



**Via Electronic Submission**

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

May 22, 2020

**Re: Notice of Proposed Rulemaking: Swap Data Recordkeeping and Reporting Requirements (RIN 3038–AE31)**

Dear Mr. Kirkpatrick,

Eurex Clearing AG (“**Eurex Clearing**”) appreciates the opportunity to provide comments to the U.S. Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) regarding the Commission’s Notice of Proposed Rulemaking: Swap Data Recordkeeping and Reporting Requirements published on April 17, 2020 (“**Proposal**”).<sup>1</sup>

Eurex Clearing welcomes and generally strongly supports the Commission’s Proposal. The Commission’s Proposal represents an important and very positive step to simplifying the requirements for reporting swaps, lessening burdens for reporting counterparties, and harmonizing the Commission’s Part 45 swap data recordkeeping and reporting requirements with international technical guidance. Specifically, as discussed further in the responses below, the Proposal is a significant milestone in harmonizing the Part 45 requirements with European regulations and guidance, including Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“**EMIR**”).

Additionally, Eurex Clearing supports FIA’s comment letter on the Proposal. Specifically, Eurex Clearing agrees that the compliance date should be extended as stated in FIA’s comments and additionally agrees that the Commission should not require margin and collateral data in Part 45 swaps reports for the reasons stated in FIA’s comment letter as well as the reasons stated in response to Question 6 below.

Eurex Clearing has the following responses to the Commission’s specific requests for comment:

**1. Does the Commission’s proposed definition of “execution date” present problems for SEFs, DCMs, SDRs, or reporting counterparties? Should the Commission instead**

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<sup>1</sup> 17 CFR Parts 23, 43, 45, and 49 Swap Data Recordkeeping and Reporting Requirements, Notice of Proposed Rulemaking, 85 Fed. Reg. 21578 (Apr. 17, 2020), <https://www.cftc.gov/sites/default/files/2020/04/2020-04407a.pdf>.



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**adopt a definition that aligns with other regulations, including, for instance, the definition of “day of execution” in § 23.501(a)(5)(i)?**

Specifically, with respect to the Proposal’s addition of a definition for “execution date” to § 45.1(a), meaning the date, determined by reference to eastern time, on which swap execution has occurred, Eurex Clearing notes that the term “execution date” aligns with the term “novation date” used by Eurex Clearing. Eurex Clearing uses the term “novation date” to mean the date and time when a trade has been accepted by Eurex Clearing for clearing, and the term “execution date,” to refer to the date and time when a trade is submitted by the submitting platform. Eurex Clearing notes that, despite this difference, Eurex Clearing can map its usage of the term, “novation date,” to the “execution date” field proposed by the Commission. Therefore, while noting this difference, Eurex Clearing does not object to this proposed definition.

**2. Is the Commission’s proposed T+1 deadline for reporting required swap creation data appropriately harmonized with the deadlines set by other regulators and jurisdictions?**

Eurex Clearing strongly supports the Commission’s proposed T+1 deadline for reporting required swap creation data and believes it is appropriately harmonized with the deadlines set forth in EMIR as well as Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (“MIFIR”), which both also set a reporting deadline of T+1.

**3. Does the Commission’s proposed T+1 deadline create any problems for SEFs, DCMs, SDRs, or reporting counterparties by referencing eastern time? Should the Commission instead adopt a definition that aligns with other regulations, including, for instance, the definition of “day of execution” in § 23.501(a)(5)(i)?**

For Eurex Clearing, the reference to eastern time does not create any problems. Eurex Clearing would note that EMIR and MIFIR reference Coordinated Universal Time (UTC), and therefore the Commission could consider whether to align with this. However, as noted, the reference to eastern time by the Commission is understandable and does not create issues for Eurex Clearing.

**4. Do any of the Commission’s proposed changes to the timing deadlines for reporting required swap creation data in § 45.3 raise issues with the sequencing of messages for SDRs that could compromise data quality? For instance, could a T+1 deadline for reporting original swaps and clearing swaps create problems for SDRs in processing swap terminations? Could the 8-hour delay for the allocation agent notifying the reporting counterparty of the actual counterparty’s identity create timing message sequencing issues for allocation reporting?**

Eurex Clearing would defer to the SDRs for comment on this question.

