Clarus Financial Technology welcomes the opportunity to respond to the CFTC proposed rule "*17 CFR Part 43 Amendment to the Real-Time Public Reporting Requirements.*"

Introduction

We provide content, data and analytics for the post-regulatory reform world of global derivatives. Clarus' tools create a window into the data now available in swap data repositories and trading venues to help clarify and unify the vast, diverse information produced from the post-GFC regulatory changes. This is done using the free publicly available trade information from multiple sources and creating a cohesive database for users to interrogate with our custom interface.

The new legislative landscape for financial markets is intended to provide a much more transparent environment for companies to access trade information vital to their trading and hedging requirements. The derivatives market was previously seen as opaque and trade pricing was obfuscated. We work with market participants to enable them to take advantage of the greater transparency of price and volume data for all derivative products to facilitate improved price discovery and risk mitigation.

The core principles underpinning regulation such as EMIR in Europe and Dodd Frank in the US are the same: greater transparency, mitigation of systemic risk and protection against market abuse. Any proposed rules that threaten those three pillars are of concern to us.

We have witnessed the benefits that post-crisis reforms have brought to markets; resiliency, transparency and scalability. Never have these benefits been better tested than during the recent stressed market conditions of March 2020. Derivatives markets proved resilient, and even flourished, under these conditions.

We spend a lot of time looking at both US SDR data and MIFID II European post trade transparency data. The European post-trade data is currently unusable, and one such reason is the complex deferral regime in place for post-trade transparency. Thankfully, this is currently under review in Europe[1] and will hopefully change in due course.

Our experience working with the European data means we understand the complexities involved with deferred data. We have found that any deferrals in post-trade data results in negative impacts to price discovery, market understanding and transparency. It is not possible to maintain the same degree of market transparency whilst introducing a longer deferral period for large trades. Any deferral for more than a few minutes is unacceptable in this regard. A partial picture of trading activity is not useful to market participants. Our data users are consistent with this feedback and this is reflected in Clarus trying to extend the data sources that we offer (e.g. our data product CCPView covers the global cleared derivatives market, unlike our other data products that are jurisdiction specific).

In our consultation response, we provide data that shows how well the current deferral regime for post-trade transparency of large swaps is working. Record volumes of large trades were transacted

[1] https://www.esma.europa.eu/press-news/esma-news/esma-consults-mifir-transparency-regime-non-equity-instruments

during March 2020, at the peak of recent market turmoil. In addition, the liquidity of these trades, as measured by price dispersion, was identical to normal sized trades.

The data clearly shows that no market participants are being adversely affected by the current 15 minute deferral of large trades. There is no reason to lengthen this deferral period. We strongly oppose any lengthening of this period or introducing multiple deferral periods.

More generally, we are supportive of an increase to the AMBS to remove information asymmetries from the markets. No instrument should have a block size of zero. Price discovery and transparency are just as important for less-liquid markets.

Finally, we believe that the Commission should focus on making more data available so that more of the market can better understand market structure. This would be well served by requiring providers of any compression-type activity to report trade level details to SDRs. This additional data would have to be clearly de-marked as compression or risk reduction activity.

Responses to Specific Questions

Question 16: **(16) Should the Commission require the removal of any caps that were applied pursuant to § 43.4(h) after six months and thereby reveal the actual notional amount of any capped amounts once six months has passed? Would six months be long enough?**

Liquidity analysis of USD swaps reveals that price dispersion of large notional swaps is almost identical to normal sized transactions (see pages 6-7 below). This suggests that all market risks are being adequately hedged within the current 15 minute deferral period. In addition, total volumes are already published by SEFs as Part 16 data on a T+1 basis for all SEF executed swaps. We therefore believe that the full size of all trades should be revealed on a T+1 basis, to bring off-SEF executed trades in line with the transparency offered by on-SEF transactions. This would further promote SEF-execution and remove information asymmetry from the market (see data analysis below).

