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15 April 2024

BCBS Secretariat
baselcommittee@bis.org

IOSCO Secretariat
margin@iosco.org

Re: *Streamlining VM processes and IM responsiveness of margin models in non-centrally cleared markets*

Dear Secretariats:

ICI Global[1] appreciates the opportunity to provide comments on the Basel Committee on Bank Supervision (BCBS) and International Organization of Securities Commissions (IOSCO)'s consultation on recommendations to streamline variation margin (VM) processes and increase the responsiveness of initial margin (IM) in non-centrally cleared markets.[2] ICI has consistently supported international efforts to implement margin requirements for non-centrally cleared swaps. Two-way margin is essential for managing the risk associated with swaps transactions as well as reducing systemic risk. The collection of IM is especially effective in reducing counterparty credit risk, providing each counterparty with protection against the future replacement cost in case of a counterparty default.

Our members – regulated funds[3] – have devoted considerable time and resources to implement margin requirements for non-centrally cleared markets. Notably, our members have benefited greatly from the implementation across jurisdictions of regulations consistent with the BCBS-

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[1] ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated investment funds. With total assets of $43.6 trillion, ICI's membership includes mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States (US), and UCITS and similar funds offered to investors in Europe, Asia, and other jurisdictions. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. ICI Global has offices in Brussels, London, and Washington, DC.

[2] BCBS-IOSCO, Streamlining VM processes and IM responsiveness of margin models in non-centrally cleared markets (17 January 2024) (the Consultation).

[3] For purposes of this letter, the term "regulated fund" refers to any fund that is organised, formed and regulated under national law, and is authorised for public sale. Such funds typically are subject to substantive regulation in areas such as disclosure, form of organisation, custody, minimum capital, valuation, investment restrictions (*e.g.*, leverage, types of investments or "eligible assets," concentration limits and/or diversification standards). Examples of such funds include US investment companies regulated under the Investment Company Act of 1940 and European Union (EU) UCITS.

IOSCO framework on margin for non-cleared swaps. Harmonisation of these measures has helped to mitigate the complexity of implementation and avoid disruptions to regulated funds' ability to use non-centrally cleared products.

To this end, we support many of the recommendations from the BCBS, the Committee on Payments and Market Infrastructures (CPMI), and IOSCO to improve margin practices following the market volatility in March 2020.[4]

Despite the unprecedented market stress during that time, the overwhelming majority of regulated funds, including US-domiciled regulated funds, continued to function normally and redeem shares upon demand.[5] Through robust liquidity risk management programs, internal stress testing, and the flexibility to use a range of liquidity and liability management tools, regulated funds also were able to appropriately ensure that margin calls for cleared and non-centrally cleared products were fully and timely paid.

As BCBS-CPMI-IOSCO concluded, IM requirements for non-centrally cleared products remained relatively stable during the period, indicating that IM for uncleared products did not drive changes to market practice over the period.[6] We appreciate that the recommendations would not amend the current international framework regarding margin for non-centrally cleared swaps.

Nevertheless, global regulators can improve margin practices to alleviate downstream stresses on the broader financial system. While the focus should remain on enhancements in the cleared markets, our members have long supported transparent, bilateral margin for uncleared swaps which, among other benefits, helps regulated funds and other clients better prepare for future market stress events.[7]

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[4] BCBS-CPMI-IOSCO, Review of margining practices (29 September 2022) (Margin Review); Letter from Jennifer S. Choi to BCBS, CPMI, and IOSCO Secretariats re Consultative Report on Review of Margining Practices (26 January 2022) (ICI Phase 1 Margin Letter).

[5] *See, e.g.*, ICI, Experiences of European Markets, UCITS, and European ETFs During the COVID-19 Crisis (December 2020); ICI, Report of the COVID-19 Market Impact Working Group, The impact of COVID-19 on Economies and Financial Markets (October 2020); ICI, Report of the COVID-19 Market Impact Working Group, Experiences of US Money Market Funds During the COVID-19 Crisis (November 2020).

[6] *See* Margin Review at 3.

[7] *See*, *e.g.,* ICI Phase 1 Margin Letter. *See also* Letter from Sarah A. Bessin to Christopher Kirkpatrick re Margin Requirements for Uncleared Swaps for Swaps Dealers and Major Swap Participants (10 October 2023); Joint Comment Letter Responding to Prudential Regulatory Authority of the Bank of England and the Financial Conduct Authority re Margin requirements for non-centrally cleared derivatives (3 October 2022); Letter from Dan Waters to Ashley Alder re Consultation Paper on Proposed Margin Requirements for Non-Centrally Cleared Over-the-Counter Derivative Transactions (20 August 2018).

Notably, in their capacity as end-users, individual ICI members have contributed to several industry efforts to develop and offer sensible recommendations toward achieving these objectives, including as members of the Commodity Futures Trading Commission (CFTC) Global Markets Advisory Committee (GMAC) Subcommittee on Margin Requirements for Non-Cleared Swaps and Technical Issues Subcommittee. *See e.g.,* GMAC,

footnote continued on the next page

Accordingly, we are supportive of BCBS-IOSCO's work to enhance margin practices in non-centrally cleared markets. The goal of the work should focus on enhancing transparency to facilitate liquidity planning and alleviate the need for additional liquidity during market stress periods.

On a related point, the consultation observes that there are jurisdictional differences in the eligibility criteria for VM collateral.[8] We support expanding the eligible types of VM collateral and, thus, support monitoring these differences to ensure the current standard does not become a binding constraint, particularly on cross-border transactions. We also support the proposed recommendation that firms should consider providing flexibility in bilaterally agreed acceptable collateral.

More specifically, we note that there would be significant benefits to expanding the types of eligible collateral, particularly in periods of market stress. While cash collateral is efficient, fungible, and a high quality and highly liquid asset, firms may encounter challenges to posting cash, especially during periods of market volatility. Firms may not have ready access to eligible non-cash collateral because of their investment strategies and may not have the operational infrastructure and/or capacity to efficiently transform their assets to eligible collateral. These challenges can lead to increased trading, operational, and settlement costs that impact end-user performance. Firms may see an increase in transactional risks and costs associated with transformation outside of the custodian. There may be challenges with posting eligible collateral because (i) transformation is not practical or possible due to reinvestment and custodian cut-off times or (ii) it is not practical or possible to maintain excess collateral of an asset type that is not part of a fund's primary investment strategy.

We encourage BCBS-IOSCO to further consider recommendations to expand the types of eligible collateral based on appropriate risk-based eligibility principles.

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Recommendations to Improve the Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps (19 May 2020);.GMAC, Recommendation for CCP Money Market Funds as Eligible Collateral (6 November 2023).

[8] *See* Consultation at 10.

We appreciate your consideration of ICI Global's comments. If you have questions or would like to discuss our comments further, please contact Kirsten Robbins (Kirsten.robbins@ici.org) or me (ACapretta@ici.org).

Sincerely,

/s/ Annette Capretta

Annette Capretta
Chief Counsel
ICI Global