May 10, 2019

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Global Markets Advisory Committee

Dear Mr. Kirkpatrick:

Managed Funds Association[1] ("**MFA**") appreciates the opportunity to submit comments in connection with the Commodity Futures Trading Commission's (the "**CFTC**") Global Markets Advisory Committee ("**GMAC**") meeting held on April 15, 2019, which was the first GMAC meeting of 2019. MFA fully supports the objectives of the GMAC as articulated by CFTC Commissioner Dawn Stump in her opening statement at that meeting.[2] It is in furtherance of those objectives that MFA submits this letter to offer the following constructive buy-side investor views and observations in response to certain aspects of the GMAC meeting discussion.

1. Ensure Sufficient Inclusion of Buy-Side Investor Views and Business Impacts in Recalibrating Regulatory Reforms

We would encourage the addition of more buy-side investors onto the GMAC. MFA has over 3,000 members from firms engaging in alternative investment strategies all over the world. MFA's members are active participants as investors in the U.S. and EU OTC derivatives markets. MFA supports coordinated reform implementation and informed recalibration efforts by the CFTC and EU and other global regulators to enhance access to market liquidity and to avoid unnecessary regulatory impediments to cross-border swaps trading activity for all market participants. As part of ongoing cross-border decision-making around solutions for closer coordination and

[1] MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry's contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

[2] *See* Opening Statement of CFTC Commissioner Dawn D. Stump before the Global Markets Advisory Committee Meeting, April 15, 2019.

harmonization on regulatory reform implementation in the global OTC derivatives markets, MFA urges the CFTC and other regulators to inform their decisions by ensuring sufficient inclusion of the views of buy-side investors and consideration of regulatory impacts on their businesses.

2. Clearing, Trading and Transparency Reforms Have Largely Addressed Swap Market Liquidity Fragmentation

MFA would like to provide buy-side perspectives on the current state of global swaps market liquidity and liquidity fragmentation. MFA believes that on the whole the introduction of central clearing, organized trading, and greater pre- and post-trade transparency in the standardized interest rate swap ("**IRS**") and index credit default swap ("**Index CDS**") markets has improved – rather than fragmented – liquidity. In these markets, central clearing has made it easier for investors to transact with a wider array of trading counterparties while organized trading has improved pricing and competition, among other benefits. However, in other segments of the swaps market where central clearing and organized trading are not as prevalent, such as the single-name CDS markets, MFA members report that market liquidity has suffered due to lack of participants and lack of breadth of names traded.

At the same time, certain post-crisis measures have had an adverse impact on swaps market liquidity and should be re-calibrated. Most notably, certain post-crisis capital requirements (such as the supplementary leverage ratio) have created disincentives and/or made it uneconomical for banking organizations to offer derivatives clearing services to clients. As a result, these requirements have imposed barriers to accessing derivatives markets and increased systemic risk as an increasing number of large banking organizations have shut down or scaled back their clearing businesses and others have not stepped into this market.

During the GMAC meeting, MFA noted that much of the discussion focused on the need for global regulators to address purported market or liquidity fragmentation in swaps trading activity. As mentioned above, MFA members report that the IRS and Index CDS markets have not suffered from market or liquidity fragmentation. Therefore, to avoid the risk of market fragmentation, we believe the CFTC's proposed comprehensive reforms for swaps trading on SEFs should be targeted in scope. This is necessary to preserve the CFTC-EU mutual recognition agreement on derivatives trading venues and to minimize regulatory fragmentation where possible by reducing regulatory divergence and related burdens on existing and potential participants in OTC derivatives markets. Disruptions to such mutual recognition agreement may jeopardize impartial access to derivatives trading venues, straight-through processing efficiencies, and enhanced price discovery and post-trade transparency in the markets where the reforms have been positive. MFA submitted a recent comment letter on the CFTC's SEF proposals with alternative recommendations that would preserve and enhance the CFTC-EU mutual recognition agreement and its important benefits for investors in facilitating cross-border swaps trading.[3]

While the current SEF regime has improved conditions for investors, it has failed to provide buy-side market participants with true impartial access to the unique trading protocols and liquidity available on inter-dealer ("**IDB**") broker SEFs that historically served the "dealer-to-dealer" segment of the market. For example, buy-side firms do not have true impartial access to voice-based execution protocols on IDB SEFs that may be best suited for their specific trading activity. As MFA noted in its recent comment letter, the continuing access barrier of post-trade name give-up on IDB SEFs that offer anonymous execution for cleared swaps reduces pre-trade transparency for investors regarding available bids and offers on such SEFs and limits their choice of trading protocols to those offered by a few viable SEFs serving the "dealer-to-client" segment of the market.[4]

3. Phase 5 Firms and their Swap Dealers Need Guidance from the CFTC and Other Regulators this Summer to Prepare for Uncleared Initial Margin Implementation

