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- **17 CFR Part 50**
- **RIN Number 3038-AD86**
- **Clearing Requirement Determination Under Section 2(h) of the CEA**

Dear Mr. Stawick.

Thank you for giving us the opportunity to comment on your Notice of proposed rulemaking: Clearing Requirement Determination Under Section 2(h) of the CEA.

You are proposing regulations to establish a clearing requirement under new Section 2(h)(1)(A) of the Commodity Exchange Act (CEA), enacted under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The regulations would require that certain classes of credit default swaps (CDS) and interest rate swaps (IRS), be cleared by a derivatives clearing organization (DCO) registered with the Commission. The Commission also is proposing regulations to prevent evasion of the clearing requirement and related provisions.

I strongly support your proposed clearing requirements for the CDS and IRS classes of swaps. I agree that these classes satisfy the five statutory requirements for clearing determinations under Section 2(h)(2)(D)(ii) of the CEA.¹ They represent a substantial part of the notional global swaps market, and therefore the benefits of clearing, which include increasing certainty, efficiency and liquidity, and improving price discovery in the swaps market, will be realised across a large portion of the market.

¹ The five statutory requirements are: (I) outstanding notional exposures, trading liquidity and adequate pricing data; (II) availability of rule framework, capacity, operational expertise and resources and credit support infrastructure; (III) effect on the mitigation of systemic risk; (IV) effect on competition; and (V) legal certainty in the event of insolvency.

Please note that the comments expressed herein are solely my personal views

This is a good start, but it is only a start. I agree with your commentary and analysis, in particular that: "Because of the market shares and market impacts of these swaps, and because these swaps are currently being cleared, the Commission decided to review CDS and IRS in its initial clearing requirement determination. The Commission recognizes that while this is an appropriate basis for this initial proposal, swap clearing is likely to evolve and clearing requirement determinations made at later times may be based on a variety of other factors beyond the extent to which the swaps in question are already being cleared."² I would recommend that you should quickly consider other classes of swaps, including energy, equity and agricultural, precisely because these classes are not cleared to the same extent as CDS and IRS.

Yours sincerely

C.R.B.

Chris Barnard

² See NPRM at 77 FR 47173.