

Via Electronic Submission

Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20582

Re: Request for Comments on Swap Data Reform Proposals; RIN 30-38-AE60; RIN 3038-AE31; RIN 3038-AE32

Secretary Kirkpatrick:

Credit Suisse welcomes the opportunity to provide comments on the proposed amendments to real-time public reporting requirements (hereinafter “Part 43”), proposed amendments pertaining to swap data recordkeeping and reporting requirements (hereinafter “Part 45”), and the reopening of comments on the proposed amendments for certain swap data repository (“SDR”) and data reporting requirements (hereinafter “Part 49,” and collectively with Part 43 and Part 45, “the Proposals”)¹ issued by the Commodity Futures Trading Commission (hereinafter the “CFTC” or the “Commission”).

Credit Suisse appreciates the entire Commission’s emphasis on the importance of transparent swap markets, which continues to be one of the Commission’s priorities.² In a February public statement, Chairman Tarbert stated “data is the lifeblood of [the] markets.”³ Credit Suisse agrees with Chairman Tarbert, as data is the measure by which regulators, institutions, and investors are able to study and act in the markets. Without effective data reporting, markets would cease to operate effectively.

Credit Suisse also agrees with Chairman Tarbert’s four key priorities on how to approach swap data reform: (1) simplified reporting; (2) regulatory harmonization; (3) enhanced public transparency; and (4) relief for end users.⁴ In many respects, the Proposals accomplish a great deal with respect to these four goals. In this letter, Credit Suisse offers comments on how the CFTC could more closely align the Proposals with these priorities. While this letter focuses narrowly on a subset of these considerations, Credit Suisse also supports the recommendations and considerations presented by the International Swaps and Derivatives Association (“ISDA”), to the extent they are consistent with the recommendations below.

¹ 85 FR 21516, available at: <https://www.cftc.gov/sites/default/files/2020/04/2020-04405a.pdf>; 85 FR 21578, available at: <https://www.cftc.gov/sites/default/files/2020/04/2020-04407a.pdf>; 85 FR 21339, available at: <https://www.cftc.gov/sites/default/files/2020/04/2020-04404a.pdf>.

² Credit Suisse has three provisionally registered swap dealers with the CFTC: Credit Suisse Capital LLC (“CS Capital”), Credit Suisse International (“CSI”), and Credit Suisse Securities Europe Limited (“CSSEL”).

³ Chairman Heath Tarbert, “Statement of Chairman Heath P. Tarbert in Support of Proposed Rules on Swap Data Reporting” February 20, 2020, available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/tabertstatement022020>.

⁴ *Id.*

1. The Commission should not bifurcate the Proposals' implementation dates; however, if the Commission elects to keep the bifurcated approach, the Commission should work closely with fellow IOSCO members in considering an extended implementation timeline for the Unique Transaction Identifiers ("UTI").

Credit Suisse greatly appreciates the Commission's focus on cross-border regulatory harmonization. Credit Suisse also recognizes that harmonization is a difficult task in practice, particularly as the Commission must balance harmonization with other key priorities, namely enhancing market transparency and liquidity. While these principles are not in conflict conceptually, expedited implementation timelines may inadvertently put these principles in opposition with each other. To borrow a phrase from Commissioner Quintenz, this friction could best be described as the "trade-off between being first and being right."⁵

Credit Suisse's concerns arise with an expedited implementation of Part 45, specifically a targeted December 2020 deadline for implementing the UTI requirements. Credit Suisse supports a globally harmonized UTI requirement that benefits the investing public, financial institutions, and financial regulators. However, an expedited implementation timeframe for the UTI will likely have the unintended consequence of jeopardizing market transparency and liquidity. Credit Suisse agrees with ISDA's concerns on this topic, namely the challenges of operationalizing this requirement in light of other significant initiatives for global dealers that are underway in 2020. These operational hurdles present unique challenges for small, medium, and large dealers, resulting in wide-ranging impacts to the markets as a whole.