**5a. Request for general comment on all aspects of the proposed changes to § 45.4.**

Eurex Clearing notes that, as a non-US DCO, there remains still a significant burden to receiving swap continuation data in order to send termination messages for alpha swaps to U.S. SDRs. In the

U.S., SEFs are obligated to transmit the necessary data for the termination of alpha swaps to the DCO. However, in Europe, Multilateral Trading Facilities (“**MTFs**”) and Eurex Clearing’s Approved Trade Sources, which can be engaged to facilitate transmission of alpha swaps to Eurex Clearing, have no similar obligation. Consequently, not all MTFs or Approved Trade Sources transmit the USI and LEI of the SDR for “off-facility swaps” to the DCO. For “off facility swaps,” Part 45 provides that reporting counterparties, i.e. Eurex Clearing clearing members, are obligated to submit Part 45 data to the DCO. However, Eurex Clearing clearing members have no automated reporting line to Eurex Clearing for “off-facility swaps.” Thus, Eurex Clearing is required to manually obtain the USI and LEI from MTFs and Approved Trade Sources, which is an enormous operational burden on Eurex Clearing. Eurex Clearing would suggest that for “off facility swaps,” the clearing member reporting the alpha swap to its SDR should also have the obligation to terminate it, and not the DCO, because the information chain does not work properly in Europe for the aforementioned reasons.

**6. Is the requirement to report margin and collateral data without distinction for whether a swap is cleared or uncleared redundant with existing part 39 reporting requirements for cleared swaps? Are there efficiencies for reporting counterparties to submit both cleared and uncleared margin and collateral data together to SDRs?**

Eurex Clearing believes that such a requirement for a DCO to report margin and collateral data without distinction for whether a swap is cleared or uncleared is redundant with existing part 39 reporting requirements for cleared swaps, and respectfully urges the Commission not to adopt this new requirement in the Part 45 rules. While Eurex Clearing understands the importance to the Commission to receiving margin and collateral data, Eurex Clearing believes DCOs already fulfill this requirement pursuant to § 39.19(c)(1), in which DCOs must report initial margin, daily variation margin, daily cash flow, and end-of-day position information for all cleared swaps. In the Proposal, it is unclear how such an addition to § 45.4(c) to report margin and collateral data differs from DCOs’ current obligation under §39.19(c)(1). Eurex Clearing believes the current reporting obligation under § 39.19(c)(1) provides all necessary margin and collateral data to the Commission for its oversight responsibilities and notes that DCOs incur significant costs and operational burdens in implementing changes to Part 45 reporting. Accordingly, Eurex Clearing respectfully believes the Commission should refrain from imposing such additional Part 45 reporting on DCOs.

**7. Does the Commission’s proposal to no longer require non-SD/MSP/DCO reporting counterparties to report valuation data raise any concerns about the Commission’s ability to monitor systemic risk in the U.S. swaps market?**

Eurex Clearing notes that it currently reports all relevant transaction, position, collateral, and valuation data on a portfolio basis for all cleared swaps to the European Securities and Markets Authority (“**ESMA**”) pursuant to EMIR Article 9. Thus, speaking as a European DCO, Eurex Clearing believes that all systemic risk is currently monitored and measured. Regarding the U.S. swaps market, Eurex Clearing would defer to the views of U.S.-based entities.

**The Commission requests comment on all aspects of the proposed changes to § 45.5.**

Eurex Clearing strongly supports the Commission and welcomes the idea of harmonizing the Unique Transaction Identifier (“**UTI**”) across the globe. Harmonizing the UTI across the globe such that all reporting counterparties would utilize one global UTI would represent enormous relief for all reporting

counterparties. For this process, Eurex Clearing believes it would be essential for the Commission to align with ESMA and other global regulators on the creation and effective date of a new global UTI. Specifically, Eurex Clearing notes that one consideration for the Commission, ESMA, and other global regulators would be how to phase in a new global UTI so that such a transition would be seamless. For example, the Commission and global regulators would need to consider how implementation of a global UTI would affect existing open swap positions and how such a transition could be handled. Eurex Clearing notes that one possibility could be for existing open swap positions could continue to use the old identifier up until the position is modified. Eurex Clearing looks forward to supporting the Commission, ESMA, and global regulators in pursuing such harmonization.

**8. Should the Commission expand requiring LEIs to be renewed annually beyond SDs, MSPs, SEFs, DCMs, DCOs, and SDRs? Please explain why or why not, including specification of any material costs or benefits.**

Eurex Clearing notes that it must renew LEIs on a yearly basis to comply with existing European regulations, and believes this ensures that this data element be kept current. Accordingly, speaking only for Eurex Clearing, such an expansion would not affect Eurex Clearing. Eurex Clearing would defer to other parties not subject to such existing European regulations for additional comment on this question.