Question 17: **(17) The Commission understands that for many trades that meet the definition of a block trade, the hedging process is often completed as quickly as possible and typically by the end of the trading day in which the block trade is executed so that the liquidity provider can establish its profit or loss on the transaction. On the other hand, some block trades that are very large in size or have unique characteristics could take longer than a single trading period to hedge. To balance the competing interest of price discovery and allowing hedging to occur, should the Commission consider two delay periods? For example, would a 15 minute, one hour, end of day, or 24 hour time delay be appropriate for swaps that fall within a 67 percent to 90 or 95 percent of the total notional amount of transactions range, while block trades that exceed the higher level would have a 48 hour time delay? If so, what would be the appropriate ranges for the total notional amounts and time delay periods? The Commission invites comments on all aspects of the block delay, including how the Commission should analyze swaps in each asset class for the purpose of analyzing the block delay with respect to data sets and methodologies, among other factors.**

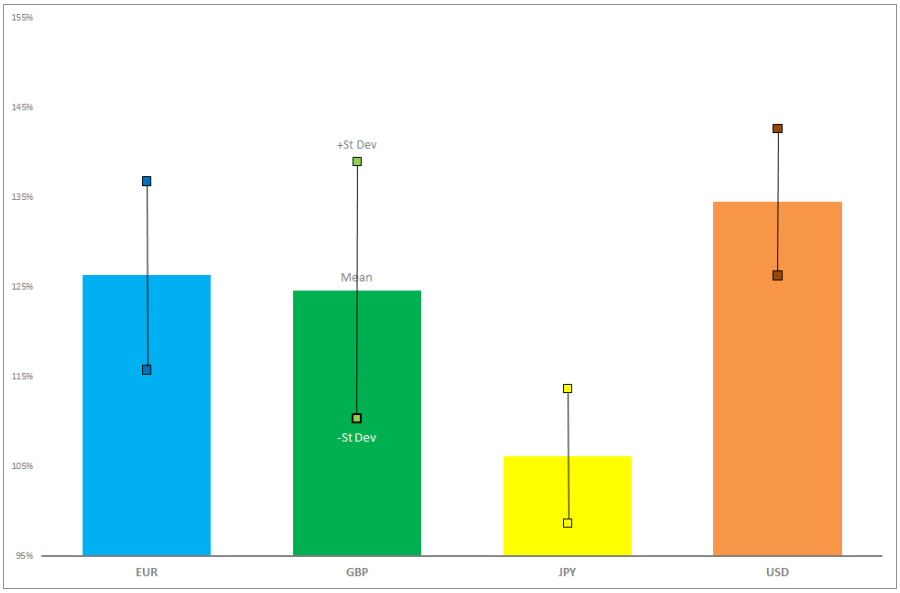
The current block regime has no negative impact on the ability of market participants to hedge risk. This is demonstrated using a statistical analysis of price dispersion (a liquidity measure) in USD interest rate swaps during 2020.

Deferrals

Introducing more than a single 15 minute delay for the reporting of any transaction leads to a severe negative impact on price discovery and market transparency. This is because market participants need certainty that they are receiving the full information regarding a market. In the event that multiple delays are introduced, the utility of any information published prior to the longest possible delay becomes very close to zero. This is especially true when the delays relate to a significant overall volume of the market. We see this with European MIFID II post-trade transparency in Europe.

