



March 15, 2019

Mr. Christopher Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

**Re: Swap Execution Facilities and Trade Execution Requirement; Proposed Rule – RIN 3038-AE25, 83 Fed. Reg. 61946 (Nov. 30, 2018)**

Dear Mr. Kirkpatrick:

ED&F Man Capital Markets appreciates the opportunity to submit comments with respect to the aforementioned proposed rules (the “**Proposal**”), which would revise or amend the Commission’s existing regulations governing the registration and regulation of swap execution facilities (“SEFs”) and the trade execution requirement as published by the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”).<sup>1</sup>

Founded in 1783, ED&F Man (“**ED&F**”) is a private, employee-owned agricultural commodities merchant with offices in over 60 countries and over 11,000 employees. In 2011, ED & F Man Capital Markets was established as a division of ED&F to provide global financial services to institutional investors. ED & F Man Capital Markets Inc. (“**MCM**”) is a U.S. registered Futures Commission Merchant and Broker-Dealer (“**FCMBD**”) and is governed by a variety of exchanges and other self-regulatory organizations.<sup>2</sup> In addition, ED & F Man Derivative Products Inc. is a provisionally registered non-bank U.S. swap dealer and affiliate of MCM Inc.

With over 550 employees worldwide across the ED&F Capital Markets division, the firm provides institutional clients with a range of services that include execution, intermediation,

---

<sup>1</sup> *Swap Execution Facilities and Trade Execution Requirement; Proposed Rule*, 83 Fed. Reg. 61946 (Nov. 30, 2018), available at <https://www.cftc.gov/sites/default/files/2018-11/2018-24642a.pdf>.

<sup>2</sup> Registrations encompass various categories across the following regulatory bodies, SROs, exchanges, and others: CFTC, NFA, SEC, FINRA, CBOE, ICE, TMX, Nasdaq ISE; Central clearing memberships with DTC, OCC, NSCC, MBSCC, FICC, and Exchange/SEF memberships across a wide array of products and markets.



clearing, and financing services. Its expertise and market access spans global interest rates, credit, foreign exchange, and commodities for both exchange and OTC-traded cash and derivative products. Clients benefit from MCM Inc.'s multi-layered servicing model, which allows them to develop and execute trading strategies beginning at conception and proceeding to clearance and settlement. In assisting clients, MCM Inc. often utilizes new innovative trading technologies that enhance the client experience and improve market, capital, and operational efficiencies.

We generally endorse the Proposal and believe that the rulemaking process creates an opportunity for the swap industry and its market participants to further innovative strategies and become even more dynamic and efficiently risk-managed. We agree with the Commission's objectives to bring more transactions onto SEFs, provide flexibility on execution methods, and improve and streamline compliance. We believe that these efforts will ultimately promote innovation, enhance liquidity, and improve transparency in the swap markets.

MCM would like to focus the Commission's attention on two topics: (i) the need for clarification of the term *swaps broking entities* ("**Swaps Broking Entities**") and (ii) a recommendation for a form of SEF registration for multi-matching platforms ("**MMP**" or "**SEF-MMP**"). We believe that the Proposal would benefit from clarification and additional guidance with respect to Swaps Broking Entities, specifically as it relates to the role of Independent Intermediaries<sup>3</sup> ("**IDPI**") participating in the swaps market and as distinguished from market operators.

MCM suggests that the CFTC also consider an alternative or modified registration category for certain swap matching platforms (such as MMPs) that arrange, structure, and negotiate (but not execute) swap transactions. In effect, this would present a more efficient alternative to full-scale SEF registration where electronic, voice or hybrid methods are used, yet existing registrants can be leveraged to perform various processes. Incorporating this type of approach for new and existing market participants who want to facilitate or continue to facilitate swap transactions for clients using a single platform can reduce the risk of market disruption and enhance liquidity, operational efficiency, and regulatory oversight as desired or required.

