

September 6, 2012

VIA ON-LINE SUBMISSION

David 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
77 Fed. Reg. 47169 (August 7, 2012); RIN 3038-AD86

Dear Mr. Stawick:

CME Group Inc. (“CME Group”) appreciates the opportunity to comment on the Commodity Futures Trading Commission’s (“CFTC” or the “Commission”) notice of proposed rulemaking (“NPR”) to establish a clearing requirement for certain classes of credit default swaps (“CDS”) and interest rate swaps (“IRS”).

CME Group is the parent of four DCMs: the Chicago Mercantile Exchange Inc. (“CME”), the Board of Trade of the City of Chicago, Inc. (“CBOT”), the New York Mercantile Exchange, Inc. (“NYMEX”) and the Commodity Exchange, Inc. (“COMEX”). These DCMs offer the widest range of benchmark products available across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities, and alternative investment products. CME’s clearing house division (“CME Clearing”) offers clearing and settlement services for exchange-traded futures contracts, and for over-the-counter (“OTC”) derivatives transactions through CME ClearPort. CME is registered with the CFTC as a DCO, and is one of the largest central counterparty clearing services in the world.

CME Group supports the approach the Commission has taken in the proposed regulation to begin implementation of the clearing mandate required under the Dodd-Frank Act (the “DFA”). We support initiating the DFA clearing mandate with certain classes of CDS and IRS be cleared by a DCO registered with the Commission. The proposed clearing determination is an important factor in implementing the DFA’s overarching goals of systemic risk reduction through central counterparty clearing of derivatives contracts. We believe the Commission has struck an appropriate balance for the initial slate of classes subject to the requirement and applaud the

CFTC's decision to propose the mandate by classes and not on a product-by-product basis. We also commend the Commission for not bifurcating the relevant markets by proposing classes of swaps on a DCO-by-DCO basis.

Pursuant to Section 2(h)(2)(D)(ii), the Commission must take into account five factors in making a clearing determination.¹ The specified classes of IRS (fixed-to-floating swaps, basis swaps, FRAs, and OIS) and CDS (CDX and iTraxx) listed in the NPR satisfy these factors, including sufficient standardization and the existence of sufficient outstanding notionals and trading liquidity.

We believe the Commission properly structured the classes for CDS and IRS as any further breakdown or shift to product-by-product determination would require determinations across a matrix of specifications and require market participants to check a multitude of factors at the time of execution to determine if a mandate applied to the specifications of each unique swap transaction. The current proposal provides sufficient certainty to market participants of the broad classes of swaps that would be required to be submitted for clearing.

Proposed Regulation 50.2(b) would require persons not subject to an exception under Section 2(h)(7) of the CEA and Regulation 39.6 to "undertake reasonable steps to verify whether a swap is required to be cleared." The Commission has noted in its discussion that "[i]deally, DCOs will design and develop systems that will enable market participants and trading platforms to check whether or not their swap is subject to a clearing requirement and be provided with an answer within seconds (or faster). This technology would provide a single-stop solution for the market with regard to checking eligibility under a required clearing regime."² CME Group is pleased to inform the Commission that its platform already provides market participants with a tool to screen a particular swap for eligibility for clearing upon submission of the swap to CME and would assist participant's compliance with Regulation 50.2(b).

CME Group is seeking clarification for market participants that may transact in certain non-standard swaps that fall within the specified classes but for which no DCO provides clearing services or where the clearing of certain swaps may be limited to certain market participants.

¹ The factors are:

- (1) The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data;
- (2) The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded;
- (3) The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contract;
- (4) The effect on competition, including appropriate fees and charges applied to clearing; and
- (5) The existence of reasonable legal certainty in the event of the insolvency of the relevant derivatives clearing organization or 1 or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.

² 77 Fed. Reg. 47206.

CME Group requests that the Commission provide guidance to such parties as to whether a submission (and subsequent rejection) of the swap for clearing would be required or if no submission would be required until such time as an eligible DCO announces that it would accept swaps with such characteristics for clearing.³

As many market participants have been waiting for the Commission to provide final guidance prior to clearing the above classes of swaps, we urge the CFTC to publish a final rule with respect to the above classes as quickly as possible to implement the clearing intent of DFA.

CME Group thanks the CFTC for the opportunity to comment on this matter. We would be happy to discuss any of these issues with CFTC staff. If you have any comments or questions, please feel free to contact me at (312) 930-3488 or Kathleen.Cronin@cmegroup.com; or Jason Silverstein, Executive Director and Associate General Counsel, at (212) 299-2228 or Jason.Silverstein@cmegroup.com.

Sincerely,



Kathleen M. Cronin
Senior Managing Director, General Counsel
And Corporate Secretary

³ We note that the Commission partly addressed this concern in FN 97 of the NPR noting that “[i]f counterparties want to enter into a swap that is in a class subject to required clearing and no DCO will clear the swap because it has other specifications that the DCOs will not accept, then the parties can still enter into that transaction on an uncleared basis.” CME Group is seeking clarification on the procedural aspects for such market participants to comply with the mandate and the swap to exist on an uncleared basis. We also seek clarification for market participants that enter into swaps that fall within a class subject to the mandate and where a DCO clears all specifications of such swap but such market participant cannot clear the swap because the DCO only offers the service to a limited category of market participants.

