

May 22, 2020

***Submitted Electronically***

Mr. Christopher Kirkpatrick  
Secretary  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st St., N.W.  
Washington, DC 20581

**Re: Swap Execution Facility Requirements and Real-Time Reporting Requirements  
(RIN 3038-AE94)**

Dear Mr. Kirkpatrick:

The International Swaps and Derivatives Association, Inc. (“ISDA”)<sup>1</sup> appreciates the opportunity to submit these comments on the proposed revisions to the Swap Execution Facility (“SEF”) requirements and real-time reporting requirements published in the Federal Register by the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) on February 19, 2020 (“Proposal”).<sup>2</sup>

We commend the Commission’s decision to codify existing no-action relief related to certain established SEF trade execution practices. We agree that inclusion of these practices in a formal rulemaking will reduce operational and compliance uncertainty, enhance efficiency, and improve regulatory oversight. In this regard, the Commission should fully codify existing relief related to the execution of package transactions. Specifically, the final rule should exempt package transactions from the trade execution requirement where one component of such a package transaction is subject to the trade execution requirement and all other components are futures contracts (“MAT/futures packages”).

MAT/futures packages are generally comprised of interest rate swaps and U.S. Treasury futures that are heavily traded in the markets. Currently, market participants execute the swap components off-SEF pursuant to the requirements provided in the CFTC no-action

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<sup>1</sup> Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 900 member institutions from 73 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association’s website: [www.isda.org](http://www.isda.org). Follow us on Twitter @ISDA.

<sup>2</sup> 85 Fed. Reg. 9407 (Feb 19, 2020)

relief<sup>3</sup> and execute the futures component through an Exchange for Related Position (“EFRP”). If not included in the final rule (and without further relief), these transactions would not be available for execution as a package trade. This is because under CFTC rules, only the swap leg of the trade is allowed to be executed on-SEF, and the current Designated Contract Market (“DCM”) structure does not allow for the execution of EFRP trades where the related position component is traded on a DCM or SEF.<sup>4</sup> Thus, it is important that the Commission codify the existing no-action relief in its final rule.

Separately, although not directly related to the Proposal, we would like to draw the Commission’s attention to certain trading challenges posed by the COVID-19 crisis. SEF participants have observed diminished trading liquidity, wider bid ask spreads, and a decrease in the number of resting firm and indicative bids and offers in certain larger-sized contracts that are subject to the trade execution requirement. Despite their diminished trading liquidity, these contracts remain subject to the mandatory trade execution requirement and thus remain subject to the mandatory Central Limit Order Book or Request-For-Quote-To-Three trade execution mechanisms.

Imposing strict execution requirements on contracts with reduced trading liquidity has led to the inability of buy-side firms to achieve best pricing at the size required to meet their hedging needs in the cash markets. At the same time, dealer firms have become concerned about their ability to execute larger trades and subsequently lay off the risk associated with those larger positions. Despite this, the current mandatory trade determination process does not allow market participants to request the Commission to change the scope of contracts subject to the mandatory trade execution requirement (even on a temporary basis).

This crisis has reinforced the need for the Commission to re-visit its mandatory trade determination rules to allow market participants, including SEFs and SEF users to modify the scope of contracts subject to the trade execution requirement, which is particularly important during times of increased market stress.

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We appreciate the opportunity to submit our comments in response to the Proposal. We commend the Commission for its efforts to increase efficiencies in derivatives trading and encourage trading on SEFs. Our members are strongly committed to maintaining the safety and efficiency of the U.S. swaps markets and hope that the Commission will consider our suggestions, as they reflect the extensive knowledge and experience of trading professionals within our membership.

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<sup>3</sup> CFTC No-Action Letter 17-55.

<sup>4</sup> See, e.g., CME Rule 538, <https://www.cmegroup.com/rulebook/files/cme-group-Rule-538.pdf>.

Please contact me at (202)-683-9334 should you have any questions.

A handwritten signature in blue ink, reading "Bella Rozenberg". The signature is fluid and cursive, with the first name "Bella" and the last name "Rozenberg" clearly distinguishable.

Bella Rozenberg  
Senior Counsel and Head of Legal and Regulatory Practice Group,  
ISDA