GLOBAL PENSION COALITION

February 3, 2015 Meetings with US Regulators
to Discuss Uncleared Margin Proposals

<u>November 24, 2014 Comment Letter – Main Points</u>

- Pensions never should be required to post initial margin.
    - Pensions provide a crucial source of stable, risk-reducing liquidity to the derivatives markets because they are highly creditworthy and liquid counterparties, operating with little to no leverage.
- "Affiliate" for purposes of counting towards a pension's MSE should be limited to only those pension affiliates to whom a dealer would have recourse under the trade.
    - Consistent with MSP definition.
    - Otherwise, unduly burdensome compliance obligation to monitor all affiliates, including collective investment vehicles that a pension "controls" through 25% ownership, or pension sponsors that appoint a trustee or investment advisor.
    - The affiliate definition fix also would enable pensions to continue using trustees as third-party custodians, consistent with ERISA and current CFTC and SEC policy.
- The multi-jurisdiction enforceability requirement for third-party custodian agreements is legally impractical.
    - Too many competing principles of law across jurisdictions could give rise to a claim of breach, meaning a legal opinion never would be clean.
- Variation margin collateral should include government securities, and initial margin collateral should include CDs and money-market funds.
    - CDs and money-market funds more liquid than gold, which is currently allowed.
- Treasury-exempt FX forwards and swaps, as well as FX spot, should be explicitly excluded from the MSE calculation.
    - Including these products for purposes of counting is directly at odds with Treasury's determination that margin rules do not apply.
- The proposals should be consistent in requiring two-way margin for smaller plans.
    - Either no requirement at all (like current CFTC proposal), or provide ability to request two-way.
- Pensions (particularly large plans to whom initial margin will be posted) should be able to play a role in selecting initial margin calculation methodologies.
    - At a minimum, dealers should be required to obtain consent when calculating an amount under an internal model that is higher than under the table-based approach, and the methodology should be applied consistently.
- Phase-in should not apply to pensions until at least December 2019, the latest deadline proposed, regardless of when a pension breaches the applicable exposure level.
    - Alternatively, any final rule should allow for a simple written status representation to avoid data confidentiality issues that would arise with a CSE needing to know a non-CSE's counterparty positions.