June 30, 2022

VIA ELECTRONIC SUBMISSION

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

Re: Commodity Futures Trading Commission Notice of Proposed Rulemaking regarding 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, 17 CFR Part 50, 87 Fed. Reg. 32898 (May 31, 2022) RIN 3038-AF18

Dear Mr. Kirkpatrick

CME Group Inc. ("CME Group") appreciates the opportunity to comment on the Commodity Futures Trading Commission ("Commission" or "CFTC") Notice of Proposed Rulemaking on the 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 "Notice of Proposed Rulemaking").[1]

Chicago Mercantile Exchange Inc. ("CME Inc." or "CME"), a wholly-owned subsidiary of CME Group, is registered with the CFTC as a derivatives clearing organization ("DCO") and operates its clearinghouse ("CME Clearing" or the "Clearing House"). CME Inc. is also registered with the CFTC as a designated contract market ("DCM"). In July 2012, CME Inc. was designated as a systemically important financial market utility under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act by the Financial Stability Oversight Council because of its clearing activities. Due to this designation, CME Clearing is a systemically important DCO or "SIDCO" pursuant to CFTC regulations. CME Clearing offers clearing and settlement services for exchange-traded derivatives contracts and for over the counter ("OTC") derivatives transactions, including interest rate swaps that are the subject of the Notice of Proposed Rulemaking, as well as commodity, financial and agricultural swaps, and other OTC contracts.

CME Group welcomes the Commission's review of the U.S. interest rate swap clearing mandates in light of the ongoing industry transition of swaps referencing the London Interbank Offered Rate ("LIBOR" or "ICE LIBOR")[2] to the relevant nominated successor "risk-free rates" ("RFRs" or "Alternative Reference Rates"). CME Group supports the CFTC's objective that any changes to the relevant clearing requirements should be harmonized to the greatest extent possible with those adopted by its international counterparts, and we further welcome the Commission's commitment to coordination, transparency and consistency in its engagement with the FRB, FRBNY and other domestic authorities.

As illustrated in the recent derivatives market movements away from LIBOR and other IBORs, market participants have demonstrated a preference for transition into market standard RFR overnight index swaps ("OIS") and, to date, the significant majority of these market participants have chosen to clear these swaps on a voluntary basis. This is illustrated by the Commission's estimates that in excess of 90% of notional transacted in relevant RFR OIS are being cleared voluntarily.[3] As further noted by the Commission in the Notice of Proposed Rulemaking, "this proposed clearing requirement determination

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[1] Federal Register, Vol. 87, No. 104 / Tuesday, May 31, 2022 / Proposed Rules, https://www.cftc.gov/sites/default/files/2022/05/2022-10490a.pdf. CME Group previously responded to the Commission Request for Information dated November 23, 2021 and titled Swap Clearing Requirement To Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates (the "RFI"), see https://www.cftc.gov/sites/default/files/2021/11/2021-25450a.pdf

[2] ICE LIBOR is administered by ICE Benchmark Administration Limited ("IBA"), which is regulated and supervised by the UK Financial Conduct Authority as administrator of the benchmark.

[3] As illustrated by Commission data provided in Table 6 (Estimated percentage of Notional Cleared (based on Notional Transacted by Month)), Notice of Proposed Rulemaking.

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is distinguishable from prior determinations insofar as it responds to a public and private sector, consensus-driven market event that has resulted, or will result, in liquidity shifting to new benchmark rates from rates that have become, or will soon become, unavailable or non-representative”. Given the rapid market adoption and voluntary clearing of RFR OIS ahead of determination or implementation of any clearing mandates, in the interests of providing clarity to these and other market participants, CME Group believes that the Commission’s proposed addition to the OIS class clearing requirement of relevant OIS which reference the corresponding Secured Overnight Financing Rate (“SOFR”), Swiss Average Rate Overnight (“SARON”), Euro Short-Term Rate (“€STR”), Singapore Overnight Rate Average (“SORA”) and Tokyo Overnight Average (“TONA”) RFRs, respectively, as the floating rate index, is appropriate.

For the same reason, following the cessation / non-representativeness of certain IBORs and LIBOR rates, CME Group believes that it is also appropriate to amend Regulation § 50.4(a) to remove the swap clearing requirement for swaps 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 swap, basis swap, and forward rate agreement (“FRA”) classes and for the proposed removal of swaps denominated in Euro (“EUR”) that reference the Euro Overnight Index Average (“EONIA”) as a floating rate index from the OIS class.

The ongoing transition away from U.S. Dollar (“USD”) LIBOR rates is widely anticipated to continue before and until June 30, 2023, and clearing services are expected to continue to be offered by clearing houses up to or shortly before that date. As a result, we believe that is appropriate that USD LIBOR market participants would also benefit from the clarity and certainty provided by the Commission’s proposal to retain the clearing requirement for swaps denominated in USD that reference USD LIBOR as a floating rate index, and that it follows that this should be retained up to such point in time that CCPs cease to provide clearing services in respect of those swaps, and/or effect a conversion in those swaps, in line with the needs of market participants.

