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Submitted via http://www.cftc.gov

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

Re: Comments on Project KISS Request for Information – RIN # 3038-AE55

Ladies and Gentlemen:

This letter is submitted by Custom House USA, LLC and Western Union Business Solutions (USA), LLC (on behalf of themselves and their affiliates) ("**WUBS**"), GPS Capital Markets, Inc. ("**GPS**"), and Associated Foreign Exchange, Inc. ("**AFEX**") (collectively, the "**Companies**") in response to the request for public comment set forth in the Commodity Futures Trading Commission's (the "**Commission**") May 9, 2017 request for information regarding "Project KISS" ("**Project KISS**").[1] We commend the Commission for its efforts to consider the perspectives of all market participants and members of the public as it evaluates how the Commission's existing rules, regulations, or practices could be applied in a simpler, less burdensome and less costly manner as part of Project KISS.

Please note that this letter addresses issues regarding both swap dealer registration and margin for uncleared swaps. The letter is being submitted to the Commission under the "registration" category of Project KISS to avoid duplication.

About the Companies

The Companies have jointly submitted this letter because all three are nonbank money services businesses ("**MSBs**") that offer international payment processing and over-the-counter ("**OTC**") foreign exchange derivatives to small and medium-sized enterprises ("**SMEs**"). The Companies are currently exempt from swap dealer registration because each Company's total notional swap dealing activity falls below the current swap dealer *de minimis* threshold.[2]

Although the Companies' customers may differ in size and industry, all possess the commonality of engaging in multinational operations. The global footprint of these SMEs creates a demand for the conversion and remittance of foreign currencies. As such, the Companies' core services provide SMEs an alternative to traditional banking where the Companies may tailor their solutions more closely to SME customers' needs. The Companies therefore become integral

[1] *See* CFTC, *Project KISS*, Request for Information, 82 Fed. Reg. 21494 (May 9, 2017), *available at*: https://www.gpo.gov/fdsys/pkg/FR-2017-05-09/pdf/2017-09318.pdf and CFTC, *Project KISS*, Request for Information; Correction, 82 Fed. Reg. 23765 (May 24, 2017), *available at*: http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2017-10622a.pdf.

[2] *See* 17 C.F.R. 1.3(ggg)(4) (the "**De Minimis Exception**").

components of the day-to-day business operations of these SMEs. Due to their multinational operations, the Companies' SME clients are exposed to the risk of pecuniary loss created from the inherent volatility of foreign exchange markets. The Companies offer OTC foreign exchange derivatives to assist these clients in hedging such exposure. For example, a commercial fishing company located in Portland, Maine may have a Norwegian Krone payable due in six months to its Norwegian equipment supplier. In the event the United States dollar depreciates against the Norwegian Krone during the period prior to the payment's due date, the effective cost of goods in United States dollars increases. The commercial fishing company may fear an adverse currency fluctuation during this six-month period and seek the services of one of the Companies to lock-in an exchange rate through the use of a derivative contract.

In an effort to mitigate the foreign currency exposure resulting from derivative transactions with their clients, the Companies routinely enter into certain hedge transactions, often back-to-back swaps, with large financial institutions. The Companies are therefore providers of derivatives to their SME clients and end-users of derivatives for internal hedging purposes.

Due to the Companies' involvement in payment activity, each is registered with the United States Department of the Treasury Financial Crimes Enforcement Network as a money services business. Additionally, each of the Companies maintain money transmission licenses, or the equivalent, with various state banking departments. Although the Companies engage in certain swap dealing activity regulated by the Commission, as stated above, they are exempt from swap dealer registration as each of the Companies' aggregate gross notional value of swap dealing activity does not exceed the currently established De Minimis Exception.

Comments

Swap Dealer De Minimis Threshold and Termination of De Minimis Phase-In

In its current state, the De Minimis Exception requires a person that entered into an aggregate gross notional amount of swaps in excess of $8 billion (the "**$8 Billion Threshold**") during the immediately preceding twelve months to register as a swap dealer. The $8 Billion Threshold is set to automatically decrease to $3 billion (the "**$3 Billion Threshold**") on December 31, 2018 (the "**Phase-In Termination Date**").[3] The Companies believe that, in order to prevent disruption to the United States swap market, the Commission should consider taking action to eliminate the uncertainty surrounding the transition from the $8 Billion Threshold to the $3 Billion Threshold. Specifically, the Companies request that the Commission make use of its rulemaking authority to maintain the $8 Billion Threshold.[4] In the event the Commission is unwilling to maintain the $8 Billion Threshold at this time, the Companies believe the Commission should consider taking action to further delay the Phase-In Termination Date to allow for a more thorough assessment of the $3 Billion Threshold.