### **Clarifying the Role of Independent Intermediaries**

The Proposal aims to introduce more pre and post-trade activity onto SEFs by, in part, requiring certain Swaps Broking Entities to register with the Commission. As the Commission is aware, further clarification and guidance is needed to assist the market in ascertaining which

---

<sup>3</sup> Independent Intermediaries can include Futures Commission Merchants, Broker Dealers, CTAs, and Introducing Brokers who facilitate end-user swap transactions.



entities and activities will ultimately be considered Swaps Broking Entities, as such term is set forth in the Proposal. MCM encourages the Commission to consider making a distinction between IDPIs and entities acting as market operators when clarifying the applicability of the SEF registration requirement. Among other things, IDPIs help end-user clients facilitate transactions using one-to-many transaction methods (*see* Appendix A-I), while market operators such as hybrid interdealer platforms and SEFs focus on liquidity formation through many-to-many workflows (*see* Appendix A-II).

In the day-to-day operations of the swap markets, end-user participants will frequently use IDPIs to arrange and negotiate their swap transactions. Execution methods can be similar to those utilized by interdealer brokers, but activity results from a client need to manage risk. The transactions that an IDPI facilitates can be complex, multi-legged, large in notional amount, and/or customized to fit client-hedging needs. The IDPI can assist with structuring deals and accessing liquidity mostly in one-sided, episodic liquid markets.

In the OTC swap markets, the IDPI uses an end user-to-dealer (“**E2D**”) transaction model. For E2D transactions, an end-user uses a third-party Futures Commission Merchant (“**FCM**”), Introducing Broker (“**IB**”), Broker Dealer (“**BD**”) or Commodity Trading Advisor (“**CTA**”) to structure a swap, facilitate negotiations with dealers, and finalize transactions. E2D transactions help commercial and financial end-users hedge or undertake other financial activity related to their businesses.<sup>4</sup> An IDPI involved in E2D transactions improves price discovery and facilitates access to counterparties for liquid or illiquid swaps, regardless of the bespoke nature of the transaction.

An IDPI is therefore not a market operator and acts independently from SEFs but may help end-user clients access liquidity through SEFs and other exchanges. E2D transactions can be done through voice, electronic, or hybrid methods with participants typically chosen by the end-user customer. Appendix A-I shows the various one-to-many workflow methods that can be used by IDPIs for facilitating E2D transactions. These activities can now occur either on or off SEF. Alternatively, Appendix A-II depicts the many-to-many workflows used by a market operator or SEF to provide market participants a platform where multiple bids and offers interact.

### **SEF-MMP (Multi-Matching Platform) Model**

We submit that the Commission should consider adopting the concept of a Multi-Matching Platform (MMP) as an alternative to or component of SEF registration. The SEF-MMP would be a form of SEF that provides IDPI-type services for end-user clients, complete with

---

<sup>4</sup> In some circumstances, financial end-users entering into E2D transactions to hedge or mitigate commercial or financial risks may include a dealer.



enhanced transparency and the ability to provide innovative services, in part by relying upon the embedded infrastructure of an existing, independent, third-party SEF. We submit that this type of arrangement is necessary in order to help avoid disruption to counterparties dependent upon intermediaries to perform price discovery functions and access liquidity.

The SEF-MMP would be authorized to provide for the interaction of multiple dealers and the aggregation of bids and offers as a SEF registrant, facilitating the eventual execution of swaps in the same manner as current market operators; however, a third-party SEF registrant would be used to assist in providing certain downstream processes, services, and subsequent regulatory requirements, as determined by the Commission. Such an approach could be accomplished in a variety of ways but, in our view, would not present a marked deviation from a SEFs current ability to rely on a third-party regulatory service provider.<sup>5</sup> The SEF-MMP would remain responsible for enacting its own corporate governance and trade protocols, including policies, procedures, and other requirements as promulgated in the Commission’s discretion.

