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31 May, 2017

**Re: Consultation Paper - On Mandatory Margining of Non-Centrally Cleared OTC Derivatives**

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 “On Mandatory Margining of Non-Centrally Cleared OTC Derivatives” issued by the Central Bank of Russia (CBR) in April 2017.

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,<sup>1</sup> collectively representing around 85% of the FX inter-dealer market.<sup>2</sup> Both the GFXD and its members are 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, and 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. The GFXD wishes to emphasize 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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<sup>1</sup> Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays Capital, 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.

<sup>2</sup> According to Euromoney league tables.

The FX market is also the basis of the global payments system. The volume of transactions is therefore very high and these transactions are often executed by market participants across geographical borders.<sup>3</sup> Achieving a globally harmonised approach to mandatory margining of non-centrally cleared OTC derivatives is therefore of utmost importance. We commend the CBR for taking an approach in the Consultation Paper that accords with the BCBS/IOSCO 'Margin Requirements for Non-Centrally Cleared Derivatives' (published in March 2015)<sup>4</sup> (“BCBS/IOSCO Standards”), that takes into account analysis of other jurisdictions’ similar regulations, and that gives due regard to best practices elaborated by international financial markets professional association.

Please note that we have focused our responses to the Consultation Paper on those topics we think are potentially most relevant to the FX market specifically, and therefore have not made comments on each and every question in the Consultation Paper.

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### **EXECUTIVE SUMMARY**

- 1. We strongly support the CBR’s proposed exclusion of physically-settled FX forwards and swaps from the margin requirements. This approach is consistent with the BCBS/IOSCO Standards and with the approach taken towards these deliverable FX products in the final margin rules in other jurisdictions.**
- 2. In defining the categories of entities covered by the margin requirements, the CBR should make clear in the final rule text that NCC derivatives between two foreign entities are not within scope of the margin requirements.**
- 3. We support the CBR exempting intra-group transactions from the margin requirements.**
- 4. The CBR should make certain other clarifications in the final rule text, in respect of the minimum transfer amount, calculation of margin and haircuts.**
- 5. We agree that special rules should apply for the regulation of cross-border transactions and with the approach taken to the possibility for recognition of equivalence of foreign regulatory regimes.**

**Question 1. Do you think that the categories of NCC derivatives as per Table 2 which are subject to mandatory margining are optimal? If not, please explain and suggest alternatives, if possible.**

We strongly support the CBR’s proposed exclusion of physically-settled FX forwards and swaps from the margin requirements. This approach is consistent with the BCBS/IOSCO Standards and with the approach taken towards these deliverable FX products in the final margin rules in other jurisdictions, including the U.S., Canada, Hong Kong, Singapore, Australia, Korea, Japan and Switzerland. As indicated in the BCBS/IOSCO

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<sup>3</sup> As reported by the Bank of International Settlements in their ‘Triennial Central Bank Survey: Foreign Exchange Turnover in April 2016,’ over 77% of FX activity was executed by market participants across five global jurisdictions. BIS 2016 Triennial Survey, available at <http://www.bis.org/publ/rpfx16.htm>, see pp. 8 and 14.

<sup>4</sup> Available at <http://www.bis.org/bcbs/publ/d317.htm>.

Standards, these FX products merit exclusion from the scope of the margin requirements due to their unique characteristics.<sup>5</sup>

**Question 3. Do you have any comments/suggestions regarding the classification of participants in the OTC derivative market for adoption of the requirement for mandatory margining of NCC derivatives? If so, please state them in detail.**

In defining the categories of entities covered by the margin requirements, the CBR should make clear in the final rule text that NCC derivatives entered into between two foreign (non-Russian) entities are not subject to the margin requirements, i.e., that at least one party to the regulated NCC derivative transaction has to be a Russian entity.

**Question 5. Do you have any comments/suggestions regarding the list of persons who will not be covered by the mandatory margin requirement (certain entities)? If so, please state them in detail.**

We support the CBR exempting intra-group transactions from the margin requirements. Inter-affiliate swaps provide an important risk management tool, allowing entities within a corporate group to transfer risk to the group entity best placed to handle it.

