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Mr. Chris Kirkpatrick
Secretary of the Commission

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
Uploaded to <http://www.cftc.gov/>

May 22, 2020

Re: Amendments to the Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AE31), Real-Time Public Reporting Requirements (RIN 3038-AE60), Swap Execution Facility Requirements and Real-Time Reporting Requirements (RIN 3038-AE94)

Dear Mr. Kirkpatrick,

IHS Markit¹ appreciates the opportunity to comment on the Commodity Futures Trading Commission (“Commission” or “CFTC”) proposed rulemakings concerning Amendments to the Swap Data Recordkeeping and Reporting Requirements (“Reporting Proposal”), Real-Time Public Reporting Requirements (“RTPR Proposal”), Swap Execution Facility Requirements and Real-Time Reporting Requirements (“SEF/RTPR Proposal”) (collectively “Proposals”).² We commend the Commission’s measured and thorough approach to continuously improving its approach to regulatory reporting, from the initial set of regulatory reporting rulemakings published in 2011 and 2012 through to the 2017 Roadmap to Achieve High Quality Swaps Data (“Roadmap”), and to these Proposals. We also commend the tremendous effort expended by the CFTC and other regulators to harmonize their approach to derivatives reporting and the Proposals generally

¹ IHS Markit is a global information and services company that provides data, insight, and solutions across 17 industries. IHS Markit is a NASDAQ-listed public company under the ticker “INFO.” IHS Markit has approximately 15,000 employees in 35 countries, including over 5,000 employees in the United States with offices in 21 states and the District of Columbia. IHS Markit resources include more than 5,000 analysts, data scientists, financial experts and industry specialists. Our global information expertise spans numerous industries, including leading positions in finance, energy and transportation. Please see <https://www.ihsmarket.com> for more information.

² Amendments to the Swap Data Recordkeeping and Reporting Requirements 85 Fed. Reg. 21,578 (Apr. 17, 2020), <https://www.cftc.gov/sites/default/files/2020/04/2020-04407a.pdf> (RIN 3038-AE31), Real-Time Public Reporting Requirements, 85 Fed. Reg. 21,516 (Apr. 17, 2020), <https://www.cftc.gov/sites/default/files/2020/04/2020-04405a.pdf> (RIN 3038-AE60), Swap Execution Facility Requirements and Real-Time Reporting Requirements, 85 Fed. Reg. 9,407 (Feb. 19, 2020), <https://www.cftc.gov/sites/default/files/2020/02/2020-02721a.pdf> (RIN 3038-AE94),

reflect this exemplar cooperation.³

IHS Markit's derivatives trade processing platform, MarkitSERV plays an important role in the processing and reporting of swaps subject to the CFTC's jurisdiction. The derivatives trade processing platform facilitates connectivity and interaction between swap dealer, buy-side, fund administrators, and corporate end-user market participants and derivatives market infrastructures including swap execution facilities (SEFs) and derivatives clearing organizations (DCOs).⁴ Among the specific services offered by MarkitSERV are trade confirmation, trade affirmation, allocations, submission of matched (confirmed or affirmed) trades to clearing, as well as a standard connectivity solution with customer risk systems.

IHS Markit's derivatives trade processing platform also helps facilitate compliance with swaps reporting and confirmation requirements, among other regulatory requirements, in addition to facilitating clearing, providing operational efficiencies and mechanisms for risk mitigation.⁵ Globally, over 2,000 firms use IHS Markit's derivatives processing platform which processes, on average, 90,000 swap transaction events every day.

We submit these comments in common spirit with the CFTC: we are in the business of producing high-quality and timely data that our customers can rely on for regulatory, operational, and other purposes while among the most important of the CFTC's goals is to obtain high-quality and timely data so that it can conduct market oversight consistent with its statutory duties.

We note that for the past three (3) months, we have been focused on supporting our customers and systems during the COVID-19 crisis. We are pleased to note that our systems and staff have operated effectively and reliably. We stand ready to support our customers' implementation of the Proposals once they are finalized.

I. Executive Summary

We appreciate the recognition across all three of the Proposals of the role of third-party service providers as these accommodations will encourage fintech and regtech firms to provide services to CFTC-regulated companies, reducing these firms' compliance costs.

