**Joint Trade Association Statement on Active Accounts**

**September 7, 2023** – EFAMA, BFPI Ireland, EACB, FIA EPTA, Federation of the Dutch Pension Funds, Finance Denmark, Nordic Securities Association, AIMA, ICI Global, FIA and ISDA support positive incentives to further enhance the attractiveness of EU clearing and EU capital markets, including many of the measures proposed in EMIR 3.0[1].

However, further efforts should focus on streamlining the supervisory framework for EU central counterparties (CCPs) across member states while making the EU CCP offering for clearing in the EU more attractive and innovative. **We believe that incentivizing measures would provide a path to sustainable growth of EU CCPs while maintaining competitive and open markets.** Any measures to increase the attractiveness of EU clearing should be guided by the principle of supporting EU financial stability, facilitating client choice on where to clear and protecting the international competitiveness of EU market participants.

The post-crisis Group-of-20 reforms to the over-the-counter derivatives markets, implemented in the EU through the European Market Infrastructure Regulation (EMIR), have made derivatives markets safer. It is important to build on the progress made and **not introduce policies that would disrupt and fragment the global clearing ecosystem**.

[1] For example, simplification of procedures for CCPs to launch products and change models, changes to collateral requirements, changes to participation requirements for non-financial counterparties, removal of the need to have an equivalence decision as a prerequisite to benefit from intragroup transaction exemption, etc

Fostering a proportionate regulatory framework, to the benefit of all participants, will promote increased liquidity and clearing volumes in the EU. However, **the proposed active account requirement (AAR) would negatively impact EU capital markets** by introducing fragmentation and loss of netting benefits and make the EU less resilient to market stresses, with no benefit to EU financial stability.

Furthermore, the AAR will create a competitive disadvantage for EU firms compared to third-country firms, which will remain able to transact in global markets without restriction. The introduction of **quantitative thresholds in the AAR is especially damaging** and could lead to a large, volatile and unpredictable price difference between CCPs (called a basis), which would significantly increase the cost and risk of hedging for EU clients. **Ultimately, it would harm European pension savers and investors**.

**Regulatory and supervisory co-operation is a critical component of any cross-border market**. Interest rate swaps, metals, energy and other derivatives are traded in **global markets**. We believe EMIR 2.2 already provides European authorities with effective tools to supervise and oversee systemically important third-country CCPs (Tier 2 CCPs).

The EMIR 3.0 proposal aims to mitigate financial stability risks arising from third-country CCPs, and yet does not adequately address the ESMA recommendations from its 2021 assessment of systemically significant CCPs. Critical areas in which to enhance supervisory cooperation with third-country authorities, such as recovery and resolution planning and an enhanced cooperation framework, particularly during times of market stress, could be further developed in the EMIR 3.0 proposal.

A location requirement for market participants would make the EU one of the only advanced capital markets with such a policy. By contrast, US clearing participants are significantly exposed to Tier 2 CCPs, since the majority of US-dollar-denominated interest rate swaps are cleared outside the US. The fact that US authorities have not sought to impose a location policy **suggests that most jurisdictions believe central clearing markets are global by nature and financial stability risks are best managed through a solid shared oversight framework between supervisors.**

Finally, the proposed AAR severely challenges the principle of best execution toward the end client. EU clients that are required to clear on an EU CCP to comply with the AAR threshold will be forced to accept an uncompetitive price wherever the price available at an EU CCP is higher than what is available at a Tier 2 CCP, while their third-country competitors will enjoy the freedom to trade at the best available price.

When making important policy decisions, such as imposing an AAR, policymakers should act prudently and be guided by comprehensive and robust cost-benefit assessments that include a review of the risks and impacts on financial stability and on the competitiveness of EU market participants, as well as an analysis of the current balance of hedging interests in the EU market. **To date, such a comprehensive and robust cost-benefit assessment has not been produced.**

We therefore strongly **recommend the deletion of the proposed active account requirement**.