The Companies are concerned that, due to the exorbitant costs associated with swap dealer registration, a decrease from the $8 Billion Threshold to the $3 Billion Threshold will lead to a reduction in the number of swap market participants willing to engage in swap dealing activity,

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[3] 17 C.F.R. 1.3(ggg)(4)(ii)(C)(1); *Order Establishing De Minimis Threshold Phase-In Termination Date Pursuant to Commission Regulation 1.3(ggg)(4)(ii)(C)(1),* Oct. 13, 2016.
[4] 17 C.F.R. 1.3(ggg)(4)(ii)(C)(2).

ultimately reducing market liquidity. Market participants currently operating under the De Minimis Exception are typically comprised of firms that, similar to the Companies, serve SMEs seeking to prudently hedge an underlying commercial risk. These SME end users are typically underserved by the large swap dealers and therefore rely on market participants like the Companies to carry out their risk mitigation efforts. As such, any material reduction in the swap activity of small dealers who may be deterred from conducting further activity as a result of the $3 Billion Threshold will result in a void in the marketplace for SMEs who may need more customized solutions. While these SMEs could possibly enter into swaps with the large banks that traditionally provide risk mitigation products, they likely would not receive the level of personalized service they receive from smaller dealers such as the Companies. With fewer options available to SME clients, we do not see how a $3 Billion Threshold drives the overall policy objective of the De Minimis Exception.[5]

The Companies request that the Commission consider undertaking rulemaking to maintain the $8 Billion Threshold prior to the end of the 2017 calendar year. Because the De Minimis Exception establishes a calculation based on dealing activities during the "immediately preceding 12 months," the transition to the $3 Billion Threshold will have retroactive application.[6] That is, as of January 1, 2018 market participants operating under the De Minimis Exception must begin to assess and, if necessary, adjust their dealing activity to ensure they fall within the $3 Billion Threshold. Due to the existing $8 Billion Threshold, and the ongoing uncertainty surrounding the Phase-In Termination Date, the Companies and other market participants have crafted policies, processes, technological solutions, and staffing requirements centered on the $8 Billion Threshold. A decrease from the $8 Billion Threshold to the $3 Billion Threshold will cause the Companies and similarly situated market participants to incur substantial expenses to reassess and recalibrate their operations in accordance with such a decrease. The Companies believe that the market-wide operational costs associated with such a decrease will far outweigh the benefits associated with increased Commission oversight with respect to smaller market participants. .

In the event the Commission does not maintain the $8 Billion Threshold, the Companies request that the Commission consider further delaying the Phase-In Termination Date. A delay to the Phase-In Termination Date is appropriate until the Commission is better positioned to conclusively determine a suitable threshold under the De Minimis Exception. The Commission itself has stated it was faced with significant data limitations at the time of publication of each of the De Minimis Reports and therefore was unable to fully assess the $3 Billion Threshold.[7] Both De Minimis Reports rely on assumptions and methodologies that may not be based on a full transparent assessment of the swap market.

The Companies are aware that the Commission's July 10, 2017 announcement that it will review its swap data reporting regulations was initiated to ensure that, going forward, the Commission receives meaningful data from swap market participants.[8] The Companies support the effort to review

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[5] *Swap Dealer De Minimis Exception Preliminary Report*, Nov. 18, 2015, pp. 34-38; *Swap Dealer De Minimis Exception Final Staff Report*, Aug. 15, 2016, pp. 2123 (providing that lowering the $8 Billion Threshold would result in "insignificant" additional regulatory coverage).

[6] 17 C.F.R. 1.3(ggg)(4)(i)(A).

[7] *Swap Dealer De Minimis Exception Final Staff Report*, Aug. 15, 2016, p. 19, ("Despite improvements to the Commission's analytical tools, certain key data limitations that were cited in the Preliminary Report also affected the Final Report. Specifically, the SDR data lacked: (i) a reporting field to indicate whether a swap was entered into for dealing purposes; (ii) reliable notional data for Non-Financial Commodity swaps, FX Derivatives, and Equity swaps; and (iii) complete LEI and USI information.") (The reports referenced in footnote 20 and footnote [22] are collectively referred to as the "**De Minimis Reports**").