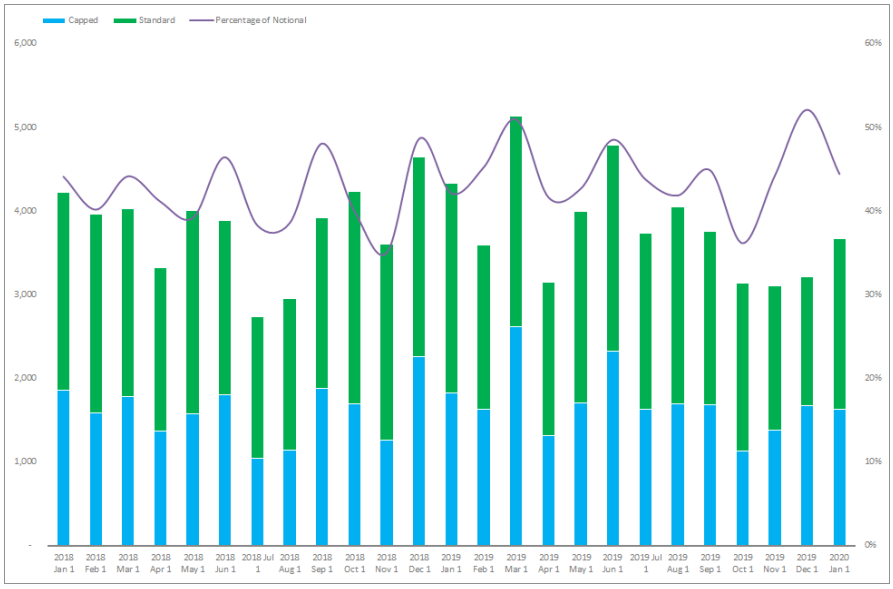
Current Volumes in Large Swaps

Analysing the current bock trading regime in the US, we find that block trades in USD swaps are currently **34% larger** than their total size reported to SDRs. Across the "super currencies" (USD, EUR, JPY and GBP), the average total size of a SEF-executed swap is 30% larger than that reported to SDRs:



Calibration of Part 43 SDR data for On-SEF executed Fixed Float Swaps versus Part 16 SEF volume data for 2018-2019. Sources: https://www.clarusft.com/block-trading/ , *sdrview.clarusft.com and sefview.clarusft.com.*

Overall, the current calibration of the AMBS means that 43% of notional transacted on-SEF is a large swap above the notional reporting threshold. The volumes above the AMBS consistently make up 35-52% of total notional amounts per month:



Calibration of Part 43 SDR data for On-SEF executed Fixed Float Swaps versus Part 16 SEF volume data for 2018-2019. Sources: https://www.clarusft.com/block-trading/ , *sdrview.clarusft.com* and *sefview.clarusft.com*.

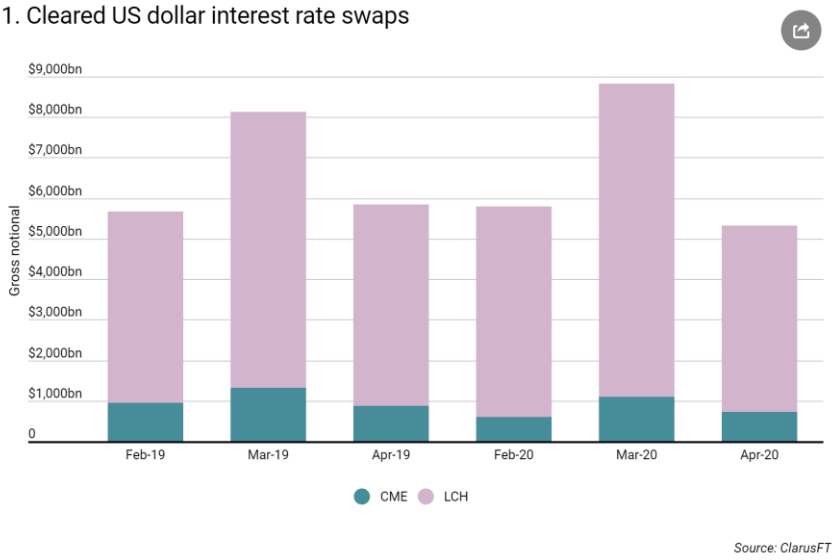
This data set alone suggests that:

- The original calibration of the AMBS was accurate and that we still see almost 50% of notional transacted as "large" trades that benefit from some degree of deferral.
- Therefore, market behaviour has not changed since the AMBS were calibrated. Market participants are not avoiding moving large sizes of risk as a single trade.
- By extension, liquidity providers continue to service these large packets of risk in a very similar way to prior to the advent of post-trade transparency.