**About the Associations**

**About EFAMA**: EFAMA is the voice of the European investment management industry, which manages around €28.5 trillion of assets on behalf of its clients in Europe and around the world. We advocate for a regulatory environment that supports our industry's crucial role in steering capital towards investments for a sustainable future and providing long-term value for investors. Besides fostering a Capital Markets Union, consumer empowerment and sustainable finance in Europe, we also support open and well-functioning global capital markets and engage with international standard setters and relevant third-country authorities. EFAMA is a primary source of industry statistical data and issues regular publications, including Market Insights and the authoritative EFAMA Fact Book. More information is available at www.efama.org.

**About Banking & Payments Federation Ireland (BPFI)**: BPFI is the principal voice and representative body of the banking, payments, investment firms and fintech sectors in Ireland, with offices in Dublin and Brussels. Together with its affiliates the Federation of International Banks in Ireland (FIBI) and the Fintech & Payments Association of Ireland (FPAI), BPFI represents over 100 financial institutions operating in Ireland. Specifically, BPFI membership includes domestic banks offering retail financial services to clients and customers across Ireland, international banks and investment firms engaged in capital markets and corporate banking services. It also includes fintech and payments institutions with propositions spanning a wide range of product areas including payments, regtech, distributed ledger technology and cyber security, among others.

**About EACB**: The European Association of Co-operative Banks (EACB) is the voice of the cooperative banks in Europe. It represents, promotes and defends the common interests of its 26 member institutions and of cooperative banks in general. Cooperative banks form decentralized networks that are subject to banking as well as cooperative legislation. Democracy, transparency and proximity are the three key characteristics of the cooperative banks' business model. With 2,700 locally operating banks and 40,000 outlets, co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 227 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 89 million members and 720,000 employees and have a total average market share of about 20%.

**About FIA EPTA**: The European Principal Traders Association (FIA EPTA) represents Europe's leading principal trading firms. Our members are independent market makers and providers of liquidity and risk transfer for markets and end investors across Europe, providing liquidity in all centrally cleared asset classes including shares, bonds, listed derivatives and ETFs. FIA EPTA works constructively with policymakers, regulators and other market stakeholders to ensure efficient, resilient and trusted financial markets in Europe. More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com.

**About the Dutch Pension Funds**: On behalf of 166 pension funds, the Federation of the Dutch Pension Funds (Pensioenfederatie) promotes the pension interests of 6 million participants, 3.6 million pensioners and 9.4 million deferred participants. About 85% of Dutch employees are participants of a pension fund that is associated with the Pensioenfederatie. The members of the Federation have around €1,500 billion of assets under management.

**About Nordic Securities Association**: The Nordic Securities Association (NSA) is a Nordic cooperation that works to promote a sound securities market primarily in the Nordic region. The NSA is formed by Capital Market Denmark (Kapitalmarked Danmark), Finance Finland (Finanssiala), the Norwegian Securities Dealers Association (Verdipapirforetakenes Forbund) and the Swedish Securities Markets Association (Svensk Värdepappersmarknad), NSA – Nordic Securities Association (nsa-securities.eu). Nordic Securities Association's public ID number in the Transparency Register is: 622921012417-15.

**About Finance Denmark**: Finance Denmark is a business association for banks, mortgage institutions, asset management, securities trading and investment funds in Denmark. EU Transparency Register – registration number 20705158207-35.

**About AIMA**: The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than $2.5 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programs and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialized educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

**About FIA**: FIA is the leading global trade association for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, DC. FIA's membership includes clearing firms, exchanges, clearing houses, trading firms and commodities specialists from around the world, as well as technology vendors, law firms and other professional service providers. FIA's mission is to: support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct. As the principal members of derivatives clearing houses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets. Learn more at www.fia.org, visit FIA, Inc. on LinkedIn or follow us on Twitter @FIAConnect.

**About ICI Global**: ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated investment funds. With total assets of $40.8 trillion, ICI's membership includes mutual funds, exchange-traded funds, closed-end funds and unit investment trusts in the US, and UCITS and similar funds offered to investors in Europe, Asia and other jurisdictions. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. ICI Global has offices in Brussels, London, Hong Kong, and Washington, DC.

**About ISDA:** Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 78 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.