



June 30, 2022

**Via CFTC Comments Portal:** <http://comments.cftc.gov>

Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20581

**Re: 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; RIN 3038-AF18**

Dear Mr. Kirkpatrick,

Managed Funds Association<sup>1</sup> (“MFA”) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“CFTC” or “Commission”) on its proposed “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” (“Proposal”).<sup>2</sup> The Proposal amends the Commission’s interest rate swap clearing requirement regulation<sup>3</sup> adopted under Section 2(h)(2)(D) 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”).

We fully support the Commission facilitating the transition from reliance on swaps that reference LIBOR and other IBORs to clearing and trading swaps that reference RFRs by modifying its interest rate swap clearing requirement to reflect the cessation or loss of representativeness of certain IBORs, and the market adoption of RFRs. We appreciate the

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<sup>1</sup> Managed Funds Association (“MFA”) represents the global hedge fund and alternative asset management industry and its investors by advocating for regulatory, tax, and other public policies that foster efficient, transparent, and fair capital markets. MFA’s more than 150 member firms collectively manage nearly \$2.6 trillion across a diverse group of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has a global presence and is active in Washington, Brussels, London, and Asia. [www.managedfunds.org](http://www.managedfunds.org).

<sup>2</sup> 87 Fed. Reg. 32,897 (May 31, 2022).

<sup>3</sup> 17 C.F.R. 50.4.

Commission’s consideration of our comments in response to its Request for Information (“**RFI**”).<sup>4</sup> Specifically, we write in favor of the Commission adopting our (and other commenters’) recommendation to:

- Add to the swap clearing requirement swaps denominated in USD that reference Secured Overnight Financing Rate (“**SOFR**”) as a floating rate index with a stated termination date range of 7 days to 50 years in the overnight index swap (“**OIS**”) class, as soon as practicable; and
- Remove from the swap clearing requirement swaps denominated in USD that reference LIBOR as a floating rate index from each of the fixed-to-floating swap, basis swap, and forward rate agreement (“**FRA**”) classes, at such time as these USD LIBOR settings are expected to cease or become nonrepresentative.

With respect to the Commission’s request for comment on “whether setting a compliance date 30 days after publication of the final rule in the Federal Register provides market participants with sufficient notice and opportunity to comply with this proposed determination,”<sup>5</sup> we believe that the proposed 30-day compliance date is appropriate. As noted by the Commission, almost all transactions in USD SOFR OIS are cleared voluntarily today; the percentage that would be cleared following implementation is unlikely to increase.<sup>6</sup>

Similarly, with respect to the Commission’s request for comment on “[w]hether to remove existing requirements to clear USD LIBOR...swaps 30 days after publication of the final rule in the Federal Register instead of July 1, 2023,”<sup>7</sup> we believe that the currently proposed implementation scenario is appropriate. At this time, liquidity in swaps denominated in USD that reference LIBOR in the fixed-to-floating swap, basis swap, and FRA classes is sufficient to continue to support clearing. If, before July 1, 2023, there are significant concerns regarding the sufficiency of outstanding notional and liquidity (or pricing data) to support required clearing of USD LIBOR swaps in certain classes, the Commission may consider an exemptive order or no-action letter, expiring on June 30, 2023, regarding the clearing requirement.

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We appreciate the opportunity to provide our comments to the Commission regarding the Proposal, and we would be pleased to meet with the Commission or its staff to

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<sup>4</sup> Managed Funds Association, *Re: Swap Clearing Requirement to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates (RIN Number 3038-AF18)* (Jan. 24, 2022); see “Swap Clearing Requirement To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates,” 86 Fed. Reg. 66,476 (Nov. 23, 2021).

<sup>5</sup> Proposal, at 32,926.

<sup>6</sup> *Id.* at 32,918, 32,927.

<sup>7</sup> *Id.* at 32,930.

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discuss our comments. If the staff has questions or comments, please do not hesitate to call Joseph Schwartz, Director and Counsel, or the undersigned at (202) 730-2600.

Respectfully submitted,

/s/ Jennifer W. Han

Jennifer W. Han  
Executive Vice President  
Chief Counsel & Head of Regulatory Affairs  
Managed Funds Association