



MANAGED FUNDS
ASSOCIATION



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By email: nick.miller@fca.org.uk

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Re: FCA Statement on COVID-19 (coronavirus)

Dear Nick,

The Alternative Investment Management Association¹ (AIMA) and the Managed Funds Association² (MFA) (collectively, the “Associations”) welcome the statement³ published by the Financial Conduct Authority (FCA) on the COVID-19 outbreak, but we have several suggestions – detailed below – that would provide investment firms with greater regulatory certainty during this unprecedented period.

Our members have carefully considered and are actively reviewing how their contingency plans might operate in the context of unfolding developments to ensure that they can continue to operate as effectively as possible, while serving the needs of their clients and meeting their regulatory obligations.

¹ AIMA is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA’s fund manager members collectively manage more than \$2 trillion in 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.

² MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organisation established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry’s contributions to the global economy. MFA members help pension plans, university endowments, charitable organisations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

³ See <https://www.fca.org.uk/news/statements/covid-19-coronavirus>.

The Alternative Investment Management Association Ltd

A key consideration of our members is to protect the safety and health of their employees. Our member firms have implemented measures to ensure they can continue to operate effectively while protecting employees, respond to possible restrictions on travel and social interaction, and prepare for the potential for absences due to sickness. At this stage, firms have tested their business continuity plans and have put in place policies and procedures which correspond with advice issued by the World Health Organization, Public Health England and the Centers for Disease Control and Prevention.

Firms are actively monitoring the developments of COVID-19 and adapting their policies and communications as the situation evolves. In the past couple of weeks, firms have taken measures to curb face-to-face meetings, replacing them with conference calls and asking external hosts to carry out travel checks on attendees. Firms have also instigated restrictions on non-essential business travel internationally (and many U.S.-based managers have also applied the same policy for non-essential domestic travel). Where employees or their family members or cohabitants have returned from specified countries and regions⁴, firms are requiring them to self-isolate, in accordance with UK government guidance, and work from home or follow new shift work patterns. Firms have tested and continue to test their critical infrastructure to ensure capacity and performance for disaster recovery scenarios where employees are working from home and have asked employees to test their home connectivity and access to systems and files. Firms have also stepped up their vigilance against cyber security risks as greater numbers of employees work from home.

It is evident that the nature of COVID-19, and the potential responses that it might necessitate, could therefore have an impact on firms' ability to implement existing controls in full.

Specifically, we believe it would be helpful for the FCA to provide some relief or recognise that firms may find it more challenging during the global pandemic to, among other things:

- Meet regulatory reporting obligations in a timely manner, particularly where these involve tight reporting windows. Examples include short-selling notifications, MiFIR transaction reports and EMIR reporting in respect of OTC derivatives transactions;
- Prepare periodic reports that are due in the coming weeks, including MiFID II "RTS 28" reports on order execution;
- Record conversations subject to MiFID II telephone taping rules;
- Prepare for regulatory change programmes, such as the introduction of the Securities Financing Transaction Regulation, the 1 September 2020 uncleared margin rules deadline, and LIBOR transition;
- Allow external auditors on site; or
- Obtain handwritten signatures.

As we noted at the outset, firms are making every effort to ensure that these shortcomings do not arise, but the unprecedented and potentially highly disruptive nature of the unfolding situation means that it is, in our view, important to acknowledge practical challenges that firms may face.

We also believe that the FCA should be prepared to provide certainty to market participants that it will not take aggressive supervisory action against breaches that arise due to the need for firms to operate

⁴ See <https://www.gov.uk/government/publications/covid-19-specified-countries-and-areas/covid-19-specified-countries-and-areas-with-implications-for-returning-travellers-or-visitors-arriving-in-the-uk>.



in a more decentralised way and with higher employee absences due to sickness. We believe that this is particularly relevant with respect to reporting requirements that require systems access and are reliant on specific expertise.

AIMA and MFA will continue to discuss the impact of COVID-19 with members and are happy to work with the FCA to identify where regulatory challenges are most likely to materialise with a view to determining the most appropriate response on the part of firms.

If you have any questions, please do not hesitate to contact us.

Yours sincerely,

/s/ Jiří Król

/s/ Michael Pedroni

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