ISDA® Safe, Efficient Markets

October 3, 2023

Mr. José Manuel Campa
Chairman European Banking Authority
European Banking Authority

Ms. Mairead McGuinness
Commissioner for Financial Services, Financial Stability and Capital Markets Union
European Commission

RE: EBA/RTS/2023/04: AMENDMENTS TO THE FINAL DRAFT REGULATORY TECHNICAL STANDARDS ON INITIAL MARGIN MODEL VALIDATION

Dear Mr. José Manuel Campa and Ms. Mairead McGuinness,

The International Swaps and Derivatives Association (ISDA)[1] is writing on behalf of its members:

- To acknowledge the extensive consideration of the response from ISDA to the Consultation on the Draft Regulatory Technical Standards on Initial Margin Model Validation ("Consultation").
- To support the EBA opinion on regulatory scope and validation of initial margin models.
- To request amendments to the final draft regulatory technical standards on initial margin model validation ("Final Draft RTS") to address residual concerns raised by our members.

Acknowledgement of the consideration of the response from ISDA to the Consultation: ISDA recognises that considerable effort has gone into reviewing the response provided by ISDA on behalf of its members to the Consultation. ISDA appreciates the incorporation of a number of the proposals made by ISDA into to the Final Draft RTS, which better reflects the model oversight suitable for widescale industry use of the ISDA Standard Initial Margin Model (ISDA SIMM® or "SIMM").

EBA opinion[2] on regulatory scope and validation of initial margin models: ISDA supports the opinion that requests to amend EMIR level 1 to restrict the scope of application to large institutions and to give the EBA a central validator role for the EU uncleared OTC derivatives framework.

Amendments to address concerns by our members: ISDA requests further amendments to address the concerns raised by our members with respect to the Final Draft RTS. These concerns, left unamended, have the potential to broadly impact SIMM users in the EU and across the industry.

We would welcome the consideration by the European Commission and the EBA of the most efficient way of introducing these changes, taking into account that EMIR 3 level 1 negotiations are running in parallel and may itself lead to further changes to the RTS being required. Here is the summary of our requested amendments to address the concerns raised by our members:

(1) ISDA requests that Paragraph 5 of Annex 1, Part II, Section II be removed.

The interpretation that we have of this paragraph is that firms will have to give (two-month) notification to the EBA if they change internal models in a way that alters the risk that goes into SIMM.

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.
[2] https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Opinions/2023/1057303/EBA%20Opinion%20on%20regulatory%20scope%20and%20validation%20of%20initial%20margin%20models.pdf

Front office pricing models may change frequently and at reasonably short notice, to reflect the evolution of the market. As the processes for changing these pricing models are subject to internal controls, ISDA believes that it is excessive and onerous to require firms to notify their competent authority every time a change is made to their pricing models. This would delay or inhibit improvements to valuation and risk management models; ultimately leading to weaker pricing and risk management. This clause goes beyond the requirements for Market Risk models and would also present a burden to the competent authority to review these notifications.

(2) ISDA requests that the IMMV RTS specify a timeline of sixty days from the date of the application by a firm for the EBA, in its role as central validator of internal models, or any competent authority to object to an application for the validation of material extensions or changes to an initial margin model under the standardised supervisory procedure.

Without such a timeline, firms would be uncertain of their approval status and would not be able to move to the new SIMM version along with the rest of the industry.

The industry cannot support multiple versions of SIMM and such a situation would not meet regulatory expectations in the US. In addition, failure to use an up-to-date calibration may also breach the existing requirements of the EU and other jurisdictions to calibrate an internal model at least annually.

(3) ISDA requests that the reference to calibration methodology in Annex I, Part II, Sect 1, Paragraph 2 is removed to provide consistency with the intention of the Final Draft RTS to not consider changes in the calibration of the initial margin model or calibration methodology as material changes to the initial margin model.

We note that Article 4(4) (on page 29) and 25(4) (on page 48) say that changes in the calibration methodology are not considered in the assessment of materiality of extensions or changes to the initial margin model. Whereas Annex I, Part II, Sect 1, Para 2 (page 55) says that changes in the calibration method used to calibrate the parameters of the underlying stochastic processes are considered in the assessment of materiality of extensions or changes to the initial margin model.

This creates an inconsistency in the treatment of changes to the calibration methodology. To be consistent with the intentions of the Final Draft RTS, we request that the reference to calibration methodology in Annex I, Part II, Sect 1, Paragraph 2 be removed.

We thank you in advance for your consideration of this important matter. We welcome the opportunity to provide additional information on any of the amendments detailed above and to seek your cooperation on a solution.

Sincerely,

Tara Kruse
Global Head, Infrastructure, Data and Non-Cleared Margin
ISDA

Nnamdi Okaeme
Head of SIMM
ISDA