These are very positive signs for the current transparency regime and do not present any evidence that a change towards longer deferrals is necessary.

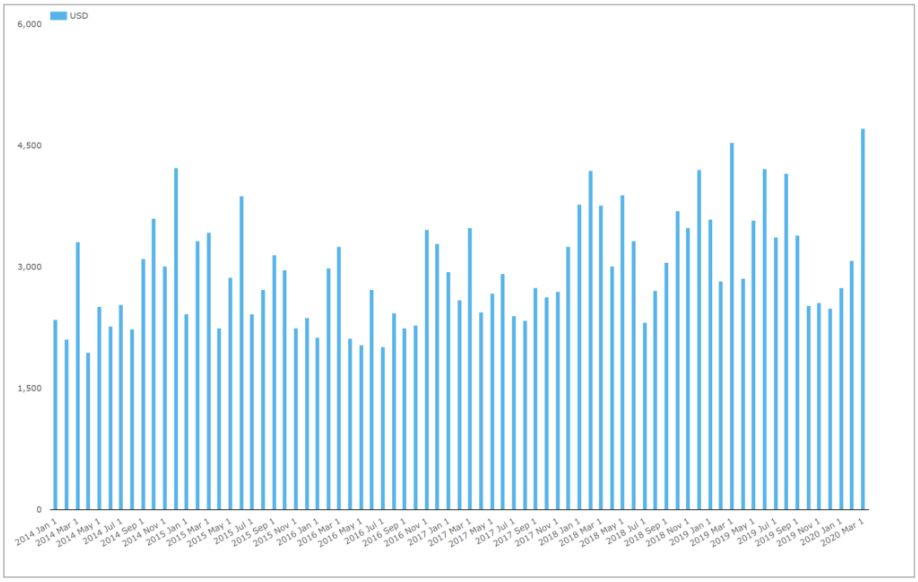
Large Swap Trading during March 2020

The success of the current regime can be further evidenced by the resiliency shown in the markets during the recent volatility in March 2020. Interest Rate Derivative markets saw all-time record volumes transacted during March 2020, in particular for USD interest rate swaps:



Notional of cleared USD Fixed Float swaps reported by CCPs.
Source: https://www.clarusft.com/swaps-data-record-trading-volumes-in-march/ *and* *ccpview.clarusft.com*

The volumes above are for global cleared markets. We also saw volume records in US markets. In terms of the block regime in the US, it is notable that these volume records were driven by record amounts of large sized trades being transacted. March 2020 saw a record number of large swaps above the AMBS reported to the SDRs in USD Fixed-Float swaps:



Number of "block" and capped notional USD Fixed Float trades reported to SDRs.
Source: *https://www.clarusft.com/cftc-block-trading-consultation-may-2020/* *and* *sdrview.clarusft.com*

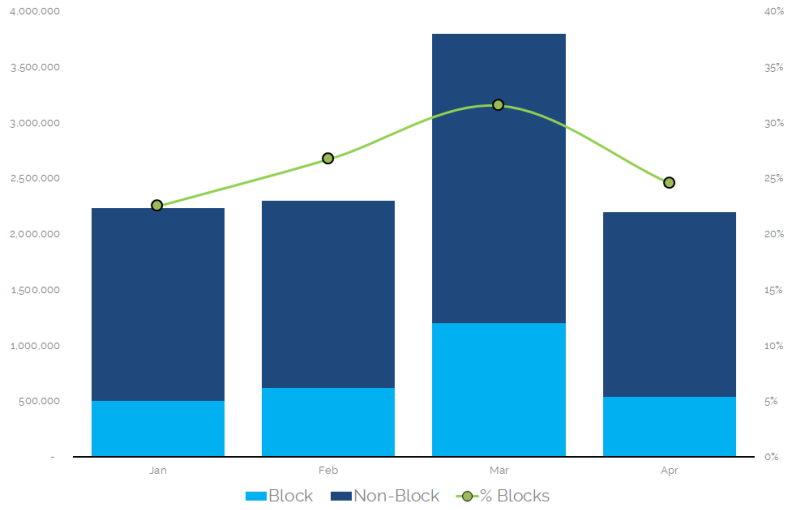
Showing;