Pursuant to Section 2(h)(2)(D)(ii) of the Commodity Exchange Act, the Commission must take into account five statutory factors in making a clearing determination as they relate to OIS denominated in USD and referencing SOFR; (ii) denominated in GBP and referencing the Sterling Overnight Interbank Average Rate (“SONIA”); (iii) denominated in CHF and referencing SARON; (iv) denominated in JPY and referencing TONA; (v) denominated in EUR and referencing €STR; and (vi) denominated in Singapore Dollars and referencing SORA. CME Group already clears these instruments and we support the Commission’s view expressed in the Notice of Proposed Rulemaking that CME will be able to maintain compliance with the DCO Core Principles and applicable Commission regulations with respect to the clearing of such RFR OIS, including in circumstances where the Commission adopts a clearing requirement determination for such contracts. CME Group further considers that the RFR OIS specified in the Notice of Proposed Rulemaking satisfy the statutory factors, including sufficient standardization and outstanding notional value and trading liquidity to justify a clearing requirement. CME’s view is that adequate pricing data for risk and default management of these instruments is available (including across all stated termination data ranges) and further, that CME is capable of offering uninterrupted clearing services for all instruments it clears even during times of market stress.

CME Group believes that the significant and rapid adoption of voluntary clearing of RFR OIS has demonstrated the beneficial effects on the mitigation of systemic risk in these products. CME Group also considers that the high levels of voluntary clearing of these swaps has further ensured that a wide range of clearing members already support clearing of these products and, therefore, that CME Clearing has sufficient diversity in clearing members, as well as a strong capability to default manage RFR OIS portfolios and to transfer positions on a default, regardless of the introduction of an RFR OIS clearing requirement.

With respect to legal certainty in the event of an insolvency, DCO Core Principle R: Legal Risk and CFTC Regulation §39.27(b) requires legal certainty of CME Clearing’s arrangements for the clearing of contracts. The legal framework on which CME Clearing operates complies with these requirements and is sound, tested and provides a high degree of assurance that CME Clearing will be able to conduct its clearing and settlement activities on an ongoing basis, including in managing a clearing member default event, and also provides for the failure of a DCO. Part 190 of the CFTC Regulations provides a well-tested road map for the liquidation of a commodity broker that is insolvent. The U.S. Bankruptcy Code and Part 190 of CFTC Regulations include safe harbors that protect a DCO's right to immediately enforce its interest in the collateral it holds to margin positions and to guarantee performance of its Clearing Members' obligations. Additionally, CME Clearing holds collateral in a manner that ensures the security interest of the Clearing House will be enforceable. The CME Clearing legal framework therefore provides certainty in the event of the insolvency of CME or one or more of its clearing members, with regard to the treatment of customer and swap counterparty positions, funds and property.

Through the CME Group Exchange Rulebooks, CME Clearing has adopted rules and has employed multiple policies and procedures in accordance with Part 39 of CFTC Regulations and other relevant CFTC regulations, to clarify and clearly demonstrate the manner in which CME Clearing complies and requires its clearing members to comply with applicable legal requirements. The CME Group Exchange Rulebooks are publicly available on the CME Group website. Further details on the legal framework applicable to CME Clearing are summarized in the CME Clearing Principles for Financial Market Infrastructures Disclosure, available on the CME Group website.[4]

In respect of the implementation timeline for the clearing requirement, CME Group's view is that the Commission should continue to work cooperatively with regulators in other jurisdictions to ensure harmonization on scope of implementation and timing of clearing mandates to the extent appropriate and practicable.

<u>CME Group Support for IBOR Transition and RFR Interest Rate Swaps Clearing</u>

We welcome the Commission's recognition of the importance of central clearing in facilitating the transition of derivative markets to Alternative Reference Rates, as demonstrated in the Notice of Proposed Rulemaking. The advantages of CCP clearing of swaps over bilateral arrangements in terms of reduction of systemic risk and provision of a more transparent infrastructure for post-trade risk management are well established[5]. In addition to promoting these global systemic risk management considerations, interest rate swaps clearing through CCPs also provides a range of direct benefits to market participants, including CCP risk management protections, multilateral netting and reduced capital requirements for exposures to CCPs under regulatory capital frameworks, each of which have incentivized and will continue to encourage market participants to utilize CCP clearing voluntarily, as demonstrated by the submission for clearing of the significant majority of RFR OIS ahead of any mandatory clearing requirement determination.

