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

October 22, 2020

Via Electronic Submission: https:/comments.cftc.gov
Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, D.C. 20581

Re: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (RIN 3038-AF05 and RIN 3038-AF06)

Dear Mr. Kirkpatrick:

Managed Funds Association ("**MFA**")[1] is grateful for the opportunity to provide comment to the Commodity Futures Trading Commission (the "**Commission**") on its two recent notices of proposed rulemaking issued in respect of the Commission's "Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants" (the "**MSE Proposed Rule**,"[2] the "**SMA Proposed Rule**,"[3] and collectively, the "**Proposed Rules**").

MFA fully supports the objectives of each of the Proposed Rules. In particular, MFA agrees with the Commission's goal in the MSE Proposed Rule of aligning the calculation method for determining an entity's material swap exposure ("**MSE**") with the Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions' ("**BCBS-IOSCO**") Framework for non-centrally cleared derivatives (the "**BCBS-IOSCO**

[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 alternate 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] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 85 Fed. Reg. 59702 (September 23, 2020), available at: https://www.cftc.gov/sites/default/files/2020/09/2020-18303a.pdf (the "**MSE Proposed Rule Release**").

[3] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 85 Fed. Reg. 59470 (September 22, 2020), available at: https://www.cftc.gov/sites/default/files/2020/09/2020-18222a.pdf (the "**SMA Proposed Rule Release**").

Framework"). MFA also supports codification of the no-action relief issued in Commission Letter Nos. 17-12 and 19-25, as set forth in the SMA Proposed Rule, relating to the application of the minimum transfer amount ("**MTA**") to separately managed accounts and the application of separate minimum transfer amounts for initial margin ("**IM**") and variation margin ("**VM**"), respectively.

The Proposed Rules offer helpful solutions to market participants preparing for forthcoming compliance dates applicable to the Commission's rules regarding IM requirements for uncleared swaps entered into by swap dealers for which there is no prudential regulator (the "**CFTC Margin Rules**"). MFA's additional comments on the Proposed Rules are set forth below.

In addition to the comments contained herein, MFA notes that there are several additional changes to the CFTC Margin Rules that are important to the MFA membership and others in the market, as outlined in the *Report to the Commodity Futures Trading Commission's Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps* (the "**GMAC Subcommittee Report**") [4] and in MFA's letter to the Commission dated December 17, 2019 (the "**December 2019 Letter**").[5] We understand that time and many other agenda items did not enable the Commission to consider these changes this Fall, but we urge the Commission to prioritize them for consideration in 2021.

I. The MSE Proposed Rule

The MSE Proposed Rule would amend the definition of "material swaps exposure" set forth in Commission Regulation 23.151 to revise the method for determining whether a financial end-user has MSE and the timing for compliance with the Commission's IM requirements, with the objective of aligning these aspects of the CFTC Margin Rules with the BCBS/IOSCO Framework. In the MSE Proposed Rule Release, the Commission acknowledges that these changes would result in a divergence from the U.S. prudential regulators' approach, and as a result, may increase burdens of market participants that also enter into uncleared swaps with swap dealers that are subject to the U.S. prudential regulators' margin requirements for uncleared swaps.[6] We appreciate the leadership taken by the Commission to consider this important amendment, as well as the amendments included in the SMA Proposed Rule discussed below, and urge the Commission to continue its coordination with the U.S. prudential regulators, with the goal of harmonizing the

[4] *See Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps*, Report to the CFTC's Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps (April 2020), available at: https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download ("**GMAC Subcommittee Report**").

[5] *See* MANAGED FUNDS ASS'N, MARGIN REQUIREMENTS FOR UNCLEARED SWAP DEALERS AND MAJOR SWAP PARTICIPANTS, LETTER TO THE COMMODITY FUTURES TRADING COMMISSION (December 17, 2019), available at: https://www.managedfunds.org/wp-content/uploads/2020/04/CFTC-Proposed-UMR-Amendments-Final-MFA-Letter-12-17-19.pdf.

[6] MSE Proposed Rule Release at n. 33 and n. 41.

requirements of the margin rules imposed by both the Commission and the U.S. prudential regulators with the BCBS/IOSCO Framework.

