

September 6, 2012

Via Email: secretary@cftc.gov

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Clearing Requirement Determination Under Section 2(h) of the CEA
RIN Number 3038-AD86

Dear Mr. Stawick:

Eris Exchange, LLC (“Eris Exchange”)¹ strongly supports the Commodity Futures Trading Commission’s (the “Commission”) proposed Clearing Requirement Determination Under Section 2(h) of the CEA² (the “Determination”) for certain classes of interest rate swaps (IRS).

Implementing the mandatory clearing requirement for these liquid and standardized segments of the swaps markets is a significant milestone towards achieving the Dodd-Frank Act’s objectives of reducing interconnectedness, mitigating systemic risk, increasing transparency, and promoting competition in the swaps market – all essential steps towards restoring the safety and soundness of our financial markets.

The IRS Classes (*i.e.*, the fixed-to-floating swaps, basis swaps, forward rate agreements (FRAs), and the overnight index swaps (OIS)) listed in proposed §50.4 easily satisfy the five statutory factors that the Commission is required to consider for clearing requirement determinations, as the Commission’s analysis and the submissions of the Derivatives Clearing Organization’s (DCOs) demonstrate.³ Many swaps that fall within these Classes are cleared today in material volumes. As such, we agree with the Commission that “there is already a blueprint for clearing and appropriate risk management.”⁴

By way of example, for IRS currently cleared at Chicago Mercantile Exchange Inc. (“CME Clearing”), over \$375 billion of IRS in multiple denominations and tenors (*i.e.*, 0 to 30+ years)

¹ Eris Exchange is a futures exchange (Designated Contract Market) regulated by the Commission and lists a US Dollar-denominated interest rate swap futures contract. Since launch, Eris Exchange has traded more than \$35 billion in notional value of Eris Interest Rate Swap Futures. Eris Exchange contracts are cleared by CME Clearing.

² 77 Fed Reg. 47170-47222 (August 7, 2012).

³ In summary, the five factors are the (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.

⁴ See *id.* at 47172.

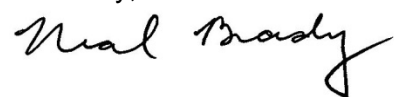
have been cleared as of September 6, 2012.⁵ This statistic provides a dispositive counterpoint to the argument that the Commission should only mandate the clearing of specific tenors, rather than all instruments on the entire curve. In other words, making the Determination for IRS on a Class basis is the most efficient and practical approach. The IRS market does not currently parse out specific tenors (nor does CME Clearing or other DCOs) and it would be overly burdensome for market participants to do so in processing swaps. Indeed, such a piecemeal approach will result in the evasion of clearing and an increase in systemic risk because if market participants are given the choice of specific swaps, that achieve the same desired economic result, they may choose the swap that is not subject to the clearing mandate. This loophole must be avoided as the Commission makes the Determination.

Similarly, the clearing requirement determination should not be delayed simply because some products fall within an IRS Class that is subject to the determination, but are not currently accepted for clearing by a DCO. Ultimately, an IRS product will not be subject to the clearing mandate, unless it has been accepted for clearing by a DCO. The DCO product acceptance process is sufficient to determine whether a specific product, within a swap class, should be cleared. Before agreeing to clear a new product, a DCO examines the relevant characteristics of a product, including but not limited to the risk management of the product, the availability of prices for settlement, and the availability of participants to assist in the event of a default. Additionally, acceptance of a new product for clearing is generally subject to the approval by the risk committee of the DCO. Consequently, once the Commission has determined that a Class of IRS should be subject to mandatory clearing, there is no reason to impose additional readiness standards for specific IRS products above and beyond those already imposed by the DCO.

Therefore, for the reasons stated above, we recommend that the Commission maintain the full proposed product scope on a Class basis in its final Determination. We urge the Commission to conclude its review and issue its final Determination as expeditiously as possible within the 90 day review period so the market can finally benefit from the implementation of mandatory central clearing.

In that event or if you have questions, please contact me at 312-253-9056 or Stephen M. Humenik at 312-626-2681 or stephen.humenik@erisfutures.com.

Sincerely,



Neal B. Brady
Chief Executive Officer

⁵ See <http://www.cmegroup.com/trading/interest-rates/cleared-otc/index.html#data> (last accessed September 6, 2012).