With respect to the Reporting Proposal, we opine, among other things, that

³ See e.g., Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) - Technical guidance, Apr. 9, 2018, <https://www.bis.org/cpmi/publ/d175.htm> ("CDE").

⁴ See MarkitSERV, <https://ihsmarkit.com/products/markitserv.html>.

⁵ See MarkitSERV for EMIR Reporting, https://www.markitserv.com/assets/ms-en/docs/presentations/MarkitSERV_for_EMIR_Regulatory_Reporting_presentation.pdf.

a T+1 reporting requirement may be counterproductive and that a relative few proposed data reporting fields should be adjusted or omitted, or would require more clarification before becoming subject to the reporting requirement.

II. Comments on Reporting Proposal

- 1. We appreciate the explicit recognition of the constructive role played by third-party service providers in generating unique transaction identifiers in proposed § 45.5(g) and in the validation of swap creation and continuation data under proposed § 45.13(b)**

Proposed § 45.5(g)(2) would require third-party service providers to generate unique transaction identifiers “unique with respect to all such codes generated and assigned by that third-party service provider.” Proposed § 45.13(b)’s would require swap data repositories (“SDRs”) to communicate with, among others, third-party service providers in connection with messages indicating whether or not the required swap creation data or required swap continuation data report “satisfied the swap data validation procedures of the swap data repository.” This is an important clarification and will enable third-party service providers to develop data validation mechanisms that will substantially reduce the cost of complying with new SDR data validation procedures.

- 2. We welcome the requirement for third-party service providers to provide their LEIs as a part of swap reports they facilitate**

Proposed 45.5(g)(1) would require that third-party service providers provide their LEI. We welcome this decision but would advise the Commission monitor SDRs’ implementation of this requirement as some SDRs have struggled to capture third-party service provider LEIs as part of the transaction record when reporting on behalf of SEFs in particular.

- 3. The costs of a “as soon as technologically practicable” reporting requirement is substantially reduced through the use of experienced third-party reporting agents.**

Q5. Are the Commission’s proposed T+1 and T+2 deadlines for reporting required swap continuation data appropriately harmonized with the deadlines set by other regulators and jurisdictions to benefit market participants? Do the Commission’s proposed T+1 and T+2 deadlines for reporting required swap continuation data create any operational issues for reporting counterparties that the Commission has not considered?

Proposed § 45.3(a) would require that for each swap executed on or pursuant to the rules of a SEF or DCM, the SEF or DCM report swap creation data electronically to

an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date. Meanwhile, for off-facility swaps, proposed § 45.3(b)(1) would require that if the reporting counterparty is an SD, MSP, or DCO, that, similarly, the reporting counterparty report swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date.

The manual review of the swap creation and continuation data would result in unintended negative consequences in terms of the timeliness and accuracy of swap creation data. The shift from an “as soon as technologically practicable” (“ASATP”) standard for the reporting of swap creation data to a T+1 standard implies the use of end of day automated or manual systems. Such approaches would necessarily rely on manual labor working generally after normal business hours when limited support staff would be available. Moreover, after normal business hours most front office staff familiar with a trade would have left their desks for the day. A T+1 reporting timeline is therefore more likely to result in delays or errors relative to an ASATP process for reporting swap creation data where generation of swap creation data is an integral part of the confirmation of a transaction.

Moreover, ASATP reporting as a service alongside swap trade confirmations processes is already economically feasible and available through third-party service reporting agents. Third-party reporting agents, like IHS Markit, specialize in producing accurate regulatory reports based on the bilaterally agreed economic data used in execution, confirmation and clearing and can spread the costs of implementing ASATP reporting across all their customers. We would encourage the Commission to reconsider the proposed T+1 approach because will it not only slow swap data reporting, but risks reducing the accuracy of swap data reporting.

4. With respect to the reporting of “delta,” this is not a field captured today in most swaps and reporting of this field will require more clarification.

Q18. The Commission is considering including the notional schedule data elements from the CDE Technical Guidance. The Commission has learned through experience with swap data that notional data elements are applicable to a substantial number of swaps within certain product areas such as energy swaps and amortizing interest rate swaps. Does such concentration exist and, if so, what gaps would exist in the Commission’s ability to evaluate and monitor market activity in these areas if notional schedule data elements are inadequately or improperly represented?