II. The SMA Proposed Rule

Application of MTA to SMAs

The SMA Proposed Rule would amend the definition of "minimum transfer amount" in Commission Regulation 23.151 to permit a covered swap entity ("**CSE**") to apply an MTA of up to $50,000 to each separately managed account ("**SMA**")[7] owned by a counterparty with which the CSE enters into uncleared swaps. This proposed amendment is consistent with the terms of Commission Letter No. 17-12.

It is MFA's view that the proposed amendment to the MTA definition is beneficial in that it eliminates the significant burden of requiring multiple asset managers running SMAs for a single shared SMA owner to coordinate calculation of the MTA among them. Since SMA asset managers typically have autonomous investment discretion, SMA owners do not have centralized infrastructure to support managing collateral payments across multiple SMAs. The SMA Proposed Rule sets forth a predictable and easily calculated MTA for each SMA. This will reduce costs, operational burdens and other complications for swap dealers, SMA asset managers, institutional investors and other owners of SMAs.

With respect to the Commission's concern that the proposed changes would incentivize SMA owners to create additional separate accounts to potentially benefit from a higher MTA limit,[8] we do not see this as a significant risk. Since the concept of an MTA is designed to reduce *de minimis* or "nuisance" margin calls, it is generally a very small amount proportional to the overall margin an SMA is required to post. The costs and burdens associated with hiring an asset manager to establish an SMA are significant and in most, if not all, cases, would override the benefits of any marginal MTA increase to the SMA owner.

Application of Separate MTAs for IM and VM

The SMA Proposed Rule would also amend the CFTC Margin Rules to revise the margin documentation requirements outlined in Commission Regulation 23.158(a) in order to permit a CSE to apply separate MTAs for IM and VM with each counterparty, provided that the two MTAs

[7] The SMA Proposed Rule would define a "separately managed account" as an account of a counterparty to a CSE that meets certain requirements, including that (i) the account is managed by an asset manager and governed by an investment management agreement, pursuant to which the counterparty grants the asset manager authority with respect to a specified amount of the counterparty's assets, and (ii) the swaps of such account are subject to a master netting agreement that does not provide for the netting of initial or variation margin obligations across all such accounts of the counterparty that have swaps outstanding with the CSE. *See* SMA Proposed Rule Release at 59478.

[8] SMA Proposed Rule Release at 59473.

do not, on a combined basis, exceed the $500,000 MTA specified in Commission Regulation 23.151. This proposed amendment is consistent with the terms of Commission Letter No. 19-25.

MFA supports this amendment and agrees with the Commission's preliminary conclusion that the amendment will accommodate a widespread market impact that facilitates implementation of the CFTC Margin Rules, especially in light of the separate settlement workflows required for IM and VM under the CFTC Margin Rules.

With respect to the Commission's request regarding whether the application of separate MTAs for IM and VM should be extended to SMAs of a counterparty for each of which an MTA of up to $50,000 be applicable under the proposed amendments to Commission Regulation 23.151,[9] MFA supports such extension. We think the Commission's stated rationale for proposing the revisions to Commission Regulation 23.158(a) applies equally to SMAs as it does to other counterparties subject to the CFTC Margin Rules.

* * * *

We are grateful for the Commission's efforts to propose the changes set forth in the Proposed Rules as we think these changes will facilitate the compliances burden for uncleared swap market participants. We look forward to working with the Commission to discuss other ways to help market participants manage and prioritize resources and mitigate trading disruptions in connection with implementing the CFTC Margin Rules. To that end, we would like to reiterate the comments made in our December 2019 Letter, relating to five additional changes designed to address the buy-side's unique implementation challenges. A copy of the December 2019 Letter is attached here for your reference. As noted above, we urge the Commission to prioritize these changes, as well as those highlighted in the GMAC Subcommittee Report, for consideration in 2021.

[9] SMA Proposed Rule Release at 59474.

Please do not hesitate to contact the undersigned at (202) 730-2600 or jhan@managedfunds.org with any questions the Commission or its Staff might have regarding this letter or the comments set forth in the December 2019 Letter.