- March 2020 saw an increase in the number of trades above the AMBS reported of nearly 4% compared to the previous record month, March 2019.
- This is surely a good sign for how large amounts of risk can be transacted, even during stressed market conditions.

- It is also important to note that the number of capped notional trades transacted each month has generally increased in USD Swaps since reporting began. This is not just a facet of extremely volatile markets causing huge demand for large trades.

On-SEF Trading during 2020

Further, this huge amount of risk being transacted above the AMBS is not a reflection of market participants attempting to avoid the execution mandate. Whilst these large trades may have been eligible for off-SEF execution, Part 16 data shows that the volume of USD Fixed Float swaps transacted on-SEF was larger than in previous months during 2020:



Volume of USD Fixed Float swaps executed on-SEF
Source: https://www.clarusft.com/cftc-block-trading-consultation-may-2020/ and sdrview.clarusft.com

Showing;

- Notional volumes of USD IRS executed on-SEF in 2020.
- In March, 32% of total volume was executed as a block trade across just two platforms – Tradeweb and BBG.
- Both of these are RFQ D2C SEF platforms.

Liquidity of Block Trades in Stressed Market Conditions

Turning our analysis toward the quality of execution for block trades and trades above the AMBS, our analysis of prices for 10y spot starting USD IRS during 2020 shows that liquidity is identical for swaps both above and below the AMBS.

ClarusFT use a widely-acknowledged measure of liquidity conditions called Price Dispersion. This measure was first introduced to us by a Bank of England staff working paper researching liquidity conditions for SEF execution.[2]

The methodology for measuring liquidity conditions in this way can be summarised mathematically as;

[2] Staff Working Paper No.580 https://www.bankofengland.co.uk/-/media/boe/files/working-paper/2018/centralized-trading-transparency-and-interest-rate-swap-market-liquidity-update

$$DispVW_{i,t} = \sqrt{\sum_{k=1}^{N_{i,t}} \frac{Vlm_{k,i,t}}{Vlm_{i,t}} \left(\frac{P_{k,i,t} - \bar{P}_{i,t}}{\bar{P}_{i,t}}\right)^2} \quad (1)$$

where;

$N_{i,t}$ is the total number of trades executed for contract *i* on day *t*, e.g. how many 10y trades occurred on the 23rd March 2020?

$P_{k,i,t}$ is the execution price of transaction *k*, i.e. the price of a particular 10y trade on the 23rd March.

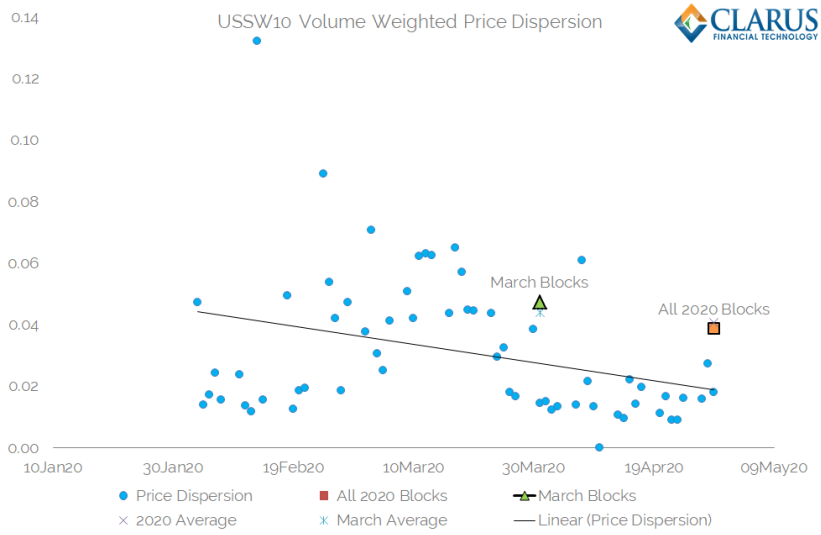
$\bar{P}_{i,t}$ is the average execution price on contract *i* and day *t*, e.g. what was the average price of all 10y trades done on 23rd March.

