MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

MFA POSITION PAPER:

WHY ELIMINATING POST-TRADE NAME DISCLOSURE WILL IMPROVE THE SWAPS MARKET

March 31, 2015

KEY TAKEAWAYS

MFA believes that revealing the names of counterparties to anonymously executed, cleared SEF trades undermines Dodd-Frank Act goals.

1. There is no commercial, operational, credit, or legal justification for the legacy practice of post-trade name disclosure (or "give-up") to continue on SEFs that offer anonymous execution of cleared swaps. While the practice may have served a purpose prior to the implementation of the current swaps trading and clearing regime, today it needlessly reveals the identities of counterparties to otherwise anonymous trades.
2. Post-trade name disclosure is a legacy feature of uncleared, inter-dealer markets that perpetuates a bifurcated, two-tier swaps markets within the SEF landscape, and undermines the Dodd-Frank Act's policy goals of promoting SEF trading of cleared swaps and enhancing price transparency and competition.
3. Eliminating post-trade name disclosure will increase the diversity, breadth, and depth of liquidity on SEFs and thereby reduce the potential for market volatility and disruptions. Other financial markets that have undergone a similar transition (such as the U.S. Treasuries market) have realized these benefits.
4. Post-trade name disclosure is inconsistent with the letter and intent of the Dodd-Frank Act's swaps market reforms and CFTC rules, and the CFTC has ample authority to prohibit this practice.

INTRODUCTION

Managed Funds Association ("**MFA**")[1] continues to strongly support the Dodd-Frank Act's goal of moving the trading of standardized, liquid, cleared swaps onto registered swap execution facilities ("**SEFs**") that provide impartial access. MFA believes the Commodity Futures Trading Commission's ("**CFTC**") SEF framework will benefit the swaps market and its participants by increasing market efficiency, fostering competition, promoting transparency, and deepening and diversifying market liquidity.

Nearly 18 months after the launch of the SEF marketplace, MFA is concerned that the swaps market remains bifurcated between "dealer-to-dealer" SEFs ("**IDB SEFs**") and "dealer-to-customer" SEFs ("**D2C SEFs**").

- IDB SEFs: In one tier, the IDB SEFs offer central limit order books ("**CLOBs**") and voice-brokered request-for-quote ("**RFQ**") models, among

600 14th Street, NW, Suite 900 | Washington, DC 20005 | 202.730.2600 | Fax 202.730.2601 | www.managedfunds.org

others, with trading on an anonymous basis but the identities of counterparties revealed post-trade. There is no meaningful buy-side participation on IDB SEFs.

- D2C SEFs: In the second tier, D2C SEFs offer electronic RFQ systems, which effectively require the buy-side to trade with dealers by requesting quotes on a name-disclosed basis. Although D2C SEFs provide order books, there is little liquidity available. Based on our members' collective trading experience, nearly all SEF trading by the buy-side occurs on D2C SEFs via name-disclosed RFQ.

This bifurcated market structure prevents the buy-side from accessing important pools of liquidity for cleared swaps, including the only liquid order books. This market structure also confines the buy-side to a "price-taker" role, rather than providing the opportunity to become a "price-maker" as well. As discussed below, MFA believes these outcomes are contrary to the Dodd-Frank Act's statutory mandate to the CFTC to promote the trading of swaps on SEFs.

A key mechanism suppressing buy-side trading on IDB SEFs and perpetuating the current two-tier market structure is the legacy practice of ***post-trade name disclosure***. Even though otherwise eligible buy-side participants have access to all SEFs in theory, the loss of anonymity caused by the continuation of post-trade name disclosure deters buy-side access to IDB SEFs in practice. Among its other adverse effects, post-trade name disclosure is a source of random and uncontrolled "information leakage" and perpetuates informational and trading advantages of traditional dealers. MFA strongly believes that the CFTC needs to intervene to remove this artificial barrier to buy-side participation on IDB SEFs by requiring such SEFs to maintain post-trade anonymity. This regulatory action would make the SEF marketplace more attractive to buy-side firms by allowing more flexible and efficient execution of both outright swaps and package transactions. We expect that this action will increase the volume of buy-side trading on SEFs.