Respectfully submitted,

/s/ Jennifer W. Han

Jennifer W. Han
Managing Director & Counsel,
Regulatory Affairs
Managed Funds Association

cc: The Hon. Heath P. Tarbert, Chairman
The Hon. Brian D. Quintenz, Commissioner
The Hon. Rostin Behnam, Commissioner
The Hon. Dawn DeBerry Stump, Commissioner
The Hon. Dan M. Berkovitz, Commissioner

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APPENDIX

December 17, 2019

Via Electronic Submission: https://comments.cftc.gov

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

Re: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (RIN Number 3038-AE89)

Dear Mr. Kirkpatrick:

Managed Funds Association[1] ("**MFA**") welcomes the opportunity to comment on the Commodity Futures Trading Commission's (the "**Commission**") proposed rule amendment to "Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants" ("**Proposed UMR Amendment**")[2]. MFA appreciates and supports the proposed one-year extension of the final phase and the addition of an intermediate phase in the compliance schedule as a sensible way to stage the final implementation phases of initial margin ("**IM**") requirements for uncleared derivatives ("**UMR**"). These staging changes align with those adopted by the Basel Committee on Banking Supervision ("**BCBS**") and the Board of the International Organization of Securities Commissions ("**IOSCO**") and are consistent with MFA's staging recommendation to regulators to avoid a cliff-edge effect in the final implementation phase.[3] While the Proposed UMR Amendment will help market participants manage and prioritize their resources and mitigate trading disruptions, we believe it will not address all of the buy-side's unique implementation

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[2] 84 Fed. Reg. 56950 (Oct. 24, 2019), available at: https://www.cftc.gov/sites/default/files/2019/10/2019-22954a.pdf ("**Proposed Rule Release**").

[3] *See* BCBS and IOSCO "Margin Requirements for non-centrally cleared derivatives," (July 2019), available at: https://www.bis.org/bcbs/publ/d475.pdf. *See also* MFA letter to the Board of Governors of the Federal Reserve System and other U.S. prudential regulators, June 20, 2019, available at: https://www.managedfunds.org/wp-content/uploads/2019/06/MFA-Letter-to-US-Prudential-Regulators-on-UMR-IM-Implementation-Relief-Final-.pdf.

challenges. For a more complete regulatory solution, MFA respectfully requests that the Commission coordinate with other regulators to adopt the following additional changes:

(1) Expand the use of money market funds ("**MMFs**") by removing the unduly restrictive conditions to their use as eligible IM collateral;

(2) Provide a deferral or grace period of six months after a given counterparty relationship involving a financial end user, including any separately managed account (or "**SMA**"),[4] first exceeds the IM exchange threshold ("**IM Threshold**") to put the necessary UMR-compliant documentation and systems in place;

(3) Authorize annual calculation, testing and monitoring of the $50 million regulatory IM Threshold for in-scope counterparty relationships involving SMAs. Doing so will facilitate a controlled and orderly implementation process for SMAs that will reduce the costs and operational burdens of daily monitoring and minimize unexpected breaches of IM Thresholds by SMAs that would cause trading disruptions;

(4) Work with market participants to develop a feasible, standardized approach for allocating IM Thresholds across multiple asset managers for a given SMA client; and

(5) Exclude physically settled foreign exchange ("**FX**") swaps and forwards in calculations of aggregate average notional amounts ("**AANAs**") for determining whether counterparties are subject to regulatory IM requirements.

MFA believes that it is important for the Commission to incorporate these changes before UMR IM requirements come into effect for buy-side participants in the final phases to avoid any potential confusion or market disruption.[5]

1. Expand the Use of MMFs as Eligible IM Collateral

MFA requests that the Commission coordinate with other regulators to eliminate the restrictions and conditions in the UMR on the use of MMFs as eligible IM collateral.[6] Both in the US and European Union ("**EU**"), the regulatory requirements for the margining of uncleared derivatives allow for the use of MMFs as collateral. However, each regulatory regime imposes restrictions

[4] Large institutional investors, such as pension plans and endowments, typically hire multiple asset managers to exercise investment discretion over a portion of such investor's assets for management in accounts referred to as "separately managed accounts". Asset managers do not know the positions of other asset managers trading derivatives for the same underlying investor under multiple SMAs and do not act in coordination. Swap dealers will only know the derivatives transactions that they have executed with an SMA's asset managers.

[5] MFA's additional regulatory changes respond to the following comment question on page 56952 of the Proposed Rule Release: "Is there any further Commission guidance necessary to avoid any potential confusion or market disruption?"