MFA appreciated the extensive discussion at the GMAC meeting of initial margin ("**IM**") implementation for uncleared derivatives. MFA members already post IM to their dealer counterparties and thus expect to come into scope of the new IM requirements on either the September 1, 2019 implementation for Phase 4 or the September 1, 2020 implementation date for Phase 5. The GMAC meeting participants discussed the recent guidance statement issued on March 5, 2019, by the Basel Committee on Banking Supervision ("**BCBS**") and IOSCO. This guidance clarifies that the BCBS-IOSCO international margin framework does not specify documentation, custodial or operational requirements if the bilateral IM amount does not exceed the framework's 50 million US$/Euro IM threshold. MFA recommended this guidance as one of several recommendations to decrease the resource-intensive challenges facing market participants for the final phases of IM implementation.[5] Although the BCBS-IOSCO guidance is a good first step in providing needed clarity to market participants, MFA urges the CFTC and other regulators to issue more specific and sensible guidance this summer under their respective uncleared margin

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[3] *See* MFA letter in response to the CFTC's Proposed Rule, "Swap Execution Facilities and Trade Execution Requirement" (RIN 3038-AE25), submitted to Christopher Kirkpatrick, Secretary of the Commission, on March 15, 2019, available at: https://www.managedfunds.org/wp-content/uploads/2019/03/MFA-Comment-Letter-on-CFTC-SEF-Proposed-Rule-Final.pdf.

[4] *See* MFA letter in response to the CFTC's Request for Comment, "Post-Trade Name Give-Up on Swap Execution Facilities" (RIN 3038-AE79), submitted to Christopher Kirkpatrick, Secretary of the Commission, on March 15, 2019, available at: https://www.managedfunds.org/wp-content/uploads/2019/03/MFA-Letter-on-CFTC-Comment-Request-on-Post-Trade-Name-Give-up-on-SEFs-Final.pdf.

[5] *See* MFA letter to BCBS-IOSCO, submitted on October 25, 2018, available at: https://www.managedfunds.org/wp-content/uploads/2018/11/MFA-Letter-UMR-Implementation-Challenges-for-Final-Stages-of-IM-Phase-in.pdf.

rules ("**UMR**") that would permit implementation that would not be overly burdensome but with sufficient clarity.[6] MFA believes this timing is critical for Phase 5 entities, dealers, and custodians to prepare and negotiate the necessary documentation and custodial arrangements for compliance and to understand their obligations when an entity's uncleared derivatives exposures approach the applicable UMR IM exchange threshold.

In addition to issuing timely clarifying guidance in the short term, MFA urges the CFTC to coordinate with other regulators to implement broader regulatory solutions for ensuring a smooth and orderly UMR IM implementation for Phase 5 firms. As MFA recommended in its letter to BCBS-IOSCO,[7] the exclusion of physically settled foreign exchange swaps and forwards in calculations of aggregate average notional amount thresholds for determining whether counterparties are in-scope of the UMR IM requirements is logical and would smooth implementation by avoiding the inclusion of products that should not otherwise be affected by the rules into the process. Other MFA recommendations for global regulators include:

- Adopting another phase-in threshold between 750 billion US$/Euro and 8 billion US$/Euro; specifically, MFA recommended a Phase 5.a. threshold of 100 billion US$/Euro in 2020, with 8 billion US$/Euro pushed back to 2021 as Phase 5.b. A more gradual and orderly staging would ensure that there is market infrastructure in place to support the final stages of IM phase-in.

- Enhancing the use and risk-sensitivity of approved IM models, including the ISDA SIMM™.

- Requiring robust data security protections by third-party software vendors that provide functionality for regulatory IM calculations, reconciliation, and margin workflows.

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[6] MFA acknowledges and appreciates that on April 29, 2019, CFTC Chairman Giancarlo sent a letter to Randal Quarles, Vice Chair of Supervision, Federal Reserve Board of Governors, calling for U.S. regulators to issue regulatory guidance to clarify that a U.S. regulated entity need not have in place systems and documentation to exchange IM on uncleared swaps with a counterparty if its calculated bilateral IM amount with that counterparty is less than $50 million.

[7] *See id.*

MFA thanks the CFTC for considering MFA's views in response to the first GMAC meeting in 2019. We welcome the opportunity to discuss our views with you in greater detail. Please do not hesitate to contact the undersigned at (202) 730-2600 with any questions the CFTC or its Staff might have regarding this letter.

Respectfully submitted,

/s/ Laura Harper Powell

Laura Harper Powell
Associate General Counsel
Managed Funds Association

cc: The Hon. J. Christopher Giancarlo, Chairman
The Hon. Brian D. Quintenz, Commissioner
The Hon. Rostin Behnam, Commissioner
The Hon. Dawn DeBerry Stump, Commissioner
The Hon. Dan M. Berkovitz, Commissioner

Amir Zaidi, Director, Division of Market Oversight