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April 15, 2021

<u>Eligible Collateral under UK Margin BTS – EEA UCITS</u>

Dear Darren,

Dear Carmel,

Dear Alexander,

The Alternative Investment Management Association (AIMA), the Institutional Money Market Funds Association (IMMFA), the Investment Company Institute (ICI), the International Swaps and Derivatives Association (ISDA) and the Securities Industry and Financial Markets Association Asset Management Group (SIFMA AMG) (hereinafter referred to as 'the associations') are writing to urge the Prudential Regulation Authority (PRA) to permit use of European Economic Area (EEA) UCITS for initial margin (IM) purposes in the UK Uncleared

Margin Requirements (UMR) Binding Technical Standards (2016/2251) once the current 'standstill' comes to an end on 31 March 2022.

The associations welcome and support the recent efforts of regulators in leading jurisdictions to effect a pragmatic approach to the implementation of uncleared margin requirements, including, most recently, with regard to the phasing in of the IM rules applicable to firms with an aggregate average notional amount of between €750 billion and €50 billion ('Phase V' (effective date postponed until 1 September 2021)) and between €50 billion and €8 billion ('Phase VI' (effective date postponed until 1 September 2022)). We recognize and appreciate the role of the UK authorities in developing international regulatory consensus on this change in timetable, agreed against the background of the challenges confronting market participants due to the COVID pandemic.

This pragmatism on the part of regulators in leading derivatives jurisdictions is particularly welcome if we consider the number and type of market participants that will be required to comply with IM requirements in phases V and VI. A much larger number of counterparties with more limited financial and other resources to deploy for purpose of compliance (than was the case for previous IM phases) will come into scope of IM requirements in September 2021 and September 2022.

Many of these counterparties will be funds. One key aspect of the IM regime for these funds, and their managers, is the ability to use UCITS (notably Money Market Funds (MMFs)) as IM.

Under the EU UMR, financial counterparties are permitted to use EEA UCITS as IM, subject to the conditions set out in Articles 4 and 5 of the EU Margin RTS. The UK UMR have similarly restricted financial counterparties to use of UK UCITS as IM (Article 4 (r)).

The impact of this restriction is postponed by the 'standstill' approach adopted under UK rules, whereby UK counterparties do not have to adapt current procedures and arrangements for exchange of margin in uncleared derivatives business until 31 March 2022.

The associations believe, however, that once the restriction to use of UK UCITS as IM is in effect, there will be negative consequences for the counterparties concerned and for the attractiveness of the UK as a jurisdiction in which to do uncleared derivatives business. This limitation is also not justified on risk grounds.

Derivatives counterparties may need or prefer to use UCITS (particularly MMFs) as IM

Derivatives counterparties, including UCITS managers and investment managers may use UCITS as IM. In the case of funds, this may be more efficient than (as applicable) having their depository or custodian reinvest cash into UCITS MMFs, for several reasons, including:

- The lack of alternative eligible collateral available to the fund's managers.
- The investment guidelines within which the fund must operate, which may limit the ability to trade other types of eligible collateral.
- Operational limitations on the ability of the fund to trade other types of collateral.

The pool of EEA UCITS is much larger than the pool of UK UCITS

In a survey conducted by the IMMFA, it found that just two of 80 funds managed by their members were domiciled in the UK (both sterling funds). The other 78 funds were domiciled in Luxembourg or Ireland.

As such, the pool of IM that is available to asset managers subject to UK UMR appears significantly smaller than that available to EEA asset managers.

Negative impact for the UK as a place to do uncleared derivatives business, in relative and absolute terms

The extra layer of complexity and cost for asset managers (subject to UK rules) engaging in uncleared derivatives business, because of this limitation, will adversely affect the ability of UK asset managers to undertake uncleared derivatives business:

- As stated above, IM in the forms of UCITS will be scarcer, with operational and cost implications.
- This limitation will affect the ability of UK counterparties to trade with EEA asset managers, who may wish to post EEA UCITS as IM. Those EEA counterparties may prefer to choose to trade with other EEA counterparties that can accept EEA UCITS as eligible collateral under the EU Margin RTS (or counterparties from other jurisdictions who are not limited in their ability to accept EEA UCITS as IM).
- Given the size of the pool of UCITS IM available to EU asset managers (many multiples of the size available to UK asset managers), the negative impact on the EU as a location for uncleared derivatives business will be far less significant than the negative impact for asset managers subject to UK UMR. The availability of EEA UCITS is of greater importance to UK asset managers than is the availability of UK UCITS as IM for EU asset managers.

Restricting the ability of UK counterparties to using only UK UCITS as IM (and not EEA UCITS) is not justified on prudential grounds

EEA UCITS are not inherently riskier than UK UCITS. There will be no deterioration in the quality of collateral provided by counterparties as IM if the UK UMR are amended to permit use of EEA UCITS as IM. On the contrary, the associations believe that such a step would be beneficial to overall market liquidity.

The PRA is currently consulting on amendments to the BTS 2016/2251 and may align UK UMR more closely with the latest iteration of EU UMR at the conclusion of this process. We urge the PRA to take this opportunity to expand the eligibility criteria in the BTS to include EEA UCITS.

We are available at your convenience to discuss this important topic further. We thank you once again for your consistent openness to considering stakeholders' views on UK UMR and remain at your disposal if you have any further questions.

Yours sincerely,

Jack Inglis
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AIMA

/s/ Jennifer Choi
Chief Counsel
ICI Global

Veronica Iommi
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IMMFA

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ISDA

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About the Associations

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 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 programs and sound practice guides. AIMA works to raise media and public awareness of the value of the industry.

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$38.7 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, Brussels, Hong Kong, and Washington, DC.

Institutional Money Market Funds Association

The Institutional Money Market Funds Association (IMMFA) is the trade association which represents, promotes and supports the development of the European money market fund (MMF) industry. IMMFA member funds consist primarily of Low Volatility Net Asset Value (LVNAV) and Public Debt Constant Net Asset Value (PDCNAV) MMFs but include Short-term Variable Net Asset Value (VNAV) MMFs. IMMFA member funds are EU regulated UCITS funds which are AAA rated by one or more credit rating agency. As of year end 2020, IMMFA assets under management were EUR805bn equivalent, compared to a total market size of EUR1.445tr. More information about IMMFA, its activities and members is available on the Association's website *www.immfa.org*.

The International Swaps and Derivatives Association

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 925 member institutions from 75 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, LinkedIn, Facebook and YouTube.

SIFMA AMG

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. For more information, visit http://www.sifma.org/amg.