July 14, 2016

The Honorable Janet L. Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chair Yellen:

As the Committee of jurisdiction with oversight responsibilities for the Commodity Futures Trading Commission (CFTC), we are concerned with the European Commission's (EC) recent decision to delay implementation of their rules on margin for un-cleared swaps. Today, we are asking you and your fellow regulators to take the steps necessary to restore the global implementation schedule for rules on margin for un-cleared swaps.

Since the very first post-financial crisis G-20 communique, global leaders have called for international coordination and harmonization across the new derivatives market rules. Indeed, Congress, in Section 752 of The Dodd-Frank Act, sought to require domestic financial regulators to coordinate with their international counterparts.

Given the global nature of swaps markets, these commitments to coordination were intended to prevent a regulatory race-to-the-bottom, arbitrage across jurisdictions, and market fragmentation leading to a loss of liquidity. In the *OTC Derivatives Markets Reform: Seventh Progress Report on Implementation*, international regulators described what could happen it regulators fail to coordinate:

> Since variations in timing of implementation and regulatory substance in response to the G20 commitments continues, some reorganisation of activity may result as market participants respond to a new regulatory environment. Some authorities have expressed concern that reorganisation on a significant scale could further increase the complexity of transactions and business structures, which could further complicate both the ability to effectively oversee and monitor entities and the risk management functions of these firms. A potential result of such reorganisation could be fragmentation in market liquidity, whereby some counterparties reduce or eliminate cross-border trading relationships and

> instead rely on trading relationships with counterparties located in their jurisdiction (including local affiliates of globally active dealers).[1]

Against that backdrop, the March 2015 framework for margin requirements for non-centrally cleared derivatives put forward by the Basel Committee on Banking Supervision (BCBS) and International Organization of Securities Commissions (IOSCO)[2] was an important step in international coordination of financial regulation. While the global coordination work has been challenging, the rules governing margin for un-cleared swaps remain a critically important piece of the derivatives markets reforms and will help ensure that risk is appropriately managed among market participants.

Margining all un-cleared swaps represents a foundational change to the operation of global derivatives markets. With the BCBS/IOSCO framework, regulators recognized the importance of coordinating both the substance and the timing of these specific rules to ensure all major market participants transacted on a level playing field. In the *OTC Derivatives Markets Reform: Ninth Progress Report on Implementation*, regulators specifically noted the impact of a failure to coordinate implementation:

> Several authorities noted that it will be important that jurisdictions' implementation of margin requirements is consistent with the BCBS–IOSCO standards for margin requirements for non-centrally cleared derivatives, both in substance and timing. Absent coordinated implementation that is consistent with the BCBS–IOSCO standards for margin requirements, opportunities for arbitrage as well as market fragmentation can arise.[3]

Bifurcating un-cleared margin rules across jurisdictions will mean international banks are required to exchanging initial margin in some circumstances, but not in others. The result will be new operational, regulatory, and implementation challenges, and needless risk placed on banks, international markets, and regulators alike.

The EC's decision to delay its un-cleared margin rules is disappointing, especially given the manner in which it was communicated to international regulators and market participants. Absent a decision by the EC to reevaluate its decision, the regulatory arbitrage and market fragmentation predicted by regulators may come to pass.

We urge you to work with your European counterparts to keep to the agreed timetable and note that regulated entities have already taken steps to come into compliance with that original implementation schedule. If those efforts are unsuccessful, we ask you to coordinate a new global implementation timeline with international regulators.

Shifting the implementation date need not be fruitless. The extra time provides an opportunity to approve the margin models of regulated entities and validate their use among market

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[1] *OTC Derivatives Market Reforms: Seventh Progress Report on Implementation,* the Financial Stability Board (Apr. 14, 2014). Available at: http://www.fsb.org/wp-content/uploads/r_140408.pdf

[2] *Margin requirements for non-centrally cleared derivatives*, BCSC/IOSCO (Mar. 2015). Available at: http://www.bis.org/bcbs/publ/d317.pdf

[3] *OTC Derivatives Market Reforms: Ninth Progress Report on Implementation*, the Financial Stability Board (Jul. 24, 2015). Available at: http://www.fsb.org/wp-content/uploads/OTC-Derivatives-Ninth-July-2015-Progress-Report.pdf

participants. Regulators and market participants could use this time to ensure a seamless transition under a revised framework.

If no regulator is willing to make a change, years of effort to carefully negotiate this change in global derivatives markets will be undone. The coordination of the un-cleared margin rules was an important success for global financial regulators. While the EC's decision to delay its rules was surprising and unexpected, the consequences of staying the current course are not. We ask you to work with your colleagues and prevent a needless financial unraveling across global markets.

Sincerely,

K. Michael Conaway Chairman	Collin Peterson Ranking Member

cc:

The Honorable Thomas J. Curry, Chairman, Office of the Comptroller of the Currency
The Honorable Martin J. Gruenberg, Chairman, Federal Deposit Insurance Corporation
The Honorable Timothy Massad, Chairman, United States Commodity Futures Trading Commission
The Honorable Kenneth A. Spearman, Chairman, Farm Credit Administration
The Honorable Melvin L. Watt, Director, Federal Housing Finance Agency