



May 22, 2020

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)
Certain Swap Data Repository and Data Reporting Requirements (RIN 3038-AE32)
Real-Time Public Reporting Requirements (RIN 3038-AE60)
Swap Execution Facility Requirements and Real-Time Reporting Requirements (RIN 3038-AE94)

Dear Secretary Kirkpatrick:

The Foreign Exchange Professionals Association (“FXPA”) appreciates the opportunity to provide feedback to the Commodity Futures Trading Commission (“CFTC” or “Commission”) on the above-referenced proposed rules (referred to collectively as the “Proposals”) to revise CFTC regulations for swap data reporting, dissemination and public reporting requirements for market participants. The FXPA believes that, taken together, the Proposals will improve data quality and streamline CFTC regulations.

The FXPA represents the collective interests of professional foreign exchange (“FX”) industry participants, including buy-side participants, exchanges and clearing houses, trading platforms, technology companies, banks and non-bank market participants to advance a sound, liquid, transparent and competitive global currency market to policymakers and the FX marketplace through education, research and advocacy.¹

The FXPA wishes to address the following specific issues: (i) proposed Part 43 FX swap asset class criteria; (ii) delayed public dissemination for block trades; (iii) proposed Part 43 swap transaction and pricing data elements; (iv) proposed Part 45 swap data elements; (v) prime brokerage “mirror swaps;” and (vi) uncleared swap margin and collateral reporting.

¹ For more information, please visit www.fxpa.org. The following comments are those of the FXPA and do not represent the individual opinion of any one particular member.

Proposed Part 43 FX Swap Asset Class Criteria

The FXPA supports the Commission's approach in proposed Rule 43.6(b) to reclassify FX swaps into three primary new categories: (i) certain currency FX swaps with one currency of the currency pair being USD; (ii) certain currency FX swaps where neither currency in the currency pair is USD; and (iii) for FX swaps that trade at relatively low liquidity which would all benefit from a block size of zero, providing these swaps automatic delayed dissemination.²

The FXPA applauds the Commission's recognition that the adopting release primarily relied on the Survey of North American FX Volume in October 2012 conducted by the Foreign Exchange Committee and its decision to review relatively current swap data repository ("SDR") data to inform its current policy proposal.³ The FXPA believes that the Commission's reliance on market data has led to an appropriate outcome and the Commission's empirical analysis supports the conclusions set forth in the proposal.

The FXPA encourages the Commission to commit to periodic reviews of the FX swap asset class categories at regular frequencies. Like the FX market's considerable growth and development since the Foreign Exchange Committee's survey in 2012, the FXPA believes that proposed Rule 43.6(b)(4), if adopted, would likely benefit from a comparison against SDR data or Bank for International Settlements information every three to five years, and the Commission could consider adding or removing currencies from the three categories based on its data analysis at that time.

Delayed Public Dissemination for Block Trades

The FXPA supports the Commission's efforts to revise its real-time public reporting and dissemination requirements.

Specifically, the FXPA supports the approach in proposed Rule 43.5(c) that would provide publicly reportable block trade swap transactions a 48-hour time delay prior to public dissemination of swap transaction and pricing data.⁴ The FXPA believes this change, compared to the delay of just 15 minutes for swaps executed on a swap execution facility or a designated contract market,⁵ will provide meaningful relief. We agree with the Commission that a 48-hour delay will appropriately allow market participants to hedge their portfolios, which can take additional time due to various factors, as the Commission recognizes, "including risk tolerance to a price change, the risk of information leakage, the asset class involved and perceived demand for the hedge from other market participants, as well as consideration of the deadlines imposed by other authorities."⁶

² Real-Time Public Reporting Requirements, 85 Fed. Reg. 21516, 21536-37 (Apr. 17, 2020).

³ *Id.* at 21536.

⁴ *Id.* at 21533.

⁵ See 17 CFR 43.5(d)(2).

⁶ Real-Time Public Reporting Requirements, *supra* note 2, at 21534.

Furthermore, adopting a 48-hour delay for block trades would better align the CFTC's real-time reporting rules with the two working days' deferred publication under MiFID II's RTS 2 for large in-scale swap transactions. We strongly encourage the Commission to adopt regulations that align with other regulatory authorities, which is particularly important not just for global swap markets, but also for global institutional FX markets.

Proposed Part 43 Swap Transaction and Pricing Data Elements

The FXPA supports the Commission's efforts to amend the universe of swap transaction and pricing data ("STAPD") required with respect to FX swaps. The specific fields proposed in proposed Appendix C to Part 43,⁷ as it relates to FX swaps, go a long way towards "reduc[ing] burdens on market participants and provid[ing] technical guidance to ensure they are no longer guessing at what [the CFTC] require[s]."⁸

In our members' experiences, swap data quality is one of the biggest issues facing the FX swap market specifically, and the over-the-counter ("OTC") swap market more generally. The proposed data fields, as set forth in Appendix C to Part 43, will provide a more concrete framework for market participants, who report to multiple SDRs and transact in multiple jurisdictions. The proposed approach will provide FX swap market participants with much needed clarity and certainty, not to mention operational efficiency with respect to post-trade reporting.

