

**Mr. David Stawick,**  
Secretary  
Commodity Futures and Trading Commission  
Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W  
Washington, DC 20581

**Re: RIN 3038-AD86 - Notice of Proposed Rulemaking on Clearing Requirement Determination under Section 2(h) of the CEA**

Dear Mr Stawick,

TriOptima welcomes the opportunity to submit comments in response to the notice of proposed rulemaking (NPR) on Clearing Requirement Determination.

TriOptima's comments reflect our extensive experience serving as a key provider of OTC derivatives market infrastructure offering operational and counterparty credit risk management tools to the OTC derivatives market.

TriOptima has been a market leader in innovating and offering new services including triReduce for multilateral portfolio compression and triResolve for proactive portfolio reconciliation. Based on our experience with these services, we are pleased to provide the following comments to the Commission regarding the Proposed Rules.

**Clearing requirement for interest rate swaps**

TriOptima supports the Commission's approach to establish clearing requirements on classes of swaps rather than on a product by product basis. As mentioned in the NPR, the number of potential combinations of attributes for swaps can be very large and it would be highly impractical both for DCOs as well as the counterparties to determine which swaps meet a product-by-product definition.

TriOptima also supports the Commission's suggestion to use six product specifications for determining clearing requirements. The six attributes listed (Currency, float rate index, termination date, multi-currency, optionality and conditional notional amounts) are all highly relevant in determining the risk characteristics of contracts as well as liquidity in the market.

Furthermore, TriOptima supports the Commission's suggestion to focus on the swaps with the highest liquidity and outstanding notional. As noted in the NPR, a relatively narrow set of currencies, rate indices and maturities represents an overwhelming majority of the interest rate swap market, and are indeed very suitable for CCP clearing. On the other hand, there is a long and thin tail of other swap products where it is doubtful that the liquidity in a stressed market situation would be sufficient for effective risk management by the CCP as well as an orderly default management process in case a default would occur.

**Transactions subject to mandatory clearing**

We would like to point out that when determining whether a particular transaction is subject to the mandatory clearing requirement, what should be checked is the complete transaction as agreed between the parties. This is important since, in essence, all OTC derivatives are just collections of cash flows, sometimes fixed,

sometimes conditional upon future events like rate fixings. For example, an interest rate swap could be seen as a collection of FRA's. In the same way, non-clearable transactions containing optionality, multi-currency, or conditional notional amounts will in most cases also contain cash flows that are financially equivalent to FRA's. It would create a severe disruption to the market and create a lot of legal uncertainty if parties had to disentangle non-clearable transactions in order to find clearable components.

Therefore we would like the commission to clarify that parties don't have to disentangle non-clearable transactions in order to find clearable components.

### **Effect on systemic risk**

TriOptima's view is that the Commission's proposal for mandatory clearing is a very well balanced proposal which will contribute greatly to the reduction of systemic risk. As the market data in the NPR shows, the OTC derivatives market is a very heterogeneous market with certain areas being actively traded and other areas much less so. Focusing the clearing mandate on the very liquid part is a very prudent and effective rule.

We also note that in order to assess the impact on systemic risk, it will be important to estimate how much risk will remain outside of CCP clearing and how that risk can be managed. We would urge the Commission not to impose rules that will inhibit the management of residual bilateral risks.

### **Prevention of evasion**

TriOptima supports the Commission's principles-based approach to prevent evasion of the clearing mandate. In particular, we support the Commission's proposal to "*not consider transactions or other activities structured in a manner solely motivated by a legitimate business purpose to constitute evasion or abuse*".

We would like the Commission to clarify that activities and transactions carried out for the purpose of reducing counterparty credit risk, and thus reduce systemic risk, constitute a legitimate business purpose.

### **Summary**

We appreciate the opportunity to provide our comments on the NPR and look forward to working with the Commission as the rulemaking process continues. Please feel free to contact us at your convenience with any questions.

*Sincerely,*

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