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

Submitted via CFTC Comments Portal

June 30, 2022

Dear Mr. Kirkpatrick

Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates.

The Alternative Investment Management Association (AIMA)¹ appreciates the opportunity to comment on the U.S. Commodity Futures Trading Commission's (CFTC or Commission) proposed rule to amend its interest rate swap clearing requirement regulations adopted under applicable provisions of the Commodity Exchange Act (CEA) in light of the global transition from reliance on certain interbank offered rates (IBORs) (e.g., the London Interbank Offered Rate (LIBOR)) that have been, or will be, discontinued as benchmark reference rates to alternative reference rates, which are predominantly overnight, nearly risk-free reference rates (RFRs) (the "Proposal").² Many of AIMA's members are active

¹ AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than \$2.5 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programs and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 250 members that manage \$600 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialized educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

² CFTC, Proposing Release, Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates, [87 Fed. Reg. 32898](#) (May 31, 2022) (the "Proposing Release").

The Alternative Investment Management Association Ltd (New York Branch)

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participants in the cleared swaps markets and are therefore impacted by the transition to alternative RFRs and how those rates may impact trading liquidity and clearing availability.

The Proposal would make several amendments to CFTC Regulation 50.4(a), which would be accomplished in two stages. Stage one would make three changes that would become effective 30 days after publication of a final rule in the Federal Register. First, two categories of swaps would be removed from Regulation 50.4(a): (i) swaps that are denominated in British pound (GBP), Swiss franc (CHF) and Japanese Yen (JPY) that reference LIBOR as a floating rate index from each of the fixed-to-floating swaps, basis swaps, and forward rate agreement (FRA) classes, as applicable, and (ii) swaps denominated in Euro (EUR) that reference the Euro Oversight Index Average (EONIA) as a floating rate index from the class of overnight index swaps (OIS).³ Second, the Commission proposes to add five swaps to the OIS class, including swaps denominated in U.S. dollar (USD) that reference the Secured Overnight Financing Rate (SOFR) as a floating rate index with a stated termination date range of 7 days to 50 years.⁴ Finally, the maximum stated termination date range for swaps denominated in GBP that reference the Sterling Overnight Index Average (SONIA) as a floating rate index in the OIS class would be changed from 50 years to a new termination date range of 7 days to 50 years.⁵

The second stage changes would become effective July 1, 2023.⁶ Swaps denominated in USD that reference LIBOR as a floating rate index would be removed from the fixed-to-floating swap, basis swap and FRA classes.⁷ Swaps denominated in Singapore dollars (SGD) that reference the Singapore Swap Offer Rate (SOR-VWAP) as a floating rate index would be removed from the fixed-to-floating swap class.⁸

AIMA responded to the Commission's November 2021 request for information and comment on how the Commission could amend its swap clearing requirement to address the cessation of IBORs and the market adoption of RFRs (the "RFI").⁹ As we explained in our RFI response, market participants have taken multiple steps to prepare for the cessation of IBORs, and there has been a corresponding transition to the use of other RFRs for OTC contracts along with growing liquidity. We therefore encouraged the Commission to update its clearing requirements to include swaps referencing SOFR with maturities ranging from 7 days to 50 years. We also requested that the Commission maintain its clearing requirement for certain USD LIBOR contracts until its cessation on June 30, 2023.

The clearing requirement is a vital component of the OTC derivatives framework. It mitigates systemic risk, increases market liquidity and transparency, improves investor protection, enhances competition and reduces operational risk. Voluntary clearing, however, is not a substitute for mandatory clearing, and, although it may yield some of these benefits, it would not provide the same suite of market improvements and benefits as a clearing requirement. Benefits of mandatory clearing include, among

³ *Id.* at 32904.

⁴ *Id.*

⁵ *Id.* at 32904-05.

⁶ *Id.* at 32905.

⁷ *Id.*

⁸ *Id.*

⁹ Response to RFI, available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=65923&SearchText=>.



others, increasing the availability of client clearing offerings, consolidating liquidity and providing clients with confidence that there will be sufficient liquidity to properly manage position risk. Accordingly, we appreciate and support the Commission's proposed changes, particularly the addition of OIS referencing SOFR with a tenor of 7 days to 50 years to Regulation 50.4(a). We also appreciate and support the Commission's determination to maintain the clearing requirement in USD that reference LIBOR as a floating rate index until July 1, 2023.

As trading activity in OTC derivatives contracts referencing SOFR and other RFRs continues to grow, we recommend the Commission expedite its consideration of a final rule, consistent with the Proposal, and update the clearing requirement as quickly as possible. With this Proposal and a final rule consistent with it, the Commission continues to demonstrate its leadership in protecting, advancing and improving the OTC derivatives market.

We would be happy to elaborate further on any of the points raised in this letter. For further information, please contact Daniel Austin, Director of U.S. Policy and Regulation, by email at daustin@aima.org.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "J. Król", is positioned below the "Yours sincerely," text.

Jiří Król
Deputy CEO, Global Head of Government Affairs
AIMA

Cc: The Honorable Rostin Behnam, Chairman
The Honorable Kristin N. Johnson, Commissioner
The Honorable Christy Goldsmith Romero, Commissioner
The Honorable Summer K. Mersinger, Commissioner
The Honorable Caroline D. Pham, Commissioner
Mr. Clark Hutchinson, Director, Division of Clearing and Risk