We believe that the persistence of the two-tier swaps trading market structure "*status quo*" is contrary to Congress's reform goals. It is inconsistent with the Dodd-Frank Act's express impartial access requirement for SEFs. Congress designed the swaps market reforms under Title VII of the Dodd-Frank Act to produce a more competitive and transparent swaps market structure. We also believe that impartial access, once implemented and enforced, will provide a stronger foundation for U.S. swaps market liquidity and better serve the Dodd-Frank Act's goals of promoting swaps trading on SEFs and enhancing price transparency in the U.S. swaps market. In our view, achieving these policy goals will require the CFTC's robust enforcement of its regulations and guidance that implement the Dodd-Frank Act's mandate for impartial access to all SEFs. In particular, the CFTC's prohibition of the legacy practice of post-trade name disclosure on SEFs for anonymously executed, cleared swaps is pivotal to achieving statutory reform goals.

IMPORTANCE of IMPARTIAL ACCESS to SEFs

- *Impartial Access to SEFs Is Required by the Dodd-Frank Act.*

  Section 733 of the Dodd-Frank Act[2] and CFTC rule 37.202[3] require impartial access to SEFs, a cornerstone of swaps market reform. CFTC regulations and guidance, including the CFTC's straight-through processing ("**STP**") rules[4]; the CFTC's SEF rules;[5] the

staff's STP guidance[6]; and the staff's impartial access guidance (collectively, the "**CFTC SEF Legal Standards**"),[7] further define the impartial access standard. As the CFTC stated in its final SEF rulemaking, "[t]he Commission believes that the impartial access requirement of Core Principle 2 does not allow a SEF to limit access to its trading systems or platforms to certain types of [eligible contract participants] …."[8] Where a SEF imposes access limitations or other mechanisms that deter buy-side participation in its market, the SEF contravenes the impartial access requirement.

- *Deterrents to Buy-Side Access, such as Post-Trade Name Disclosure, are Inconsistent with Impartial Access and Perpetuate a Two-Tier Swaps Market.*

  As explained further below, post-trade name disclosure deters buy-side participation on IDB SEFs. Based on MFA members' SEF trading experience to date, MFA remains concerned that IDB SEFs deter buy-side access to their trading platforms by providing (or otherwise permitting) post-trade name disclosure of anonymously executed, cleared swap trades.[9] This practice has directly contributed to the persistence of the two-tier swap market structure in the U.S., as noted above, with inter-dealer trading occurring on IDB SEFs to the exclusion of buy-side firms,[10] and dealer-to-customer trading confined to two dominant D2C SEFs. In both theory and practice, post-trade name disclosure is therefore inconsistent with impartial access requirements.

- *Impartial Access to All SEFs is Essential to Swaps Market Liquidity.*

  Impartial access has contributed to the health and vitality of several other significant markets (such as equities and exchange-traded futures markets, where any participant can "make" or "take" prices). By contrast, the two-tier swaps market structure perpetuates traditional dealers' control of liquidity and entrenches their role as exclusive "price makers". It also limits the manner and extent to which buy-side participants may interact in the swaps market. Such structural limitations on liquidity provision and risk transfer will increase the likelihood of market volatility and instability over the long term. The willingness and capacity of traditional dealers to allocate balance sheet to swaps market-making activities is diminishing. This trend will likely continue over time as traditional dealers continue to restructure their businesses post-financial crisis and adapt to new capital, leverage, and liquidity requirements under Basel III and similar rules. Without swaps market reforms that facilitate impartial access to all SEFs and encourage alternative forms of price formation and liquidity provision and greater diversity of participation (among participants and modes of interaction), MFA fears that the swaps market will suffer a steady impairment of liquidity that risks greater volatility and dislocation in times of market stress.