$Vlm_{k,i,t}$ is the volume of transaction *k*; e.g. the size of the 10 year trade we are looking at on 23rd March and;

$Vlm_{i,t} = \sum_k Vlm_{k,i,t}$ is the total volume for contract *i* on day *t*. e.g. the total volume of 10 year swaps traded on the 23rd March.

We have received positive feedback from market participants that this is a reliable and informative measure of liquidity conditions.

Using SDR data to perform the analysis on vanilla, spot starting 10Y USD Fixed-Float swaps (an instrument described by the Bloomberg ticker "USSW10"), shows that Price Dispersion for large swaps above the AMBS and all other swaps has been almost identical during 2020:



Price Dispersion of USSW10 in 2020
Source: https://www.clarusft.com/cftc-block-trading-consultation-may-2020/ and sdrview.clarusft.com

Showing;

- Daily Price Dispersion for 10 year spot-starting USD IRS executed on-SEF during 2020.
- The average Price Dispersion for all trades during 2020 was 0.041 basis points.
- The average Price Dispersion for Block and Capped Notional Trades in 2020 was 0.039 basis points.
- Similarly, for March 2020 alone, the Price Dispersion for all trades was 0.044 basis points.
- The average Price Dispersion for Block trades in March 2020 was 0.047 basis points.

Summarising Our Response to the Proposed Changes

We strongly oppose the Commission's proposal requiring "SDRs to implement a time delay of 48 hours for disseminating STAPD". The data for the current regime argues strongly that there are no negative impacts being caused to any market participants by the current 15 minute delay.

We are aware of many negatives that result from extended deferrals and a complex deferral regime. These are ably demonstrated by MIFID II post-trade transparency data in Europe. This data is widely unusable. Due to the presence of four week delays for the majority of the data[3] there is currently insufficient post-trade transparency in Europe. Post-trade transparency has the most utility when it is made available in a timely manner, unencumbered and standardised. This is not the case in Europe and means that no market participant is able to gain any value from the data – market participants do not even use the data.

The current transparency regime in the US confers huge benefits to all market participants. These include, but are not limited to, improved price discovery, market understanding and resiliency of markets. ClarusFT are strong advocates[4] that transparency helps markets function better, and that this was a key component of the proven market resilience during recent, highly stressed market conditions.

Question 20: **(20) The Commission is proposing minor updates to the methodologies for calculating AMBS and cap sizes. Should the Commission consider other changes to the methodologies? Please provide examples and data, where possible.**

The Current Block Regime is Working

This document has presented strong statistical evidence that the current block regime is working. This is demonstrated across:

- Volumes. Record volumes are repeatedly recorded across the markets we monitor.
- Block trades. Under the most stressful market conditions in recent memory, more block trade were executed in USD swaps during March 2020 than ever before.
- Liquidity. Block and other large swaps have performed almost identically in terms of Price Dispersion during 2020 when compared to smaller trades.

With that stated, we continue to harbour concerns that the current AMBS are still too low.

Moving To Higher AMBS to Remove Information Asymmetry

In some months over 50% of total notional in plain vanilla USD interest rate swaps is not disclosed to the SDRs. Whilst this notional can be inferred using Part 16 data from SEFs, this is not possible for a lot of the vanilla swap market, which remains executed off-SEF (for example, non-USD IRS, cross currency swaps).

