CREDIT SUISSE

CREDIT SUISSE SECURITIES (USA) LLC
One Madison Avenue
New York, NY 10010-3629
Phone 1 212 325 2000
Direct
www.credit-suisse.com

November 10, 2015

Submitted Via Email to rule-comments@sec.gov

Robert W. Errett
Deputy Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: SR-FINRA-2015-036 – Proposed Amendments to FINRA Rule 4210 (Margin Requirements) for Transactions in the TBA Market

Dear Mr. Errett:

Credit Suisse Securities (USA) LLC ("Credit Suisse") is pleased to comment on SR-FINRA-2015-036, a proposal by FINRA to amend FINRA Rule 4210 to establish margin requirements for transactions in the "to-be-announced" (**"TBA"**) market (the **"Proposal"**). Credit Suisse commends FINRA's efforts to reduce counterparty credit risk and welcomes the opportunity to comment on the Proposal.

As an active member of the Securities Industry and Financial Markets Association (**"SIFMA"**), Credit Suisse has participated in drafting SIFMA's comment letter on the Proposal and wishes to express our strong support for the opinions expressed therein. We are submitting this comment letter separately to request clarification on certain points that are essential to Credit Suisse's business and to offer suggestions that could make operational implementation more efficient for market participants.

I. Identification of Exempt Accounts

The Proposal does not apply maintenance margin requirements to "exempt accounts." Credit Suisse has an established policy and procedure (a "written risk analysis methodology") for identifying "exempt accounts" for purposes of FINRA Rule 4210 and setting appropriate credit limits for each, but the Proposal would require Credit Suisse (and other member firms) to apply this policy to a very large number of additional counterparties (*e.g.*, counterparties currently trading in cash accounts). These counterparties will be required to provide information about their financial status and business to multiple dealers, and it will take a significant amount of time for each dealer to analyze their counterparties under their exempt account policies. To assist with our implementation of the Proposal (as well as the implementation by other member firms), Credit Suisse asks FINRA to confirm that a counterparty classified as an "exempt account" and assigned a credit limit in accordance with a firm's written risk policies can be treated as an exempt account (with the assigned credit limit) until the firm's next annual credit review of the counterparty (or until an interim credit review is required by the firm's written risk policies).

II. Investment Adviser Omnibus Accounts

Credit Suisse would appreciate it if FINRA would confirm that an omnibus account maintained by a registered investment adviser can be classified as an "exempt account" (and therefore exempt from the maintenance margin requirements) based on the assets under management in the account and (as provided in proposed supplementary material .05) a risk analysis conducted at the investment adviser level.[1] While the Proposal is clear that risk limit determinations can be made on the investment adviser level, it is not as clear that the exempt account classification can be made in the same manner even though the two analyses are inextricably linked (and an investment adviser omnibus account can only be reviewed at the investment adviser level). Clarification on this point is very important to Credit Suisse because it could exempt a significant proportion of our counterparties from maintenance margin requirements.

III. Reliance on Counterparty Representations

The Proposal includes several exemptions that depend on the intentions or activities of the counterparty. For example, the exemptions for counterparties with up to $2.5 million of gross open positions in Covered Agency Transactions and for counterparties whose transactions settle in the current or next month both require that the counterparty regularly settles its Covered Agency Transactions on a DVP basis or for cash and, in its transactions with the member firm, does not engage in dollar rolls, round robin trades or use other financing techniques for its Covered Agency Transactions. Similarly, mortgage bankers can be treated as exempt accounts (exempt from the maintenance margin requirement), but only when they use Covered Agency Transactions to hedge their pipeline of mortgage commitments. In all of these cases, whether the counterparty satisfies the conditions for the exemption can depend on the counterparty's intentions or activity away from the member firm (*e.g.*, the other legs of a round robin, or the level of mortgage origination). Credit Suisse will not be able to determine whether its counterparties satisfy these exemptions without relying on information provided by the counterparties or their representatives. Credit Suisse therefore would like confirmation that it can treat a counterparty as eligible for an exception based on representations (*e.g.*, that, in its transactions with Credit Suisse, it does not engage in dollar rolls, round robin trades or use other financing techniques for its Covered Agency Transactions) by the counterparty (or its representative, *e.g.*, its investment adviser) accepted in good faith by Credit Suisse.[2]

---

[1] We understand that this analysis at the investment adviser level would not be available with respect to any account or group of commonly controlled accounts whose assets managed by the investment adviser constitute more than ten percent of the investment adviser's assets under management. Credit Suisse would appreciate confirmation that a member firm applies this ten percent limitation by comparing the assets in the account or group of accounts maintained at the member firm to the adviser's assets under management as reported in the adviser's Form ADV at the time of the credit review under the member firm's written risk analysis policy and procedures.