[8] CFTC Letter 17-33, *Division of Market Oversight Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations*, Jul. 10, 2017.

the reporting regulations to determine how to provide further transparency in the marketplace, but have concerns that the Commission has not had ample time to consider how to most effectively modify these regulations in a way that allows swap dealers adequate time to implement any necessary technical changes. The Companies are further concerned that the Commission has not had ample time to work with the swap data repositories ("**SDRs**") to make better use of the data it currently receives. Once the Commission has had adequate time to determine how to utilize its data, either by modifying the existing rules or otherwise, we imagine the Commission will need to accumulate a full year's worth of the enhanced swap data before it is able to fully assess the market. Therefore, we believe it is reasonable to extend the Phase-In Termination Date to twenty-four months from the effective date of any amended reporting rules, or change in process with the SDRs, as applicable.

An extension to the Phase-In Termination Date is also appropriate due to the lack of a full complement of Commissioners at the time of the submission of this letter. Swap dealer registration is one of the most essential components of the regulations promulgated to govern the United States swap market.[9] A full complement of Commissioners, each of whom comes with unique experience, perspectives, and economic ideology, will enhance the dialogue surrounding the De Minimis Exception and allow for a more complete consideration of its impact.

Calculation of the Swap Dealer De Minimis Threshold

A. Treatment of Hedging Swaps

The Companies request that the Commission consider adopting a broader exclusion for swaps entered into for the purpose of hedging or mitigating commercial risk, including risk arising out of swap dealing activity, from the calculation used to determine swap dealer status. In an effort to cautiously manage the risk associated with swaps entered into with their SME counterparties, the Companies enter into back-to-back offsetting swaps with large swap dealers. Such a practice directly aligns with the Commission's policy objective to reduce systemic risk.[10] However, the Commission has thus far declined to take this type of risk-mitigating hedging activity into consideration among its enumerated list of exempt swap dealing activities.[11] The enumerated list does consider swaps entered into for the purpose of hedging physical positions. The Companies' standing practices of hedging underlying swap dealing activity to large swap dealers share many principles with exempt physical position hedging activity. Like the physical position hedging activity, the Companies enter into back-to-back swaps for the purpose of offsetting risks that arise from the potential change in value of its swap-related assets and liabilities.[12] Furthermore, these back-to-back swaps are economically appropriate to achieve a reduction of the Companies' risk derived from their dealing operations.[13] All back-to-back swaps are entered into in accordance with sound commercial practices.[14] Finally, the Companies in no way enter into these hedging swaps to evade designation as swap dealers.[15] Due to

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[9] *Order Establishing De Minimis Threshold Phase-In Termination Date Pursuant to Commission Regulation 1.3(ggg)(4)(ii)(C)(1),* Oct. 13, 2016, Commissioner Bowen Concurring Statement, ("While we might disagree on the details of today's order, I think we can all agree on one thing: today's action is very important to how the swaps industry operates and our system of financial regulation functions. If we do not accurately and appropriately set the mandatory level of trading for swap dealer registration, our entire regulatory regime for the swaps market will be weakened.").

[10] *Swap Dealer De Minimis Exception Preliminary Report*, Nov. 18, 2015, p. 35.

[11].17 C.F.R. 1.3(ggg)(6)(iii).

[12] 17 C.F.R. 1.3(ggg)(6)(iii)(A)

[13] 17 C.F.R. 1.3(ggg)(6)(iii)(C)

[14] 17 C.F.R. 1.3(ggg)(6)(iii)(D)

[15] 17 C.F.R. 1.3(ggg)(6)(iii)(E)

the direct similarities with the exempted physical position hedging swaps, the Companies request that the Commission consider exempting swaps entered into for the hedging of swap dealing activity from the calculation used to determine the need to register as a swap dealer.

B. Rolling Twelve-Month Calculation

The Companies further ask that the Commission reexamine its use of a rolling twelve month period for the purpose of the calculation used to determine the need to register as a swap dealer.[16] The Commission previously acknowledged that the current methodology is not an accurate indicator of the systemic risk posed by a market participant.[17] Instead, the rolling twelve month period is an indicator of an entity's overall dealing activity over a discrete period of time.[18] The Companies believe there is not necessarily a direct correlation between the amount of dealing activity and the level of systemic risk, for it is the way that organizations manage their risk that is crucial to analyzing overall systemic risk. Therefore, the use of a twelve-month look back as the sole factor for swap dealer registration does not align with the Congressional intent behind dealer registration.[19] For example, this metric does not account for the unique levels of risk inherent to each derivative asset class. It is commonly understood that non-exempt foreign exchange swaps carry much less risk than credit swaps. This metric also does not take into consideration industry standards surrounding the duration of derivatives from each asset class. Whereas an interest rate swap commonly matures in fifteen to twenty years, a non-exempt foreign exchange swap typically matures within a year, or less. As such, the Companies, who deal solely with products of the foreign exchange asset class, may appear to engage in a large amount of dealing activity based on the number of swaps entered into in a twelve-month period, but in fact likely pose less systemic risk than a financial institution that may deal in asset classes with longer tenors.