POST-TRADE NAME DISCLOSURE

History of Post-Trade Name Disclosure

The practice of post-trade name disclosure originates in anonymous markets for *uncleared* swaps. Participants in an anonymous, uncleared swaps market reasonably need to limit the firms with which they may trade to manage counterparty credit risk. Further, to record each new bilateral swap with a given counterparty on their books, participants need to learn the identity of the counterparty with whom they were matched. Thus, post-trade name disclosure and the attendant limitations on interactions among market participants have a justification in the uncleared swaps markets where counterparties have credit exposure to each other.

Even in the early days of the cleared swaps market, counterparties used post-trade name disclosure to coordinate submission of trades to clearing after trade execution. However, the successful implementation of straight-through processing ("**STP**") for SEF-executed trades, including the pre-trade credit check process, has eliminated any need to use post-trade name disclosure to either manage counterparty credit risk or facilitate clearing submission. The execution-to-clearing workflow is routinely accomplished in seconds.

Post-trade name disclosure nevertheless continues to occur both as a routine practice on IDB SEFs. When a swap trade is executed by voice brokerage, the IDB SEF typically discloses by telephone to each transacting party the name of the other party to the trade. When the swap is executed electronically, the IDB SEF typically sends an on-screen execution message to each transacting counterparty that discloses the name of the other party to the trade. Further, post-trade name disclosure can also occur through middleware and associated post-trade affirmation processes that certain SEFs use to route trades to clearinghouses.

MFA strongly believes that for swaps that are anonymously executed and then immediately cleared, there is no proper purpose for a party to the cleared swap to know the identity of its original executing counterparty. Once the registered derivatives clearing organization ("**DCO**") accepts the trade for clearing, the trade exists only as a cleared trade. The obligations to perform on a cleared trade run only between the DCO and the party to the trade (and, where applicable, its agent clearing member). In a cleared trade, the DCO is the sole counterparty to each of the original transacting parties, and, again, the original transacting parties have no rights or responsibilities with respect to each other.

As a result, MFA strongly believes that the legacy practice of post-trade name disclosure no longer has a legitimate commercial, operational, credit or legal justification in cleared swap markets where transacting parties face the clearinghouse and are not exposed to each other's credit risk following trade execution.

Adverse Effects of Post-Trade Name Disclosure

- *Post-Trade Name Disclosure Deters Buy-Side Access to IDB SEFs Because It Reveals Private Trading Information*. The disclosure of an original counterparty's name following the execution of an anonymous, cleared SEF trade is a source of random and uncontrolled "information leakage" for buy-side firms. It deters buy-side firms from trading on IDB SEFs because it reveals a firm's private trading positions and proprietary

trading strategies to competitors or dealers. In contrast, when a buy-side firm discloses its identity and trading interests in the RFQ market, a buy-side firm has control of the associated "information leakage" because it can choose to whom it sends an RFQ.[11]

- *Post-Trade Name Disclosure is an Anti-Competitive Practice that Preserves a Privileged Source of Price Discovery and Risk Transfer for Traditional Dealers.* Post-trade name disclosure perpetuates informational and trading advantages for traditional dealers that benefit from their ability to access and achieve full visibility into both the inter-dealer and dealer-to-customer markets. Buy-side firms do not have true impartial access to the IDB SEFs that offer anonymous execution through CLOBs and other execution models due to the continued practice of post-trade name disclosure. MFA believes that the continuation of this practice is anti-competitive, because it reduces pre-trade price transparency for otherwise qualified buy-side market participants and restricts their ability to trade certain swap products anonymously. Neither of these outcomes is consistent with the Dodd-Frank Act's swaps market reforms and CFTC SEF Legal Standards.

- *Eliminating Post-Trade Name Disclosure Requires CFTC Action.* We believe that many IDB SEFs would be receptive to regulatory action to prohibit post-trade name disclosure as it would attract more users and thus more trading volume to their trading platforms. However, it is difficult for any one IDB SEF to disable post-trade name disclosure unilaterally, as traditional dealers that opposed such a change might easily shift their trading to other IDB SEFs. This is a classic case where only the regulator can readily bring competition and fairness to the market.