[2] This would be similar to Regulation T, which allows a customer to purchase securities in a cash account if the broker "accepts in good faith the customer's agreement that the customer will promptly make full cash payment for the security or asset before selling it and does not contemplate selling it prior to making such payment," and allows sales in the cash account if the broker "accepts in good faith the customer's statement that the security is owned by the customer or the customer's principal, and that it

IV. Suggestion for a Tiered Implementation Period

Credit Suisse believes that an implementation period of at least eighteen months following SEC approval of amendments to Rule 4210 will be essential. Implementation of the proposed amendments to Rule 4210 will require significant negotiations of legal agreements[3] (including the renegotiation of trading agreements only recently put in place), system changes, and collection and review of a significant volume of information about counterparties' finances and businesses.

FINRA indicated that it would announce the effective date of the Proposal, once approved, within 60 days following approval and that such effective date would be no later than 180 days following that announcement. Credit Suisse emphatically agrees with SIFMA that this time frame is entirely too short.

As a primary dealer, Credit Suisse has been working diligently for the last three years to implement the TMPG Margining Recommendation and has executed margining agreements with a portion of its clients consistent with the industry average. As with other primary dealers in the TBA market, while the margining agreements executed thus far cover a majority of the potential exposure associated with Credit Suisse's Covered Agency Transactions, Credit Suisse continues to push for margining agreements with the balance of its counterparties. Existing margining agreements and those that are currently in process are not, however, necessarily consistent with the Proposal, especially as the Proposal relates to time periods for margin collection and liquidation, minimum transfer amounts, thresholds and initial margin. Credit Suisse expects, therefore, that it will be obligated to renegotiate a large number of the agreements already in place in order to implement the Proposal. Credit Suisse anticipates that the negotiation and implementation of margining agreements with its remaining counterparties and the requisite renegotiation with clients with whom agreements are already in place but which are not consistent with the Proposal, will take at least as long as negotiations to implement the TMPG Margining Recommendation and, therefore, an implementation period of no less than eighteen months is necessary.

The negotiation process is expected to take at least eighteen months due in part to the volume of information that must be obtained and reviewed by Credit Suisse as to clients of investment advisers in order to comply with the Proposal. Given that multiple investment

---

will be promptly deposited in the account." 12 C.F.R. § 220.8(a)(1)(ii) and (2)(ii). For this purpose, Regulation T defines "good faith" with respect to accepting a statement to mean "that the [broker] is alert to the circumstances surrounding the credit, and if in possession of information that would cause a prudent person not to ... accept the notice or certification without inquiry, investigates and is satisfied that it is correct."

[3] Based on Credit Suisse's experience in implementing the agency mortgage-backed securities margining recommendation in the Treasury Market Practice Group's ("TMPG's") Best Practices for Treasury, Agency Debt and Agency Mortgage-Back Securities Markets (the "TMPG Margining Recommendation"), counterparties will not provide margin for Covered Agency Transactions without legal agreements setting out their obligations to provide margin and their rights in respect of the margin they provide.

advisers have significant numbers of clients, Credit Suisse expects the information production burden on the investment advisers to be overwhelming and the diligence process relative to clients of investment advisers to take months.[4]

In order to meet the current Proposal's requirement to collect maintenance margin for non-exempt accounts, Credit Suisse is prepared to implement significant changes to its operational systems and processes. However, our operational processes do not currently support the monitoring of certain terms as well as the intent of clients. If FINRA, in fact, requires a shorter implementation timeline, we suggest a phased approach. For example, it would be beneficial if (a) a 12-18 month implementation period applied to mark-to-market margining with all applicable counterparties, (b) a 18-24 month implementation period applied to collection of maintenance margin from non-exempt accounts, and (c) a 18-24 month implementation period applied to the remediation of pre-existing agreements (*i.e.*, to bringing existing agreements which provide for mark-to-market margin consistent with the TMPG's Margining Recommendation into conformity with Proposal's time periods for margin collection and liquidation, minimum transfer amounts, thresholds, initial margin and other elements). This tiered approach would be beneficial because it would allow us to negotiate or renegotiate contracts with all types of counterparties in an effective way. Without a tiered approach or a reasonable implementation time, trading disruptions may occur with certain participants.

* * *

Credit Suisse appreciates the opportunity to comment on the Proposal. Should you have any questions regarding our comments, please do not hesitate to contact the undersigned at [redacted]

Sincerely,

Robert H. Huntington
Managing Director

---

4 Confirmation that an exempt account determination can be made at the investment adviser level, as requested above, would reduce this burden significantly, but the process will still take months.