The Companies believe that the non-financial counterparty ("**NFC**") regime established under the European Market Infrastructure Regulation ("**EMIR**") addresses the above concerns.[20] Instead of a twelve month aggregate notional figure, EMIR employs a calculation based on a rolling average position over a thirty-day period.[21] Through its focus on average open positions, the calculation contemplates the actual risk posed by a market participant during a given timeframe, not merely its dealing volume. Additionally, EMIR takes the inherent risks of each derivative asset class into consideration for the purpose of establishing a notional threshold.[22] As a result, EMIR is able to more accurately capture those counterparties that pose systemic risk to the swap market. The Companies believe that the Commission's implementation of a comparable regime would better align with the legislative intent of Dodd-Frank.[23] Not only would aligning the Dodd-Frank calculation with EMIR allow organizations operating in both jurisdictions to adequately manage their overall book of business, but it would eliminate any unforeseen side effect on the U.S. swaps market caused by global organizations opting to focus their growth efforts on the European Union ("**EU**") swap markets based on EMIR's arguably more favorable NFC threshold calculation.

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[16] 17 C.F.R. 1.3(ggg)(4)(i)(A).
[17] 77 Fed. Reg. 30630 (May 23, 2012), *available at*: https://www.gpo.gov/fdsys/pkg/FR-2012-05-23/pdf/2012-10562.pdf.
[18] *Id*.
[19] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Preamble.
[20] Regulation (EU) No 648/20**12**, Article 10.
[21] *Id*.
[22] Regulation (EU) No 149/2013, Article 11.
[23] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Preamble.

Expansion of the Foreign Consolidated Subsidiary Definition to Swap Dealer Registration

The Companies commend the Commission for undergoing efforts to codify the Cross-Border Guidance and provide clarity to market participants. However, we are concerned that the proposal entitled "Cross-Border Application of the Registration Thresholds and External Business Conduct Standards Applicable to Swap Dealers and Major Swap Participants," (the "**Proposed FCS Rules**") does not take into consideration current non-registrants who are operating under the De Minimis Exception such as ourselves. In particular, the expansion of the foreign consolidated subsidiary ("**FCS**") concept to the registration requirements puts organizations such as ours at a competitive disadvantage globally and is not consistent with principles of international comity.

The FCS concept is overbroad in the context of registration, as it has an unduly burdensome impact on swap dealers who currently operate under the De Minimis Exception but which happen to have U.S. parent organizations. Swap dealers falling into this category would have to count all global dealing volume, whether or not that activity has a nexus to the U.S., and even if the majority of swap dealing activity of such organizations is not between two U.S. persons. A similarly situated organization that has a parent company in any other jurisdiction would not have the same aggregation obligation under the Proposed FCS Rules. This puts entities with U.S. parent organizations at an unfair disadvantage compared to the rest of the global swap dealing industry. The Commission even stated in the Proposed FCS Rules that in examining whether to apply the FCS concept to the registration requirement, it focused on existing U.S. swap dealers that would have to register one or more of their non-U.S. subsidiaries.[24] Such existing registrants already have the infrastructure in place to add a foreign subsidiary to their swap dealing programs, but a minor change for an existing registrant is in stark contrast to organizations that have come to rely on operating under the De Minimis Exception based on the current Cross-Border Guidance.

We further believe that expansion of the FCS concept to require foreign legal entities to face an overseas regulator does not meet the spirit of international comity. Organizations such as the Companies generally have legal entities that operate independently in foreign "G20" jurisdictions, where applicable, and those jurisdictions have their own requirements regarding OTC derivatives. Additionally, it may often be the case for organizations such as the Companies that the only registrant pulled in via the FCS requirement is a foreign registrant dealing with non-US person counterparties, but which happens to be a subsidiary of a U.S. parent.