As noted by the Commission in the Notice of Proposed Rulemaking, CME Group has been active in supporting the transition away from IBOR rates in derivatives markets, working alongside industry groups, market participants and regulatory bodies to promote an orderly transition to the successor rates in listed futures and OTC interest rate swaps markets. Amongst a range of initiatives designed to facilitate the transition, CME Group has:

- launched new cleared interest rate swaps and futures contracts referencing RFRs to enable market participants to manage their exposures to these RFRs as markets develop;
- introduced industry standard "fallback" language to swap and futures contracts cleared by CME Inc. to promote transition away from LIBOR rates;
- in December 2021, provided a conversion service operated by CME Clearing for GBP, CHF and JPY LIBOR interest rate swaps to effect a transition of those swaps into corresponding CME-cleared market standard RFR swaps (the "CME GBP/CHF/JPY LIBOR Conversion");[6]

[4] See CME Clearing Principles for Financial Market Infrastructures Disclosure at https://www.cmegroup.com/clearing/risk-management/files/cme-clearing-principles-for-financial-market-infrastructures-disclosure.pdf

[5] Central clearing of swaps through central counterparties ("CCPs") was a critical part of the 2009 Pittsburgh G20 commitments. The advantages of CCP clearing have been widely recognized by global regulatory authorities and also by market participants.

[6] CME Clearing conducted initial conversion events for CME-cleared swaps referencing GBP, JPY and CHF LIBOR rates on December 3, 2021 (JPY LIBOR, CHF LIBOR) and December 17, 2021 (GBP LIBOR) and subsequent conversion events on January 3, 2022 (CHF LIBOR) and January 4, 2022 (GBP LIBOR, JPY LIBOR). USD LIBOR and SGD SOR-VWAP swaps which reference USD LIBOR were not included in the conversion process as USD LIBOR will continue to be published in representative

- in June 2022, engaged in outreach to interest rate swaps market participants on CME Clearing's proposals to effect a similar transition of USD LIBOR interest rate swaps into corresponding CME-cleared market standard RFR swaps referencing SOFR, proposed to take place, subject to regulatory review and market participant feedback, ahead of the end-June 2023 scheduled discontinuation date of publication of a "representative" USD LIBOR rate; and
- worked closely with the U.S. Alternative Reference Rates Committee ("ARRC") on the ARRC's Paced Transition Plan for support of SOFR, including:
    - supporting clearing of SOFR Swaps from October 2018;
    - launching CME SOFR Futures in May 2018, the subsequent launch of Options on SOFR Futures and, most recently, launching CME's SOFR First for Options initiative, sponsored and welcomed by the ARRC, which is aimed at accelerating adoption and liquidity in CME SOFR options during the months of June and July 2023, and which is expected to deepen both streaming and RFQ liquidity and an increased risk transfer (ADV) and transfer of open interest into CME SOFR options;[7] and
    - developing and launching CME Term SOFR, CME Group's EU Benchmarks Regulation ("BMR") compliant term SOFR reference rate calculated and published daily in 1-month, 3-month, 6-month and 12-month tenors.[8]

As the remaining steps in the transition from the remaining "representative" USD LIBOR rates continue towards the critical June 30, 2023 date, CME Group will continue to support market participants in managing their risks and promoting a smooth and orderly transition to alternative reference rates. We are grateful to the significant contribution made by market participants to support the transition to RFRs; in particular, for derivatives market participants' support of clearing for and transition to RFR OIS, including significant engagement with and support of CCP LIBOR transition initiatives, and also in relation to the provision of trading liquidity in listed interest rate products and swaps representing RFRs.

CME Group thanks the Commission for the opportunity to comment on this matter. We would be happy to discuss any of these issues with CFTC staff. If any comments or questions regarding this response arise, please feel free to contact me at suzanne.sprague@cmegroup.com.

Sincerely,

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form up to and including June 30, 2023, For details on the CME GBP/CHF/JPY LIBOR Conversion process, see https://www.cmegroup.com/notices/clearing/2021/11/Chadv21-434.html. Note that CME Clearing did not offer clearing services for EUR LIBOR swaps and therefore did not offer a conversion process for such trades.

[7] CME SOFR futures average daily volume ("ADV") increased rapidly in the first half of 2022. In May 2022, CME SOFR futures reached ADV of 1.5 million contracts, representing 100% of CME Eurodollar futures ADV. This increase represents growth of 413% in the first half of 2022. As at June 29, 2022, CME SOFR futures open interest represented 66% of CME Eurodollar futures open interest. The first half of 2022 has seen rapid and significant growth in CME SOFR options. At the end of May 2022, CME SOFR options had a monthly ADV of 174,000 contracts, representing 21% of CME Eurodollar options, with a single day high in May of 397,000 contracts, representing 52% of Eurodollar options volume.

[8] CME Term SOFR is calculated based on transactions in CME Group's deep and liquid underlying CME SOFR Futures, providing a robust and sustainable measure of forward-looking SOFR rates.