

May 15th, 2020
Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AE31)

Dear Mr. Kirkpatrick:

I. Introduction

Japan Securities Clearing Corporation (“**JSCC**”) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“**Commission**” or “**CFTC**”) concerning its notice of proposed rulemaking on the amendments to the Swap Data Recordkeeping and Reporting Requirements (the “**NPR**”).¹

We commend the Commission for its efforts to improve the OTC derivative reporting regime. In particular, we appreciate that in the NPR, the Commission is focusing on several important issues, including, among others, simplifying the requirements for reporting swaps and harmonizing the swap data elements counterparties report to swap data repositories (“**SDRs**”) with international technical guidance.

However, we strongly recommend that the Commission (1) should not change its current definition of “business day” in proposed § 45.1(a), and (2) should clarify that the requirement to report valuation, margin and collateral data each U.S. business day under § 45.4(c)(2) allow reported data to be those valued at the end of each day of reporting in the local jurisdiction.

II. The Commission should not adopt the proposed definition of “business day” because non-U.S. reporting parties will be forced to report valuation, margin and collateral data during public holidays in their local jurisdiction, even though the reported data would be unchanged because the derivative markets in their jurisdiction would be closed.

The Commission is proposing to amend the definition of business day in proposed § 45.1(a) to replace the exclusion for “legal holidays, in the location of the reporting counterparty” with an

¹ Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 21578 (Apr. 17, 2020)

exclusion for “Federal holidays”, such that a business day will be a “twenty-four hour day, on all days except Saturdays, Sundays, and Federal holidays.”

The proposed definition of business day will therefore exclude only the public holidays in the U.S., but not public holidays in the jurisdictions of non-U.S. reporting parties. As a result, under proposed § 45.4(c)(2), which would require a reporting counterparty that is a swap dealer, major swap participant or derivatives clearing organization to report valuation, margin and collateral data each business day, a non-U.S. reporting party may be required to report data on a public holiday in its jurisdiction, even though the reported data would be unchanged because the derivative markets in its jurisdiction would be closed. This would impose a significant operational burden on non-U.S. reporting parties, particularly those engaged in swaps denominated in the local currency of their jurisdictions, without any associated benefit. Since the reporting processes to comply with Part 45 are performed globally across different time zones and business calendars, we strongly recommend that the Commission should not change its current definition of “business day” in proposed § 45.1(a), to avoid unnecessary reporting issues for non-U.S. reporting counterparties.

III. The Commission should clarify that the requirement to report valuation, margin and collateral data each U.S. business day under §45.4(c)(2) allow reported data to be those valued at the end of each day of reporting in the local jurisdiction.

Proposed § 45.4(c)(2) requires a reporting counterparty that is a swap dealer, major swap participant or derivatives clearing organization to report valuation, margin and collateral data each business day, without specifying a particular time as a valuation time on the data to be reported (“valuation time”). If the valuation time under the proposed § 45.4(c)(2) could be interpreted to mean the end of each day of reporting (11:59 p.m. eastern time), non-U.S. reporting parties could face difficulties to prepare the reporting data due to time zone differences.

For example, 11:59 p.m. EST is 1:59 p.m. JST, when the Japanese markets are still open and active, and at this time the settlement price data for JPY-denominated interest rate swaps, which are the basis of the swap valuations, is yet to be prepared.

Therefore, the CFTC should clarify that the requirement to report valuation, margin and collateral data each U.S. business day under proposed § 45.4(c)(2) will allow reported data to be those valued at the end of each day of reporting in the local jurisdiction. To be specific, we would like to confirm that a reporting party operating in the Japanese time zone may report valuation, margin and collateral data at the end of day X in JST, as long as that reporting is completed by the end of day X in EST. This confirmation by the CFTC would allow a reporting counterparty in a different time zone from the U.S. to report, by the specified deadline in the Proposed § 45.4(c)(2), the latest data available in their jurisdiction².

² In fact, #102(Valuation timestamp) of The Appendix 1 to Part 45 – Swap Data Element in the NPR

IV. Conclusion

We appreciate the opportunity to provide these comments and we would welcome further discussion with the Commission on these matters.

Should you have any questions, please do not hesitate to contact Mr. Tetsuo Otashiro, Head of Clearing Planning, at +81-50-3361-0928 or by email to t-otashiro@jpx.co.jp.

Yours sincerely,



Mr. Masaki Shizuka
President & CEO, Japan Securities Clearing Corporation

CC: Mr. Malcolm Clark Hutchison III, Director, Division of Clearing and Risk

assumes flexibility of the time and date of the last valuation marked to market in the data to be reported(85 Fed. Reg. 21648 (April 17, 2020))