Lastly, and as stated above, given that the Commission currently is without a full panel of Commissioners, we respectfully request that the Commission formally withdraw the Proposed FCS Rules until a full panel of Commissioners is installed and is able to conduct a complete analysis of the impact of the FCS concept on registration. This would alleviate the uncertainty non-registrants such as the Companies have faced over the past months regarding whether the Proposed FCS Rules would be finalized in their current form. Furthermore, prior to making a determination on the application of the FCS definition to registration, we request that the Commission first determine whether it will undertake rulemaking to amend the De Minimis Exception. If the Commission does not resolve this issue first, there may be a risk that organizations such as the Companies would face registration only for some short period of time based on the FCS definition, but then ultimately would not be subject to a registration requirement should the Commission later make a determination that

[24] 81 Fed. Reg. 71967, 71970-71.

the threshold will not be lowered as currently scheduled. At a minimum, should the Commission proceed with finalizing the Proposed FCS Rules in their current form, we urge the Commission to provide an adequately long compliance period, such as 36 months, to give current non-registrants sufficient time to implement the infrastructure necessary to register.

Definition of Financial End User in Margin Rules for Non-Cleared Swaps

The Commission's margin rules for uncleared swaps ("**Margin Rules**")[25] call for a person, registered with the CFTC as either a swap dealer or major swap participant but not under the purview of a prudential regulator ("**Covered Swap Entities**" or "**CSEs**"), to exchange variation margin and initial margin with certain counterparties. Specifically, a Covered Swap Entity must exchange variation margin on swaps executed with a counterparty that is either registered as a swap dealer or major swap participant with the CFTC or a "financial end user ("**FEU**")," as that term is defined in the Margin Rules. The Margin Rules further mandate the exchange of initial margin for all swaps executed between a Covered Swap Entity and a counterparty that is an FEU with "material swaps exposure," as that term is defined in the Margin Rules.

Neither WUBS, GPS nor AFEX is a Covered Swap Entity, as none is registered as a swap dealer or major swap participant. The Margin Rules define financial end user to include a wide array of traditional financial institutions such as bank holding companies, depository institutions, broker-dealers and insurance companies. However, its definition also includes a class of nontraditional financial institution, state-licensed MSBs, and therefore the Companies are classified as FEUs.[26] As a result, state-licensed MSBs are impacted by the Margin Rules with respect to their covered derivatives transactions with CSEs. When one looks at the global competitive landscape of the swaps market, the inclusion of MSBs in the definition of FEU adversely impacts the Companies and other firms like them.

A. Competitive Disadvantages Compared to Non-U.S. Money Transmitters and Money Services Businesses

Including money transmitters and MSBs like the Companies within the definition of FEU under the Margin Rules places U.S. money transmitters and MSBs at a competitive disadvantage relative to their counterparts in a number of foreign jurisdictions. For example, the equivalents of money transmitters and MSBs in the EU are not explicitly covered by the EMIR uncleared swaps margin rules. Specifically, these entities are not considered financial counterparties in the EU, and in most cases, will not be "NFC+s" because they do not meet the clearing thresholds. As a result, such MSBs are not impacted by the uncleared swaps margin requirements in the EU, while they are impacted by the rules when facing CFTC-registered swap dealers. We believe this difference in

[25] *See* CFTC, *Margin Requirements for Covered Uncleared Swaps for Swap Dealers and Major Swap Participants*, Final Rule, 81 Fed. Reg. 636 (Jan. 6, 2016), *available at*: http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2015-32320a.pdf.

[26] See CFTC Reg. 23.151, 17 CFR 23.151 (definition of the term "financial end user"). Although money services businesses and money transmitters are not defined in the rules, regulations of the Financial Crimes Enforcement Network ("FinCEN") provide definitions of these terms. A money services business is defined to include any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities: check casher; currency dealing or exchange; issuer of travels checks, money orders or stored value; seller or redeemer of travelers' checks, money orders or stored value; money transmitter; and the U.S. Postal Service. See 31 CFR 1010.100(ff). A money transmitter is a subset of a money services business and means a person that provides money transmission services, which includes the acceptance of currency, funds, or other value that substitutes for currency from one person and the remission of currency funds, or other value that substitutes for currency to another location or person by any means. See 31 CFR 101.100(ff). It is unlawful under federal law for a person to engage in a money transmitting business unless properly licensed if required under State law. See 18 USC 1960.

treatment among jurisdictions may have a negative impact on U.S. swap dealers as well, where European MSBs may be incentivized to transact only with non-U.S. counterparties.