MCM believes that swap markets would benefit greatly from MMPs working in concert with third-party SEFs. By allowing MMPs to partner with existing SEFs to utilize their established infrastructure and control frameworks, the market achieves lower barriers to entry for new market participants, resulting in the preservation and enhancement of swap market liquidity. In addition, SEF registrants with established connectivity, processes, and integrated technology (i.e. with CCPs, financial institutions, etc.) can be leveraged to help reduce complications or breaks by simply “adding to” or maintaining current systems. Failure to leverage this level of industry interconnectivity would present significant cost for start-up enterprises and new platforms.

Within the SEF-MMP model, off-SEF activities move into a controlled but flexible operating platform that bolsters innovation, while the overall swap market benefits from a rapid introduction and adoption of new swap products, cross-market strategies, and trading protocols/technologies. Swap market participants can more easily and cost-effectively access new MMP services by leveraging established SEF connectivity and processes. Similarly, a SEF-MMP registration creates a positive impact for existing SEFs who have provided access to Introducing Brokers in their current operating models. These SEFs can now rely on the compliance and regulatory model of the SEF-MMP, while still providing the technology and straight-through processing. SEF-MMP arrangements can also provide existing SEFs an opportunity to generate incremental revenue. This cost-effective approach benefits all swap market participants.

---

<sup>5</sup> See § 17 C.F.R. 37.204, allowing SEF registrants to enter into contractual agreement with a registered futures association, FINRA, or market registrant to help satisfy or assist in fulfilling certain regulatory requirements.



MCM believes that the introduction of the SEF-MMP model would be a natural and evolutionary step for the swap industry. We encourage the Commission to broaden the SEF registration category by acknowledging or adopting a similar framework to the SEF-MMP model set forth in this letter.

\* \* \*

If you have any questions concerning this comment letter, please contact Mr. David Hoffman at (917) 551-6150 and [dhoffman@edfmancapital.com](mailto:dhoffman@edfmancapital.com). We look forward to discussing these matters in further detail with the Commission and its staff.

Sincerely,

A handwritten signature in black ink that reads "David Hoffman". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

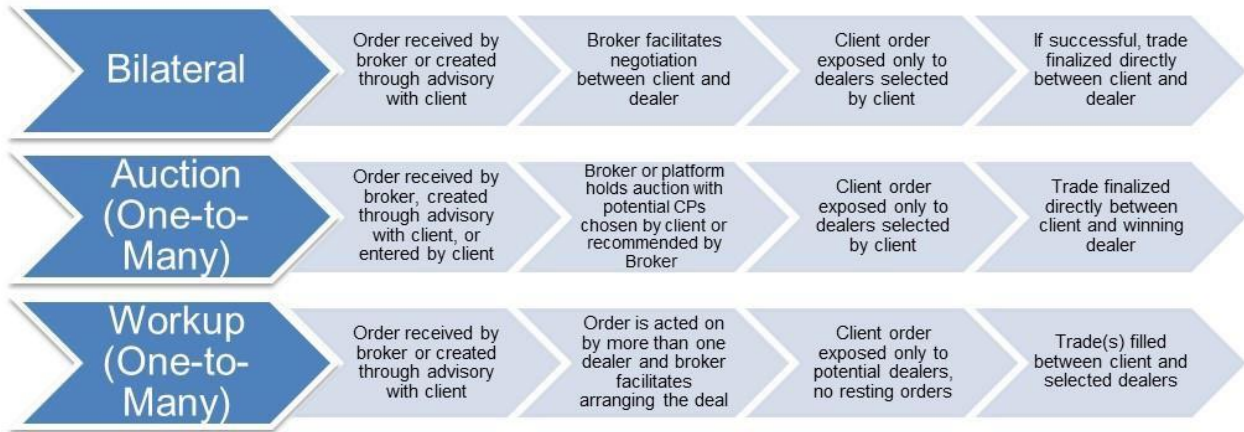
**David Hoffman**

Senior Vice President, Head of Interest Rate Derivatives  
E D & F Man Capital Markets Inc.



## Appendix A: Trade order processing and related workflows

### I. *Single Offer, One-to-Many Workflows*



### II. *Bid/Offer Interaction: Many to Many Workflows*