Legal Bases for Prohibiting Post-Trade Name Disclosure

In addition to contravening the intent of the impartial access mandate of the Dodd-Frank Act[12] and CFTC rules implementing this mandate, MFA believes that post-trade name disclosure for anonymously executed, cleared swaps contravenes both the letter and intent of the CFTC SEF Legal Standards and related CFTC rules. MFA believes the CFTC has ample authority to prohibit this practice on any SEF that offers anonymous execution of swaps that are intended to be cleared. We summarize below additional sources of the CFTC's authority.

1. Post-trade name disclosure contravenes CFTC rules prohibiting access to private trading information.

   In the CFTC's interim final rule release on *Swap Data Repositories—Access to SDR Data by Market Participants*, which amends CFTC rule 49.17(f)(2), the CFTC stated:

   > When a swap is executed anonymously on a [SEF] or [DCM] and then cleared in accordance with the Commission's straight-through processing requirements—such that the counterparties to the swap would not otherwise be known to one another—***the identity of each counterparty to the swap and its clearing member for the swap, as well as the [LEI] of such counterparty and its clearing member, is information that is private vis-à-vis the other counterparty to the swap***, and this privacy must be maintained by a registered SDR [swap data repository] pursuant to CEA section 21(c)(6).[13]

   Prohibiting post-trade name disclosure on SEFs would protect the privacy of an original counterparty's identifying information as required by CFTC rule 49.17(f)(2),

as amended. In response to concerns that MFA and other market participants raised that the identity of counterparties to anonymously executed swap trades could be inadvertently revealed post-trade by the SDR, the CFTC voted unanimously to adopt an interim final rule that amended the scope of CFTC rule 49.17(f)(2) by making explicit the limitation on counterparty access to data and information related to an anonymously executed, cleared swap that applies by virtue of the privacy requirements of CEA section 21(c)(6).[14] Without further regulatory action to prohibit the practice of post-trade name disclosure, a counterparty can continue to obtain the identities of its original transacting parties from the SEF or from the affirmation hub that processes the SEF's trades, even though the SDR is required to protect the privacy of such information. Because CEA section 21(c)(6) mandates the privacy requirement imposed under CFTC rule 49.17(f)(2), MFA believes that allowing a SEF to facilitate or permit post-trade name disclosure frustrates clear congressional intent.

2. Post-trade name disclosure contravenes CFTC rules restricting the commercial use of data by SEFs.

   Engaging in or otherwise permitting post-trade name disclosure offers certain SEFs commercial advantages over those SEFs that do not engage in the practice. CFTC rule 37.7 provides that a "[SEF] shall not condition access to its market(s) or market services on a person's consent to the [SEF]'s use of proprietary data or personal information for business or marketing purposes."[15] When a SEF seeks to obtain, maintain, or confer a commercial advantage by revealing the identity of a party that has executed a trade anonymously on its platform, MFA is concerned that the SEF is using the private information and trading data of its participants for commercial purposes.

3. Post-trade name disclosure contravenes CFTC rules prohibiting fraud, manipulation and other abusive practices.

   CFTC rule 23.410(c)(ii) provides that it is unlawful for a swap dealer to "[u]se for its own purposes in any way that would tend to be materially adverse to the interests of a counterparty, any material confidential information provided by or ***on behalf of a counterparty*** to the swap dealer . . . ."[16] Under CFTC rules, for anonymously executed, cleared swaps, the "identity of each counterparty to the swap . . . is information that is private vis-à-vis the other counterparty to the swap . . . ."[17] Accordingly, the identity of each counterparty is "material confidential information" that requires privacy protections to avoid the risk of market abuses. SEFs that continue post-trade name disclosure are effectively conditioning access to their trading platforms on a participant's consent to the disclosure of its identity. As such, a swap dealer that receives the identity of the counterparty to a trade executed anonymously through such a SEF is considered to have received such information from the SEF ***on behalf of the counterparty***. Use of such information by a swap dealer would violate the letter and intent of § 23.410(c).[18]

