COMMODITY FUTURES TRADING COMMISSION
MINUTES OF THE TUESDAY, MAY 19, 2020
GLOBAL MARKETS ADVISORY COMMITTEE MEETING

The Global Markets Advisory Committee ("GMAC") convened for a public meeting, via teleconference, on Tuesday, May 19, 2020, at 10:03 a.m. The meeting agenda consisted of two panels. Panel I consisted of a presentation on International Coordination in the Time of COVID-19. Panel II consisted of a presentation of the Report and Recommendations from the GMAC Subcommittee on Margin Requirements for Non-Cleared Swaps ("Subcommittee").

GMAC Members in Attendance

Angie Karna, Managing Director, Legal Department and Head of Legal for Global Markets, Americas, Nomura Securities International, Inc., GMAC Chair
Chris Allen, General Counsel, Clients and Products, Standard Chartered Bank
Edward ("Ted") Backer, Global Head of Listed Derivatives Execution, Morgan Stanley
Ashley Belich, Head of Global OTC Derivatives & Dodd-Frank Advisory, RBC Capital Markets
Shawn Bernardo, Chief Executive Officer, TP ICAP SEF
Darcy Bradbury, Managing Director, D.E. Shaw & Co., LP
Maria Chiodi, Managing Director, Credit Suisse Securities (USA), LLC
Joe Cisewski, Consultant, Better Markets
Gerry Corcoran, Chairman of the Board and Chief Executive Officer, R.J. O'Brien and Associates, LLC
Sunil Cutinho, President, CME Clearing
Paul Hamill, Global Head of Fixed Income, Currencies and Commodities, Citadel Securities
Amy Hong, Head of Market Structure Strategy, Goldman Sachs
John Horkan, Group Chief Operating Officer and Head of North America, LCH Group
Adam Kansler, President of Financial Services, IHS Markit
Robert Klein, Managing Director and General Counsel, Citigroup Global Markets
Agnes Koh, Chief Risk Officer, Singapore Exchange Limited
Ben MacDonald, Global Head of Enterprise Products & President of Bloomberg's SEF and SDR, Bloomberg LP
Joe Nicosia, Global Platform Head of Cotton, Louis Dreyfus Co.
Murray Pozmanter, Managing Director & General Manager, Depository Trust & Clearing Corporation (DTCC)
Thomas Sexton, President and Chief Executive Officer, National Futures Association (NFA)
Jessica Sohl, Partner and President, HC Technologies, LLC
Thane Twiggs, Chief Compliance Officer, Cargill Risk Management
Supurna VedBrat, Managing Director and Global Head of Trading, BlackRock
Masahiro ("Masi") Yamada, Managing Director & Head of America's Cross Asset Structuring,

Commissioner Stump welcomed the meeting attendees, and then emphasized that since CFTC-regulated markets are global in nature, it is critical to maintain cooperation with international regulatory counterparts during the COVID-19 pandemic as well as in less stressful periods. After thanking the GMAC members for their expertise, she provided an overview of the meeting agenda, which included a report from Mr. Paliwal on the coordination among the international regulatory committee regarding recent market events and a presentation and vote regarding the Subcommittee report and recommendations. She commended the Subcommittee for producing the report within a compressed timeline, especially in light of recent market events, and especially thanked the Subcommittee Chair and the CFTC staff who engaged with the Subcommittee during its preparation of the report and recommendations.

Next, Chairman Tarbert provided his opening remarks. He thanked the GMAC and Subcommittee for their work, noting their contributions are critical to the CFTC's mission. He remarked that he looked forward to the Subcommittee's presentation, and noted that the Basel Committee on Banking Supervision ("BCBS") and the International Organization of Securities Commissions ("IOSCO") have supported extending the compliance deadline for Phases 5 and 6 of the margin requirements by a year in response to COVID-19. He also stated that margin rules serve as a key systemic risk reducer, noting that firms eligible for this extension are those with the smallest non-cleared swaps portfolios. He urged the Commission to follow the example of their international regulatory counterparts. He also noted, more generally, his appreciation that a number of the Subcommittee's recommendations suggested multiple alternative ways of accomplishing the stated objective, which was helpful to the Commission in determining how to address the issues identified in the report.

