Global Foreign Exchange Division
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TO:

MiFID Coordination
Markets Policy and International Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

19 December 2016

Re: FCA CP16/29 Markets in Financial Instruments Directive II Implementation – Consultation Paper III

Dear Sir/Madam,

The Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) welcomes the opportunity to comment on behalf of its members on the *Consultation Paper CP16/29 Markets in Financial Instruments Directive II Implementation – Consultation Paper III* issued by the FCA on 29 September 2016 (the Consultation Paper).

The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 25 global foreign exchange (FX) market participants,[1] collectively representing around 85% of the FX inter-dealer market.[2] Both the GFXD and its members are

[1] Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Mizuho, Morgan Stanley, Nomura, RBC, RBS, Scotiabank, Société Générale, Standard Chartered Bank, State Street, UBS, Wells Fargo and Westpac.

[2] According to Euromoney league tables.

committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

The FX market is the world's largest financial market. Effective and efficient exchange of currencies underpins the world's entire financial system. Many of the current legislative and regulatory reforms have had, and will continue to have, a significant impact upon the operation of the global FX market, and the GFXD wishes to emphasise the desire of our members for globally coordinated regulation which we believe will be of benefit to both regulators and market participants alike.

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The GFXD would like to provide comments to only Q63 of the Consultation Paper.

Q63: Do you agree with our proposed amendments to PERG 2 and 13? If not, please indicate where you disagree and why.

The GFXD broadly supports the guidance and examples given in the proposed revised text of PERG 13 for the scope of the regulation with regards to FX forward contracts. On the individual examples given we would like to raise the following points:

- 31H – the Consultation Paper acknowledges that a flexible forward with a 'defined and reasonably short' delivery window is not an option and therefore can benefit from the exclusion. However, the exclusion is not extended to contracts with longer delivery periods. The GFXD sees no distinction between a flexible forward with a short delivery period and one with a longer period, as each remains fundamentally a forward contract, with no optionality as to whether delivery is taken or not – the flexibility is solely regarding the date of delivery. The contract does not become a FX option if the delivery window is lengthened. We therefore believe that the exclusion should apply to flexible forwards regardless of delivery date.
- 31I (8) – the GFXD agrees that not all client FX trading meets the criteria of facilitating payment for the purposes of this exclusion. However, we would like to draw to the FCA's attention that this will require impacted customers to split their FX transactions into those for 'payment' and those for 'other financial' reasons,

which may be operationally challenging. It will also require them to make this distinction known to their bank, potentially on a trade by trade basis.

- 31I (19) – the GFXD disagrees with the decision not to allow the exclusion in this case. The example given is fundamentally no different from the following example (20), however in (19) the assumption is made that the funds would not be used for payment for goods and services. We do not agree with this assumption, and if necessary the farmer could be asked to provide as assurance regarding the use of the funds in order for the exclusion to be made available.

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We appreciate the opportunity to share our views on the Consultation Paper. Please do not hesitate to contact Andrew Harvey on +44 (0) 203 828 2694, email aharvey@gfma.org, or Fiona Willis on +44 (0) 203 828 2739, email fwillis@gfma.org, should you wish to discuss any of the above.

Yours faithfully

James Kemp
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