[6] *See* MFA joint letter to U.S. regulators, August 1, 2019, available at: https://www.managedfunds.org/wp-content/uploads/2019/08/ISDA-Joint-Letter-to-US-Regulators-Cash-and-Money-Market-Funds-as-Initial-Margin-8.1.19-Final.pdf. *See also* MFA letter to EU regulators, October 24, 2019 ("**EU MMF Letter**"), available at: https://www.managedfunds.org/wp-content/uploads/2019/11/EMIR-Margin-RTS-Final-MFA-Letter-10-24-19.pdf.

that, in practice, mean that there are no MMFs that are eligible under both the EU margin rules[7] and either the Commission's UMR[8] or the U.S. prudential regulators' UMR[9] (referred to collectively as "**US UMRs"**). As a result, when an entity in scope of the US UMRs faces an entity in scope under the EU regulatory regime, neither counterparty may post cash to be reinvested into an MMF nor directly post an MMF as collateral. Where substituted compliance is available, the conditions on use of substituted compliance mean that, depending on the location of the parties, either U.S. or EU MMFs can be posted, but not both. This restriction significantly decreases the options for viable eligible collateral considering settlement and transfer timing limitations and global fragmentation. Unless remedied, the use of MMFs as eligible collateral for IM will be extremely limited and the global market will be bifurcated by regulatory regime.

A. Industry Use of Cash and MMFs as Collateral

Cash is widely used as collateral in the derivatives market. According to the latest ISDA Margin Survey,[10] 75.3% of derivatives collateral posted is cash. Cash settlement processing is efficient, fungible, and a high quality and liquid asset. Cash is often then swept into an MMF to reduce custodian risk, among other reasons. Posting cash is a necessity for entities both directly and indirectly subject to the IM requirements because:

(1) Firms may not have ready access to eligible non-cash collateral;

(2) Firms may not have the operational infrastructure and/or the capacity to efficiently transform cash to eligible collateral;

(3) Transformation outside the custodian can be costly for firms with less scale;

(4) Holding securities specifically in anticipation of collateral calls creates a drag on performance and decreases investment performance for end investors; and

(5) There are situations where transformation is not possible or practical prior to posting (*e.g.*, due to reinvestment/custodian cut-off times).

For both voluntary and mandatory IM, clients have steadily increased the use of third-party IM segregation arrangements. In addition, regulatory margin transfer deadlines continue to contract. As a consequence, there has been increased use of MMFs as a secure and efficient reinvestment option with cash margin.

As a result, the expected mechanism for reinvestment of cash is a custodian "sweep," where the custodian reinvests the cash within the segregated account into another eligible collateral asset via

[7] European Commission Delegated Regulation (EU) 2016/2251 in the context of the EMIR Refit framework, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0834&from=EN.

[8] Commission Final Rule, "Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants," 81 Fed. Reg. 636 (Jan. 6, 2016).

[9] Final Rule, "Margin and Capital Requirements for Covered Swap Entities," 80 Fed. Reg. 74840 (Nov. 30, 2015).

[10] Available at: https://www.isda.org/a/nIeME/ISDA-Margin-Survey-Year-End-2018.pdf.

standing instructions. Buy-side market participants using the custodian sweep process can efficiently meet margin calls with cash in compressed timeframes without having dedicated resources and overhead costs to manage the MMF investment process directly.

We appreciate that the US UMRs allow for the use of redeemable securities in a pooled investment fund that holds only US Treasuries (or securities unconditionally guaranteed by the US Treasury) and cash funds denominated in US dollars, however, this form of eligible collateral is subject to the undue limitation within §23.156 (a)(ix)(C) of the Commission's rule and §__.6(b)(9)(ii) of the U.S. prudential regulators' rule: "*Assets of the fund may not be transferred through securities lending, securities borrowing, repurchase agreements, reverse repurchase agreements, or other means that involve the fund having rights to acquire the same or similar assets from the transferee*." This limitation severely reduces the number of eligible MMFs that could be used under the US UMRs, and this limitation is also inconsistent with other regulations such as Commission Regulation 1.25 (which governs the investment of customer money by futures commission merchants ("**FCMs**") without similar restrictions). It is important to note here that MMFs are significant cash providers in the US repurchase agreement ("**repo**") market, particularly in the tri-party and sponsored repo markets.[11] As such, MMFs are a well-established source of non-dealer repo funding and liquidity that provide strength and stability in the overnight repo market. Given the recent disruption in the US repo market, MFA believes it is critically important for US regulators to ensure that MMF funding of tri-party and sponsored repos is not unduly restricted.[12]