Commissioner Quintenz acknowledged that the compliance deadlines for Phases 5 and 6 will entail a much larger, more diverse group of market participants. For example, while Phases 5 and 6 comprise only 11% of swaps notional amount, they represent about 94% of all entities brought into the uncleared margin regime. He noted that he was specifically interested in the Subcommittee's recommendations regarding relief from initial margin ("IM") calculations as applied to small covered swap entities ("CSEs"); a forbearance period to allow firms to establish the necessary custodian documentation after the IM threshold has been exceeded; and alignment on timing and methodology for the material swaps exposure calculation with BCBS and IOSCO framework.

Commissioner Behnam commended the GMAC and Subcommittee for their good work on the report, noting the importance of such report in detailing the challenges facing market participants, as well as the need for regulators to be flexible in allowing the markets to function smoothly. He noted while uncleared margin is a "critical foundational point of the [Dodd-Frank] reforms," he would like to emphasize the importance of proceeding with Phases 5 and 6 in an effective manner in order to reduce operational risks and allow market participants—including end users—open and free access to our markets.

Lastly, Mr. Paliwal discussed recently-issued Commission no-action letters that provided targeted, temporary relief aimed at easing the impact of COVID-19 on market participants. Since social distancing has created compliance issues for rules originally intended for centralized offices, the no-action letters were crafted to accommodate the displacement of registrants' personnel from their normal business sites. He also mentioned a no-action letter that addresses the net capital treatment of loans obtained by futures commission merchants ("FCMs") and introducing brokers ("IBs") through the Paycheck Protection Program administered under the CARES Act.

Following Mr. Paliwal's presentation, Ms. Karna opened the floor for questions. Ms. Belich reiterated the need for coordinated efforts between domestic and international regulators, and expressed support for areas of relief that the CFTC is considering in response to COVID-19. There was no further discussion.

III. Presentation: Report and Recommendations from the GMAC Subcommittee on Margin Requirements for Non-Cleared Swaps

Ms. Wendy Yun, Co-Chair (Derivatives Committee), SIFMA Asset Management Group, gave an overview of the Subcommittee's Report and Recommendations on Margin Requirements for Non-Cleared Swaps ("Report"). She noted that since there are still significant implementation challenges faced by counterparties subject to the final compliance phases of the uncleared margin requirements, the Report's proposed adjustments would render the new rules more user-friendly without compromising the CFTC's regulatory mandate.

Specifically, Ms. Yun outlined the Report's two-pronged approach, namely, the "Immediate Term Recommendations," and the "Later Term Recommendations."

The Immediate Term Recommendations, suggested for adoption before the Phase 5 compliance date of September 1, 2021, included the following:

- Issuance of interpretive guidance to confirm that a CSE can continue to trade with a separately managed account ("SMA") client in the case of an inadvertent breach of the $50 million IM threshold if certain conditions are met;
- Removal of certain collateral eligibility restrictions regarding money market funds;
- Removal of the requirement that a seeded fund consolidate its swap exposure amounts with its sponsor during the seeding period;
- Adoption of no-action relief to small CSEs to allow them to rely on their counterparties for purposes of calculating regulatory IM;
- Adoption of a one-time, up to six-month forbearance period for compliance with the margin rules in order to reduce congestion.

investors to get exposure to strategies with reduced fees, and to maintain a diversity of portfolios in a controlled manner. Ms. Yun added that while end-users will either trade with themselves or operate through a limited use of asset managers, SMAs such as pension funds and other institutional investors may hire multiple asset managers for diversification and will likely not be involved in trading themselves. Thus, margin rules that require aggregation of data and coordination among multiple parties may create additional compliance hurdles for SMAs that might require additional time beyond the one-year extension period.