Concerns related to data fragmentation were catalysts for both the Commission's decision to reevaluate its data regime and its decision to open all of the Proposals in a uniform approach.⁶ Credit Suisse respectfully requests that the Commission continue to weigh concerns related to data fragmentation in evaluating a bifurcated implementation of the Proposals.⁷

Credit Suisse appreciates that the Commission's proposed approach stems from the Committee on Payments and Market Infrastructure's ("CPMI") and the Board of the International Organization of Securities Commission's ("IOSCO") Harmonization Group's request for December 31, 2020 implementation. In an effort to both maintain harmonization with its global peers and address the aforementioned concerns, the Commission could continue to engage in dialogue with the Harmonization Group and could suggest a timeframe that contemplates the Commission's Proposals, the other swap data reform efforts in other IOSCO jurisdictions, and other reform efforts, such as those being conducted by swap data repositories. This is a unique opportunity for global regulators and the entire industry to work together in both "being right" and being harmonized.

2. Other Considerations and Recommendations

Credit Suisse supports a number of other considerations and recommendations raised in the ISDA response, particularly with respect to the following concepts:

⁵ Commissioner Brian Quintenz, "Statement of Commissioner Brian D. Quintenz before the Open Commission Meeting" February 20, 2020, *available at*: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement022020>.


⁶ Commissioner Dawn Stump, "Statement of Concurrence of Dawn D. Stump on Proposed Rule Amendments to the Commission's Regulations Relating to Certain Swap Data Repository and Data Reporting Requirements" April 25, 2019, *available at*: <https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement042519>.

⁷ Consistent with comments in its response to the cross-border application of registration thresholds and certain requirements applicable to swap dealers, Credit Suisse reiterates its request that the Commission consider codification of 17-64 no-action relief or an extension aligned with the latter effective date of the Proposals.

- **Novation Fee Reporting.** The Commission should clarify its intentions for this data. Credit Suisse echoes ISDA's concerns that the reporting of this fee payment could appear to be a separate swap transaction, as there may be industry-wide issues with requiring a new message that would parallel the transaction without technical ability to link the fee report to the originating novation swap transaction.
- **Block Size.** Credit Suisse supports ISDA's concerns around changes to the definition of large blocks, including: (1) relying on notional amounts may not sufficiently account for risk sensitivity; and (2) changing the current 50% threshold to a blanket 67% threshold, irrespective of the asset class and that market's liquidity, may be unduly burdensome on particular swap markets.
- **Errors and Omissions.** Credit Suisse supports the requirement for SDRs to provide written policies and procedures to a reporting party regarding reporting, verification process, validation procedures, and errors and omissions. Additionally, SDRs should provide any revisions to such policies and procedures promptly to the reporting party. Finally, we would recommend the Commission provide a materiality threshold for reporting information on dead swaps, potentially focusing on market pricing information within the retention period at the time the rules become effective.
- **Verification of Part 49 Reported Data.** Credit Suisse would encourage a more principles-based approach as opposed to the process proposed in §45.14 and related §49.11. Under such an approach, Credit Suisse would recommend the following concepts:
 - *Policies & Procedures* - Reporting parties would be obligated to have policies and procedures to periodically reconcile the data for swaps they reported to an SDR with the data in their internal books and records for accuracy; SDRs or the Commission can request evidence that verification was conducted.
 - *Verification* - Rather than imposing hard 48/96 hour timelines to provide verification of accuracy or notice of discrepancy, we believe that reporting parties, as part of their current obligations, are already induced by their obligations under the reporting rules to verify that the data they submit for each swap is accurate.

We thank the CFTC for their consideration of Credit Suisse's comments. If you have any questions, please do not hesitate to contact the undersigned, Maria Chiodi (maria.chiodi@credit-suisse.com), or Keaghan Ames (patrick.ames@credit-suisse.com).

Sincerely,



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