In contrast to the US UMRs, EU margin rules for uncleared derivatives do not restrict MMFs' use of repos or reverse repos.[13] Therefore, we request that the Commission coordinate with the U.S. prudential regulators to eliminate this limitation to expand the types of MMFs that buy-side market participants can post as eligible IM collateral, including non-US MMFs. MFA has also requested that EU regulators expand the scope of MMFs that market participants may post as IM to include non-EU MMFs and other issuing entities that have similar MMF regulatory oversight within their applicable regime.[14]

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[11] A repo is the sale of a security, or a portfolio of securities, combined with an agreement to repurchase the security or a portfolio on a specified future date at a prearranged price. It is economically similar to a collateralized loan. In the tri-party repo market, a clearing bank acts as a third party to facilitate repo settlement. If there is a dealer default, clearing banks also ensure that collateral will be available. The Fixed Income Clearing Corporation (FICC) also clears some interdealer repos, which further mitigates risk. *See* A. Copeland *et al*., FRBNY Economic Policy Review, "Key Mechanics of the U.S. Tri-Party Repo Market," November 2012. Under so-called "sponsored" repos, dealers may also sponsor non-dealer repo counterparties onto FICC's cleared repo platform.

[12] *See e.g.*, Repo Turmoil Prompts U.S. Regulators to Scrutinize Market Dangers, Bloomberg, Dec. 4, 2019, available at: https://www.bloomberg.com/news/articles/2019-12-04/repo-turmoil-prompts-fsoc-to-open-review-into-market-risks.

[13] *See* Recital 27 of REGULATION (EU) 2017/1131 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on money market funds.

[14] *See* EU MMF Letter, *supra* n. 7.

2. Provide Deferral Period for In-Scope Counterparty Relationships Below IM Thresholds

MFA requests that the Commission coordinate with the U.S. prudential regulators and other regulators to provide a six-month deferral or grace period for any in-scope counterparty relationship involving a financial end user, including SMAs,[15] that will not exceed the IM Threshold as of the applicable compliance date of the new regulatory IM regime (such entities, the "**Below IM Threshold Subgroup**").

MFA expects that the Below IM Threshold Subgroup will likely be placed relatively low in the priority queue due to the resource constraints of swap dealers and custodians. Such resource constraints would require that swap dealers and custodians prioritize those entities that will exceed the IM Threshold to ensure their regulatory-compliant documentation and custodial arrangements are in place by the time regulatory IM exchange is required. To address such expected resource prioritization, MFA believes that a grace period of six months after an entity first exceeds the IM Threshold would be a reasonable deferral period for the Below IM Threshold Subgroup to put the necessary UMR-compliant documentation and systems in place.

MFA notes that the Securities and Exchange Commission ("**SEC**") adopted a two-month deferral period before a security-based swap dealer ("**SBSD**") must collect the required IM amount from its counterparty following the first breach of the $50 million IM threshold.[16] The SEC's rationale for this deferral period is to provide "sufficient time for [SBSDs] and their counterparties to implement any documentation, custodial, or operational arrangements that they deem necessary" to comply with the SEC's non-cleared security-based swap margin requirements.[17] MFA encourages the Commission, in coordination with the U.S. prudential regulators, to adopt a similar deferral period for closer harmonization with the SEC. However, we believe the deferral period should be longer than two months under the US UMRs, given that the US UMRs impose specific margin documentation requirements, whereas the SEC margin rules do not.[18]

3. Authorize Annual Calculation, Testing and Monitoring of IM Thresholds for SMAs

MFA believes that daily calculations of IM Thresholds for SMAs would result in significant costs, operational burdens and complications for swap dealers and asset managers for SMA clients. Rather than imposing daily calculations, MFA requests that the Commission coordinate with the U.S. prudential regulators to clarify that IM Thresholds for SMAs may be calculated, tested and monitored annually, using the same calculation periods (*i.e.*, June, July, and August of the previous year) for determining whether counterparty relationships exceed AANA thresholds. If the IM Threshold for a given counterparty relationship is not exceeded, there would be no requirement to

[15] *See infra* n. 20.

[16] SEC Final Rule, "Capital. Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital and Segregation Requirements for Broker-Dealers," 84 Fed. Reg. 43872 (Aug. 22, 2019), at 44069, §240.18a-3(c)(1)(iii)(H)(2) (one-time deferral for up to two months following the month in which a counterparty no longer qualifies for the $50 million threshold exception for the first time).