Ms. VedBrat then asked Ms. Yun to further explain the Subcommittee recommendation of a flat IM allocation across SMAs, noting that from an asset manager perspective, it is important that firms have legal certainty and the continuous ability to hedge. She further indicated concern that there could be a cliff-edge issue where one SMA entity exceeds the threshold limit, which would stop all the other asset managers from trading. Ms. Yun responded that since it may be difficult for the CSE and managers to continuously, and throughout the day, monitor the $50 million threshold on a dynamic basis, the flat IM allocation would provide more certainty by granting dealers the ability to use that flat IM amount per asset manager. Ms. Sakemi added that even with the Subcommittee's flat IM proposal, asset managers would still need a Commission interpretation to confirm that each SMA relationship is separate in order to avoid cliff-edge events and to ensure the other asset managers' ability to continue trading even in the event that the IM threshold was breached with one asset manager.

Ms. Karna then asked whether a flat IM threshold of $10 million could result in an aggregate exceeding the $50 million threshold, and if there are ways to prevent managers from setting up more accounts to breach the threshold intentionally. Ms. Cochrane responded that, while this scenario seems unlikely, the CFTC has anti-evasion powers that could be used in such instance. Ms. Yun agreed that other natural guardrails exist to prevent this possibility. Specifically, she explained that high transactional costs to establish an SMA significantly outweigh any other costs levied upon firms subject to the margin requirements. Ms. Karna then asked which party, *i.e.*, the CSE, the client, or the asset manager, would be responsible for compliance under this proposal. Ms. Yun and Ms. Cochrane indicated that the CSE would be in the best compliance position, given its regulatory obligations and the level of transparency on a real-time basis.

Mr. Yamada commented that the complexity of these problems is well-documented in the Report, particularly within Appendix C. He stated that the flat IM proposal is an elegant solution that limits the buildup of unmargined risk, while acknowledging the practical realities of the market structure. He then echoed the others' views, that given the high costs of setting up SMAs, there is little risk for abuse.

Ms. Karna then asked if smaller CSEs are disadvantaged by the requirement to use a quantitative initial margin model like the ISDA SIMM if they choose not to elect the grid regulatory schedule. In addition, she wondered if smaller swap dealers have any ability to market funds account for most of the collateral being segregated today and that many clients in the Phase 5 timeframe have made a request to preserve this strategy under the new regulatory regime. Ms. Yun agreed that the ability to use money market funds as eligible collateral would minimize frictions, avoid the bifurcation between voluntary initial margin and mandatory initial margin, and promote efficiency and diversification.

With regard to the timing and methods of calculation for MSE, Commissioner Stump asked if there are any issues that market participants should anticipate, given the different approaches taken by the US and EU regulators. Ms. Kruse responded that market participants near the bottom of the $8 billion threshold would have to run multiple, separate calculations at different time periods each year to determine whether they are in or out of scope. Since this scenario may create considerable burdens, Ms. Kruse hoped the U.S. would consider aligning its timing and methods of calculation with the BCBS-IOSCO framework.

Following the discussion, Ms. Karna asked whether there was a motion to adopt the Report and recommend to the Commission that it consider adopting the Report's recommendations. Mr. Thane Twiggs made a motion, which Ms. Bradbury seconded. The GMAC then voted 17-1 (with four abstentions) to adopt the Subcommittee Report and recommend to the Commission that it consider the Report's recommendations.

VI. Closing Remarks

The Chairman and Commissioners made brief closing remarks, thanking all meeting attendees and Commission staff.

The GMAC telephonic meeting was adjourned 12:30 p.m.

I hereby certify that the foregoing minutes are accurate.

Angie Karna
Chair, Global Markets Advisory Committee

6/15/20

Date