In particular, the FXPA expresses support for the use of definitions for each data element, including examples to assist with compliance. The CFTC should adopt this approach in any final amendments.

When considering final amendments to Appendix C to Part 43, the FXPA encourages the CFTC to provide examples with respect to package trades (*fields 40-43*) to facilitate compliance, particularly with respect to package price notation (*field 43*). Furthermore, the Commission should carefully review, or consider guidance with respect to, the unique product identifier data field (*field 78*) as there are several related product taxonomies in use today.

Proposed Part 45 Swap Data Elements for FX Swaps

Like the amendments to Part 43's STAPD, the FXPA supports the Commission's proposed amendments to reporting obligations for swap creation data and required swap continuation data to a SDR in proposed Appendix 1 to Part 45.⁹ The FXPA appreciates the diligent efforts to improve data quality.

The FXPA encourages the Commission to consider the broad applicability of Appendix 1 to Part 45, as different entities will serve as the reporting counterparty. To that end, assigning reporting obligations for various data components will go a long way towards certainty about which party

⁷ *Id.* at 21566.

⁸ *Id.* at 21574.

⁹ Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 21578, 21635 (Apr. 17, 2020).

must provide various pieces of information, ultimately improving the comprehensive dataset. For example, trading venues (i.e., swap execution facilities and designated contract markets) and derivatives clearing organizations will be unable to provide the collateral and margin data elements. Additionally, to avoid confusion between message types and message structure in one table, the Commission should consider distinct field definition tables for each message type.

Prime Brokerage Mirror Swaps

The FXPA supports the Commission's thoughtful approach to the reporting of "mirror swaps" and "trigger swaps" as set forth in proposed Rule 43.3(a)(6) and the associated definitions in proposed Rule 43.2(a).¹⁰

We believe that the clarity on this "technical question" from the Commission will ensure that the price forming market activity in the trigger swap is promptly reported and disseminated, while market participants minimize instances of duplicative or incorrect trade reporting, which can cause inaccurate market information or lower reliance on market data. The FXPA agrees with Commissioner Berkowitz's assessment that "[d]uplicative reporting can create a false signal of swap trading volume and potentially obscure price discovery by giving the price reported for a single prime brokerage swap twice as much weight relative to other non-prime brokerage swaps."¹¹

Like the relief afforded by the Commission last year for prime brokerage trades with respect to swap dealer business conduct standard regulations,¹² adopting this framework should bring increased liquidity to OTC swaps markets, particularly FX swaps markets, currently reluctant to engage due to regulatory compliance uncertainty.

Uncleared Swap Margin and Collateral Reporting

The FXPA appreciates the Commission's effort to require fourteen new collateral and margins data elements for SDR reporting in the proposed amendments to Part 45.¹³ The FXPA understands that "margin and collateral information is critical for the Commission to monitor risk in the swaps market."¹⁴

While the FXPA supports the increased reliance on swap data for oversight and policymaking purposes, we wish for the Commission to more carefully consider the costs to market participants. While the Commission understands that "reporting margin and collateral data to SDRs could involve considerable expense" for the 121 swap dealers, major swap participants and derivatives clearing organization reporting counterparties,¹⁵ the FXPA reminds the

¹⁰ Real-Time Public Reporting Requirements, *supra* note 2, at 21523-25.

¹¹ *Id.* at 21576.

¹² CFTC Letter No. 19-06 (Mar. 22, 2019).

¹³ Swap Data Recordkeeping and Reporting Requirements, *supra* note 9, at 21613.

¹⁴ *Id.*

¹⁵ *Id.* at 21623.

Commission that the addition of these new data fields – for daily reporting – is being considered concurrently with a comprehensive reformation of the Commission’s swap data reporting rules. And, at the same time, many market participants – including reporting counterparties – are working to implement global uncleared swap margin regulations, which require significant time, energy, capital and human resources to develop internal operations and work with client counterparties to ensure compliance leading up to September 2021.

This is not to minimize or criticize the CFTC’s laudable effort to further the worthwhile goal of improving its view into market participants’ margin and collateral positions. However, the FXPA believes that this can prove to be a burdensome endeavor for all parties, including reporting counterparties and SDRs. This concern is compounded by the fact that the reporting obligation will remain day in and day out, regardless of that day’s trading activity. Furthermore, due to the global nature of OTC swaps markets, any new Commission-generated data elements related to margin and collateral reporting should be harmonized to the greatest extent possible among jurisdictions and trade repositories before the CFTC mandates specific novel reporting elements.

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The FXPA appreciates the opportunity to provide specific comments on the Proposals from the vantage point of an association solely representing the interests of professional FX industry participants. Should the CFTC wish to discuss these comments further, please contact the undersigned at chairman@fxpa.org.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Chip Lowry", with a stylized flourish extending to the right.

Chip Lowry
Chairman