

July 29, 2016

The Honorable Jacob J. Lew  
Secretary  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, DC 20220

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

The Honorable Mary Jo White  
Chair  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Alfred M. Pollard  
General Counsel  
Federal Housing Finance Agency  
Constitution Center  
400 7th St, NW  
Washington, DC 20024

The Honorable Janet L. Yellen  
Chair  
Board of Governors of the Federal Reserve System  
20th Street & Constitution Ave., NW  
Washington, DC 20510

The Honorable Thomas J. Curry  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
400 7th Street, SW  
Washington, DC 20219

The Honorable Timothy J. Massad  
Chairman  
Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581

Barry F. Mardock  
Deputy Director  
Farm Credit Association  
1501 Farm Credit Drive  
McLean, VA 22102

Ladies and Gentlemen:

The American Bankers Association (ABA)<sup>1</sup> and the American Bankers Association Securities Association (ABASA)<sup>2</sup> appreciates the efforts of the U.S. regulators to coordinate the U.S. implementation of the final margin rules for non-centrally cleared derivatives with foreign jurisdictions, especially with the European Union (EU) and Japan. The European Commission's

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<sup>1</sup> The American Bankers Association is the voice of the nation's \$16 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$12 trillion in deposits, and extend more than \$8 trillion in loans.

<sup>2</sup> The ABA Securities Association is a separately chartered affiliate of the American Bankers Association, representing those holding company members of the American Bankers Association that are actively engaged in capital markets, investment banking, swap dealer and broker-dealer activities.

(EC) decision to delay the implementation of the EU’s margin rules is disappointing, as the alignment of both the substance and timing of margin rules across jurisdictions has appropriately been a priority of the international regulatory community.<sup>3</sup> Nevertheless, the original considerations that warranted international coordination of these rules still hold, and they should persuade U.S. regulators to act to prevent U.S. banks from facing the types of implementation challenges and competitive disadvantages that they sought to avoid through international coordination. We therefore request that U.S. regulators take steps to resynchronize the U.S. implementation schedule with the schedule anticipated to be adopted in the EU.

If the compliance dates of the margin rules are not aligned, there will undoubtedly be dislocations in the global swaps markets. For example, counterparties may choose to minimize the costs of the margin rules by executing swaps with swap dealers that are not subject to margin rules (i.e., avoid trading with swap dealers subject to the U.S. margin rules).<sup>4</sup> The resulting anomalies will lead to financial harm to U.S. swap dealers and a corresponding reduction in liquidity for all swaps market participants. Without appropriate action, bifurcation between the U.S. and EU markets can be expected to begin on September 1, 2016, as EU-based swap dealers choose to avoid margin requirements by hedging solely in the EU inter-dealer market. This unwelcome market distortion will become more acute as variation margin requirements become effective on March 1, 2017, when non-dealer counterparties will be able to avoid margin requirements by trading with EU-banks not within the scope of the U.S. rules.

Additional burdens will be placed on U.S. banking organizations as they make business adjustments against unknown standards, since they do not yet know what the EU rules will ultimately require. Moreover, the EC’s decision will require firms to reallocate resources to modify systems and documents that were previously prepared to account for the combined application of U.S. and EU rules.

We fear that a failure to realign the margin rules’ implementation will disadvantage U.S. banking organizations and lead to operational, regulatory, and implementation problems. However, these challenges are avoidable if the U.S. Regulators and EU work together to resynchronize the implementation schedule.

If you have any questions or need further information, please contact Jason Shafer at (202) 663-5326 (email: [jshafer@aba.com](mailto:jshafer@aba.com)) or Cecelia Calaby at (202) 663-5325 (email: [ccalaby@aba.com](mailto:ccalaby@aba.com)).

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<sup>3</sup> See Final Policy Framework for Margin Requirements for Non-Centrally Cleared Derivatives, Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO), *available at* <http://www.bis.org/bcbs/publ/d317.pdf>.

*See also* Commodity Futures Trading Commission Chairman Timothy Massad stated, “The importance of international harmonization cannot be understated. It is particularly important to reach harmonization in the area of margin for uncleared swaps . . .” Opening Statement of Chairman Timothy Massad, Open Meeting on Proposed Rule on Margin Requirements for Uncleared Swaps and Final Rule on Special Entities, Sept. 17, 2014, *available at* <http://www.cftc.gov/PressRoom/SpeechesTestimony/massadstatement091714>.

<sup>4</sup> See International Swaps and Derivatives Association’s Request for Delay of Swap Margin Requirements Letter (Appendix A), dated June 24, 2016.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jason Shafer". The signature is fluid and cursive, with the first name "Jason" being larger and more prominent than the last name "Shafer".

Jason Shafer  
Vice President/Senior Counsel  
Center for Bank Derivatives Policy  
American Bankers Association

A handwritten signature in black ink that reads "Cecelia Calaby". The signature is highly stylized and cursive, with the first name "Cecelia" being larger and more prominent than the last name "Calaby".

Cecelia Calaby  
Executive Director and General Counsel  
American Bankers Association Securities Association