**9. Are there other ways to ensure that an LEI is obtained and reported for a counterparty without an LEI, but is eligible for an LEI, other than each DCO and each financial entity reporting counterparty potentially being required to obtain an LEI on behalf of the counterparty through third-party registration?**

Eurex Clearing does not see a burden for itself in being required to obtain LEIs for reporting counterparties. At Eurex Clearing, all applicants for clearing membership are required to provide a LEI at part of the admittance process.

**10. Would the Commission's proposal to permit reporting counterparties to change SDRs raise any operational issues for reporting counterparties, SDRs, or non-reporting counterparties?**

As required by the Commission, Eurex Clearing reports the termination of alpha swaps to the SDR where the alpha swap was first reported. Eurex Clearing notes that to connect to a new SDR takes at least three weeks. Eurex Clearing respectfully believes that, if the Commission adopts this proposal, the Commission should give DCOs sufficient time (at least three weeks) to connect to a new SDR, if necessary, in order to be able to report alpha swap terminations.

**11. Should the Commission adopt additional requirements to ensure that a reporting counterparty's choice to change SDRs does not result in the loss of any data or information?**

Eurex Clearing would reiterate its response to Question 10 that it requires at least three weeks lead time for Eurex Clearing to connect to a new SDR, if necessary to report terminations of alpha swaps..

**The Commission requests comment on all aspects of the proposed changes to § 45.11.**

§ 45.11 is not applicable to Eurex Clearing, and Eurex Clearing would defer to others for comment.

**The Commission requests comment on all aspects of the proposed changes to § 45.12.**

Eurex Clearing interprets the proposal to remove § 45.12 as meaning that non-U.S. DCOs would be required to only report Part 45 data for swap transactions involving swap dealers, major swap participants, and other U.S. counterparties. Currently, Eurex Clearing reports Part 39 and Part 45 data for all swaps cleared by Eurex Clearing, irrespective of whether the swap falls under Commission jurisdiction. Eurex Clearing supports this proposal as it would significantly lessen the operational cost currently incurred from reporting data for all cleared swaps. However, Eurex Clearing notes that, if this proposal is adopted, it would welcome guidance on how non-U.S. DCOs should best comply. Eurex Clearing and potentially other non-U.S. DCOs would need to filter out appropriately swap transactions not falling under Commission jurisdiction. One potential solution could be for the Commission to provide non-U.S. DCOs with a list of swap dealers, major swap participants, and other U.S. counterparties.

**12. Should the Commission provide a limited exception to the validation requirements for swaps that, for instance, may be a new type of swaps that may fall within one of the five asset classes, but for which swap data reporting standards have not yet been adopted?**

Eurex Clearing does not believe this question is applicable for it and would defer to others for comment.

**13. Even with technical standards published by the Commission, there is a risk of inconsistent data across SDRs if the Commission allows the SDRs to specify the facilities, methods or data standards for reporting. In order to ensure data quality, should the Commission mandate a certain standard for reporting to the SDRs? If so, what standard would you propose and what would be the benefits? If not, why not?**

Eurex Clearing believes that the Commission should mandate certain standards for reporting to the SDRs. As discussed in Question 10, Eurex Clearing requires at least three weeks to connect to an SDR, which results frequently from SDRs using different methods and data standards for reporting. Eurex Clearing believes that by mandating a certain standard, such connectivity timelines would be sped up and less costly.

**14. The CPMI–IOSCO Governance Arrangements for critical OTC derivatives data elements (other than UTI and UPI) (“CDE Governance Arrangements”), assigned ISO to execute the maintenance functions for the CDE data elements included in the CDE Technical Guidance. Some of the reasons include that almost half of the CDE data elements are already tied to an ISO standard and because ISO has significant experience maintaining data standards, specifically in financial services. CPMI and IOSCO, in the CDE Governance Arrangements, also decided that the CDE data elements should be included in the ISO 20022 data dictionary and supported the development of an ISO 20022-compliant message for CDE data elements. Given these**

**factors, should the Commission consider mandating ISO 20022 message scheme for reporting to SDRs? Please comment on the advantages and disadvantages of mandating ISO 20022 for swap transaction reporting.**

Eurex Clearing does not have a strong comment on mandating ISO 20022 for swap transaction reporting. As discussed, Eurex Clearing strongly supports increased global harmonization, and believes that such harmony here and in the other areas discussed would significantly reduce reporting burdens.

In conclusion, Eurex Clearing reiterates its appreciation for the opportunity to comment on the Proposal and looks forward to working with the Commission on other proposals and initiatives.

Yours faithfully,

/s/ Eric Seinsheimer

Eric Seinsheimer  
US CCO  
Eurex Clearing AG