

February 14, 2024

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

RE: RIN Number 3038-AF26

Dear Mr. Kirkpatrick,

Chatham Financial (“Chatham”) is pleased to provide comments in response to the notice of proposed rulemaking published on December 28, 2023, on “Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements.” Chatham supports the overall objectives of the U.S. Commodity Futures Trading Commission (the “Commission”) as it seeks to streamline swap reporting requirements and improve the quality of swap data for better systemic risk mitigation and market transparency. Chatham previously commented on a related proposal, RIN Number 3038-AE31, “Swap Data Record and Reporting Requirements, 17 CFR Parts 45, 46 and 49,” via letter dated May 21, 2020.

As a global financial advisory services and technology solutions firm, Chatham specializes in the debt and derivatives markets. Advising and providing services to more than 3,500 clients annually on interest rate, currency, and commodity hedging, Chatham is a global firm with operations in the United States, Europe, Australia, and Asia. Chatham is currently engaged as a third-party reporter for over 190 clients who have Dodd-Frank reporting obligations. In addition to reporting transactions on behalf of our clients, Chatham has also assisted globally active swap dealers in assessing and improving their compliance with swap data reporting requirements. Our comments below reflect our comprehensive expertise supporting both buy- and sell-side market participants with their swap data reporting obligations.

CFTC Question: For proposed data element #42 USD equivalent regulatory notional amount, are there impediments that reporting entities would experience in calculating and reporting USD equivalent notional amount? The Commission also seeks comment on the cited calculation methodology and the utility of the notional values calculated according to the methodology.

Proposed data element #42 would require reporting parties to provide the USD equivalent regulatory notional amount for the overall transaction. The CFTC explains that data element #42 “will allow for standardized and consistent reporting of notional amount . . .” Chatham is concerned that this new data field will have the opposite effect of its stated intent.

As an initial matter, the Technical Specification for Data Element 42 does not provide sufficient guidance for reporting counterparties to calculate the USD equivalent notional amount. The definition directs the reporting

counterparty to “calculate USD equivalent using methodologies described in CDE Technical Guidance – version 3 . . . 2.70 Notional Amount.” Technical Guidance 2.70 instructs the reporting party for OTC derivative transactions negotiated in monetary amounts to report the amount specified in the contract. The Technical Guidance does not provide any instruction for converting foreign currency to USD. In this case, the Definition for Data Element #42 provides fallback guidance that directs parties to “calculate USD equivalent notional for the entire overall transaction using market standard, economically reasonable, and analytically supported methods.”

Technical Guidance 2.70 does not adequately account for the number of variables that are used to calculate USD equivalent. For example, a more sophisticated party will have access to the most current exchange rates that it can use to automatically calculate the value of any given transaction. A less sophisticated party, on the other hand, might rely on rates that are refreshed less frequently, create a process where the notional value is calculated at end of day, and/or calculate the USD equivalent through a manual process that increases the likelihood of an error.

The definition also lacks clarity on several other key points. For example, for foreign exchange transactions that do not involve US dollars (e.g., a EUR-JPY forward), it is not clear which currency the reporting counterparty would convert to USD. It is equally unclear how reporting counterparties should manage life-cycle events. For example, should a transaction be revalued and reported if there is an amendment?

All of these variances add up and, as a result, different parties may report the notional value of a hypothetically identical transaction in materially different ways. Consequently, the CFTC will be receiving unreliable data resulting from inconsistent processes, valuation methodologies, and interpretations, which is contrary to the CFTC’s goal of allowing “for standardized and consistent reporting of notional amount.”

Chatham encourages the CFTC to consider adopting processes by which the CFTC performs any notional conversions in-house. Conducting its own calculations will allow the CFTC to maintain control over the key variables for data element #42, such as conversion rate, time, and date, and will eliminate the possibility that a reporting counterparty commits an error by manually calculating any given conversion. Implementing such a process could enable the CFTC to ensure that it is using standardized and consistent notional amounts for its analytical processes.

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Chatham thanks the Commission for considering these recommendations and is available to answer any questions it may have. Please contact Charlie Switzer, Director, Financial Institutions, Regulatory Advisory (cswitzer@chathamfinancial.com, 720-734-2766) with any questions.