The inclusion of a “delta” reporting field among the notional data elements is problematic and we would recommend the CFTC provide some additional clarification before requiring the reporting of this field. A delta value with respect to an underlying reference price appears to be a construct from futures markets that

will need significant additional clarification in order to function in a swaps reporting context, particularly for complex swaps and swaptions that may have non-linear price sensitivities with respect to an underlying reference price or prices.

5. The inclusion of a package transaction data elements creates administrative burden with little benefit to the CFTC. In particular, further guidance needs to be provided to indicate a package price

Q21. The Commission is considering including the additional package transaction data elements from the CDE Technical Guidance. The Commission requests comment on whether SDRs and reporting counterparties would be able to both accept and report this information. The Commission requests specific comment on how SDRs would implement these CDE data elements for reporting counterparties to report the data.

Requiring package data elements will require our customers to spend significant resources to parse through transactions that may be packages, structured trades, complex transactions, strategies, and baskets to include these fields. We understand that definitions and types of “package” or package-like transactions vary from firm to firm, as would the entries for the package transaction data elements as not all firms are counterparty to all legs of a package transaction. We note finally that the CFTC is an outlier in requiring a package transaction data elements.

We would advise the Commission to conduct more research and develop objective and detailed standards for the reporting of package and similar transaction types to ensure an objective approach that results in useful data. In addition, the CFTC should consult with other regulators whose transactions may form a leg of package transactions. Until this is done, we do not recommend finalizing the package transaction data elements because the costs of such reporting will likely outweigh any benefits. The difficulties of reporting package data elements are particularly challenging for the reporting of package prices given the complexity and potentially numerous counterparties to a package transaction.

6. Inclusion of a post-priced swap prices creates administrative burden with little benefit to the CFTC

(22) The Commission is considering including the price schedule data elements from the CDE Technical Guidance. The Commission has learned through experience with swap data that price data elements are applicable to a substantial number of swaps within certain product areas such as energy swaps and amortizing interest rate swaps. Does such concentration exist and, if so, what gaps would exist in the Commission’s ability to evaluate and monitor market activity in these areas if schedule data elements are inadequately or improperly represented? The Commission requests comment on whether SDRs and

reporting counterparties would be able to both accept and report this information. The Commission requests specific comment on how SDRs would implement these CDE data elements for reporting counterparties to report the data. Should the Commission mandate a specific reporting structure for reporting schedule-related data elements to the SDRs? If so, what standard would you propose and what would be the benefits? If not, why not?

We note that current systems do not identify post-priced swaps and therefore requiring this data element will be challenging. Such swaps are identifiable by the fact that their prices are not set until sometime after execution upon the fulfillment of the condition that sets the price. In the event the Commission decides to require specific identification of post-priced swaps, then we think that the real-time reporting should be delayed until 11:59pm eastern time on the day following execution (and if the price is not yet known at that time, the reporting counterparty would report the fields that are then known, similar to what is described in proposed § 43.3(a)(4).

7. We support permitting reporting counterparties to change the SDR but recommend a streamlined approach to implementing this

The Reporting Proposal would require reporting counterparties to report one data element related to changing SDRs. This data element would be necessary if the Commission adopts proposed § 45.10(d) permitting reporting counterparties to change the SDR to which they report data for a given swap. To transfer SDRs, a reporting party would need to notify the current SDR, new SDR, and non-reporting counterparty of the UTIs for the swaps being transferred and the date of transfer at least five business days before the transfer. Reporting counterparties would then need to report the change of SDR to the current SDR and the new SDR, and then begin reporting to the new SDR.

We support facilitating the transfer of swap data records from one SDR to another but do not believe the notice period and other formal procedures are necessary. The fact a swap transaction record has been moved can be indicated through “Events” data elements corresponding to an SDR transfer. Relying on the current SDR to facilitate or cooperate on a transfer could lead an SDR to impede a transfer and this streamlined approach we think would limit such opportunities and encourage competition among SDRs.

Comments on valuation and collateral related fields in the Reporting Proposal

8. We believe it’s more efficient for reporting counterparties to submit both cleared and uncleared margin and collateral data together to SDRs

Q6. 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?

We believe it's more efficient for reporting counterparties to submit both cleared and uncleared margin and collateral data together to SDRs. When it comes to valuation or collateral reporting some valuation or collateral, some systems may only have limited information such as trade reference ID but not necessarily the clearing status. We therefore think it would be more complex to split valuation or collateral reporting in cleared vs uncleared categories.