**Question 8. Do you find the rules set forth in Clause 2.3. for the Minimum Transfer Amount to be optimal? If not, please explain and suggest alternatives, if possible.**

The CBR should make clear in the final rule text whether the minimum transfer amount applies to the combined amount of IM and VM, or separately to each.

**Question 10. Do you have any comments on the suggested transfer procedure and calculation periods for Initial and Variation Margins? If so, please state them in detail.**

The CBR should clarify in the final rule text, regarding the reference to the need to “calculate” IM on a gross basis referred to on page 13 of the Consultation Paper, that there is to be no netting of actual IM amounts ultimately owing between counterparties, as opposed to parties not being able to calculate Initial Margin owed on a portfolio basis for transactions subject to the same legally enforceable netting agreement. I.e., that IM should be posted and collected on a gross basis, but the parties may take account of diversification, hedging and risk offsets permitted within specific asset classes when calculating Initial Margin, as is contemplated in the example given on page 14 of the Consultation Paper and in Figure 1 on page 15 of the Consultation Paper.

We also suggest that the CBR consider allowing parties to use a broad product set for calculating VM.<sup>6</sup>

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<sup>5</sup> As the CBR points out in the Consultation Paper, the BCBS/IOSCO Standards do, however, refer to the supervisory guidance published by BCBS which sets recommendations for banks regarding the exchange of variation margin under physically-settled FX forwards and swaps with counterparties which are financial institutions or systemically important non-financial institutions. See: Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions <http://www.bis.org/publ/bcbs241.pdf>.

<sup>6</sup> See ISDA’s February 12, 2016 “comment letter to the US Prudential Regulators and CFTC regarding the use of a broad product set for calculating variation margin” available at <http://www2.isda.org/functional-areas/wgmr-implementation/page/3.may>.

**Question 16. Do you have any comments or proposals on the haircut rates given in Table 5? If so, please state them in detail.**

With respect to the proposed additional 8% haircut referenced on page 19 of the Consultation Paper, we recommend that the CBR consider and harmonize with other jurisdictions' provisions in this regard, for example by excluding the haircut for cash VM.

**Question 20. Do you find the special rules for the regulation of cross-border transactions specified in this Chapter to be optimal? If not, please explain and suggest alternatives, if possible.**

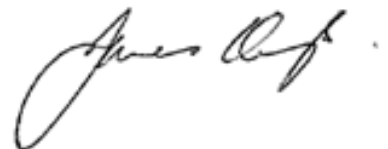
We commend the CBR for recognizing the risks that can occur where there is insufficient uniformity in the international derivatives markets in terms of implementation timeframes and approaches to regulation of mandatory margining of non-centrally cleared OTC derivatives transactions. We wholeheartedly agree that special rules should apply for the regulation of cross-border transactions and that attention should be paid to timing of entry into force, harmonized definitions and the possibility for recognition of equivalence of foreign regulatory regimes. As mentioned, this is particularly important for the FX market due to the very high volume of FX transactions and significant extent of such transactions being executed by market participants across geographical borders.

We agree with the CBR's proposed approach to equivalence outlined in Chapter 7 of the Consultation Paper and also suggest that the measure for equivalence be on the basis of comparability in outcomes with the BCBS-IOSCO Standards.<sup>7</sup> Given that margin rules for non-centrally cleared OTC derivatives have now been finalized in key jurisdictions around the world, we urge the CBR to take action expeditiously, in drawing up the list of foreign states, as referenced in Chapter 7.

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We appreciate the opportunity to share our views on the Consultation Paper issued by the CBR. Please do not hesitate to contact Victoria Cumings on +1 212-313-1141, email [vcumings@gfma.org](mailto:vcumings@gfma.org) should you wish to discuss any of the above.

Yours faithfully,



James Kemp  
Managing Director  
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<sup>7</sup> See, for example, the Australia substituted compliance proposal at <http://www.apra.gov.au/adi/PrudentialFramework/Pages/Consultation-substituted-compliance-May-2017.aspx>.