[17] *Id.* at 43929.

[18] *Id.* at 43928, fn. 570.

exchange regulatory IM during the corresponding compliance period. For asset managers' SMAs, annual calculations would thus reduce the frequency of costly and disruptive fire-drills to complete UMR-compliant documentation and systems set-ups after a swap dealer notifies the asset manager that a given SMA client's aggregate regulatory IM across all asset managers approaches or exceeds the IM Threshold. This solution would thus provide a controlled and orderly implementation process for SMAs that will minimize unexpected breaches of IM Thresholds and the resulting risk of trading disruptions. As explained further in the next section, SMAs have distinct complexities from private funds and other financial end users that warrant regulatory relief.

4. Work with Industry on a Standardized Solution for Allocating IM Thresholds for SMAs

MFA supports the recent request of the Asset Management Group of the Securities Industry and Financial Markets Association ("**SIFMA AMG**") for regulators to work with market participants to formulate a feasible, standardized solution for swap dealers to manage the ongoing allocation of IM Thresholds for SMA clients.[19] The key challenge for many MFA members and other asset managers of SMAs is that they lack visibility into the aggregate uncleared derivatives exposures of their SMA clients across multiple asset managers.[20] Without the requisite aggregate visibility, asset managers of SMA clients cannot calculate or verify calculations of either the IM Threshold or the allocation of the IM Threshold across asset managers and a swap dealer (and any of the swap dealer's affiliates) for purposes of determining the correct regulatory IM amount to be collected from each SMA client. As the AMG UMR Letter explains, swap dealers will have the requisite visibility to make such calculations for their counterparty relationships involving SMAs. However, swap dealers will face serious operational and documentation complexities in managing the ongoing allocations of IM Thresholds for SMAs. These complexities increase as the number of asset managers and/or the volume of trading activity in uncleared derivatives change for a given SMA client. MFA is unaware of any feasible, standardized approach for swap dealers to manage these allocation complexities. In the interest of a functional market, we encourage the Commission and other regulators to adopt our recommendations in sections 2 and 3 above to help relieve allocation challenges of IM Thresholds for SMAs and to coordinate with swap dealers and asset managers for SMAs to develop standard allocation methods.

[19] *See* SIFMA AMG letter to global regulators, dated September 13, 2019 ("**AMG UMR Letter**"), available at: https://www.sifma.org/resources/submissions/margin-requirements-for-non-centrally-cleared-derivatives-remaining-stages-of-initial-margin-phase-in/.

[20] In fact, the same lack of visibility issue presents itself in other structures, such as managers of funds of one. For example, in circumstances where the fund of one is a Cayman company and the Cayman company/investor holds the management shares, the fund of one would be consolidated on the investor's financial statements. If the investor has funds of one structured in this way with multiple managers, the $50 million threshold would need to be tracked and allocated across the funds of one with different managers. Thus, we believe other structures, such as funds of one that are margin affiliates of the underlying investor should be extended the same treatment as SMAs.

5. Exempt FX Swaps and Forwards from AANA Calculations

As MFA recommended in its letter to BCBS and IOSCO,[21] the exclusion of physically settled FX swaps and forwards in AANA calculations for determining whether counterparties are subject to 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. A regulatory exemption for such products would be an impactful scoping solution that would substantially mitigate the resource-intensive implementation challenges for in-scope buy-side entities, swap dealers and custodians. Excluding such products from AANA calculations will also better serve a key policy objective of the UMR by narrowing the pool of in-scope counterparty relationships involving financial end users to those that may present a material level of systemic risk in their uncleared derivatives trading activities.

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MFA thanks the Commission for the Proposed UMR Amendment and for considering MFA's recommendations for additional changes to address implementation challenges. 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 Commission or its Staff might have regarding this letter.

Respectfully submitted,

/s/ Carlotta D. King

Carlotta D. King
Associate General Counsel
Managed Funds Association

cc: The Hon. Heath P. Tarbert, Chairman
The Hon. Brian D. Quintenz, Commissioner
The Hon. Rostin Behnam, Commissioner
The Hon. Dawn DeBerry Stump, Commissioner
The Hon. Dan M. Berkovitz, Commissioner

[21] *See* MFA letter to BCBS and IOSCO, dated 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.