We believe that this confers an unfair information asymmetry to large dealer banks who act as liquidity providers for these large swaps. As a whole, it means they still know substantially more about precise market forces than any other market participant. Given that there is strong evidence

[3] https://www.clarusft.com/what-we-need-to-do-to-fix-mifid-ii-data/
[4] https://www.clarusft.com/is-transparency-helping-markets-function/

that block trades have had no more market impact in 2020 than smaller trades, this seems to provide an unfair advantage to large liquidity providers.

We believe that setting the AMBS thresholds between 75% and 90% of total notional traded per month for all instruments (calibrated at the asset class level) is more in line with providing true transparency and aiding a better overall understanding of markets for all market participants. This will further remove the persistent anecdotal rumours that are heard for swaps markets being "illiquid", or that "swaps liquidity slumps[5]" during times of stress. We have seen little evidence for this in the data.

Adding extra transparency for large trades would provide market participants with clearer signs of liquidity and removes information asymmetry. During crisis times, it provides even greater reassurance that markets are not "seizing up".

When the AMBS is raised, it may give a distorted view of overall historic volumes reported to the SDRs (as 50% of notional was capped at lower thresholds). It would therefore be extremely useful if historic trades that were below the newly calibrated AMBS had their total volume retrospectively disclosed.

No Transaction Should Have a Block Size of Zero

We also strongly oppose the Commission's proposal to set the block threshold at zero for any instrument that the Commission currently considers "relatively illiquid". Price discovery is just as important for minor currencies as for major currencies – possibly more so given the fragmented nature of less liquid markets.

Taking an example of CHF interest rate swaps, these instruments must be closely monitored during the planned transition away from LIBOR and to Risk Free Rates. CHF interest rate swaps provided a great test case for markets when the original OIS index was deprecated (TOIS) and replaced with the RFR, SARON[6]. Being able to monitor these changes via the lens of post-trade transparency is crucial. We believe that deferring all trades in a given currency will severely impact the confidence and understanding that market participants have for nascent RFR markets. If a market participant looks to see the activity today in a given currency and sees zero, what confidence does that provide in current market conditions to be able to execute any size of risk? It would be hugely detrimental to price discovery, transparency and investor confidence to set a block size of zero for any market. Deferrals threaten to reduce all of the benefits we now have in markets as a result of the post-GFC derivative reforms.

Therefore, we strongly support the proposal to recalibrate the AMBS, using largely the prescribed methodologies from the original text, up to the 75% threshold. We do not support lowering or setting to zero the AMBS for any instrument.

[5] https://www.risk.net/derivatives/7504371/swap-liquidity-slumps-as-treasury-stress-spreads
[6] https://www.clarusft.com/we-found-the-chf-saron-swaps/

Question 25: **(25) In the 2012 RTR Final Rule, the Commission stated that public dissemination was not ''presently required'' for among other types, swaps generated by portfolio compression exercises that would not provide price discovery benefits to the public. Since 2012, market participants have engaged in more complex activities, with some similarities to compression exercises, which are generally referred to as ''risk reduction services.'' The Commission understands that parties that facilitate risk reduction services, including SEFs, have reported under part 43 any new swaps that are created as the result of their risk-reduction services. Should the Commission require swaps resulting from risk reduction services be indicated using a unique identifier or flag on the real-time public tape to indicate the price may not reflect current market prices?**

More Data to Improve Transparency

The Commission should focus on making more data available so that more of the market can better understand market structure.

Any parties facilitating "risk reduction services" should be required to report transaction-level details to SDRs, and these SDR records should be clearly flagged as belonging to such activities.

In addition, we implore the Commission to include a CCP identifier for all cleared trades in the SDR real-time public tape. Price Discovery for cleared swaps would be greatly improved if market participants are able to identify which CCP the transaction was clearing at. We see no possible negative impacts from including this data in the public record.