   CFTC rule 37.200(b) requires SEFs to "[e]stablish and enforce trading, trade processing, and participation rules that will deter ***abuses*** and have the capacity to detect, investigate, and enforce those rules . . . ."[19] The CFTC clarified in rule 23.410(c) that a swap dealer's use of confidential information "for its own purposes in any way that would tend to be materially adverse to the interests of a counterparty" is

an abusive practice.[20] When read together with § 23.410(c), CFTC rule 37.200(b) imposes a duty on SEFs to deter this form of abuse by establishing and enforcing trade processing rules that prohibit post-trade name disclosure. MFA believes that requiring non-dealer counterparties to disclose their identities, and by extension their market insights, to swap dealer counterparties as a pre-condition to participating in a SEF that otherwise provides for anonymous execution is "materially adverse to the interests of a [non-dealer] counterparty."

Rebutting Common Myths

MFA is aware of several arguments to preserve the practice of post-trade name disclosure on IDB SEFs. We summarize below our counter-arguments based on the extensive swaps trading experience of many MFA members.

- *Post-Trade Name Disclosure is Not Necessary to Deter "Gaming".* Some have argued that the practice of post-trade name disclosure should be preserved to prevent buy-side firms from "gaming" the market. Proponents of this view claim that buy-side firms could post a low resting bid (or high resting offer) in an anonymous CLOB, and then solicit a dealer through an RFQ to motivate the dealer to lower its price in reliance upon the price level posted in the CLOB. This theoretical risk exists in any market that employs both anonymous and disclosed trading protocols and historically, has not risen to a level of serious concern. The Treasury securities and foreign exchange markets, for example, have operated for years with both anonymous and disclosed execution channels, and participants have been able to trade across both without concerns of gaming. Nothing about the swaps market necessitates a different policing paradigm from other markets. Further, SEF CLOBs require market participants to post *firm* resting bids/offers. SEF participants that attempt to "game" dealers on pricing would be at risk of their firm offers being matched, resulting in potentially unfavorable positions. The likelihood of detection for engaging in any gaming behavior, regardless of whether or not a SEF uses post-trade name disclosure in its market, also serves as a strong deterrent. Such actions carry serious reputational and enforcement risks that buy-side market participants naturally avoid.

- *Post-Trade Name Disclosure Does Not Facilitate Dealer Capital Allocation.* Contrary to some claims, MFA believes that post-trade name disclosure does not help dealers in allocating their capital among their customer base. In an anonymously executed market, there is no affirmative decision by a dealer to direct business to a particular counterparty based on a pre-existing relationship, or to reward loyal customers with better prices — the parties are transacting only on the basis of *anonymously* posted bids and offers. The pricing for a particular swap does not change when the parties' identities are disclosed to each other *post*-execution. MFA does not expect that the elimination of post-trade name disclosure will have any impact on future pricing of such swap trades, because trading decisions are not based on the identity of the counterparty to begin with.

- *Concerns that Dealers Will Provide Less Liquidity to Markets Without Post-Trade Name Disclosure Lack Precedent in Similar Markets.* In the transition to electronic trading of U.S. Treasuries on BrokerTec, the buy-side's access to that anonymous trading platform did not result in sell-side dealers providing less liquidity to the market. On the contrary, BrokerTec has become a thriving market that facilitates the majority share of daily volume in electronically traded U.S. Treasuries in North America.[21] In electronic order-

driven trading markets, it should not matter whether a dealer's counterparty is another dealer or a buy-side firm.[22] Thus, these markets should remain anonymous to create a level playing field for all participants. Further, as highlighted earlier, steps that promote impartial access to all SEFs encourage alternative forms of price formation and liquidity provision and greater diversity of participation (among participants and modes of interaction).

