both the aggregate requirement to deliver IM and trading costs for market participants. It bears emphasizing that any IM model that permits cross-product master netting agreements would continue to be subject to all other regulatory requirements for IM models.[22]

Accelerate Regulatory Approvals of Business-Specific IM Models to Avoid Model Herding to a Single Standard Initial Margin Model. MFA shares the concerns raised in the Giancarlo-Tuckman White Paper regarding the use of a single, global model for calculating IM for uncleared derivatives between bank dealers and their customers.[23] In response to the IM model requirements in the new rules, ISDA developed a common model called the Standard Initial Margin Model (ISDA SIMM™) that facilitated calculations of required IM for uncleared interdealer trades during the initial phases of the phase-in schedule. With the upcoming last two phases, MFA believes that regulators should facilitate the development of bank dealers' own business-specific IM models by streamlining and accelerating the regulatory approval process. Such approved, business-specific models would calculate more risk-refined IM amounts for uncleared dealer-to-customer trades with enhanced netting and risk-sensitive liquidation periods, as discussed above.

Authorize Portfolio Offsets for Risk-Reducing Hedges. MFA believes another area that needs additional regulatory flexibility and calibration relates to the ability of IM models to recognize offsetting hedging sets between swaps and non-swaps in a portfolio. MFA understands from our members that there are numerous instances where uncleared swaps that will be subject to the new IM requirements are held in a portfolio with other products that are *not* subject to the new IM requirements. For example, MFA members with foreign exchange (FX) options (*i.e.*, swaps) in their portfolios typically have FX forwards (*i.e.*,

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[21] *See* Final Rule, "Margin and Capital Requirements for Covered Swap Entities", 80 Fed. Reg. 74,840, 74,903 at sec. __.5, and 74,906 at sec.__8(d)(5).

[22] *Id.* at sec.__.8.

[23] *See* Giancarlo-Tuckman White Paper, *supra* note 19, at pp. 85-87 (noting that firms have less incentive to develop better models and other risks resulting from widespread adoption of a single, imperfect model).

exempted as swaps[24]) to hedge their FX options. Unfortunately, the new rules do not authorize IM models under to recognize the hedging sets between swaps and non-swaps. The resulting inability of IM models to recognize risk-reducing hedges in market participants' portfolios will generate needlessly over-sized IM levels for many uncleared swaps.

No Pricing Concessions Expected. In the MFA November Meeting, Federal Reserve Staff also asked if MFA members are considering whether to ask banks for concessions on pricing certain uncleared derivatives that may become over-collateralized when the new margin requirements come into effect for their uncleared derivatives trades.

In response, MFA members believe it is highly unlikely that they would receive any pricing concession from their dealers under the new IM requirements. Since posted IM must be segregated with an unaffiliated custodian and cannot be re-hypothecated, bank dealers will be unable to use IM posted by their clients as fungible working capital for their businesses. Plus, since bank dealers will be required to post IM to their customers, they must seek unsecured funding from their internal Treasury departments, which has become more expensive due to constraints on bank balance sheets. Thus, our members do not anticipate being able to extract any pricing concessions for overcollateralizing their uncleared swaps under the new IM requirements. To the contrary, their expectation is that they will bear the increased costs associated with not only negotiating, establishing and maintaining segregated custodian accounts for required IM from counterparties, but also their bank counterparties' having to fund IM postings for their benefit.

In conclusion, MFA appreciates the opportunity to provide these supplemental responses and comments to the Federal Reserve. We encourage the Federal Reserve, working together with other regulators, to reconsider aspects of the above rulemakings and to amend the above rules to minimize the distortionary and adverse effects on capital markets described above. We look forward to continuing to work with the Federal Reserve to develop alternative proposals that seek to achieve the underlying policy objectives in ways that do not unnecessarily affect valuable investment activity that is critical to strong and vibrant capital markets.

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[24] Department of the Treasury, "Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act", 77 Fed. Reg. 69,694 (Nov. 20, 2012), available at: https://www.gpo.gov/fdsys/pkg/FR-2012-11-20/pdf/2012-28319.pdf.

If you have any questions regarding any of the information provided above, or if we can provide further information with respect to the issues discussed in this letter, please do not hesitate to contact Laura Harper Powell or me at (202) 730-2600.

Respectfully submitted,

/s/ Stuart J. Kaswell

Stuart J. Kaswell

Executive Vice-President and Managing Director, General Counsel