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*Via Electronic Submission*

Chris Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Re: **Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps (RIN 3038-AE12)**

Dear Mr. Kirkpatrick:

The Commodity Markets Council (“CMC”) appreciates the opportunity to submit the following comments to the Commodity Futures Trading Commission (the “CFTC” or “Commission”) as part of its comment period for its proposed amendments to rules relating to swap data recordkeeping and reporting in connection with cleared swaps.<sup>1</sup>

## **I. Introduction**

CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal and soft commodities. Its industry member firms also include regular users of such designated contract markets (“DCMs”) as the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Minneapolis Grain Exchange and the New York Mercantile Exchange as well as users of swap execution facilities (“SEFs”). Along with market participants, CMC members include regulated derivatives exchanges. The businesses of all CMC members depend upon the efficient and competitive functioning of the risk management products traded on DCMs, SEFs or over-the-counter (“OTC”) markets. As a result, CMC is well positioned to provide a consensus view of commercial end-users on the impact of the Commission’s proposed regulations on derivatives markets.

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<sup>1</sup> See Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, 80 Fed. Reg. 52544 (Aug. 31, 2015) (“notice of proposed rulemaking” or “NPR”).

## **II. Part 45 of the Commission's Regulations**

CMC supports the objectives of the Dodd-Frank Act to increase transparency of the OTC swaps market and we appreciate the Commission's efforts to enhance swaps transparency through its implementation of the swaps reporting and swap data repository ("SDR") rules. We support the proposed amendments in the NPR that assign all reporting obligations to the derivatives clearing organization ("DCO") for clearing swaps, including all confirmation data and the daily reporting of valuation data; that provide the DCO the right to select the SDR to which it reports; that clarify the obligation to create and transmit unique swap identifiers ("USIs"); and that remove market participant obligations to report daily valuations on cleared swaps.

We agree with the Commission that the DCO is "in the best position" to report on "clearing swaps." However, we believe the proposed amendments could go further than simply codify existing practices, and that the NPR presents an opportunity to enhance the reporting regime with additional measures to improve the quality and usability of the swap data. CMC supports the following points in response to the Commission's request for comment on the NPR.

### **A. The CFTC should assign DCOs all reporting obligations for cleared swaps.**

The proposed rules unnecessarily bifurcate reporting responsibilities for alpha, beta, and gamma swaps by placing new obligations on DCOs to send termination messages for alpha swaps accepted for clearing to the SDR to which the alpha swap was reported. However, in our view, the DCO should simply assume all reporting obligations for cleared swaps.

This is because alpha swaps that are intended-to-be-cleared when entered should not be reported prior to the point in time when they are accepted or rejected for clearing – they are not legally binding until that point in time.<sup>2</sup> The DCO is clearly best positioned to report on the swaps it accepts or rejects for clearing. It has been established that the DCO should have responsibility to report all aspects related to post-novation beta and gamma swaps. DCOs should also have the responsibility of reporting intended-to-be-cleared alpha swaps when accepted or rejected for clearing.

### **B. Current rules unnecessarily increase regulatory costs for market participants.**

The requirement of reporting intended-to-be-cleared swaps to SDRs unnecessarily increases regulatory compliance costs for market participants, whereas DCOs are well-positioned to assume the reporting responsibilities. The Commission should be mindful of the relevant costs when considering this approach in the NPR rather than focusing on already sunk costs and one-time costs to transition. The recurring expenses associated with ongoing systems usage,

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<sup>2</sup> Current rules require swap execution facilities (SEFs) and Designated Contract Markets (DCMs) to report alpha swaps that are intended to be cleared to an SDR as soon as technologically practicable, which often results in the SDR reporting the swaps to the public before they are accepted for clearing. These swaps may be later rejected from clearing, making the swaps void and introducing the possibility that public reporting is inaccurate and misleading.

maintenance, personnel required for data reporting, and fees charged by SDRs are the relevant costs to consider. Assigning all reporting responsibilities for intended-to-be-cleared alpha swaps to DCOs would immediately streamline and simplify the reporting process for these swaps and eliminate unnecessary regulatory costs to the marketplace.

CMC urges the CFTC to assign the DCO all reporting obligations related to clearing swaps in order to improve the quality and usability of the data available to the public and the Commission, and to achieve significant cost savings for market participants and regulators.

### **C. Determination of Which Counterparty Must Report**

To minimize some confusion in the reporting hierarchy for cleared and non-cleared swaps, CMC supports the elimination of language at the end of Section 45.8(f), "or is cleared by a derivatives clearing organization," as Section 45.8(i) discusses the reporting hierarchy for clearing swaps and the introductory paragraph to Section 45.8 states that 45.8(f) applies to non-clearing swaps.

### **D. Changes to the Primary Economic Terms Data Fields**

The NPR sets out a number of PET data field changes plus the addition of three new PET fields (see page 52558 of the NPR). Although these changes will not have an immediate impact on the data reporting ecosystem, when the mandatory clearing and trading rules become final for commodity swaps, these reportable field modifications will take time and money to address. Providing sufficient lead-time and certainty of requirements for both the SDRs and reporting parties will be important, therefore, we request that the Commission provide the responsible parties a sufficient implementation period.

### **III. Conclusion**

Thank you for the opportunity to provide comments on the commercial impacts of this rulemaking. If you have any questions or concerns, please do not hesitate to contact Kevin Batteh at [Kevin.Batteh@Commoditymktcs.org](mailto:Kevin.Batteh@Commoditymktcs.org)

Sincerely,



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Commodity Markets Council