CONCLUSION

Based on the public remarks of CFTC Chairman Massad[23], Commissioner Wetjen[24], and Division of Market Oversight Director, Vincent McGonagle[25], the continued utility of the post-trade name disclosure practice has been called into question. In his white paper, Commissioner Giancarlo stated that it is reasonable to ask whether name give-up continues to serve a valid purpose in the cleared swaps market.[26] MFA applauds these CFTC officials for recognizing the pivotal importance of this issue to the success of U.S. swap market reforms.

MFA believes that the CFTC should take prompt regulatory action to ban post-trade name disclosure of anonymously executed, cleared SEF trades. This action would be a decisive step in promoting the breadth, depth, and diversity of liquidity in the swaps market. We believe these are the intended outcomes of the Dodd-Frank Act's swaps market reforms and CFTC rules. The current two-tier market, which effectively limits buy-side firms to the RFQ process on a few dealer-to-customer SEFs, exposes the markets and participants to potentially greater market volatility and liquidity disruptions.

As long as post-trade name disclosure is allowed to continue on IDB SEFs for anonymously executed, cleared swaps, MFA believes that otherwise eligible buy-side participants will continue to be deterred from participating in these markets, and the two-tier swaps market will persist. Market dynamics alone will not remedy this situation, and absent appropriate regulatory intervention to ensure compliance with CFTC SEF Legal Standards, MFA fears the current market structure may ossify. In our view, the unintended consequence of regulatory inaction will be progressive liquidity impairment and increased volatility in the U.S. swaps market. We respectfully urge the CFTC to exercise its regulatory authority to prohibit post-trade name disclosure for anonymously executed, cleared swaps. By doing so, the CFTC will promote the evolution of SEFs that operate in accordance with Dodd-Frank's contemplated reforms for the U.S. swaps market. We expect that regulatory prohibition of this practice will encourage greater voluntary trading by buy-side firms on IDB SEFs and make the SEF regime more attractive internationally, as a result of their true impartial access to these markets.

---

[1] Managed Funds Association (MFA) represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry's contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, the Americas, and many other regions where MFA members are market participants.

[2] Pub. L. 111-203, 124 Stat. 1376 (2010). Section 733 of the Dodd-Frank Act amends the Commodity Exchange Act ("**CEA**") to require, in pertinent part, that SEFs both establish and enforce participation rules and

have the capacity to enforce those rules, including the means to provide market participants with impartial access to the market.

[3] *See* CFTC rule 37.202 in the CFTC Final Rule on "Core Principles and Other Requirements for Swap Execution Facilities", 78 Fed. Reg. 33476, 33587 (June 4, 2013).

[4] *See* Commission Final Rules on "Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management", 77 Fed. Reg. 21307 (Apr. 9, 2012), available at: http://www.gpo.gov/fdsys/pkg/FR-2012-04-09/pdf/2012-7477.pdf (the "**Final STP Rules**").

[5] *See* Commission Final Rule on "Core Principles and Other Requirements for Swap Execution Facilities", 78 Fed. Reg. 33476 (June 4, 2013) (the "**SEF Core Principles Rule**"), available at: http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2013-12242a.pdf.

[6] *See* "Staff Guidance on Swaps Straight-Through Processing", issued Sept. 26, 2013 (the "**STP Guidance**").

[7] *See* "Division of Clearing and Risk, Division of Market Oversight and Division of Swap Dealer and Intermediary Oversight Guidance on Application of Certain Commission Regulations to Swap Execution Facilities", issued Nov. 14, 2013 (the "**Impartial Access Guidance**").

[8] *See* SEF Core Principles Rule at 33508.

[9]. We understand that post-trade name disclosure occurs both as a routine practice on IDB SEFs and/or through the continued use of middleware and associated post-trade affirmation processes.

[10] To date, we understand that there is no meaningful non-dealer trading volume on IDB SEFs. For further information on the D2C SEFs versus dealer-to-dealer (D2D) SEFs and their respective market shares, see the "SEF Volumes and Market Share" section of the Clarus Financial Technology blog post at http://clarusft.com/february-2015-review-icap-vs-bloomberg/.

