



OTC Clearing Hong Kong Limited

(A subsidiary of Hong Kong Exchanges and Clearing Limited)

By Commission Website

May 27, 2014

Melissa D. Jurgens
Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20651

Re: Review of Swap Data Recordkeeping and Reporting Requirements, RIN 3038-AE12

Dear Ms. Jurgens:

OTC Clearing Hong Kong Limited (“**OTC Clear**”) appreciates the opportunity to submit this letter in response to the Commodity Futures Trading Commission’s (“**CFTC**” or the “**Commission**”) request for comment regarding swap data recordkeeping and reporting requirements under the CFTC’s Part 45 regulations (the “**RFC**”). OTC Clear is a Hong Kong-incorporated company limited by shares and a subsidiary of Hong Kong Exchanges and Clearing Limited (“**HKEX**”). OTC Clear was established for the purpose of providing clearing services for over-the-counter derivatives as a central counterparty. It has been recognized as a clearing house by the Securities and Futures Commission (the “**SFC**”), Hong Kong’s statutory regulator for the securities and futures market. OTC Clear has, on 7 May 2014 received no-action relief from the CFTC in connection with its provision of clearing services for proprietary positions in interest rate swaps and non-deliverable forwards to U.S. Clearing Members. OTC Clear further intends to apply to the CFTC for an exemption from registration as a derivatives clearing organization (“**DCO**”).

香港交易及結算所有限公司
Hong Kong Exchanges and Clearing Limited

香港中環港景街一號國際金融中心一期12樓
12/F, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong

電話 Tel: +852 2522 1122 傳真 Fax: +852 2295 3106 網址 Website: www.hkex.com.hk 電郵 E-mail: info@hkex.com.hk

In granting no-action relief to foreign-based central counterparty clearing houses such as OTC Clear (each, a “**No Action CCP**”), the CFTC has required No Action CCPs to comply with the reporting obligations applicable to DCOs under Part 45.¹ For cleared swaps, the CFTC has confirmed that the counterparties’ original swap (“**alpha**”) and the two new resulting cleared swaps (“**beta**” and “**gamma**”) are separate swaps that can be reported to different swap data repositories (“**SDRs**”), and that a DCO or No Action CCP may choose the SDR to which it reports the beta and gamma swaps.² At present, OTC Clear understands that the CFTC has provisionally registered three SDRs for the interest rate and foreign exchange asset class and that registration of another SDR for the foreign exchange asset class is pending. For the purposes of complying with its Part 45 reporting obligations, OTC Clear intends to connect to a single SDR and does not intend to connect to all SDRs. Preliminary engagements with an established global SDR have commenced and the range of connectivity options are being assessed. In OTC Clear’s view, Part 45 should not be interpreted to require a DCO or a No Action CCP to report termination of a cleared alpha swap to the same SDR to which the original reporting swap counterparty reported the alpha swap. This requirement would effectively compel DCOs and No Action CCPs to establish technical and operational linkages to all currently registered SDRs as well as any SDR that the CFTC were to subsequently register in the future. OTC Clear is concerned that this will result in increased operational costs given the likelihood of different technical interface standards and operational processes and procedures in place with each SDR. Although detailed costs for connecting to and maintaining interfaces with an SDR have yet to be ascertained, based on OTC Clear’s experience of implementing similar interfaces with its local reporting infrastructure, setup, application development and testing to interface with each SDR is likely to require at least 150 man-days. Beyond that, OTC Clear’s concern is that a requirement to establish appropriate oversight and control mechanisms with each SDR, regardless of the scale of reporting involved, will involve the introduction of a range of service level agreements and operational processes which may increase the scope for human error and could increase the overall level of operational risk in the reporting process.

In the case of an alpha swap submitted to OTC Clear, since an original reporting swap counterparty is already required to report swap creation data and life cycle event data of such alpha swap to an SDR, a more cost-effective reporting framework could be to also require the original reporting swap counterparty to report the termination of such alpha swap once it has received confirmation that the alpha swap has been accepted for clearing by the DCO or No Action CCP and novated to form the beta and gamma swaps. Since the original reporting swap counterparty would already have in place a technical and operational interface with its SDR(s) of choice, this would not require the establishment of additional and potentially inefficient interfaces by the DCO or No Action CCP beyond the interface to their appointed SDRs. In addition, since DCOs and No Action CCPs are already required to include the unique swap identifier of the alpha swap in its reporting of the beta and gamma swaps, the CFTC should

¹ See, e.g., CFTC No-Action Letter No. 14-27 (March 10, 2014) (extending previous no-action relief to Eurex Clearing AG); CFTC No-Action Letter No. 14-07 (Feb. 6, 2014) (extending previous grant of no-action relief to ASX Clear (Futures) Pty Limited)

² See generally Statement of the Commission on the Approval of CME Rule 1001.

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already be in a position to independently verify that such alpha swaps have been cleared. Imposing an additional requirement on a DCO or No Action CCP to report termination of the alpha swap does not appear to increase or improve the quantity and quality information already available to the CFTC. OTC Clear is of the view that the burden on DCOs or No Action CCPs of the additional reporting requirement appears to outweigh the benefits to the CFTC.

On behalf of OTC Clear, we thank you again for the opportunity to submit these comments in response to the RFC. If the CFTC has any questions regarding this letter, please contact the undersigned at +852 2211 6162 or CalvinTai@hkex.com.hk.

Sincerely,

A handwritten signature in black ink, appearing to be 'Calvin Tai', written over a horizontal line.

Calvin Tai
Chief Executive
OTC CLEARING HONG KONG LIMITED