9. We recommend omitting the valuation data elements discussed in question 28.

Q28. The Commission is considering including the following valuation data elements that were not included in the CDE Technical Guidance: Discount index; discount index tenor period; discount index tenor period multiplier; next floating reference reset date; underlying spot or reference rate. Would reporting counterparties be able to report this information to SDRs each day? Could the Commission obtain this information from different source? Could the Commission require this information less frequently? Is reporting reset dates more efficient than reporting the full calendar generation logic (including business day calendars and reset lookback terms) of swaps?

We recommend the Commission not to add those valuation data elements. It would be difficult for firms to report each day those data elements. The main reason is valuation data comes from separate systems than risk management systems that holds the transaction information. And the daily valuation reporting that is prepared for other jurisdictions only involves minimum transaction information (trade reference, USI or UTI) that are used to link the valuation to the right trade. It's not so much the frequency the main challenge here but the valuation data elements information to be provided along with the valuation.

With respect to "Last floating rate reference value" and "last floating reference reset date" we recommend omitting them because those fields are not listed in CDE guidance and are not required in other jurisdictions.

10. The Commission should consider requiring disclosure of the type of collateral posted in order to assess quality.

Q30. The Commission is interested in determining the quality of collateral posted. Comparing pre- and post-haircut values is one way to gain this information. Should the Commission consider other ways, such as collecting specific information on the contents of the collateral portfolio?

Another way for the Commission to determine the quality of collateral posted would be to ask for the type of collateral posted.

11. We recommend the Commission streamline some of its margin and collateral information reporting requirements

Q32. The Commission is proposing to collect new margin and collateral

information from reporting counterparties that are SDs, MSPs, and DCOs. Some of this information could be reported at the portfolio level, rather than the transaction level. Do reporting counterparties or SDRs have feedback for the Commission on how portfolio level, as opposed to transaction level, reporting would work in practice? Are there challenges the Commission should consider? What are alternatives or solutions for collecting this information?

Certain financial entities (non-banks mostly) have only collateral information at portfolio level in their systems. Those firms will report for each trade which portfolio code the trade belongs to, the collateral at portfolio level.

We recommend the Commission not to require field 106 “Portfolio containing non-reportable component indicator.” First is not listed in the CDE. Also, it would be quite challenging for a firm to determine and reconcile the value of this field as the firm will need to check all trades of the portfolio if they are reportable or not.

For fields 107, 108, 110, 111, 113 and 115 the introduction of pre-haircut and post-haircut is not required in other regimes. Although it is listed in the CDE we want to draw the attention of the Commission of the extra development that will be required for the firms who are already reporting collateral information in other regimes as they will need to enhance their systems to take into consideration the haircut. We would advise the Commission to carefully consider the costs and benefits of obtaining these data elements.

III. Comments on the SEF/RTPR Proposal

We commend the SEF/RTPR Proposal for codifying into the Commission’s regulations its long-standing error trade policy. We also commend the Commission for recognizing that (1) MAT/Non-MAT Uncleared package transactions, (2) MAT/Non-Swap Instrument package transactions, and (3) MAT/NonExclusive CFTC Swap package transactions are not appropriate for the SEF trading requirement.

We would advise providing greater flexibility for error trade corrections, we think an appropriate timeline for submitting correcting trades would be five (5) business days this is particularly important during periods of market stress.

IV. Comments on the RTPR Proposal

We appreciate the explicit recognition of the value of third-party reporting services in proposed § 43.3(a)(7). Proposed § 43.3(a)(7) codifies the Commission’s previously stated position with respect to third party facilitation of part 43 reporting in a manner consistent with § 45.9 and expressly expand it to reporting parties for off-facility swaps. Such explicit recognition of fintech and regtech firms in facilitating compliance with complex regulatory requirements will encourage more such firms to provide such services and to reduce compliance costs as a consequence.

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IHS Markit appreciates the opportunity to provide these comments to the Commission. We would be happy to elaborate on or further discuss any of the points addressed above. If you would like to follow up on our comment letter, please contact Kirston Winters, Global Head of Market Structure, Regulatory and Risk Management at MarkitSERV, kirston.winters@ihsmarkit.com or +44 771 785 3197.