[11] Some press accounts have suggested that certain dealers would reduce their business with buy-side firms if the dealers learned that such firms had accessed IDB SEF markets. *See, e.g.,* "Banks pressure stalls opening of US derivatives trading platform," *Reuters*, August 27, 2014.

[12] Section 733 of the Dodd-Frank Act; CEA section 5h(f)(2)(B)(i).

[13] CFTC Final Rule on "Swap Data Repositories: Registration Standards, Duties and Core Principles", 76 Fed. Reg. 54538 (Sept. 1, 2011); amended by CFTC Interim Final Rule on "Swap Data Repositories - Access to SDR Data by Market Participants", 79 Fed. Reg. 16672, 16673-74 (Mar. 26, 2014) (emphasis added).

[14] CEA section 21(c)(6) requires an SDR to "maintain the privacy of any and all swap transaction information that [it] receives from a swap dealer, counterparty, or any other registered entity." CEA § 21(c)(6), 7 U.S.C. § 24a(c)(6) (2014).

[15] 17 C.F.R. 37.7.

[16] 17 C.F.R. 23.410 (emphasis added).

[17] CFTC Interim Final Rule on "Swap Data Repositories - Access to SDR Data by Market Participants", 79 Fed. Reg. at 16673-74.

[18] 17 C.F.R. 23.410.

[19] 17 C.F.R. 37.200(b) (emphasis added).

[20] 17 C.F.R. 23.410(c).

[21] Based on ICAP's webpage on the BrokerTec electronic fixed income trading platform, available at: http://www.icap.com/what-we-do/electronic/BrokerTec.aspx.

[22] According to a June 2013 research report examining the European market structure for corporate bond trading, which is in many respects instructive for swaps market structure, the authors observe that: "on order-book markets any trader accepted on to the system can enter limit orders and can thus potentially offer liquidity to other traders (by being a price maker). As a result, whereas we once had a clear distinction between price-makers (OTC dealers) and price-takers (buy-side), in electronic order-driven markets dealers and buy-side are, in terms of the types of order they may enter, no different from each other. On platforms which are 'All-to-All' (A2A) both can enter limit orders i.e. bids or offers as well as market orders i.e. make or take prices." See "European corporate bond trading – the role of the buy-side in pricing and liquidity provision," by Brian Scott-Quinn and Deyber Cano of the International Capital Market Association (ICMA) Centre, available at: http://www.icmagroup.org/Regulatory-Policy-and-Market-Practice/Asset-Management/role-of-the-buy-side-in-pricing-and-liquidity-provision-in-european-corporate-bond-trading/.

[23] *See* Remarks of Timothy G. Massad before the Swap Execution Facilities Conference (SEFCON IV), as prepared for delivery on November 12, 2014, at 3 (recognizing the concerns of some market participants that the practice of post-trade name disclosure is "discouraging SEF trading, and in particular usage of central limit order books"); these remarks are available at: http://www.cftc.gov/PressRoom/SpeechesTestimony/opamassad-4.

[24] S*ee* Remarks of Commissioner Mark Wetjen before the Cumberland Lodge Financial Services Policy Summit, as prepared for delivery on November 14, 2014 at 2 and 4 (recommending that the CFTC should be "bringing to an end 'name give up' occurring in the context of anonymous trading protocols on SEFs" because it is "difficult to rationalize trading protocols that reveal the identities of counterparties on an anonymous [CLOB]"); these remarks are available at: http://www.cftc.gov/PressRoom/SpeechesTestimony/opawetjen-10.

[25] "CFTC to test role of anonymity in Sef order book flop," *Risk Magazine*, November 21, 2014.

[26] *See* "Pro-Reform Reconsideration of the CFTC Swaps Trading Rules: *Return to Dodd-Frank*, White Paper, by Commissioner J. Christopher Giancarlo, issued on January 29, 2015, at p. 38 ("As the swaps market increasingly becomes a cleared market, it is reasonable to ask whether name give-up continues to serve a valid purpose.").