



State Street Corporation

Joseph J. Barry  
Senior Vice President and Global Head of  
Regulatory, Industry and Government Affairs

State Street Financial Center  
One Lincoln Street  
Boston, MA 02111-2900

Telephone: +1.617.664.1254  
jjbarry@statestreet.com

[www.statestreet.com](http://www.statestreet.com)

December 20, 2019

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

Via Electronic Submission

**Re: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (RIN: 3038-AE89)<sup>1</sup>**

Dear Secretary Kirkpatrick,

State Street Corporation (“State Street”) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“CFTC”) on the proposal to amend Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants. We strongly support the CFTC’s proposal to align the compliance schedule for initial margin (“IM”) requirements with the statement issued in July 2019 by the Basel Committee on Banking Supervision (“BCBS”) and the International Organization of Securities Commissions (“IOSCO”). We also appreciate CFTC Letter No. 19-16 issued in July 2019, which provided clarification to CFTC registrants that IM documentation requirements will not apply until firms exceed the \$50 million threshold<sup>2</sup>. We recommend that the CFTC extend the proposed changes to include additional adjustments to the IM trading documentation requirements. Furthermore, we recommend removing physically-settled foreign exchange (“FX”) swaps and forwards from the average daily aggregate notional amounts (“AANA”) calculation.

Headquartered in Boston, Massachusetts, State Street specializes in providing institutional investors with investment servicing, investment management, data and analytics, and investment research and trading. With \$32.899 trillion in assets under custody and administration and \$2.953 trillion in assets under management as of September 30, 2019, State Street operates in more than 100 geographic markets globally. State Street is organized as a U.S. bank holding company, with operations conducted through several entities, primarily its wholly-owned insured depository institution subsidiary State Street Bank and Trust Company (“SSBT”). SSBT is provisionally

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<sup>1</sup> Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 Fed. Reg. 56950 (October 24, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-10-24/pdf/2019-22954.pdf>

<sup>2</sup> CFTC Letter No. 19-16, Initial Margin Documentation Requirements (July 9, 2019), available at <https://www.cftc.gov/PressRoom/PressReleases/7960-19>

registered with the CFTC as a swap dealer and is a major provider of FX services, operating through multiple branches in U.S. and foreign markets.

## **Additional Compliance Date for IM Requirements**

State Street strongly supports the addition of a sixth compliance phase for IM requirements for counterparties with AANA from \$8 billion to \$50 billion, aligning U.S. regulations with the international framework established by the BCBS and IOSCO. Without an additional compliance phase, the CFTC projected that 700 entities would come into scope in Phase V, as compared to only 40 entities captured by the first four phases. This includes many entities that, due to the nature of their derivatives exposures, are unlikely to ever trigger the minimum IM of \$50 million. Given the significant time and resources required to negotiate legal documentation and establish operational connectivity with third-party custodians, the creation of a new compliance phase and the CFTC's prior clarification in July for IM trading documentation represent important efforts in addressing these implementation challenges.

Still, significant implementation challenges remain related to the monitoring of the \$50 million IM threshold which, in our view, could be mitigated through two adjustments to the existing ruleset. First, the CFTC should consider instituting a regulatory "grace period" for the actual exchange of IM once the \$50 million IM threshold is triggered. Without a grace period, firms may have to cease trading with certain counterparties well in advance of the threshold to avoid breaching the limit. The duration of this grace period should ideally be at least six months given the significant time and resources involved to negotiate legal documentation and establish operational connectivity with third-party custodians. Second, rather than basing the \$50 million IM exchange threshold on a single daily snapshot, we recommend the use of a quarterly or semi-annual average. This would alleviate daily monitoring requirements by end users and would provide covered swap entities a less volatile metric by which to measure the \$50 million IM threshold.

### **Recommendations:**

- Adopt the proposed additional compliance date of September 1, 2021 for IM requirements for counterparties with AANA from \$8 billion to \$50 billion
- Extend proposed changes to include the following:
  - Institute a regulatory grace period of at least six months for the actual exchange of IM once the \$50 million IM threshold is triggered given the significant time and resources involved to negotiate documentation and establish connectivity with custodians
  - Use a quarterly or semi-annual average as the base of the \$50 million IM exchange threshold to provide a less volatile metric and alleviate daily monitoring implementation challenges

## **Additional Topic for Consideration**

Lastly, we urge the CFTC to remove physically-settled FX swaps and forwards from the AANA calculation. This reflects a number of considerations. First, physically-settled FX swaps and forwards do not independently require IM exchange and will not result in a significant increase in the amount of posted IM. Second, as short-dated and highly liquid transactions, physically-settled FX swaps and forwards present limited long-term or systemic risks. Third, the proposed

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framework would require firms to spend significant resources and time to monitor activity and negotiate agreements with counterparties that will likely not require the actual exchange of IM. In summary, the current construct of including physically-settled FX swaps and forwards in the AANA calculation produces suboptimal regulatory outcomes.

**Recommendation:**

- Remove physically-settled FX swaps and forwards from the AANA calculation

**Conclusion**

State Street appreciates your consideration of this letter and the recommendations we propose. To summarize, we strongly support the CFTC's efforts to add a sixth compliance phase for IM requirements for counterparties with AANA from \$8 to \$50 billion. The additional recommendations we propose are intended to support these efforts.

Please feel free to contact me at [jjbarry@statestreet.com](mailto:jjbarry@statestreet.com) should you wish to discuss State Street's submission in further detail.

Sincerely,

A handwritten signature in black ink, appearing to read "JJ Barry", with a stylized flourish at the end.

Joseph J. Barry