B. MSBs Are Placed at a Competitive Disadvantage to Community Banks

The inclusion of MSBs in the FEU definition places firms like the Companies at a competitive disadvantage to community banks, which generally are not impacted by the Margin Rules.

Certain financial institutions with $10 billion or less in total assets ("**Community Banks**") generally are not impacted by the Margin Rules.[27] Because the Companies are regulated as MSBs and money transmitters, rather than Community Banks, they did not receive such benefit even though MSBs and money transmitters are also regulated at the State and Federal level in a similar manner to Community Banks.

Unlike Community Banks, to the extent the Companies enter into swaps with CFTC-registered swap dealers, the Companies were obligated to enter into new or amended ISDA Credit Support Annexes ("**CSA**") with each of their swap dealer bank counterparties to allow such dealers to comply with uncleared swaps margin rules. The requirement to address the Margin Rules in these CSAs removed a great deal of flexibility that the counterparties previously had to mitigate risk based on their existing capitalization structures. For example, prior to the effective date of the uncleared swaps margin rules, a MSB could contract with its longstanding swap dealer counterparty for a $30 million threshold. As a result of losing such flexibility, the MSB may be forced to seek additional capital if it wishes to continue doing business with CFTC-registered swap dealers. The cost of capital associated with the access to the increased line of credit curtails an MSB's operations compared to Community Banks which, though similar in size to MSBs, are not required to endure a similar financial burden.

<u>Variation Margin Requirements Under the Margin Rules</u>

The Companies request that the Commission consider whether it can extend its application of the "material swaps exposure" concept to the variation margin requirements under the Margin Rules. The Commission established that an end user has material swaps exposure if, subject to a phase-in period, its average daily aggregate notional of uncleared swaps, foreign exchange forwards, and foreign exchange swaps exceeds $8 billion for June, July, and August of the previous calendar year. The Commission's decision to exempt financial end users without material swaps exposure from initial margin requirements appears to derive from a desire to focus on financial institutions with substantial swap market exposure. However, by not extending this exemption to the variation margin requirements, the Margin Rules place a financial strain on financial end users that do not have material swap exposure, but who wish to enter into swaps with CFTC-registered swap dealers. It is not unreasonable to assume that financial end users without material swaps exposure may have to double capital or find other sources of liquidity which will put pressure on financial positions and by extension our SME clients. Further, while comparable jurisdictions such as EMIR use similar

[27] Specifically, CFTC Reg. 23.150(b)(1), 17 CFR 23.150(b)(1), provides that the uncleared swaps margin requirements do not apply if a counterparty qualified for an exception from clearing under section 2(h)(7)(A) of the Commodity Exchange Act and implementing regulations. Pursuant to CFTC Reg. 50.50(d), 17 CFR 50.50(d), banks, savings associations and farm credit institutions qualify for an exemption from the mandatory clearing requirement in section 2(h)(7)(A), and thus the uncleared swaps margin rules also do not apply where a swap dealer is transacting with such a counterparty.

differentiators between initial margin and variation margin requirements, the EMIR margin rules rely on an entity's NFC designation, and therefore have built in protections for smaller organizations that have not exceeded the clearing threshold. MSBs such as the Companies are not afforded this consideration and instead must be subject to variation margin purely based on the current FEU definition.

Conclusion

The Companies appreciate the opportunity to comment on the Project KISS initiative. We would be pleased to provide the Commission with any additional information that might be useful in facilitating the Commission's review of its rules and practices.

Custom House USA, LLC & Western Union Business Solutions (USA), LLC

Cynthia Cross	Cynthia Cross
Signature	Name
September 28th, 2017	Deputy General Counsel
Date	Title

GPS Capital Markets, Inc.

Signature	Name
Date	Title

Associated Foreign Exchange, Inc.

Signature	Name
Date	Title

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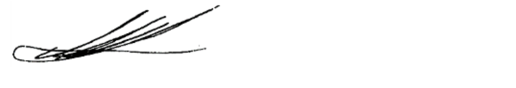

	Ali R. Manbeian
Signature	Name
28 September 2017	Chief Financial Officer
Date	Title

Associated Foreign Exchange, Inc.

Signature	Name
Date	Title

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Custom House USA, LLC & Western Union Business Solutions (USA), LLC

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Anthony L. Rodriguez
Name

September 29, 2017
Date

Chief Risk Officer
Title