American Bankers Association

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March 2, 2020

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

VIA ELECTRONIC SUBMISSION TO http://comments.cftc.gov

Re: Post-Trade Name Give-Up on Swap Execution Facilities: Proposed Rule – RIN 3038-AE79

Dear Mr. Kirkpatrick:

The American Bankers Association[1] (ABA) appreciates the opportunity to provide the Commodity Futures Trading Commission (Commission) with comments on the Commission's proposed rule (the Proposed Rule) relating to post-trade name give-up (PTNGU) on Commission-registered swap execution facilities (SEFs).[2] The Proposed Rule would prohibit PTNGU practices for swaps anonymously executed on a SEF and are intended to be cleared.

We respectfully urge the Commission not to finalize the Proposed Rule. We submit that PTNGU is an important part of the well-functioning and liquid swaps market which provides tight pricing and stable liquidity to market participants seeking to trade in size and with immediacy via request-for-quote (RFQ) in the made available to trade (MAT) swaps market. We are, therefore, deeply concerned that prohibiting PTNGU will risk irreparable harm to this critical market.

Those supporting the Proposed Rule contend that PTNGU's only legitimate purpose is to mitigate bilateral credit risk. However PTNGU plays a much more fundamental and important role in liquidity formation and the efficient functioning of the MAT swaps market and related markets

[1] The American Bankers Association is the voice of the nation's $18.6 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard more than $14.5 trillion in deposits, and extend $10.5 trillion in loans. Learn more at www.aba.com.
[2] 84 Fed. Reg. 72262 (Dec. 31, 2019).

such as the off-SEF trading in less standardized swaps that swap dealers (dealers) hedge using MAT swaps.

The majority of trading in MAT swaps occurs on RFQ SEFs, where dealers are able to execute large trades and provide tight spreads for their customers. In turn, central limit order book (CLOB) SEFs are used by dealers to hedge the risk that they accumulate by providing liquidity via RFQ. Dealers also use CLOB SEFs to hedge non-MAT swaps that they execute with clients off-SEF.

PTNGU is a critical protocol on such CLOB SEFs for a number of reasons:

- Dealers rely on PTNGU to execute trades using the workup execution protocol which facilitates trading in larger size and with less price distortion.
- PTNGU also helps dealers to reduce their hedging costs by reducing their risk of adverse selection and increasing the predictability of their hedging costs which supports their ability to provide substantial liquidity and tight, tailored pricing for customers via RFQ.
- PTNGU plays a crucial role in the execution of package transactions which constitute the majority of the volume traded on CLOB SEFs.
- PTNGU reduces systemic risk by creating essential post-trade transparency for error trades and trades that fail to clear, which can help avert market-wide dislocations in the event of the failure of a significant market participant.

Eliminating such a useful protocol relied upon by dealers for managing their hedging costs on their client-facing trades should be reasonably expected to result in less RFQ liquidity provision, wider spreads, or both. It additionally gives us concern that prohibiting PTNGU would result in such a material change to the swaps market structure and risk introducing market disruption, especially when market participants are having to contend with the discontinuation of the London Interbank Offered Rate (LIBOR).

In addition to these likely negative consequences that would result if the Commission were to prohibit PTNGU, we see no relevant data cited in the Proposed Rule to support the contention that the prohibition would attract sufficient additional non-dealer market participants to CLOB SEFs to outweigh these negative consequences. Non-dealer market participants can trade in fully anonymous CLOB SEFs today, but they choose not to do so. We support the Commission's goal of promote trading on SEFs,[3] but believe that goal is more likely to be achieved by providing flexibility and choice among trading protocols so as to attract diverse market participants, and not by further limiting choice.

There is no compelling justification for prohibiting PTNGU as we do not believe it is necessary to promote fair competition, privacy of swap data reporting, or impartial access.[4] The Proposed Rule would, in fact, appear to directly conflict with Congress' expressed intention for SEFs to be able to offer flexible methods of execution through any means of interstate commerce.[5] We also do not believe it would be appropriate, were the Commission to prohibit PTNGU, for its application to

[3] *See* 84 Fed. Reg. 72262 at 72265.
[4] *See* 84 Fed. Reg. 72262 at 72265-67.
[5] Commodity Exchange Act Section 1a(50).

extend beyond MAT swaps as it has not previously restricted execution methods for non-MAT swaps.

We also recommend that, before prohibiting PTNGU, the Commission undertake a more comprehensive cost-benefit analysis. Many of the studies cited in support of a prohibition offered mixed conclusions and were based on markets that are incomparable to the swaps market. The Commission should also consider pursuing more incremental measures that might achieve its stated goals but which would be less likely to harm this well-functioning market.

Finally, we would like to express our support for the comments presented in the comment letter submitted by the Financial Services Forum.

Thank you for your consideration of our comments and recommendation. If you have any questions or require any additional information, please do not hesitate to contact the undersigned at anandar@aba.com, 202-663-5037.

Sincerely,

Ananda Radhakrishnan

cc: The Honorable Heath P. Tarbert, Chairman
The Honorable Brian D. Quintenz, Commissioner
The Honorable Rostin Behnam, Commissioner
The Honorable Dawn DeBerry Stump, Commissioner
The Honorable Dan M. Berkovitz, Commissioner
Dorothy DeWitt, Director, Division of Market Oversight
Alexandros Stamoulis, Special Counsel, Division of Market Oversight