

March 16, 2016

Via Website Submission

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Mr. Kirkpatrick:

trueEX LLC (“trueEX”) appreciates the opportunity to share our views with the Commodity Futures Trading Commission (“CFTC” or “Commission”) on its proposed notice of rulemaking on Regulation AT (“Reg AT”). trueEX is supportive of the Commission’s efforts to increase the oversight of automated trading. The proposed rulemaking is very thorough in scope and addresses many concerns impacting the futures market today.

By way of background, trueEX is a registered designated contract market (“DCM”) and a swap execution facility (“SEF”). The only products listed for trading on its DCM are interest rate swaps (spot starting par coupon and Market Agreed Coupon), which are offered on a central limit order book. trueEX launched as a DCM in September 2013 and as a SEF in October 2013. It has invested a great deal of time and effort to work with industry participants in the transition of swaps trading from traditional over the counter, bilateral trading to trading and clearing swaps electronically. trueEX has worked collaboratively with Commission Staff, as well as other SEFs, to address many of the challenges market participants have faced with this transition.

As a DCM listing only swaps, trueEX is concerned that proposed Reg AT will create a competitive disadvantage for DCMs listing swaps relative to their SEF competitors. In addition, it will serve to discourage the trading of swaps on order books, something that the Commission, trueEX and the other SEFs, and industry participants have been working so hard to promote.

The scope of the proposed regulation includes trading in a “commodity interest”, which pursuant to CFTC Regulation 1.3(yy) includes any swap as defined by the Act, by the Commission, or jointly by the Commission and the Securities and Exchange Commission.

However, Reg AT applies only to trading on DCMs and not on SEFs. As Commissioner Giancarlo stated in his Statement Regarding Notice of Proposed Rulemaking on Regulation AT,

“Regulation AT justifies this distinction by stating that compared to DCMs, SEFs and SEF markets are newer and less liquid and have less automated trading. However, DCMs can also list swaps and Regulation AT applies to that trading. In this regard, Regulation AT may disadvantage DCMs who list swaps as compared to SEFs trading.”

Commissioner Giancarlo has precisely articulated trueEX’s primary concern. As one of the only DCMs listing swaps¹, imposing the requirements of Reg AT on DCM market participants, clearing firms and trueEX itself clearly puts trueEX and other similarly situated DCMs at a competitive disadvantage relative to its SEF competitors that are listing identical products on their SEF order books. In the two and a half years since trueEX launched, there have been numerous obstacles to recruit members, many of whom compare rulebooks and requirements across the venues listing swaps. Any requirement that deviates from the others, especially if it imposes requirements above and beyond what the other venues require, immediately dissuades a prospective market participant from trading on that venue. trueEX has made a great investment in cultivating relationships and developing technology to encourage electronic trading of swaps on its DCM order book. If the scope of Reg AT includes swaps, it will effectively shut down trading swaps on trueEX’s central limit order book and cause trueEX to lose any momentum it has gained in the past two and a half years to recruit market participants to trade swaps on trueEX’s central limit order book.

The Commission appears to acknowledge that the scope of Regulation AT should not include swaps. As stated in the proposal “The Commission believes that neither execution nor order entry on SEF markets are sufficiently automated at this time to require the degree of automated safeguards proposed herein”². In footnote 14, it further states “The requirements on DCMs arising out of Regulation AT may ultimately be imposed on SEFs. However, an important consideration for the Commission is that SEFs and SEF markets are much newer and less liquid than the more established and liquid DCMs and DCM markets. While SEFs and SEF markets are still in this nascent stage, the Commission does not want to impose additional requirements that may have the effect of decreasing the number of SEFs or decreasing liquidity. For these reasons, and in light of the lesser degree of automation in SEF markets, the policy considerations underlying Regulation AT are not as critical, at least at this time, in the SEF context”.

In the paragraph above, it may be more appropriate to indicate that electronic trading of swaps and electronic swap markets (rather than SEFs and SEF markets) are still in their infancy, and it only makes sense to exclude swaps from the scope of Reg AT. trueEX respectfully requests that the Commission consider trueEX’s concerns regarding the product scope of Reg AT and the impact it will have on the progress the industry has made in transitioning to an electronic marketplace. We would welcome the opportunity to discuss our views further with the

¹ As of the date of this letter, it appears that ELX Futures, LP also lists interest rate swaps and credit default swaps on its DCM.

² 80 Fed. Reg. 78827 (December 17, 2015)

Commissioners or staff in more detail. Should staff have any questions regarding the above, please do not hesitate to contact me by telephone at (312) 320-8934 or by email at fran@trueex.com.

Sincerely,



Fran Kenck
Chief Regulatory Officer